

The Donbas conflict: opposing interests and narratives, difficult peace process

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SWP Research Paper

Sabine Fischer

The Donbas Conflict

Opposing Interests and Narratives, Difficult Peace Process



Stiftung Wissenschaft und Politik
German Institute for
International and Security Affairs

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In 2014, in response to the Ukrainian “Euromaidan”, Russia annexed Crimea and provoked a war in eastern Ukraine. The ensuing conflict still claims lives today. For the past five years Germany and its Western partners have been trying to resolve the conflict politically, to date without success. The Minsk ceasefire agreements of 2014 and 2015 have still not been implemented.

All the directly involved actors bear responsibility. The separatist “People’s Republics” in Donetsk and Luhansk have established dictatorial quasi-state structures but remain almost completely dependent on Moscow. Russia refuses to acknowledge its role as a party to the conflict. Ukraine has fulfilled some of its obligations under the Minsk Agreements, but neglected others. The situation is exacerbated by negative dynamics on all levels. Kyiv and the “People’s Republics” are drifting steadily apart, while millions living along the line of contact experience terrible humanitarian suffering. This threatens to establish a state of permanent poverty and underdevelopment in the regions affected by the conflict.

The European Union and its member states pursue a division of labour. Brussels maintains Union-wide sanctions against Russia and forges ahead with implementing the Association Agreement with Ukraine. Germany and France conduct peace talks in the so-called Normandy Format. All conflict parties must be reminded to avoid escalation risks. Much greater attention must be directed to the local level and especially the humanitarian crisis. Action at this level is limited in reach but imperative for progress towards peace.

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The Donbas Conflict: Opposing Narratives and Interests, Difficult Peace Process

In 2014, in response to the Ukrainian “Euromaidan”, Russia annexed Crimea and provoked a war in eastern Ukraine. The resulting armed conflict still claims lives today. For five years Germany and its Western partners have been trying to bring about a political solution through negotiations. The basis for their efforts is the Minsk Agreements of 2014 and 2015, which define the modalities for a permanent cease-fire and reintegration of the contested territories into Ukraine. But the preconditions for implementing the Agreements – and thus for peace in eastern Ukraine – are steadily deteriorating, as demonstrated by the November 2018 escalation in the Kerch Strait.

All the actors bear responsibility. The separatist “People’s Republics” in Donetsk and Luhansk have established dictatorial quasi-state structures, which in themselves contravene the Minsk Agreements. They are politically and economically dependent on Russia and practically incapable of acting on their own. Ukraine has fulfilled some of its obligations but neglected others. The Minsk Agreements are highly controversial in Ukraine, where many politicians warn that their implementation would consolidate Russian influence over Ukraine’s internal affairs and foreign policy. There is a strong tendency in Ukrainian politics towards isolating the conflict zones. The presidential and parliamentary elections scheduled for 2019 will further sharpen the internal debate. Although Moscow refuses to acknowledge its role as a party to the conflict, it controls the People’s Republics militarily, politically and economically in order to secure influence in Ukraine. While the Kremlin does uphold the Minsk Agreements (and suppresses deviating initiatives in the People’s Republics and within Russia), it does little to advance their implementation. All the conflict parties regularly violate the Minsk security provisions as they seek military gains along the line of contact.

The conflict is characterised by negative dynamics on all levels. Kyiv and the “People’s Republics” are growing steadily apart. One contributing factor is the humanitarian crisis in the conflict region, which the Ukrainian leadership has failed to address effectively. The growing isolation of the contested territories in-

creases their dependency on Russia. Ukraine and Russia have experienced an extremely rapid process of alienation. They uphold mutually exclusive narratives. Kyiv regards the annexation of Crimea and the conflict in the Donbas as elements of a Russian war of aggression. Russia and the separatists in the contested territories insist that the Donbas conflict is a civil war with an ethno-political background. These narratives allow neither common ground or compromise. Russia's relations with the conflict-relevant Western actors – the European Union, NATO and the United States – have deteriorated drastically, adding more obstacles to resolution. The various dimensions of the conflict are tightly interlocked, and the impediments to peace mutually reinforcing. Under these conditions progress will be hard to achieve.

The European Union and its member states pursue a division of labour on the conflict. Berlin and Paris play a central role in the so-called Normandy Format, which remains the most important political negotiating track. In 2014 the European Union imposed sanctions on Russia in response to the annexation of Crimea and the war in the Donbas. Otherwise it concentrates on implementing the EU-Ukraine Association Agreement. Berlin and Brussels possess limited influence over the aforementioned impediments to peace in the Donbas. This applies especially to the People's Republics, with which the European Union has no relations, and to Russia, where the relationship has broken down. Ukraine chose association with the EU and is more open than Russia to arguments from Berlin and Brussels. But internal Ukrainian politics often complicates the communication. Another relevant factor for Germany and Europe is that the United States has become a less dependable partner in the peace process. Washington does still share the central objective of Western policy, namely, to restore Ukraine's sovereignty and territorial integrity. But with Trump and Congress pulling in different directions, US policy on Minsk and sanctions is increasingly subject to volatility.

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The Donbas Conflict: Origins, Timeline, International Responses

The contested territories in eastern Ukraine comprise parts of the Donetsk and Luhansk administrative regions (*oblasti*).¹ Colloquially the region is referred to as “Donbas”,² a portmanteau of “Donetskyi Basein” (Donets Basin) referring to the resource-rich catchment area of the Siverskyi Donets River, which spans a breadth of about five hundred kilometres between the basins of the rivers Dnipro and Don in Ukraine and Russia respectively. The Donets Basin as a whole covers about 60,000 square kilometres, and accounts for 9 percent of the territory of Ukraine.³ The total length of Russia’s border with the Donetsk and Luhansk administrative regions is about 920 kilometres, about 410 kilometres of which are currently outwith the control of the Ukrainian state. The border region is flat steppe without natural barriers like rivers or

mountain ranges. In places the border is not even consistently demarcated.⁴

Historically the region was peripheral and thinly populated, only rising to prominence in the late nineteenth and early twentieth century, when its rich resources became relevant in the course of industrialisation. Mining and associated industries, especially during the Soviet era, created its specific settlement and population structure. To this day the Donbas remains the most heavily urbanised region of Ukraine (with 20 percent of the country’s urban settlements) and possesses a high proportion of Russian and Russian-speaking inhabitants with comparably strong ties to Russia and the former Soviet Union. Studies on the period since Ukrainian independence in 1991, however, reveal increasing identification with the Donbas region, and with the Ukrainian state too.⁵ Before war broke out in spring 2014 the Donbas accounted for about 16 percent of the total Ukrainian population – but only 8.4 percent of the country’s GDP.⁶ Increasingly outdated plant and machinery and lack of

1 In this publication the separatist entities in eastern Ukraine are referred to as the NGCAs (“non – government-controlled areas”), the People’s Republics, or Donetsk People’s Republic (DPR) and Luhansk People’s Republic (LPR). They are legally an integral part of Ukraine, and their “independence” is not recognised internationally. The use of “scare quotes” and qualifiers such as “so-called” is avoided in the interests of readability. The same applies to references to political institutions, offices and processes in the People’s Republics.

2 Ukrainian and Russian geographical and proper names are transliterated according to the respective rules for each language; place-names are given in the language of the respective state.

3 The terms “Donbas” and “Donbas war” are contested in Ukraine, on the grounds that the basin’s watershed is not identical with the boundaries of the Donetsk and Luhansk administrative regions (*oblasti*). They are used here for reasons of readability. See *Donbas in Flames: Guide to the Conflict Zone* (Lviv, 2017), 7 – 16, https://prometheus.ngo/wp-content/uploads/2017/04/Donbas_v_Ogni_ENG_web_1-4.pdf (accessed November 2018).

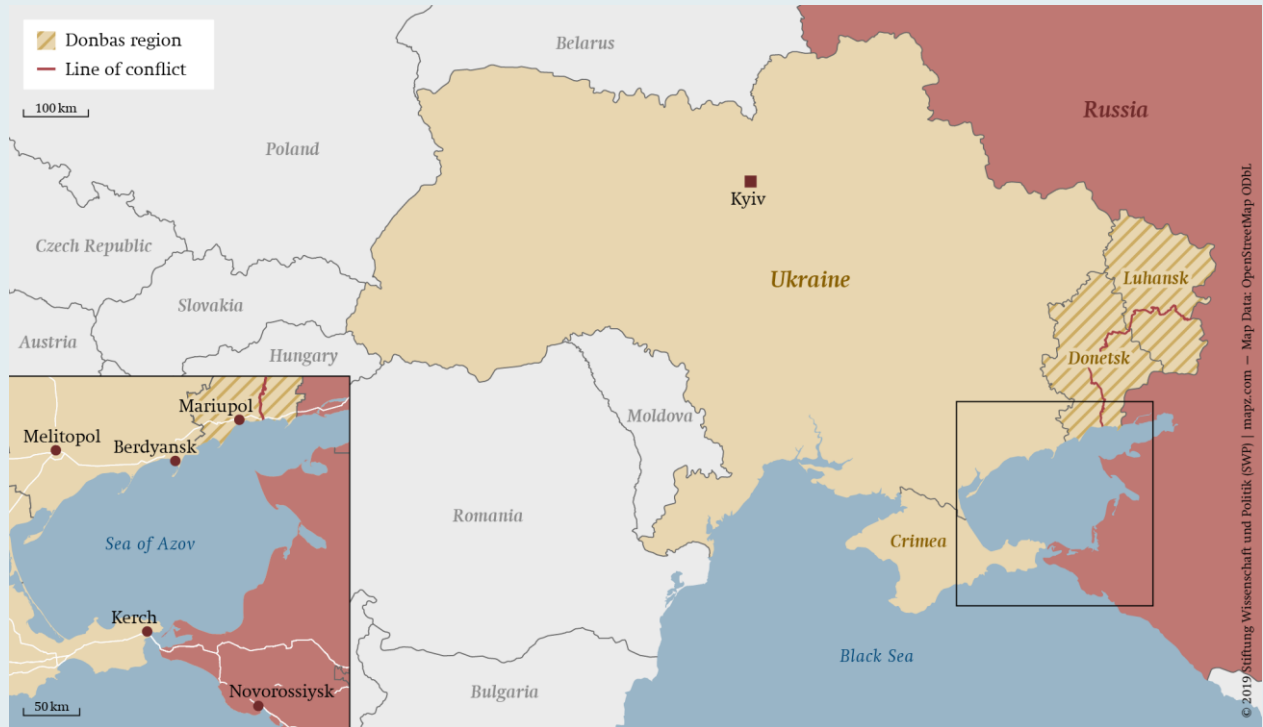
4 “Rossijsko-ukrainiskaja granica: Dos’e” [Russian-Ukrainian border: dossier], *TASS*, 19 June 2014.

5 According to Wilson the proportion of inhabitants of Donetsk who identified with the region rose from 55.7 percent in 1994 to 69.5 percent in 2004. The proportion describing themselves as Ukrainian was 39.4 percent in 1994 and 42.7 percent in 2004, as Russian 30.1 percent in 1994 and 21.1 percent in 2004. Andrew Wilson, “The Donbas in 2014: Explaining Civil Conflict Perhaps, But Not Civil War”, *Europe-Asia Studies* 68, no. 4 (2016): 631 – 52 (638). See also the contributions in Olga Onuch, Henry Hale and Gwendolyn Sasse, eds., “Studying Identity in Ukraine”, *Post-Soviet Affairs* 34, no. 2/3 (2018).

6 “The Effect of Company Seizures and Trade Suspension in Donbas”, *German Advisory Group Ukraine Newsletter*, no. 106 (August 2017).

Map 1

Ukraine and the Donbas



Source: www.humanitarianresponse.info

investment in modernisation caused the region’s economy to decline steadily from the 1990s, leading to a net loss of working-age inhabitants.

**Timeline:
Escalation, Internationalisation, Isolation**

The Donbas was the second territorial conflict – following the annexation of Crimea – to affect Ukraine after the downfall of President Viktor Yanukovich on 21 February 2014 in the course of the so-called Euromaidan.⁷ As in Crimea, eastern regions of Ukraine saw demonstrations and violent clashes between supporters and opponents of the Euromaidan. These protests initially affected a large swathe of south-eastern

Ukraine, extending from Odesa through Mariupol on the Sea of Azov to Donetsk and Luhansk. Deaths occurred, most notoriously in Odesa on 2 May 2014, when forty-two opponents of Euromaidan lost their lives in a burning building.⁸ Insurgents occupied government buildings in many cities, and took control of important transport hubs and border crossings to Russia. While the separatist militias failed to secure control of major regional centres like Kharkiv, Odesa and Mariupol, they did manage to hold other towns west of Donetsk and Luhansk, like Kramatorsk and Sloviansk, for several months.⁹

7 Unless otherwise indicated, the description of the sequence of events is based on the annual timelines for 2013 to 2018 published by Länderanalysen: Forschungsstelle Osteuropa et al., *Ukraine-Analysen – Chronik*, <http://www.laender-analysen.de/ukraine/chronik.php> (accessed January 2019).

8 Office of the United Nations High Commissioner for Human Rights (OHCHR), *Report on the Human Rights Situation in Ukraine, 15 May 2014*, 15, <https://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf> (accessed January 2019). The investigation of the incident has not led to prosecutions of those responsible.

9 The rebels seized arms from police and security service buildings. While appeals were made to return the weapons after the towns were recaptured, local observers believe that many remain in illegal circulation. Interviews in Kramatorsk and Sloviansk, March 2018.

The separatists declared the People's Republics of Donetsk and Luhansk in April 2014, and held referendums in both areas on 11 May. On account of the irregular circumstances the votes were not recognised internationally. According to the organisers more than 90 percent of participants voted to establish the People's Republics.¹⁰

Kyiv was completely overwhelmed in the initial months of the war, and the rebels enjoyed a military advantage. The Ukrainian interim government launched an "anti-terrorism operation" against the separatists in April, but initially suffered heavy losses. During this period increasing numbers of fighters and heavy weapons found their way across the Russian-Ukrainian border into the warzone. Over time, however, Ukraine succeeded in regrouping militarily and recaptured territory from the separatists. On 17 July 2014 a Malaysian passenger jet (flight MH17) was shot down by a Russian Buk anti-aircraft missile, killing all 298 persons on board. The European Union, the United States and NATO regarded this as proof of Russian involvement in the war and stepped up their sanctions.¹¹ In August 2014, with the separatists facing military defeat despite Russian support, Russian forces intervened actively in the fighting and inflicted a heavy defeat on the Ukrainians at Ilovaisk.¹² International mediation in the aftermath resulted in the first ceasefire agreement, the Minsk Protocol, signed on 5 September in the Belarusian capital (see p. 12). After a renewed escalation at the beginning of 2015, a package of thirteen measures to implement the Minsk Protocol was agreed on 12 February 2015.¹³

10 OHCHR, *Report on the Human Rights Situation in Ukraine*, 15 June 2014, 29, <https://www.ohchr.org/Documents/Countries/UA/HRMMUReport15June2014.pdf> (accessed January 2019). Observers report extremely low turnout and voter coercion.

11 For investigations, findings and responses, see *Joint Investigation Team*, <https://www.om.nl/mh17-ezine-juni2016/e-zine-en.html> (accessed December 2018).

12 At this point the city of Donetsk was almost completely encircled by Ukrainian forces. The loss of Ilovaisk would have cut the secessionists' last supply line from the Russian border to Donetsk. International Crisis Group (ICG), *Eastern Ukraine: A Dangerous Winter*, Europe Report no. 235 (Brussels, December 2014), 2.

13 The Minsk Package of Measures was supposed to end the fighting and initiate a peace process. But before it came into effect on 15 February 2015 heavy fighting resumed over the vital railway junction at Debaltseve, continuing until the Ukrainian forces abandoned the town.

2014 and 2015 saw the worst conflict-related losses, with the United Nations reporting 9,100 deaths and 20,700 injured by November 2015.¹⁴ Since 2016 the annual death toll has been closer to 500 to 600. Despite regular extensions of the ceasefire, the situation along the line of contact remains unstable as both sides attempt to gain ground and shift the line in their favour. In contrast, for example, to the conflicts in Transnistria, Abkhazia or South Ossetia, one cannot at this stage speak of a stable military status quo.¹⁵

That point is illustrated by the escalation in the Kerch Strait. On 25 November 2018 Russian coast guard patrol ships fired on two Ukrainian artillery boats and a tug that had attempted to pass into the Sea of Azov en route from Odesa to Mariupol. A number of Ukrainian sailors were injured, some seriously. The crews were detained and taken to Lefortovo Prison in Moscow. In response Ukrainian President

14 OHCHR, *Report on the Human Rights Situation in Ukraine*, 16 August 2015 – 15 November 2015, 2, <https://www.ohchr.org/Documents/Countries/UA/12thOHCHRreportUkraine.pdf> (accessed January 2019). Today the UN speaks of about 10,500 dead and almost 24,000 wounded, about 30 percent of them civilians. But precise figures are hard to come by. While the Ukrainian defence ministry regularly publishes data, no verifiable figures are forthcoming from the rebels or Russia. In 2016 the International Crisis Group criticised all sides for playing down the casualty figures. ICG, *Ukraine: The Line*, Europe/Central Asia Briefing 81 (18 July 2016), 2ff. In April 2017 the Union of the Committees of Soldiers' Mothers of Russia estimated that 1,500 Russian soldiers and other fighters had been killed. "About 1,500 Russian Soldiers Killed in Donbas since Spring 2014: Russian NGO", *UNIAN*, 28 April 2017. The figures for civilian victims are based on Ukrainian information, and estimates by international organisations for areas they were able to access. The actual numbers are probably higher. Data on casualties: "Global Conflict Tracker: Conflict in Ukraine", Council on Foreign Relations website, 6 December 2018, <https://www.cfr.org/interactives/global-conflict-tracker?marker=26#!/conflict/conflict-in-ukraine> (accessed December 2018).

15 According to SMM there were 401,336 ceasefire violations in 2016 and 320,130 in 2017. Weapons whose presence violated the Minsk Agreements were sighted in the conflict zone 3,099 times in 2016 and 4,065 in 2017. Observers were obstructed in exercising their mandate in 1,950 cases in 2016, and considerably more often – 2,422 times – in 2017. OSCE, *2016 OSCE SMM Activities in Figures*, 6 February 2017, <http://www.osce.org/ukraine-smm/298131> (accessed November 2018); OSCE, *2017 OSCE SMM Activities in Figures*, 26 February 2018, <http://www.osce.org/special-monitoring-mission-to-ukraine/368246> (accessed November 2018).

Map 2

The conflict region



Source: www.humanitarianresponse.info

Petro Poroshenko imposed martial law for thirty days in the regions bordering Russia and Crimea and demanded the immediate release of the imprisoned crews. From the Ukrainian perspective the incident represented a new level of aggression, seeking to place the Sea of Azov under Russian control – including if possible its northern shores to connect the Donbas with Crimea. Russia for its part claimed that the Ukrainian vessels had violated its “territorial waters”.

2017: Kyiv imposes economic embargo on areas outside its control.

The Kerch escalation was foreseeable, and in a sense represents a consequence of the annexation of Crimea. The situation at the Strait had already escalated during the construction of the Kerch Strait Bridge (2016–2018), which connects Crimea to the Russian mainland. The bridge seriously restricts access to the Sea of Azov, and thus to the Ukrainian

ports of Mariupol and Berdyansk; as such Ukraine has already suffered considerable economic losses. The Russian navy has continuously expanded its presence in the Strait since 2017, conducting increasingly invasive inspections on vessels passing through.¹⁶ In 2014/2015 Donbas separatists and Russian nationalists pressed for the capture of Mariupol – which is very close to the current line of contact – in order to create a land bridge to Crimea. Now the Kerch Strait Bridge has shifted the balance of forces in the Sea of Azov, creating a potentially explosive connection between annexed Crimea and the conflict zones in the Donbas.

Kyiv’s imposition of an economic embargo on the areas outside its control (non – government-controlled areas, NGCAs) in spring 2017 represented an important turning point. The initiative came from right-

¹⁶ See Susan Stewart, *Asowsches Meer: Neues Eskalationspotenzial zwischen Russland und der Ukraine*, SWP Kurz gesagt (Berlin: Stiftung Wissenschaft und Politik, 22 August 2018).

wing veterans and activists in Ukraine, who protested against the “blood trade” with the NGCAs that, they argued, kept the separatist regimes afloat. The Ukrainian government initially argued against isolating the breakaway areas on account of the economic and humanitarian consequences, but ultimately gave in to the pressure. On 15 March 2017 it officially banned economic exchange with the NGCAs. At the beginning of that month the rulers in Donetsk and Luhansk had placed forty businesses hitherto registered in the government-controlled areas (GCAs) under “temporary external administration”, de facto expropriating them.¹⁷ These moves forced both sides to adjust to new realities. The economic repercussions for Ukraine were less severe than initially feared.¹⁸ But industrial production in the NGCAs collapsed with grave economic consequences. Smuggling and black marketeering aside, the GCAs and NGCAs are today completely isolated from one another.

Peace Negotiations and the Minsk Agreements

International efforts to prevent further escalation began in spring 2014. In March the Permanent Council of the OSCE agreed to deploy a *Special Monitoring Mission (SMM)* to Ukraine. The SMM is an unarmed civilian mission whose mandate is to document political developments and the human rights situation in Ukraine as a whole.¹⁹ Since September 2014 the SMM has also been monitoring the (non-)observance of the Donbas ceasefire.²⁰ The Mission’s work

¹⁷ “External administration” involved the separatists taking over the management of enterprises without a formal change of ownership. Moscow apparently dissuaded them from speaking of “nationalisation” in order to avoid violating the spirit of the Minsk Agreements.

¹⁸ “The Effect of Company Seizures and Trade Suspension in Donbas” (see note 6). Business representatives pointed out that the value of plant and equipment fell rapidly after the expropriations on account of reduced utilisation and lack of investment and maintenance. Consequently, they said, it was becoming increasingly unlikely that operations would resume if the embargo was lifted. Interviews in Kyiv and Kramatorsk, March 2018.

¹⁹ OSCE Special Monitoring Mission to Ukraine website, <https://www.osce.org/special-monitoring-mission-to-ukraine> (accessed November 2018).

²⁰ The work of the SMM is complemented by the Joint Centre for Control and Coordination (JCCC). This contact

concentrates strongly on the eastern regions.²¹ From an initial strength of about one hundred, it has grown to more than seven hundred observers from more than forty-four OSCE states and altogether twelve hundred staff.²²

The *Trilateral Contact Group (TCG)*, coordinated by the OSCE and comprising representatives of Ukraine, Russia and the separatists, convened in June 2014, and has been holding fortnightly meetings in Minsk since September 2014. In May 2015 four working groups were established to structure the talks: security, political, economic, humanitarian. In 2014/2015 the Swiss diplomat Heidi Tagliavini coordinated the work of the TCG as Special Representative of the OSCE Chairperson-in-Office. She was succeeded in summer 2015 by the Austrian diplomat Martin Sajdik.

The so-called Normandy Format arose out of a June 2014 meeting of the heads of state and government of Ukraine, Russia, France and Germany marking the seventieth anniversary of the Allied D-Day landings. The talks continued at various levels (foreign ministers, state secretaries, advisors) and provided the political framework for the talks in Minsk in September 2014 and February 2015. An informal *Russian-American track* emerged in May 2015, bringing together US Assistant Secretary of State Victoria Nuland and Russian Deputy Minister of Foreign Affairs Grigory Karasin, the latter succeeded by presidential

group composed of Ukrainian and Russian officers has been responsible for the Mission’s security since autumn 2014. Russia withdrew from the JCCC in December 2017 claiming that its officers had been poorly treated. While observers conceded that there was some truth to the Russian complaints, they interpreted Moscow’s decision as another attempt to force the Ukrainians into direct contact with those in power in Donetsk and Luhansk. Interviews with participants in the talks, 2017 and 2018.

²¹ Claus Neukirch, “Die Sonderbeobachtermission in der Ukraine: Operative Herausforderungen und neue Horizonte”, in *OSZE-Jahrbuch 2014*, ed. Institut für Friedensforschung und Sicherheitspolitik (IFSH) (Baden-Baden, 2015), 205–221 (206). The OSCE also has observers not affiliated to the SMM at two Russian control posts on the Russian-Ukrainian border (*ibid.*, 214).

²² See OSCE Special Monitoring Mission to Ukraine, “Status Report as of 1 October 2018”, October 2018, <https://www.osce.org/special-monitoring-mission-to-ukraine/398813?download=true> (accessed November 2018).

advisor Vladislav Surkov.²³ In July 2017 US diplomat Kurt Volker took over the talks for the Trump Administration.

The *Minsk Agreements* represent the most important outcome of the international peace efforts to date. They comprise two documents negotiated in September 2014 and February 2015 in Minsk, in the TCG framework and with the support of the Normandy Format. The Protocol of 5 September 2014 provided for an immediate ceasefire, monitored by the OSCE; decentralisation in Ukraine, including a special status law for the contested areas; a buffer zone along the Ukrainian-Russian border, monitored by the OSCE; the release of all hostages and illegally detained persons; a Ukrainian amnesty law; continuation of a national dialogue; measures to improve the humanitarian situation in the Donbas; local elections in the contested areas, under Ukrainian control and international observation; the withdrawal of illegal armed units from Ukrainian territory; a reconstruction programme for the Donbas; and guarantees of personal security for participants in the talks.²⁴ The second Minsk document of 12 February 2015 (frequently also known as Minsk II) listed concrete measures and steps designed to implement the agreements by the end of 2015.²⁵

By signing the Minsk Agreements the separatists in effect agreed to disband their armed units and dissolve their emerging quasi-state structures, and ultimately to permit the gradual reintegration of the People's Republics into the Ukrainian state. In addition

to observing a ceasefire, Kyiv agreed to disband Ukrainian militias, to pass an amnesty law, a special status law and a constitutional amendment; to resume social benefit and pension payments to recipients in the contested areas; and to draw up a strategy for economic reconstruction.

Parties unable to agree sequencing of political and military measures.

The Minsk Agreements do not treat Russia as a party to the conflict, and thus place no obligations on Moscow. Even Point 10 of the Protocol, providing for withdrawal of all “illegal armed groups and military equipment as well as fighters and mercenaries”, does not refer directly to Russian troops and volunteers. In view of Russia's ongoing political and military support for the separatists this creates an imbalance that continues to subvert implementation of the Agreements.

Despite intense diplomatic efforts the Minsk Package of Measures was not implemented by the end of 2015 as planned, because the parties were unable to agree on the sequencing of political and military measures. The main points of contention were the modalities for holding elections, the status of the contested areas within the Ukrainian state and the timing for returning full control of the Russian border to Kyiv. Ukraine argued that it could not fulfil the political conditions until the ceasefire was permanent, while Russia and the separatists called for the political and security provisions to be implemented in parallel. In autumn 2016 then German Foreign Minister and OSCE Chairperson-in-Office Frank-Walter Steinmeier circulated a proposal designed to resolve these contradictions. The “Steinmeier formula” describes in detail a complex sequencing of troop withdrawal and elections in the contested territories, leading to restoration of Ukrainian control. At the same time the TCG reached an agreement on disengagement of forces.²⁶ The meeting of the heads of

23 Vladimir Socor, “Surkov-Nuland Talks on Ukraine: A Nontransparent Channel”, *Eurasia Daily Monitor* 13, no. 103 (27 May 2016).

24 *Protokol po itogam konsulacij Trechstoronnoj kontaktnoj grupy otноситel'no sovmestnykh shagov, napravlennykh na implementaciju Mirnogo plana Prezidenta Ukrainy P. Poroshenko i itiniativ Prezidenta Rossii V. Putina* [Protocol on the results of the consultations of the Trilateral Contact Group concerning joint steps to implement the Peace Plan of Ukrainian President P. Poroshenko and the initiative of Russian President V. Putin], 5 February 2014, <http://www.osce.org/ru/home/123258?download=true> (accessed December 2018). A memorandum concretising certain points was signed on 19 September 2014.

25 The package of measures of 15 February was accompanied by a political declaration by the Normandy Group. Both texts can be found in United Nations, *Unanimously Adopting Resolution 2202 (2015), Security Council Calls on Parties to Implement Accords Aimed at Peaceful Settlement in Eastern Ukraine*, 17 February 2015, <http://www.un.org/press/en/2015/sc11785.doc.htm> (accessed December 2018).

26 The disengagement agreement provided for all forces to pull back one kilometre from the line of contact and completely withdraw all heavy weaponry, initially in three defined areas (Petrivske and Solote in the Donetsk region, Stanytsia Luhanska in the Luhansk region). The agreement provided for implementation within one month, followed by the establishment of another four disengagement areas by the end of October 2016. The agreement was implemented as scheduled at Solote and Petrivske, but failed at Stanytsia Luhanska after Ukraine refused to withdraw its forces

state and government in the Normandy Format on 19 October 2016 in Berlin agreed to prepare a road-map for implementing the Minsk Package of Measures.

Today, more than two years later, the measures laid out in the “Steinmeier formula” remain unimplemented, nor have the parties agreed on a road-map. The international peace efforts received their last boost to date in early September 2017 when Vladimir Putin proposed a UN mission to protect the SMM along the line of contact. Petro Poroshenko welcomed Moscow’s change of position. The Ukrainian leadership had already proposed deploying a UN peacekeeping force in 2015, but with access to the entire contested area and to the Russian-Ukrainian border. At the OSCE Ministerial Council in Milan in December 2018, following the Kerch escalation, Martin Sajdik, Special Representative of the OSCE Chair-in-Office, proposed a joint OSCE/UN mission.²⁷ His discussion paper has to date been neither accepted nor rejected by the parties. Kyiv and Moscow are still too far apart for a compromise to be possible.²⁸

The TCG concentrates on the concrete implementation of the Minsk Agreements, the situation in the conflict region and the resolution of immediate problems there. At least in the first two years the economic and humanitarian working groups were able to achieve limited progress. The political and security working groups are deadlocked, largely because they address the most contentious questions of status and

security. Part of the explanation also lies in the constellation of the two formats. Whereas the separatists are represented in the TCG, they have no access to the Normandy Format. In line with Ukrainian and Russian wishes, political questions are negotiated in the Normandy Format without participation by the separatists. But Moscow insists on having the outcomes confirmed by the TCG, and thus also by the separatists. This strategy allows the Kremlin to guard its decision-making autonomy in the spheres of politics and security, while forcing the other participants – including Ukraine – to recognise the separatists as negotiating partners.²⁹

(which have remained in place to this day). See OSCE, *Framework Decision of the Trilateral Contact Group Relating to Disengagement of Forces and Hardware*, 21 September 2016, <http://www.osce.org/cio/266266> (accessed November 2018).

²⁷ Stephanie Liechtenstein, “OSCE Ministerial Council in Milan: Expressing Differences Rather than Solving Them”, *Security and Human Rights Monitor*, 11 December 2018, <https://www.shrmonitor.org/osce-ministerial-council-in-milan-expressing-differences-rather-than-resolving-them/> (accessed January 2019). On the content of the paper see “Sondergesandter Sajdik: Haben neuen Plan zur Lösung der Ukraine-Krise”, *Kleine Zeitung*, 24 January 2019; *Zver’ u Vorot* [Beast at the gates], 5 February 2019, http://project.liga.net/projects/beast_at_the_gates/ (accessed February 2019).

²⁸ Putin’s initiative did, however, generate intense international discussion among state and non-state actors, which led to concrete proposals for a possible UN peacekeeping mission. See ICG, *Can Peacekeepers Break the Deadlock in Ukraine?* (Brussels, December 2017); Richard Gowan, *Can the United Nations Unite Ukraine?* (Washington, D.C.: Hudson Institute, February 2018).

²⁹ Interviews with participants in the talks, 2017 and 2018.

The People's Republics of Donetsk and Luhansk – Autonomous Actors or Russian Puppets?

The People's Republics of Donetsk and Luhansk are very new entities, existing under conditions of ongoing armed conflict.³⁰ This sets them apart from the breakaway entities in Moldova and the South Caucasus, which have established partially functioning de facto state structures since the mid-1990s. While not internationally recognised, the latter do possess a degree of legitimacy among their own populations,³¹ from which the two Donbas People's Republics are far removed. Their emergence hinged much more strongly on deliberate Russian intervention than did the older de facto states. The Donbas People's Republics are not only completely economically dependent on Russia but also under Moscow's direct political control.³² At this juncture it is an open

question whether they could in the longer term become more similar to the other de facto states, which were themselves initially, to different degrees, characterised by irregular forces, decentralised rule and excessive violence.³³

The origins of the anti-Maidan protests in eastern Ukraine remain a matter of great controversy. Some argue that they were instigated by Moscow, and would never have occurred without Russian manipulation.³⁴ Others attribute them to an autochthonous movement that emerged without Russian prompting, but later required Russian protection.³⁵ Another school of thought again sees Russian interference at work but concedes limited autonomy to local actors.³⁶

30 Access to the People's Republics has been drastically curtailed since 2016. During a research trip to Kyiv and the Donbas in March 2018, the author attempted to visit Donetsk to conduct interviews but was refused permission to enter. The present analysis of the situation in the contested territories is therefore based on media reports, secondary literature and interviews with individuals who travel there regularly.

31 Thomas de Waal, *Uncertain Ground: Engaging with Europe's De Facto States and Breakaway Territories* (Brussels: Carnegie Europe, November 2018). See also the contributions in James Ker-Lindsay and Eiki Berg, eds., "Engagement without Recognition: The Politics of International Interaction with De Facto States", *Ethnopolitics* 17, no. 4 (2018): 335–442.

32 Given this lack of independence, conflict-relevant narratives are not discussed (unlike in the following chapters on Ukraine and Russia). The separatist forces in Donetsk and Luhansk operate within a discursive framework defined by Moscow.

33 Nina Caspersen, *Unrecognized States* (Cambridge, 2012), 76f.

34 See for example, Nikolay Mitrochin, "Infiltration, Instruktion, Invasion: Russlands Krieg in der Ukraine", *Ost-europa* 64, no. 8 (2014): 3–16.

35 This largely corresponds to the official Russian interpretation.

36 See Steffen Halling and Susan Stewart, *Ukraine in Crisis: Challenges of Developing a New Political Culture*, SWP Comment 185/2014 (Berlin: Stiftung Wissenschaft und Politik, April 2014); Ulrich Schneckener, "Hybrider Krieg in Zeiten der Geopolitik? Zur Deutung und Charakterisierung des Donbas-Konflikts", *Politische Vierteljahrsschrift* 57, no. 1 (2016): 586–613. Bruno de Cordier speaks of a genuine identity of resistance in the Donbas, in "Der Vendée-Krieg in der Ukraine? Ein Blick auf die Widerstandsidentität des Aufstands im Donbas", *Ukraine-Analysen*, no. 175 (9 November 2016): 2–6. Andrew Wilson sees extensive Russian manipulation but concedes that Kyiv's neglect and the exploitative policies of the eastern Ukrainian oligarchs gave parts of the population genuine reason to take to the streets in spring 2014. Wilson,

The question of the origins, motivation and objectives of the insurgency is at the same time the question of who was to blame for the war. The answer to that question determines which paths to conflict resolution are plausible. The following discussion is based on the assessment that sufficient political frustration was present in the Donbas to trigger protests against Kyiv in the heady atmosphere of spring 2014. But ethnically motivated separatism could not be identified either before or after the outbreak of fighting.³⁷

Ample evidence exists for early intervention by Russian actors. As well as local volunteers and members of local elites,³⁸ the armed insurgents included increasing numbers of Russian nationals and persons with long residence in Russia. Many of them had served in the Soviet and/or Russian armed forces and intelligence services, others had close ties to extreme nationalist circles in Russia. Cossack units also participated actively in the fighting.³⁹

Violent Power Struggles

The emergence of the People's Republics has been characterised by numerous violent power struggles. From summer 2014 the most radical advocates of wider military expansion were forced into exile in Russia, detained or assassinated. These included Pavel Gubarev and Igor Girkin (Strelkov) in the Donetsk

People's Republic (DPR) and the Cossack leader Nikolay Kosygin in the Luhansk People's Republic (LPR). Alexander Zakharchenko (born 1975), a businessman from Kharkiv and commander of the Oplot Brigade, assumed the leadership of the Donetsk People's Republic in August 2014.⁴⁰ Igor Plotnitsky (born 1964), a former Red Army soldier who had held positions in various Ukrainian enterprises, took charge in Luhansk.⁴¹ The displacement of the first more radical generation of separatists eliminated resistance to the Minsk Agreements of September 2014 at a juncture where Russia, facing growing international pressure, was interested in containing the conflict. The initial, intense phase of "purges" lasted until summer 2015 in the DPR, and into 2016 in the LPR,⁴² with power struggles and assassinations continuing in both.⁴³ In November 2017 Igor Plotnitsky fled to Russia after an internal power struggle.⁴⁴ Minister of State Security Leonid Pasechnik (born 1970) succeeded him as acting leader of the LPR. Less than a year later, on 30 August 2018, Alexander Zakharchenko was killed by a bomb in Donetsk and replaced by Denis Pushilin (born 1981). Pasechnik and Pushilin were both confirmed in office in elections held on 11 November 2018.⁴⁵

These most recent events in both entities, especially the Zakharchenko assassination, gave rise to extensive speculation. As leader of the politically and economically weightier of the two People's Republics, Zakharchenko had enjoyed considerably more atten-

³⁷ "The Donbas in 2014" (see note 5). A similar assessment is shared by Konstantin Skorkin, in *A Counter-Elite Takes Power – The New Leaders of the Donbas* (Moscow: Carnegie Moscow Center, 16 February 2018), <http://carnegie.ru/commentary/75549> (accessed November 2018).

³⁸ See the survey conducted by the Ukrainian newspaper *Zerkalo Nedeli* in April 2014: "Jugo-Vostok: vet' dreva nashego" [The south-east is our shared ancestral home], *Zerkalo Nedeli*, 18 April 2014; Gwendolyn Sasse, *The Donbas – Two Parts, or Still One?* ZOiS Report 2/2017 (Berlin: Zentrum für Osteuropa- und internationale Studien [ZOiS], May 2017).

³⁹ Eastern Ukrainian oligarchs, above all Rinat Akhmetov, exacerbated tensions by oscillating between supporting Kyiv and the rebels. Maksim Vichrov and Maksim Butchenko, *Fenomen narodnykh respublik Dombassa* [The phenomenon of the People's Republics in Donbas], (Moscow: Carnegie Moscow Centre, 12 April 2016), <https://carnegie.ru/2016/04/12/ru-pub-63295> (accessed November 2018). Interviews with eye-witnesses, Kramatorsk and Sloviansk, March 2018.

³⁹ For a detailed treatment see Nikolay Mitrochin, "Transnationale Provokation: Russische Nationalisten und Geheimdienstler in der Ukraine", *Osteuropa* 64, no. 5/6 (2014): 157–74 (158ff.).

⁴⁰ "Kto est' kto na rukovodjashchich dolzhnostjach DNR, LNR i Novorosii" [Who's who in leading positions in DPR, LPR and Novorossiia?], *RIA Novosti*, 5 September 2014.

⁴¹ "Biografija Igorja Plotnitskogo" [Biography of Igor Plotnitsky], *RIA Novosti*, 20 August 2014.

⁴² Nikolay Mitrochin, "Diktaturtransfer im Donbas: Gewalt und 'Staatsbildung' in Russlands 'Volksrepubliken'", *Osteuropa* 67 no. 3/4 (2017): 41–66.

⁴³ "Zachar, 'Motorola', 'Givi', 'Betmen' i drugie: Kak i za chto kombaty gibridnoj vojny na vostoce Ukrainy pogibali v tylu" [Zachar, Morotola, Givi, Betmen and others: How and why the fighters in the hybrid war in Ukraine died in the hinterland], *Novaya Gazeta*, 31 August 2018.

⁴⁴ Nikolaus von Twickel, "Developments in 'DNR' and 'LNR': 12 October – 28 November 2017", *Civic Monitoring Newsletter* 25, <http://www.civicmonitoring.org/developments-in-dnr-and-lnr-23-august-20-october-2017-newsletter-24/> (accessed November 2018).

⁴⁵ Both were virtually unchallenged, as other well-known separatists were prevented from standing. "Ukraine plevat', da nam i tozhe" [Ukraine doesn't care, neither do we], *Novaya Gazeta*, 12 November 2018.

tion than his counterpart Plotnitsky,⁴⁶ which he regularly exploited to publicly criticise the Minsk Agreements and air controversial proposals. For example in July 2017 — to the surprise of both the Kremlin and the LPR leadership — he announced the unification of the two People's Republics to create “Malorossiya” (Little Russia).⁴⁷ Moscow accused the Ukrainian leadership and intelligence services of his murder, while Kyiv insisted that Russia was behind the assassination. Other possible explanations for the crime included local rivalries or a “war of the curators” in Moscow.⁴⁸ Leonid Pasechnik is a former member of the Ukrainian security agency SBU. Until November 2017 he was defence minister in the LPR and one of Plotnitsky's main rivals.⁴⁹ Denis Pushilin is the only eastern Ukrainian separatist whose political career began before 2014.⁵⁰ He served briefly as head of state of the DPR in 2014 and as Chairman of the People's Soviet until August 2018. In the latter capacity he represented the entity in the Trilateral Contact Group. He did not participate actively in the fighting and is regarded as a supporter of the Minsk Agreements.

Establishment of Quasi-state Institutions

Although both People's Republics adopted “democratic constitutions” in May 2014, the political and social realities are very different.⁵¹ In fact dictatorial systems have been created.⁵² Both People's Republics established a government, other constitutional organs,

armed forces, security forces, intelligence services and courts in 2014,⁵³ and held their first presidential and parliamentary elections on 2 November that year — in violation of the Minsk Agreements. Like the May 2014 independence referendums, neither the November 2014 nor the November 2018 elections satisfied international standards; they proceeded without international observers and excluded IDPs living elsewhere.⁵⁴

The political institutions in the People's Republics possess staff and internet presences, and run information campaigns of varying reach. Political and economic conflicts are generally not conducted via these institutions, however, but informally and frequently violently. The two parliaments are dominated by groups supporting the respective rulers. There is no functioning — let alone independent — judiciary,⁵⁵ the media cannot operate freely and critical journalists and bloggers are subject to repression. There is no dependable survey data on the political opinions of the respective populations, but eye-witnesses report apathy and withdrawal. The military and security forces are home to many former fighters, it is reported, but also to individuals seeking income and opportunities in an otherwise deteriorating economic situation. They are reported to exercise brutal and arbitrary violence against political adversaries and the wider population.⁵⁶ There are numerous reports of prisoners being held without legal process, sometimes for years, and tortured in basement cells.⁵⁷

46 Eye-witnesses report a full-blown cult of personality surrounding Zakharchenko in the DPR.

47 Daniil Sotnikov, “Zacharchenko sam naznachaet sebja glavoj Malorossii” [Zacharchenko declares himself leader of Malorossiya], *TVRain*, 18 July 2017.

48 Nikolaus von Twickel, “Zum Hintergrund des Attentats auf Alexander Sachartschenko”, in: *Ukraine Verstehen*, 7 September 2018, <https://ukraineverstehen.de/sachartschenkos-attentat/> (accessed November 2018).

49 “Kto takoj Pasechnik i kakoj konflikt byl u nego s Plotnitskim” [Who Pasechnik is and his conflicts with Plotnitsky], *DNR24*, 16 November 2018.

50 In 2013 he stood unsuccessfully for a seat in the Verchovna Rada.

51 *Konstitutsija Donetskoj Narodnoj Respubliki*, <https://nslnr.su/zakonodatelstvo/konstitutsiya/> [Constitution of the Donetsk People's Republic] (accessed November 2018); *Konstitutsija Luganskoj Respubliki* [Constitution of the Lugansk People's Republic], <https://dnrsovet.su/konstitutsiya/> (accessed November 2018).

52 Mitrochin, “Diktaturtransfer im Donbas” (see note 42), 41.

53 See the official websites of DNR, <https://dnr-online.ru/> (accessed November 2018), and LNR, <https://glava-lnr.info/> (accessed November 2018).

54 Anton Shechovtsov, “Foreign Observation of the Illegitimate ‘General Elections’ in the Donetsk People's Republic and the Lugansk People's Republic in November 2018”, European Platform for Democratic Elections website, 13 November 2018.

55 OSCE, *Access to Justice and the Conflict in Ukraine*, OSCE SMM Thematic Report (December 2015), <https://www.osce.org/ukraine-smm/212311?download=true> (accessed January 2019).

56 Interviews in Kyiv, Kramatorsk and Sloviansk, March 2018.

57 Amnesty International and Human Rights Watch, *You Don't Exist: Arbitrary Detentions, Enforced Disappearances, and Torture in Eastern Ukraine* (London, 2016), <https://www.amnesty.org/download/Documents/EUR5044552016ENGLISH.PDF> (accessed January 2019). Interviews with victims, Kyiv, March 2018.

Economic Decline and Dependency on Russia

The war years of 2014 and 2015 caused a dramatic economic collapse on both sides of the line of contact. Much of the industrial equipment and infrastructure in the areas of fighting was damaged, looted or destroyed. Supply chains were broken, trade ceased. The banking system collapsed and the region was cut off from the international financial transaction system. It is estimated that the region's economy shrank by about two-thirds in 2014.⁵⁸ Payments of pensions and other social benefits ceased from the end of the year, further exacerbating socio-economic hardship. Only the surviving Ukrainian enterprises continued to ensure that wages were paid more or less regularly, and also provided humanitarian aid.

In the course of 2015 Russia began paying pensions, benefits and wages in both entities. While this began hesitantly, not least on account of the economic crisis in Russia, it ultimately led to a consolidation of the new power structures – and to their absolute economic dependency on Russia. In 2016 the International Crisis Group estimated that Russian financial aid to the contested parts of eastern Ukraine amounted to about \$1 billion annually, and put the Russian share of the budgets of the two territories at 70–90 percent.⁵⁹

Attempts by the People's Republics to persuade businesses operating in their territory to pay taxes met with very modest success.⁶⁰ Most firms remained registered on the Ukrainian-controlled side and initially continued to operate across the line of contact.⁶¹

Kyiv tolerated trade with the People's Republics.⁶² Although Ukraine was increasingly substituting anthracite from the NGCA with imports from South Africa, it initially still used supplies from the break-away entities for electricity generation. The Ukrainian-controlled areas continued to supply the (remaining) steel industry in the NGCAs with iron ore.⁶³ The NGCAs also continued to receive electricity from the GCAs. Other products were also traded, alongside significant smuggling and corruption. This arrangement ended abruptly in March 2017, when Kyiv imposed an economic embargo on the NGCAs. Industrial production in the People's Republics collapsed, numerous workers were made redundant, and (where they were still paid at all) wages were cut by up to 50 percent.⁶⁴ Efforts to find new markets in Russia had at best partial success.

58 Anders Aslund, "Kremlin Aggression in Ukraine: The Price Tag", Atlantic Council website, March 2018, 7. Ukraine's GDP shrank by 6.5 percent in 2014. The German Advisory Group on Ukraine attributed about half the decline to the fighting in Donbas. "Deepening of the Recession Due to the Situation in Eastern Ukraine", *German Advisory Group Newsletter*, no. 72 (October 2014).

59 ICG, *Russia and the Separatists in Eastern Ukraine*, Europe and Central Asia Briefing 79 (Brussels and Kyiv, 5 February 2016), 5ff.

60 "Rassledovanie RBK: Na ch'i den'gi zhivet Donbass" [RBK investigation: Whose money keeps Donbas alive], *RBK*, 15 June 2015; "Kak vyzhivaet biznes v Donbasse" [How businesses survive in Donbas], *Meduza*, 18 February 2015.

61 Rinat Akhmetov's businesses reported employing up to 120,000 people before they were expropriated, and supplying humanitarian aid to more. Interviews in Kyiv, March 2018. See Natalia Mirimanova, *Business Opportunities Lost ...*

and Found: Small and Medium Sized Enterprises from Donbas Responding to the Conflict (Geneva: Centre for Humanitarian Dialogue, November 2016); Natalia Mirimanova, *Economic Connectivity across the Line of Contact in the Donbas, Ukraine: An Under-utilised Resource for Conflict Resolution* (Geneva: Centre for Humanitarian Dialogue, September 2017).

62 Transparency International and NAKO, *Crossing the Line: How the Illegal Trade with Occupied Donbas Undermines Defence Integrity* (2017), <https://nako.org.ua/wp-content/uploads/2017/11/Crossing-the-line.-How-the-illegal-trade-with-occupied-Donbas-undermines....pdf> (accessed November 2018).

63 Katherina Bosko, "Post-Minsk-Realität: Die Folgen der Donbas-Blockade durch ukrainische Rechtsradikale und der 'Nationalisierung' von Unternehmen durch die 'Volksrepubliken'", *Ukraine-Analysen*, no. 184 (10 May 2017): 2–6 (3).

64 Interviews with business representatives in Kyiv, March 2018.

Ukraine: Between Neglect and Implementation of the Minsk Agreements

Kyiv believes its conflict is not with the rulers in Donetsk and Luhansk, but with Russia. In that context it is easy for the populations of the contested areas to be forgotten. This situation recalls the attitude of other states in the region that have been affected by secession, especially Georgia in the 2000s. Petro Poroshenko approved the Minsk Agreements in September 2014 and February 2015 under great military pressure, but the documents remain highly contested in Ukraine; implementation – especially of the political provisions – has stalled. On the one hand, many Ukrainian actors assert that the security situation in the NGCAs is too volatile to permit elections to be held. On the other, they see a danger that special status for the two breakaway entities might grant Moscow a permanent veto over Ukrainian’s internal and foreign policies.

In Kyiv there is broad consensus that the events in the Donbas are part of a hybrid war conducted by Russia against Ukraine.⁶⁵ In this predominant interpretation Moscow is waging war to block Ukraine’s Euro-Atlantic integration and restore its own hegemony over the entire country. From this perspective the conflict in the east is part of an existential struggle where only the Ukrainian or the Russian project can survive, but not both.

⁶⁵ The description of the Ukrainian Donbas discourse draws heavily on the findings of twenty-five interviews with political actors, experts and representatives of civil society organisations conducted by the author in Kyiv in March 2018, as well as participation in seminars and dialogue processes on the conflict since 2014. A very useful tabular overview of the positions of the parties represented in the Ukrainian parliament, the Verchovna Rada, is offered by a survey conducted by the weekly *Zerkalo Nedeli*: “Put’ domoj” [The way home], *Zerkalo Nedeli*, 13 June 2018.

In this scheme the Donbas conflict is but one element of that wider war. From the Ukrainian perspective there can be no separation between the events in the east and the annexation of Crimea: both are elements of one and the same Russian aggression, which also exhibits other characteristics of “hybrid warfare” such as political influence, cyber-attacks and economic pressure. From that perspective a resolution cannot be restricted to the Donbas, but instead presupposes full restoration of Ukraine’s sovereignty and territorial integrity. In the eyes of most of my interviewees reconciliation with Russia is neither likely nor possible. Accordingly, for the foreseeable future there can be no alternative to close political and military ties with the West, in order to offer maximum resistance to Russia.

Many interviewees also placed the Russian attack on Ukraine in a broader international context, describing it as one of several dimensions of Moscow’s war on the liberal global order and the Western community. They regard Ukraine as part of the West and a vanguard for defending its values.

Kyiv’s Donbas narrative concentrates almost exclusively on the geopolitical level and the relationship with Russia, with no space for a local conflict dimension. In this discourse the separatist rulers in Donetsk and Luhansk are not autonomous actors but puppets controlled by Moscow. Kyiv regards them as criminals and terrorists who must not be legitimised by treating them as a conflict party.

The absence of a local dimension in Kyiv’s interpretation of the conflict has grave consequences for the affected civilian population. In the eyes of most interviewees the war was inflicted on Ukraine entirely from outside in 2014, and lacked any – political or ethno-political – basis in Ukrainian society. Consequently, there is no issue of reconciliation between

different ethnic or social groups, merely a need to establish or restore cohesion within one and the same society. Yet the emphasis on cohesion collides with Kyiv's highly negative image of the Donbas, which is portrayed as backward, Soviet, unproductive and authoritarian.⁶⁶

Kyiv: no peace-building without full central control of separatist areas.

This heavily geopolitical perspective also leads to a rigid categorisation of the populations of the conflict zones. A blanket suspicion is directed towards those who continue to live in the contested territories or alternate between the GCAs and the NGCAs. They find themselves liable to accusations of sharing anti-Ukrainian attitudes and supporting the Moscow-led separatist forces.⁶⁷ Under these conditions, peace-building (which to the Ukrainians means the restoration of social cohesion) is impossible until the separatist areas have been liberated and returned to full central control. How the populations and the current rulers should be treated after the end of the conflict is a matter of great controversy. One of the foremost issues is a “draft law prohibiting collaboration” proposed by the People's Front party of Arseniy Yatsenyuk.⁶⁸ Some Ukrainian interviewees said that they could not exclude the possibility of retribution against “collaborators” following a military victory for Kyiv.⁶⁹

⁶⁶ See also Katharine Quinn-Judge, “To Reunite Ukraine, Kyiv Must Overcome Its Own Prejudices”, Crisis Group Commentary (online) (20 March 2018).

⁶⁷ “The mainstream has no understanding for the people in the territories, that they are Ukrainians, that they must be helped. Responsibility for them is no concept for resolving this question, nor the social question.” Quote from an interview conducted by the author in Kyiv, March 2018.

⁶⁸ *Proekt Zakonu pro zaboronu kolaboratsionizmu* [Draft law prohibiting collaboration], Verchovna Rada Ukraini, 9 March 2017, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61312 (accessed November 2018). See also Arsen Avakov, “Kollaboratsionizm i amnistija: Neobchodimost' obshzhestvennogo dialoga” [Collaboration and amnesty: The necessity of societal dialogue], *Ukrainskaja Pravda*, 6 June 2018.

⁶⁹ See also ICG, *Nobody Wants Us: The Alienated Civilians of Eastern Ukraine*, Europe Report 252 (Kyiv and Brussels, 1 October 2018), 7ff.

Controversy over the Minsk Agreements

While the contextualisation of the Donbas war is uncontested in Kyiv, there are considerable differences within the Ukrainian political spectrum about how best to respond to the Russian aggression and how to treat the contested territories. Many actors regard the Minsk Agreements, and especially the February 2015 Package of Measures for implementing them, as a Russian imposition that the Ukrainian leadership was forced to accept in a moment of military weakness. The political steps laid out in the Agreements – especially formalising special status in the Ukrainian constitution – are extremely controversial. As a result, the Agreements are permanently questioned and challenged in the domestic political process. The heated atmosphere also prevents reforms such as decentralisation from playing a positive role in the peace process.⁷⁰ Other issues such as language legislation further heighten tensions and are politically instrumentalised in the conflict.

The implications of the March and April 2019 presidential elections for the implementation of the Minsk Agreements and the future of the peace process remain unclear. Poroshenko focused his election campaign on identity politics under the slogan “Army, Language, Faith” – with limited success, as his poor showing in the first round demonstrated. His surprise contender, Volodymyr Zelenskiy, remained vague on the Donbas and future relations with Russia for most of the election campaign. Shortly before the second round he declared his intention to continue to work for the implementation of the Minsk Agreements, but said that the Minsk Process should be overhauled. He also called for direct talks with Russia since the war was between Ukraine and Russia. Most importantly, however, Ukraine should strive for an immediate ceasefire in the Donbas. Kyiv, Zelenskiy said, needed to take a more engaged and inclusive approach towards the communities affected by the conflict in the East, including by paying pensions to those entitled in the conflict region.⁷¹

A number of hard right militias play an important role in the domestic debates over the Agreements and

⁷⁰ Roland Hackenberg, “Dezentralisierungsreform in der Ukraine”, *Ukraine verstehen*, 5 November 2018, <https://ukraineverstehen.de/dezentralisierungsreform-ukraine/> (accessed November 2018).

⁷¹ <https://www.youtube.com/watch?v=06neB6LZJyg> (accessed April 2019).

the treatment of the contested areas.⁷² In line with the Minsk Agreements militias — including Azov, the Organisation of Ukrainian Nationalists (OUN) and Aidar — were formally integrated into the Ukrainian armed forces from the end of 2014, but some continue to exist as political organisations and are in certain cases close to Ukraine’s extreme right-wing scene. They played a significant role in all significant protests against Kyiv’s policies towards the Donbas, from legislative proposals in connection with the Minsk Package of Measures to the imposition of the economic embargo in 2017. Even if right-wing and extreme right-wing parties have failed to achieve any notable showing in elections since 2014, nationalist ideology enjoys considerable influence in the public debate over the conflict in the east (as it does in other issues). Nationalist actors have frequently succeeded in forcing the political leadership to modify policies.

Implementation of the Minsk Agreements

Since 2014 Kyiv has taken a series of steps to fulfil Ukrainian’s obligations under the Minsk Agreements.⁷³ In September 2014 the Ukrainian parliament, the Verchovna Rada, passed the amnesty law agreed in Minsk, although it has yet to come into force. The special status law followed in October 2014, granting special self-administration rights to “particular areas in the regions of Donetsk and Luhansk”, initially for three years. The law codifies the right to use the Russian language in the affected areas and special status in the areas of administration, police/security forces, elections, and economic and cultural rights.⁷⁴ In March 2015 Kyiv decreed that the special status law could not come into force until free and fair local elections had been held under

⁷² On the history and importance of the militias see Huseyn Aliyev, “Bewaffnete Freiwilligenbataillone: Informelle Machthaber in der Ukraine”, *Ukraine-Analysen*, no. 205 (25 September 2018): 2ff.

⁷³ “Analyse: Faktencheck: Die Umsetzung der Minsker Vereinbarungen zum Donbass-Konflikt” (Bonn: Bundeszentrale für politische Bildung, 4 May 2015), <http://www.bpb.de/205903/analyse-faktencheck-die-umsetzung-der-minsker-vereinbarungen-zum-donbass-konflikt> (accessed December 2018).

⁷⁴ For a documentation of the law, see “Gesetz über den Sonderstatus einzelner Bezirke der Region Donezk und Luhansk (16.09.2014)”, *Ukraine-Analysen*, no. 136 (17 September 2014): 9f.

Ukrainian law in the contested territories.⁷⁵ In summer 2015 President Poroshenko presented a proposal for anchoring the special status in the Ukrainian constitution.⁷⁶ The debate in the Verchovna Rada was accompanied by street protests in Kyiv, where violent clashes left several dead and dozens injured.⁷⁷ The constitutional amendment has been on ice ever since.

In October 2018, to the surprise of most observers, the special status law was extended without public disorder. The previous year’s extension had only been possible because the government presented it to parliament as part of a new law on the contested territories that for the first time explicitly named Russia as aggressor and occupying power. That law ended the Anti-Terror Operation and transferred responsibility for liberating and defending the occupied regions to the Ukrainian armed forces. It also expanded the president’s powers in the event of escalation.⁷⁸ This legislative process was again accompanied by intense and in parts violent protests, in the course of which all reference to the Minsk Agreements disappeared from the draft law.⁷⁹ Russia immediately criticised the law as a violation of Minsk.⁸⁰ Once it had passed, the

⁷⁵ “Donbas Special Status Law Sparks Outrage, Protests”, *Atlantic Council’s Digital Forensic Research Lab*, 6 October 2017, <https://medium.com/dfrlab/donbas-special-status-law-sparks-outrage-protests-21068354af5c> (accessed November 2018).

⁷⁶ The de facto leaderships in Donetsk and Luhansk demanded participation in the constitutional debate. Kyiv rejected this on the grounds that they had come to power by means of terror and lacked electoral legitimation. Instead, Kyiv said, legitimate representatives from the Donetsk and Luhansk regions would be included in the discussions.

⁷⁷ Nastya Stanko and Maksym Kamenev, “How Poroshenko Passed the Unpopular ‘Donbas Special Status Law’”, *Hromadske*, 7 October 2017.

⁷⁸ “President Signed Law on Peculiarities of the State Policy on Ensuring the State Sovereignty of Ukraine in the Temporarily Occupied Territories in Donetsk and Luhansk Regions”, President of Ukraine Petro Poroshenko Official Website, 20 February 2018, <https://www.president.gov.ua/en/news/president-pidpisav-zakon-pro-osoblivosti-derzhavnoyi-politik-45950> (accessed November 2018). Generally known as the deoccupation or reintegration law in political and media contexts.

⁷⁹ “No Longer ATO, Not Yet War: Ukraine Adopts Controversial ‘Donbas Reintegration’ Bill”, *Euromaidan Press*, 18 January 2018. Interviews with deputies from the governing and opposition parties, Kyiv, March 2018.

⁸⁰ Ministry of Foreign Affairs of the Russian Federation, “Comment by the Information and Press Department on the Signing of the ‘Donbass Reintegration’ Law by the President

Ukrainian political leadership emphasised that it was adhering to the Agreements. Humanitarian organisations expressed concern that the law largely ignored the suffering in the conflict zone.

of Ukraine”, 24 December 2018, http://www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/3090905 (accessed November 2018).

Russia: Controlled Destabilisation by Revisionist Means

Moscow plays a central political and military role in the Donbas conflict, while adhering to the Minsk Agreements. Unlike in the case of Crimea (which Russia annexed in a move that was not only revisionist but irredentist) or Abkhazia and South Ossetia (which it recognised in 2008) the Kremlin's policy in the Donbas remains orientated on the status quo. Formally Moscow treats the contested territories as part of the Ukrainian state.

At a press conference on 4 March 2014 Vladimir Putin laid out the official Russian interpretive framework for Russian policy towards post-Maidan Ukraine, describing the events in Kyiv as “an anti-constitutional takeover, an armed seizure of power” and denying the legitimacy of the new Ukrainian government. Putin expressed his understanding for Ukrainians' dissatisfaction with a system that had failed to improve their lives since the country became independent. Corruption and inequality had, he said, been many times worse in Ukraine than in Russia. While the people had protested for understandable reasons, Putin said, other “forces” had exploited this to carry out a coup. Now, he said, “we see the rampage of reactionary forces, nationalist and anti-Semitic forces” in Kyiv and other parts of the country. “Therefore, if we see such uncontrolled crime spreading to the eastern regions of the country, and if the people ask us for help, ... we retain the right to use all available means to protect those [Russian-speaking, S.F.] people. We believe this would be absolutely legitimate.”⁸¹

This perspective has been maintained. While the situation in Kyiv has settled despite war and post-2014 economic recession, Russia still regards Ukraine as a failing state. The Ukrainian election year has triggered the reemergence of the (misguided) belief

⁸¹ Kremlin [official website], “Vladimir Putin Answered Journalists' Questions on the Situation in Ukraine”, 4 March 2014, <http://kremlin.ru/events/president/news/20366> (accessed November 2018).

that Russia-friendly or even pro-Russian forces could return to power in Kyiv.

But Russia's motivation was not merely to protect the Russian-speaking populations of Crimea and eastern Ukraine from a “fascist mob”. The Kremlin believed that the toppling of President Viktor Yanukovich had been staged by Washington to bring Ukraine into NATO and further erode Russia's influence in its own neighbourhood.⁸² From the Russian perspective the annexation of Crimea and support for the separatists in eastern Ukraine were merely acts of (self-)defence against the American drive towards a unipolar world order. As far as Moscow was concerned, the West was instrumentalising ideas about “freedom” and “democracy” to justify interventions in the regional spheres of influence of other major powers (like Russia), and to interfere in the internal affairs of other states. In this sense Moscow sees Ukraine as one of a long series of Western violations of international law, from the Kosovo conflict through the Iraq war to the intervention in Libya.⁸³

In that context the Russian-Ukrainian antagonism is no isolated phenomenon, but – seen from Moscow – part of a much broader conflict conducted by the United States against Russia in Europe and globally.⁸⁴ From the Russian perspective Ukraine is not an independent actor or adversary, but is controlled by Washington. This implies that possible solutions are located at the European and international levels,

⁸² Kremlin [official website], “Address by the President of the Russian Federation”, 18 March 2014, <http://en.kremlin.ru/events/president/news/20603> (accessed November 2018).

⁸³ On Russia's legal argumentation see Christian Schaller, *Völkerrechtliche Argumentationslinien in der russischen Außen- und Sicherheitspolitik: Russland, der Westen und das Nahe Ausland*, SWP-Studie 10/2018 (Berlin: Stiftung Wissenschaft und Politik, June 2018).

⁸⁴ The same basically applies to Russia's engagement in the Middle East.

rather than in the scope of Russian-Ukrainian relations.⁸⁵ And in the Russian narrative Crimea is excluded from the search for solutions. It is regarded as part of the Russian Federation, its annexation a chapter concluded.⁸⁶

Elements of Russia's Donbas Policy

Russian's policy towards its neighbours draws on a revisionist toolbox, which it also employs in the unresolved conflicts in the region. In these Moscow's actions are characterised by four elements that occur in different strengths and combinations,⁸⁷ and can also be identified in the Donbas conflict.

Military presence/intervention: Moscow continues to deny both the delivery of heavy weapons and other equipment to eastern Ukraine and the deployment of regular Russian forces there. In April 2015 Putin declared: "I tell you directly and definitely: There are no Russian troops in Ukraine."⁸⁸ Yet numerous investigative reports of both Western and Russian provenance demonstrate in minute detail that Russian troops were deployed in summer 2014 near Ilovaïsk and in February 2015 at Donetsk Airport and in Debaltseve. The methods upon which these studies are based include satellite imaging; geolocation using

photographs of military equipment, other images and statements posted on social networks by Russian soldiers deployed in Ukraine; interviews with soldiers, eye-witnesses and relatives; and estimating the numbers of fallen Russian soldiers returned to Russia (photographs and coffin counts).⁸⁹ Reliable information about the sections of the Ukrainian-Russian border not under Kyiv's control is scarce. Despite its comprehensive mandate, the OSCE Mission has only restricted access there, but it has repeatedly reported truck convoys with undetermined cargo passing the border from Russia into Ukraine. It is suspected that these vehicles transport military equipment into the contested areas.⁹⁰

85 Russian interviewees repeatedly mentioned former President Medvedev's call for a "new European security architecture".

86 See Kremlin [official website], "Meeting of the Valdai International Discussion Club" (with Vladimir Putin), 18 October 2018, <http://en.kremlin.ru/events/president/news/58848> (accessed December 2018).

87 Sabine Fischer, "Russian Policy in the Unresolved Conflicts", in *Not Frozen! The Unresolved Conflicts over Transnistria, Abkhazia, South Ossetia and Nagorno-Karabakh in Light of the Crisis over Ukraine*, ed. Sabine Fischer, SWP Research Paper 9/2016, 9–24 (12–24) (Berlin: Stiftung Wissenschaft und Politik, September 2016).

88 Kremlin [official website], "Prjamaja Linija s Vladimirom Putinym" [Direct Line with Vladimir Putin], 16 April 2015, <http://kremlin.ru/events/president/news/49261> (accessed November 2018). In great contrast to the case of Russian intervention in Crimea. In a documentary first broadcast on Russian state television in March 2015 Putin describes in minute detail the "necessities" and decision-making process that had led to the military operations in Crimea. In the process he officially confirmed that Russian soldiers had been deployed there in March 2014. "Krym: Put' na rodinu" [Crimea: The way home], <https://www.youtube.com/watch?v=t42-71RpRgI> (accessed November 2018).

89 See Igor Sutyagin, *Russian Forces in Ukraine*, RUSI Briefing Paper (London: Royal United Services Institute for Defence and Security Studies [RUSI], March 2015); Maksymilian Czuperski et al., "Versteckspiel vor den Augen aller: Putins Krieg in der Ukraine", *Atlantic Council*, September 2015; Sean Case and Klement Anders, "Putin's Undeclared War: Summer 2014 Artillery Strikes against Ukraine", *Bellingcat*, 2014. Bellingcat conducted particularly extensive research on the downing of the Malaysian passenger jet in July 2014. See numerous contributions on <https://www.bellingcat.com> and a comprehensive report: "MH17: The Open Source Investigation Three Years Later", *Bellingcat*, July 2017, <https://www.bellingcat.com/wp-content/uploads/2017/07/mh17-3rd-anniversary-report.pdf> (accessed November 2018). In *Russia Novaya Gazeta* led the reporting on Russian military operations in Ukraine. The opposition politician Boris Nemtsov worked with a group of experts to produce a report on the war in Donbas. It was later suspected that this could have been a reason for his assassination in February 2015 in Moscow. The report was published posthumously: *Putin: Voïna, Nezavisimyj ekspertnyj doklad: Po materialam Borisa Nemtsova* [Putin: War: Independent expert report based on materials from Boris Nemtsov] (Moscow, May 2015).

90 Widely noted film footage taken by an SMM drone and published by the Mission in August 2018 shows two lorry convoys crossing the Russian/NGCA border in both directions, avoiding official crossings and travelling on dirt roads. The vehicles were not identified as carrying humanitarian aid. On the same day the Mission announced it had discovered a makeshift military camp close to the Russian border in the Luhansk NGCA. OSCE, *Latest from the OSCE Special Monitoring Mission to Ukraine (SMM)*, 8 August 2018, <https://www.osce.org/special-monitoring-mission-to-ukraine/390179> (accessed November 2018).

Russian actors involved in building quasi-state structures in contested areas.

Support in establishing statehood: Russia does not recognise the People's Republics and maintains no official contacts with their rulers. The Kremlin accordingly avoided explicitly confirming the results of the November 2018 elections in the NGCAs. Russian actors are, however, involved in building quasi-state structures in the contested areas. Russia and the two entities are connected by a close network of "curators" operating as advisors in Moscow and in the government institutions of the People's Republics, and as such forming a bridge between the two sides. The central figure in the curator system is Vladislav Surkov, an advisor to the Russian President.⁹¹ He controls not only the contacts between the separatists and Moscow, but also the political processes in the contested areas. As the Kremlin's special representative he also plays an important role in the deliberations of the Trilateral Contact Group in Minsk. Deputy Prime Minister Dmitry Kozak in turn heads the "Inter-ministerial Commission for the Provision of Humanitarian Aid for the Affected Areas in the Southeast of the Regions of Donetsk and Luhansk", which is responsible for humanitarian measures but also — according to media reports — for (shadow) economic interaction with the contested areas.⁹²

It is frequently reported that the institutions involved pursue diverging interests, as witnessed in the recurring power struggles in Donetsk and Luhansk. Observers suspect that the Russian security services back the hardliners and opponents of Minsk in both People's Republics. Surkov's mission, on the other hand, is to control precisely these actors and ensure that the Minsk Agreements survive. Economic interests also play a role in the relationships.⁹³ Differences of position and interest in Moscow create a degree of political leeway for the actors in the People's Repub-

⁹¹ See also ICG, *Russia and the Separatists in Eastern Ukraine* (see note 59), 12ff.

⁹² "Novye starye kuratory: pochemu Moskva ne ostavit Donbass bez pomoshchi" [The new old curators: Why Moscow is not abandoning Donbass], *RBK*, 15 June 2018.

⁹³ Nikolaus von Twickel, *Annual Report on the Events in the "People's Republics" of Eastern Ukraine 2017* (Berlin: Deutsch-Russischer Austausch e.V. [DRA], 2018), http://www.austausch.org/files/DRA/Publikationen/Menschenrechts-Monitoring/Annual_report_NGCAs_2017.pdf (accessed November 2018).

lics, which they exploit for local power and distribution conflicts.⁹⁴

Naturalisation/pasportizatsiya: Moscow has been granting Russian citizenship to inhabitants of Abkhazia, South Ossetia and Transnistria since the 2000s. This policy, known as *pasportizatsiya*, was originally also motivated by humanitarian concerns, to help residents of those regions escape their isolation. But the naturalisation policy increasingly morphed into a means of exerting pressure on the respective rump states. It also encouraged the argument that Moscow was responsible for the fate of Russian citizens in these regions.⁹⁵

Russia naturalised the entire population of Crimea by the end of 2014. In the two People's Republics, on the other hand, it has to date pursued policies predicated on the status quo. While the Duma in February 2014 passed a law easing naturalisation procedures for Russian-speaking residents of other states, it is not applied in the People's Republics.⁹⁶ In February 2017 Putin decreed that "temporarily, during the political settlement period [...] pursuant to the Minsk Agreements", identity documents, passports, training certificates, birth and marriage certificates and similar issued in the territories would be recognised in the Russian Federation. Residents of the contested areas would also be able to enter the Russian Federation without a visa.⁹⁷ The Kremlin emphasised that the decree served humanitarian ends and complied with the Minsk Agreements. Indeed, the text cannot be construed as representing official recognition of the issuing institutions. Other parliamentary initiatives since 2014 aiming to ease naturalisation for residents

⁹⁴ ICG, *Russia and the Separatists in Eastern Ukraine* (see note 59), 14.

⁹⁵ For greater detail see Fischer, "Russian Policy" (see note 87), 20ff.

⁹⁶ Paul Goble, "Moscow Cannot Afford a South Ossetian Strategy in Ukraine's Donbas", *Eurasia Daily Monitor* 14, no. 94 (18 July 2017).

⁹⁷ *Ukaz o priznanii dokumentov* [Executive Order on recognising documents], 18 February 2017, <http://www.kremlin.ru/acts/news/53895> (accessed November 2018). The Russian ambassador to the OSCE declared one month later that Russia would rescind recognition if Ukraine fulfilled its obligations under the Minsk Agreements. "MID Rossii rasskazal o vozmozhnoj otmene priznanija dokumentov DNR i LNR" [Foreign ministry comments on possible cancellation of recognition of documents from DPR and LPR], *Novaya Gazeta*, 17 March 2017.

of the contested areas have had no success.⁹⁸ Moscow has refrained from mass naturalisations of the kind practised in the past in Abkhazia and South Ossetia, and to a lesser extent also in Transnistria.⁹⁹

Economic support: Russia's economic role is of existential importance for the contested areas in the Donbas. This has applied from the outset, especially to the smaller and economically weaker Luhansk People's Republic. As well as supplying humanitarian aid, Russia also cushions the worst impacts of economic isolation. Since Ukraine's imposition of a trade embargo in 2017 both People's Republics have become completely dependent on Russia for supplies of raw materials and markets for their products. But the possibilities for commerce remain limited as long as Russia denies the entities official recognition.¹⁰⁰ Fear of Western sanctions also leads Russian enterprises to exercise caution. In order to process payments "legally" they are channelled via South Ossetia, the only "partner country" that has to date officially recognised the People's Republics.¹⁰¹ Russian curators also ensured that the rulers of Donetsk and Luhansk did not "nationalise" the affected Ukrainian enterprises in March 2017 but instead – in semantic accord with the Minsk Agreements – placed them

"under external control".¹⁰² Russia's official humanitarian support and unofficial economic contacts ensure the survival of the power structures in the two contested areas, but their economic and socio-economic situation remains precarious. To date Moscow has refrained from expanding its economic contacts with the People's Republics and elevating them to a more official plane.

Russia's approach in this case exhibits similarities and differences to other conflicts. Its actions in Ukraine since 2014 have been considerably more planned and directed than in the civil wars that broke out in the course of the Soviet disintegration in the early 1990s.¹⁰³ In the Donbas Russian policy deliberately contributed to escalating the conflict. The specific combination of revisionist elements in the People's Republics is most similar to the Russian approach to the conflicts over Abkhazia and South Ossetia in the years before the Russian-Georgian War of 2008. But this is not a static situation, and Moscow has been forced to repeatedly adjust its policy (for example by recognising documents). An incremental process with deeper Russian involvement in eastern Ukraine – comparable to the trajectory followed in Abkhazia and South Ossetia over the years – cannot be excluded.

98 "V Gosdume predlozhili uprostit' poluchenije grazhdanstva dlja DNR i LNR" [Proposal easing naturalisation for DPR and LPR introduced in Duma], *Novaya Gazeta*, 25 April 2017.

99 This does not mean, of course, that nobody with Russian citizenship lives in the contested territories. Given that the Ukrainian constitution permits dual citizenship, it is likely that a meaningful number of Ukrainians probably received Russian passports during the period between the collapse of the Soviet Union and the tightening of Russia's naturalisation legislation at the end of the 1990s. Precise figures are not available, however. Thomas Hoffmann and Archil Chochia, "The Institution of Citizenship and Practices of Passportization in Russia's European Neighbourhood Policies", in *Russia and the EU: Spaces of Interaction*, ed. Thomas Hoffmann and Andrey Makarychev, 223 – 38 (232f.) (London and New York, 2019).

100 Nikolaus von Twickel, "Analyse: Donbass: Sind die 'Volksrepubliken' Marionettenstaaten?" (Bonn: Bundeszentrale für politische Bildung, 23 May 2018), <http://www.bpb.de/internationales/europa/ukraine/269571/analyse-donbass-sind-die-volksrepubliken-marionettenstaaten> (accessed November 2018).

101 For greater detail, see "Partner u nas odin – Rossijskaja Federacija" [We have only one partner – the Russian Federation], *Kommersant Vlast'*, 6 May 2017.

102 Ibid.

103 For a systematic comparison of the "old" unresolved conflicts see Sabine Fischer, "Conclusions and Recommendations: European Peace Policy in the Unresolved Conflicts", in *Not Frozen!*, ed. Fischer, 81 – 93 (87 – 93) (see note 87).

The Humanitarian Situation in the Conflict Zone

The humanitarian consequences of the war are deeply inscribed into Donbas society. They are a significant factor in the steadily widening gulf between Kyiv and the populations in the conflict regions, and especially in the NGCAs.

What was once a temporary emergency in eastern Ukraine threatens to turn into a situation of permanent poverty and underdevelopment with all the associated negative consequences. Food security in the conflict region has deteriorated continuously, with the most drastic decline seen in the past three years. The proportion of the population in the People's Republics without access to balanced nutrition increased from 40 percent in 2016 to 86 percent in 2017. Even in the areas along the line of contact that are controlled by Kyiv the proportion is about 55 percent.¹⁰⁴ Humanitarian organisations point to a rise in the prevalence of typical symptoms of structural poverty such as drug abuse, alcoholism and prostitution, and to limited access to healthcare and school education. Populations of the more densely populated People's Republics are especially severely affected. Here the suffering has increased in proportion to the growing isolation.¹⁰⁵

The Ukrainian government appears unable to cope with the humanitarian disaster. One reason for this is that the country's weak state institutions were simply

overstretched, above all at the beginning of the war.¹⁰⁶ Another is the problematic role played by the ambivalent stance of large parts of the political elites. More than a few politicians in Kyiv regard the Donbas as an unnecessary economic burden and its population as backward and politically untrustworthy. Their willingness to engage and to alleviate the humanitarian suffering in the conflict-affected areas is very limited.¹⁰⁷ There is also a problem of representation. Since the Maidan revolution the Ukrainian party spectrum has focussed strongly on the centre and west of the country. The parties representing the east – the Opposition Bloc and the Communist Party – possess little influence at the national level. There is thus no significant political force capable of effectively representing the region's interests in Kyiv. In the Donbas this amplifies the feeling of being forgotten and neglected.¹⁰⁸ Structural asymmetries and political priorities in Kyiv are also reflected at the level of government. The "Ministry of Temporarily Occupied Territories and IDPs" established in 2016 is politically and financially weak and overshadowed by better-funded ministries. It is not perceived as a significant player by other state and non-state actors.¹⁰⁹

104 United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), *Ukraine Humanitarian Needs Overview 2018* (November 2017), 10, <https://www.humanitarianresponse.info/en/operations/ukraine/document/ukraine-2018-humanitarian-needs-overview-hno> (accessed November 2018). The dramatic rise is partly attributable to the economic embargo imposed on the NCGAs in March 2017.

105 United Nations in Ukraine, *Humanitarian Response Plan Ukraine 2018* (4 December 2017), 21, <http://www.un.org.ua/en/resident-coordinator-system/humanitarian-response> (accessed November 2018).

106 Veronique Barbelet, *Humanitarian Access and Local Organisations in Ukraine*, HPG Working Paper (London: Humanitarian Policy Group [HPG], September 2017).

107 ICG, *Nobody Wants Us* (see note 69), 4.

108 Interviews with representatives of government and opposition parties in Kyiv, including members of the Verchovna Rada; interviews in Kramatorsk and Sloviansk, March 2018.

109 Interview with representatives of the ministry, Kyiv, March 2018. Interviews with representatives of humanitarian organisations in Kyiv, Kramatorsk and Sloviansk, March 2018. See also ICG, *Ukraine: The Line* (see note 14), 2f.; ICG, *Nobody Wants Us* (see note 69), 7f.

Internally Displaced Persons and Pensioners

According to the Ukrainian Ministry of Social Policy there were almost 1.5 million registered internally displaced persons (IDPs) living in Ukrainian-controlled territory in December 2017. The United Nations believes that a considerable proportion of IDPs registered in the GCAs live for at least part of the time in the NGCAs. The UN's own estimates therefore put the number of IDPs living permanently in the GCAs at about 760,000.¹¹⁰ As well as the IDPs in Ukraine, another million people fled the war to Russia.¹¹¹ Thus altogether the war in eastern Ukraine has displaced about two and a half million people temporarily or permanently from their homes. This exceeds the magnitude of flight and displacement during the Yugoslav wars of the 1990s. Ukraine has the world's tenth-largest population of IDPs.¹¹²

The Donbas was a demographically old region even before the war on account of economically driven outward migration. As a result the number of pensioners affected by the events is disproportionately high. About 30 percent of the 3.4 million people requiring humanitarian aid because of the conflict are of pension age – the highest proportion in any conflict worldwide.¹¹³

The Ukrainian public and local and regional administrations responded with great solidarity and engagement to the plight of the refugees. Numerous aid convoys and generous donations reached the crisis area in 2014 and 2015. The support was organised quickly and unbureaucratically at grass-roots level. To

this day tensions between local populations and the IDPs are rare. But the national political level remains ambivalent for the reasons laid out above. Initiatives to integrate IDPs are not supported by the whole government and are underfunded.¹¹⁴

Internal displacement has become a chronic structural problem.

The problem is especially clear in the case of IDPs of pension age. The Ukrainian government stopped paying social benefits to residents of the NGCAs in December 2014, in response to the holding of elections in contravention of the Minsk Agreements. Since 2014 pensioners living in the NGCAs have had to register as IDPs in the GCAs in order to receive their pensions. In 2016 checks were introduced to ensure that registered IDPs reside permanently at their place of registration. According to the UN close to 500,000 of the almost 1.3 million pensioners registered in the NGCAs before the war were still regularly receiving their pensions.¹¹⁵ Kyiv's policy – intended to prevent “pension tourism” between GCAs and NGCAs – denies a living to one of the groups most severely affected by the conflict. International organisations see this as a human rights violation, as do certain Ukrainian state and non-state actors. They call for Kyiv to completely uncouple the pension payments from IDP status.¹¹⁶ A draft law to that effect prepared by the Ministry of Temporarily Occupied Territories has been on ice in the Rada since summer 2017.¹¹⁷

110 Inna Volosevych and Tetiana Kostiuhenko, “Desk Research of the Survey of IDPs” (United Nations High Commissioner for Refugees [UNHCR]/GfK, December 2017), reliefweb.int/sites/reliefweb.int/files/resources/gfk_unhcr_desk_report_final.pdf (accessed November 2018). Reliable information on the number of IDPs in the NGCAs is not available.

111 In 2014 no country received more applications for asylum and refugee status than Russia. About 90 percent of applications were approved that year. UNHCR, *World At War: Global Trends: Forced Displacement in 2014* (Geneva, June 2015), <https://www.unhcr.org/556725e69.pdf> (accessed January 2019).

112 UNHCR, *Global Trends: Forced Displacement in 2017* (Geneva, June 2018), <http://www.unhcr.org/globaltrends2017/> (accessed November 2018).

113 UN OCHA, *Ukraine Humanitarian Needs Overview 2018* (see note 104), 8.

114 UNHCR, *Multi-year, Multi-partner Protection and Solutions Strategy for Ukraine, 2018–2020* (Geneva, 8 January 2018), 2, http://www.unhcr.org/ua/wp-content/uploads/sites/38/2018/06/Ukraine-MYMP-Protection-and-Solutions-strategy-2018_2022_FINAL.pdf (accessed November 2018).

115 United Nations in Ukraine, *Pensions for IDPs and Persons Living in the Areas Not Controlled by the Government in the East of Ukraine*, UN Briefing Note (December 2017), http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/briefing_note_on_pensions_en.pdf (accessed November 2018).

116 Interviews in Kyiv, March 2018.

117 UN, *Pensions for IDPs* (see note 115). The Ukrainian constitutional court ruled in October 2018 that the existing practice was unconstitutional. But to date this has not led to the draft law being passed. UNHCR Legislative Update, October 2018, http://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/2018_10_legislative_update_eng.pdf (accessed January 2019).

In the sixth year of the conflict internal displacement is no longer a temporary phenomenon, but a chronic structural problem. IDPs face numerous problems, from securing a living to lack of political representation. A survey by the International Organisation for Migration in March 2018 found for the first time a majority stating they no longer wished to return to their original homes.¹¹⁸

Life in the “Grey Zone” and in the NGCAs

The almost 500-kilometre line of contact between GCAs and NGCAs is a permanent source of humanitarian crisis. Five so-called Entry-Exit Crossing Points (EECPs) were established in 2015, four of them between GCA and Donetsk NGCA and just one on the shorter line between GCA and Luhansk NGCA. The latter crossing point, at Stanytsia Luhanska, is a deteriorating provisional wooden structure built over a heavily damaged concrete bridge and is only passable on foot. The other crossing points (Maiorske, Marinka, Novotroitske and Hnutove) are also open for cars and lorries. To date the conflict parties have been unable to agree to open more crossings. The People’s Republics have little interest in encouraging traffic with the GCAs, fearing not least that more people could move permanently to the other side.¹¹⁹ In Kyiv efforts to more strongly isolate the NGCAs have been growing for years. Despite these restrictions the number of crossings has increased every year. For June 2018 alone the UN reported no less than 1.2 million journeys across the line of contact.¹²⁰ The existing infrastructure is hopelessly overstretched, leading to long waiting times exposed to shelling and harsh weather.¹²¹ The situation at the crossing points leads

people to cross the line elsewhere, exposing themselves to the dangers of mines and unexploded ordnance.¹²² The zone along the line of contact is one of the world’s most heavily mined regions.¹²³

Since 2014 tens of thousands of residential buildings have been damaged or destroyed.¹²⁴ Repairs and reconstruction have proceeded extraordinarily slowly and are impeded by ongoing fighting, especially in the NGCAs. Fighting and shelling also regularly damage critical infrastructure and endanger the supply of electricity, water and heating on both sides of the line of contact. The Donetsk Filter Station (DFS), which supplies drinking water to 345,000 people on both sides of the line of contact, is especially exposed, and has been repeatedly shelled by both sides.¹²⁵ Maintenance staff of the operator Vododonbasa regularly come under fire, frequently causing the water supply to be reduced or cut off altogether.

About 200,000 people live in the immediate vicinity of the line of contact on the CGA side. Because the separatists deny access to the areas under their control, reliable population figures for their side are not available. On both sides, but especially in the NGCAs, troops operate from residential areas and civilian facilities and even locate heavy arms in them, with life-threatening consequences for the civilian population.¹²⁶

118 International Organisation for Migration, *National Monitoring System Report on the Situation of Internally Displaced Persons* (March 2018), 7, <http://www.iom.org.ua/en/national-monitoring-system-report-situation-internally-displaced-persons-march-2018> (accessed November 2018).

119 Eye-witnesses report restrictions on the mobility of particular professions such as doctors and teachers since 2017. Interviews in Kramatorsk and Sloviansk, March 2018.

120 UN OCHA, *Ukraine: Checkpoints – Humanitarian Snapshot* (16 July 2018), <https://reliefweb.int/report/ukraine/ukraine-checkpoints-humanitarian-snapshot-16-july-2018> (accessed January 2019).

121 UNHCR, *Crossing the Line of Contact: Monitoring Report* (February 2018), [\[report_eecp_february_2018_eng_1.pdf\]\(#\) \(accessed November 2018\).](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/</p>
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122 UN OCHA, *Ukraine Humanitarian Needs Overview 2018* (see note 104).

123 The Halo Trust, *Ukraine*, <http://www.halotrust.org/where-we-work/europe-and-caucasus/ukraine/> (accessed November 2018).

124 OHCHR, *Report on the Human Rights Situation in Ukraine, 16 February 2018 – 15 May 2018*, (20 June 2018), 9, <https://reliefweb.int/report/ukraine/report-human-rights-situation-ukraine-16-february-15-may-2018-enruuk> (accessed November 2018).

125 OHCHR, *Statement on the Humanitarian Impact of Continued Shelling Near the Donetsk Filter Station* (14 May 2018), reliefweb.int/report/ukraine/un-resident-coordinator-and-humanitarian-coordinator-ukraine-neal-walker-statement-0 (accessed November 2018). See also Sophie Lambroschini, *Krieg und Wasser im Donbass*, ZOiS Spotlight 35/2018 (Berlin: ZOiS, 17 October 2018).

126 OSCE, *Hardship for Conflict-affected Civilians in Eastern Ukraine*, OSCE Special Monitoring Mission Thematic Report (February 2017), 3ff., <https://www.osce.org/ukraine-smm/300276?download=true> (accessed January 2019); ICG, *Nobody Wants Us* (see note 69), 19ff.

Access to Humanitarian Aid

In the GCAs: Before the war Ukraine had little experience with humanitarian crises. International humanitarian organisations encountered numerous bureaucratic, logistical and legal hindrances when they began operating there in the course of 2014.¹²⁷ But Kyiv worked to remove the obstacles. Ukrainian and international organisations praise the cooperation of state institutions – including the Civilian-Military Administrations in the Donetsk and Luhansk NCGAs, but note that problems still persist.¹²⁸ For example a draft law on humanitarian aid in crises, which would clarify important taxation issues and clear bureaucratic obstacles, has been stuck in the Rada since 2015. The fact that the law has still not come into force hampers the work of humanitarian organisations.¹²⁹

Red Cross is the only international organisation operating in both People's Republics.

In the NCGAs: Access for humanitarian organisations to the NCGAs has deteriorated continuously since 2014. They must be accredited by the local regime and are subject to strict monitoring and control.¹³⁰ Only the International Committee of the Red Cross (ICRC) is able to operate in both People's Republics. A few other organisations have been granted access in the interim, but find their work permanently hampered by the caprices of the de facto authorities. Observers suspect that non-state organisations in particular are perceived as pro-Western and thus hostile, while the ICRC appears more neutral on account of Russia's

¹²⁷ Barbelet, *Humanitarian Access* (see note 106).

¹²⁸ Interviews in Kyiv, Kramatorsk and Sloviansk, March 2018. Some interviewees complained for example that while the Civilian-Military Administrations organised regular meetings with humanitarian organisations, they failed to follow through on commitments concerning implementation.

¹²⁹ UN OCHA, *Ukraine Humanitarian Needs Overview 2018* (see note 104), 11.

¹³⁰ Humanitarian organisations attribute this to “espionage paranoia” on the part of those in effective control, and to their wish to prevent direct contact between international humanitarian organisations and the populations of the territories. Interviews in Kyiv, Kramatorsk and Sloviansk, March 2018.

membership.¹³¹ Most humanitarian work in the NCGAs is done by local networks operating under difficult political conditions. These often avoid conflicts with local rulers by operating below the threshold of formal organisation.¹³² The growing isolation of the People's Republics severely restricts their access to humanitarian goods and services. For example, when Rinat Akhmetov's businesses were expropriated in spring 2017 the charity he ran was also forced out of Donetsk. Until then it had played a central role in supplying the population with humanitarian aid.¹³³

Under these conditions Russia's role as a provider of humanitarian aid for the NCGAs has grown.¹³⁴ Since summer 2014 the Russian Ministry of Emergency Situations reports having sent dozens of convoys with more than 77,000 tonnes of humanitarian aid into the contested territories.¹³⁵ The Ukrainians and international observers suspect that these convoys bring military as well as humanitarian support across the border, but the charge cannot be verified because Russia refuses to permit systematic cargo inspections. The Russian public participates with donations and voluntary engagement. The distinction between humanitarian aid and political support for the separatists is fluid. Russia also took in almost one million war refugees from Ukraine in 2014 and 2015, a figure without precedent in Russian history.¹³⁶

International donors and humanitarian organisations have noticeably scaled back their activities in

¹³¹ Barbelet, *Humanitarian Access* (see note 106), 6f.

¹³² *Ibid.*, 16.

¹³³ Interviews in Kyiv, Kramatorsk and Sloviansk, March 2018. See also *Otchet gumanitarnogo shtaba Rinata Akhmetova 2017* [2017 report of the humanitarian staff of Rinat Akhmetov], http://www.fdu.org.ua/files/docs/513_ru_pomojem_russ_2.pdf (accessed December 2018).

¹³⁴ Ekaterina Stepanova, “Gumanitarnaja rol' Rossii v konfliktach na Donbasse i v Sirii” [Russia's humanitarian role in the conflicts in Donbass and in Syria], in *idem.*, ed., *Gumanitarnye vyzovy, gumanitarnoe reagirovanie i zashchita grazhdanskogo naselenija v vooruzhennykh konfliktach* [Humanitarian challenges, humanitarian responses and protection of the civilian population in armed conflicts] (Moscow: IMEMO, 2018), 129–82.

¹³⁵ Ministry of Emergency Situations of the Russian Federation, “Dostavka gumanitarnoj pomoshchi dlja otdelnykh rajonov Doneckoj i Luganskoj oblastej Ukrainy” [Deliveries of humanitarian aid to particular areas of the Donetsk and Luhansk regions], http://www.mchs.gov.ru/dop/Grazhdanam_Ukraini_i_licam_bez_grazhd (accessed December 2018).

¹³⁶ Stepanova, ed., *Gumanitarnaja rol'* (see note 134), 148.

Ukraine since 2016.¹³⁷ In early 2018 the United Nations noted that it had funds to cover only 45 per cent of the humanitarian aid needed in the eastern Ukrainian war zone in 2017.¹³⁸ Interviewees gave several reasons for this. In the “competition of international crises” the humanitarian emergency in Ukraine has dropped down the international agenda since the advent of the European migration crisis, while the priorities of the biggest Western donors have shifted to the Middle East and North Africa. Another factor is that restricted access, political despotism and the almost complete absence of transparency deter international donors from releasing larger sums for the Ukrainian NGCAs. Finally the ongoing instability in the conflict area restricts the room for manoeuvre open to humanitarian organisations, as does Kyiv’s prioritisation of security over access to humanitarian aid.¹³⁹ In view of dwindling external engagement, representatives of international organisations speak of a forgotten humanitarian disaster in eastern Ukraine.

137 The European Union and its member states have contributed more than €677 million for humanitarian aid and reconstruction since 2014, putting them among the largest humanitarian donors. European Civil Protection and Humanitarian Aid Operations, *Factsheet Ukraine* (21 June 2018), http://ec.europa.eu/echo/where/europe/ukraine_en (accessed November 2018).

138 Interview with UN OCHA Kramatorsk, March 2018.

139 Interviews with representatives of state and non-state humanitarian organisations in Kyiv, Kramatorsk and Sloviansk, March 2018. UN OCHA, *Ukraine Humanitarian Needs Overview 2018* (see note 104), 11.

Conflict Dynamics and Impediments to Peace

Efforts to end the fighting in the Donbas have been stalled since autumn 2016, with the conflict parties showing no willingness to compromise. Ongoing ceasefire violations spread fear and reflect the general absence of trust. At the same time all sides profit in one way or another from the current stalemate. This applies most strongly to the two People's Republics, which would cease to exist if the Minsk Agreements were implemented. Internal political instability in Ukraine suits Russia, and Kyiv can postpone implementation of what it sees as the disadvantageous political provisions of Minsk. In the meantime impediments to peace consolidate on all levels and a permanent solution becomes more unlikely by the day.

Kyiv and the People's Republics are growing ever further apart. By creating quasi-state institutions and holding elections in 2014 and 2018 the separatists and their Russian supporters have created facts on the ground that mitigate against reaching an understanding with the Ukrainian leadership. Kyiv's imposition of an economic embargo in March 2017 further deepened the isolation of the populations of the NGCAs. The Ukrainian political elite's fixation on the geopolitical conflict with Russia is understandable, but blinds Kyiv to the political and humanitarian situation in the region. This contrasts with the reality along the line of contact, which still sees about one million crossings monthly. The population in the Donbas is squeezed between the opposing parties. Even humanitarian aid is divided along political lines. International humanitarian organisations (not to speak of Ukrainian) are largely excluded from the NGCAs and can therefore operate only in the Ukrainian-controlled areas. In the NGCAs humanitarian aid from Russia has grown in importance. While the war in the Donbas did not originate in an ethno-political conflict, it does drive the affected communities apart at the local level and heightens the existing distance and mistrust between Kyiv and the populations of the

NGCAs. In the longer term this will impede the restoration of social peace.

The *dependency of the two People's Republics on Russia* has grown steadily since 2014, in a development exponentially accelerated by the economic isolation imposed by Kyiv since 2017. Disagreements between Moscow's curators sometimes open up a degree of independent space for local actors, but it must be assumed that Russia exercises far-reaching control over the de facto authorities and military and political developments. Informality and lack of transparency in these relationships and Moscow's refusal to acknowledge its own role in the conflict undermine the trust of the other actors and thus hamper all efforts to promote peace.

Relations between Ukraine and Russia have witnessed an unprecedented alienation since 2014, with the Euromaidan, the annexation of Crimea and the outbreak of war in the Donbas. Numerous bilateral political and economic agreements have been terminated and economic ties severed: Russia suspended the CIS Free Trade Agreement with Ukraine in early 2016 citing incompatibility with Ukraine's DCFTA with the European Union. Ukraine has largely ended its dependency on Russian energy imports, and both sides have imposed extensive sanctions against the other.¹⁴⁰ Today there is neither local border traffic nor direct flights between the two. Diplomatic relations have heavily scaled back, although not broken off entirely. Kyiv decided at the end of 2018 not to extend the Russian-Ukrainian Friendship Treaty, upon which relations between the two states have rested since

140 See Alexander Libman, *Russland, Ukraine und Türkei im Geflecht der Sanktionen: Warum Moskaus und Kiews neue Strafmaßnahmen auch für die EU ein Problem sind*, SWP-Aktuell 2/2016 (Berlin: Stiftung Wissenschaft und Politik, January 2016).

1991.¹⁴¹ The treaty expired in March 2019. Perhaps the most symbolic break is the autocephaly of the Ukrainian Orthodox Church carried through by President Poroshenko.¹⁴²

Solutions discussed in Kyiv and Moscow are mutually exclusive.

The Ukrainian public and political elites overwhelmingly regard Russia as aggressor and enemy, while the Russian mainstream sees Ukraine as a vassal of the United States. There is virtually no common ground between the conflict narratives – nor on any other issue. The solutions aired in Kyiv and Moscow are mutually exclusive. Ukraine demands the restoration of its territorial integrity and sovereignty over the contested Donbas entities and Crimea. Moscow neatly separates the two issues and makes a resolution of the Donbas conflict contingent upon agreement with the Western powers on a reorganisation of European and international security. The internal political trends on both sides offer no prospect of change in the foreseeable future. In this dimension too, the scope for understanding has shrunk to a minimum.

The *relationship between Russia and the conflict-relevant Western actors Germany, France, European Union, NATO and the United States* has deteriorated continuously since 2014. The rift over the annexation of Crimea and the war in eastern Ukraine led to reciprocal sanctions and a deep crisis in political relations. Numerous additional points of contention have emerged since: growing security tensions in Europe; Russian support for Euro-sceptic and anti-European forces in EU member states and active intervention in elections; Russian intelligence activities with lethal consequences in the case of the Skripals. Mutual trust is practically non-existent. Russian hopes of improving relations with Washington under President Trump have been dashed. Instead Russian-American relations have hit their lowest point since the end of the Cold War. Washington's response to Russian interference in the US presidential election, has detached US sanctions policy from the European Union and from its original purpose – the situation

in Ukraine – and made it increasingly unpredictable. Consequently the international level offers no prospect of positive developments in the peace process either.

141 “Rada Votes to Scrap Ukrainian-Russian Friendship Agreement”, *Kyiv Post*, 6 December 2018.

142 Regina Elsner, *Unabhängige Kirche in der Ukraine: Friedensgarant oder Kriegstreiber?* ZOiS Spotlight 31/2018 (Berlin: ZOiS, 19 September 2018).

Conclusions and Recommendations: Options for Germany and the European Union

Russia has forced Ukraine into two territorial conflicts, by annexing Crimea in 2014 and fanning tensions in eastern Ukraine into war. Fighting continues in the Donbas. And as the November 2018 escalation in the Kerch Strait demonstrated, the two conflicts – despite Moscow’s insistence to the contrary – are closely connected. Ukraine is undeniably militarily weaker than Russia. At the same time the political leadership in Kyiv has been facing intense domestic pushback for their policies, including the support for the Minsk Agreements. The implications of the 2019 presidential and parliamentary elections are uncertain, and with them Kyiv’s future approach to the conflict in the Donbas. The People’s Republics of Donetsk and Luhansk currently lack some of the defining characteristics of other de facto states in the regions. They are Russian creations controlled by Moscow.

The European Union has established a division of labour concerning the territorial conflicts in Ukraine. The EU explicitly supports Ukraine’s territorial integrity and sovereignty and condemns Moscow’s annexation of Crimea and its role in the Donbas. The EU successively imposed sanctions on Russia from March 2014. In March 2015 the European Council decided not to lift its sanctions until the Minsk Agreements have been implemented in full.¹⁴³

The European Commission and the European External Action Service are working with the Ukrainian government to implement the Association Agreement and the Deep and Comprehensive Free Trade Agreement (DCFTA) between the European Union and

Ukraine. In this context Brussels is supporting large-scale political and economic reform processes, in the course of which Ukraine will adopt large parts of EU community law. Reform programmes such as decentralisation also hold potential relevance for conflict resolution. From the European Union’s perspective Europeanisation – in the sense of promoting democracy and (market) economic development, strengthening human and minority rights, and anchoring the principles of division of powers and peaceful conflict regulation – can supply an important contribution to societal reconciliation and conflict resolution.¹⁴⁴ Since 2014 the European Union has also significantly increased its financial support for Ukraine and is one of the largest funders of humanitarian aid and peace-building measures.

Unlike the cases of Transnistria, Abkhazia and South Ossetia, the European institutions have no immediate role in conflict management. That part fell in 2014 to Germany and France, which have since then conducted the most important international peace process for the Donbas, the talks in the Normandy Format. The European Union’s sanctions policy and German and French mediation made an important contribution to containing the fighting in 2014/2015 and driving up the price of further escalation. But they were not able to resolve the conflict.

There is currently no alternative to the outlined division of labour between the EU level and the involved member states. Both the situation in the conflict region and the international context are exceptionally fragile. If existing communication channels are lost the repercussions for the conflict dynamic could be very negative. Any change to the format

¹⁴³ Sabine Fischer, *A Permanent State of Sanctions? Proposal for a More Flexible EU Sanctions Policy toward Russia*, SWP Comment 11/2017 (Berlin: Stiftung Wissenschaft und Politik, April 2017).

¹⁴⁴ For greater detail see Fischer, “Conclusions and Recommendations” (see note 103), 81 – 93 (81 – 83).

risks the strongly alienated conflict parties completely rejecting any agreement. Moreover the EU member states are today far less united on what an appropriate policy towards Russia and the Russian-Ukrainian conflict should look like than they were in 2014 and 2015. Berlin and Paris bear a great responsibility here. They need to keep Ukraine on the political agenda, preserve the consensus on sanctions, and further develop their policy on the conflict in close coordination with their European partners. The European embedding of their actions should be made clear to Moscow, which traditionally focuses on bilateral relations with the most important EU states and actively seeks to exploit differences between member states in order to divide the Union.

Nord Stream 2: Berlin must take account of Ukrainian interests.

The Nord Stream 2 pipeline needs to be discussed in this context. Berlin was much too late in admitting the scale of the geopolitical impact of the German-Russian project for eastern Europe, above all for Ukraine. If Nord Stream 2 is to be pursued the German government must take account of Ukrainian interests, for example concerning gas transit, and exert pressure on Moscow where these interests are endangered, for example by reducing the envisaged gas volumes to be supplied. Both Germany and France are currently absorbed by domestic and intra-EU problems and crises. Leaders in Berlin and Paris must nevertheless restore the foreign policy priority granted to the situation in Ukraine to the level warranted by its overall significance for Europe's security.

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. The biggest problem today is that the conditions for implementing the Agreements are worsening rather than improving. The same applies to the deployment of a UN-mandated peacekeeping force, which would, at the same time, be a big step in the right direction.

The Kerch escalation has further accelerated the negative trend. Since November 2018, the parties to the conflict have blocked all efforts to investigate. Germany, France and the European Union must continue to work to clarify the events, secure the release

of the detained crews, and avoid further escalations in the Sea of Azov. They must continue to demand that Moscow resume direct contacts between the Ukrainian and Russian armed forces, including in the JCCC framework. Russia's actions in the Kerch Strait are based on claims stemming from the annexation of Crimea, which are thus not internationally recognised. Even if Ukraine must be reminded to avoid escalation risks, the main responsibility lies with Moscow. The European Union should, therefore, consider imposing additional sanctions if necessary.¹⁴⁵

At the level of Ukrainian-Russian relations the need is to counsel moderation on both sides. This is easier in relation to Ukraine, but a difficult challenge nonetheless. Certain points need to be put to Kyiv much more assertively than hitherto. The security provisions of the Minsk Agreements must be observed by all parties. This applies not only to Russia and the rulers in the People's Republics, but also to Ukraine, which must finally withdraw from Stanytsia Luhanska in accord with the disengagement of forces agreement of 2016. Germany and its European partners should make it clear to Kyiv that its ongoing obstruction of the ceasefire can have negative consequences for cooperation. Kyiv's current policy towards the Donbas contributes to deepening the conflict by aggravating the humanitarian situation. Germany and the European Union should nudge the Ukrainian leadership towards a more nuanced perspective on the conflict; one that looks beyond the geopolitical fixation on Russia and encompasses the local level. The Ukrainian state is responsible for its citizens on both sides of the line of contact. Kyiv also bears undeniable responsibility for economic reconstruction of the areas under its control. Germany and the European Union must continue to press for concrete steps in that direction and consider generously supporting them.

The European Union's relationship with Russia is currently in tatters, possibilities for influence rare. The sanctions need to be maintained. At the same time European actors should continue to clearly distance themselves from Washington's erratic sanctions policies. European and Russian ideas about a future European security order are too far apart for any timely convergence to be conceivable. Nevertheless dialogue must continue, even if detached from the Donbas conflict and without expectations of rapid

¹⁴⁵ See Susan Stewart, *Nur neue Sanktionen können Russland in der Schwarzmeerregion aufhalten*, SWP Kurz gesagt (Berlin: Stiftung Wissenschaft und Politik, 20 December 2018).

successes. Calls to end sanctions — as heard immediately after Putin’s proposal of a UN mission — are unrealistic and destabilising. Security *with* Russia remains an important policy objective for Germany and Europe. But currently the positions diverge too strongly for a solution to the Donbas conflict to be sought from this level.

In view of the blockages in the inter-governmental and international dimensions, special attention must be directed to the local level. The humanitarian suffering on both sides of the line of contact must be alleviated as a matter of urgency. Humanitarian aid and economic reconstruction are required, along with an end to the socio-economic isolation experienced by the populations of the NGCAs. Germany and Europe must press Kyiv to lift its economic embargo. Berlin, Paris and Brussels must also raise the humanitarian disaster there in their dialogue with Russia. Only Moscow can persuade the rulers in Donetsk and Luhansk to grant greater access to humanitarian organisations. Both sides should be urged to approve additional crossing points on the line of contact to ease movement between the GCAs and NGCAs. Such measures aim to slow or reverse the drifting apart of the affected populations. Kyiv needs to understand that contact is an opportunity and not a threat. The TCG and the SMM must continue to work on confidence-building measures along the line of contact. That could for example include restoring railway links for civilian passenger transport, medical staff cooperating across the line of contact, or better protection for maintenance work at water filter stations. This would bring benefits for people on both sides and contribute to restoring trust. Such an approach would imply a certain degree of engagement with functional elites in the People’s Republics, which is only possible in close dialogue with the Ukrainian side. Germany in particular must use its political weight and its role in the peace process to reassure Kyiv that this does not mean a creeping recognition of the two entities. Steps at the local level have very limited reach, but are vital to creating a basis for more ambitious peace solutions.

Abbreviations

| | |
|---------|---|
| DCFTA | Deep and Comprehensive Free Trade Agreement |
| DFS | Donetsk Filter Station |
| DPR | Donetsk People’s Republic |
| EECP | Exit-entry crossing points |
| GCA | Government-controlled area |
| HPG | Humanitarian Policy Group (London) |
| ICG | International Crisis Group |
| ICRC | International Committee of the Red Cross |
| IDP | Internally displaced person |
| MEMO | Institute of World Economy and International Relations (Moscow) |
| JCCC | Joint Centre for Control and Coordination |
| LPR | Luhansk People’s Republic |
| NATO | North Atlantic Treaty Organisation |
| NGCA | Non – government-controlled area |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| OSCE | Organisation for Security and Cooperation in Europe |
| RUSI | Royal United Services Institute for Defence and Security Studies (London) |
| SMM | Special Monitoring Mission (of the OSCE) |
| TCG | Trilateral Contact Group |
| UNHCR | United Nations High Commissioner for Refugees |
| UN OCHA | United Nations Office for the Coordination of Humanitarian Affairs |
| ZoIS | Zentrum für Osteuropa- und internationale Studien/Centre for East European and International Studies (Berlin) |

