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NORMANDY FORMAT, MINKS II AGREEMENTS AND THE SETTLEMENT OF RUSSIA-UKRANIAN CONFLICT IN EUROPE

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Abstract
The Euro-Atlantic region is characterized by growing deep freeze political relations and tensions between Russia and Ukraine. However, the Normandy format (a diplomatic group of France, Germany, Russia and Ukraine) aims at brokering peaceful resolutions to the conflict in Eastern Ukraine is arguably an important key to de-escalation of tensions in Eastern Europe through the Minks II package for implementation. This is a document signed on the 12 February, 2015 by the representatives from the OSCE (organization for security and cooperation in Europe). Thus, the study examines the efficacy of both the Normandy format and the Minks II provisions toward the settlement of the Russia-Ukrainian crisis in the region. The Normandy format proved instrumental in the de-escalation process of the crisis as it facilitated the signing of the Minks agreements in 2014 and 2015. Furthermore, the study adopts the doctrinal approach for data collections where published and established documents were sourced to anchor the research. The research is similarly guided by the principle of neo-classical realism where state actors behaviors explain international politics within the realm and nature of international system. In this regards however, the political environment in which state actors interact with one another determines to a large extend the political attitudes of global leaders like Putin and Zelensky of both Russia and Ukraine. Arguably, the study reveals that the Minks II agreements inevitably enables Russia to expand its influence in Ukraine to veto Kiev's NATO (North Atlantic Treaty Organization) memberships. Therefore, what remains unclear is for how long the Normandy format remains as viable platform to resolve the Russia-Ukraine political impasse since the leaderships of both countries proved uncertain about the negotiation processes. Finally, the study recommends that members of the Normandy format will need to carefully play a multiple role as major European security players and as NATO allies to the success of their approaches and to address this security challenges that may eventually broke into war of unequal status between Russia and Ukraine.
Key Words: Ukraine, Russia, Normandy, Minsk II, Settlement

1.0 INTRODUCTION

The signing of the first Minsk Protocol on September 5, 2014 by the representatives of Ukraine, Russia, and the organization for security and cooperation in Europe (OSCE) marked the beginning of a new negotiation phase in resolving the Donbas conflict. However, the failure of the Minks protocol to footstall active military operations led to another round of high level talks between the leaders of Ukraine, Russia, Germany, and France (the Normandy format). This brought to the signing of the second Minsk Accords (Minsk II) on February 12, 2015. The new agreements produced sharp drop in the intensity of fighting and resulted in freezing the contact line between government and separatist-controlled territories of Ukraine. Conversely, all diplomatic attempts to move conflict resolution beyond the ceasefire stage were unsuccessful in the following four years. Evidence have shown that neither the Ukrainian, Russian, nor the separatist leaders demonstrated interest in taking perceptible steps to fulfill the terms of the second agreements. Further, the first Normandy summit in December 2019 exposed the fundamental disagreements on the sequencing of Minsk-2 that stalled all previous talks between Russia and Ukraine (Wittke, 2019 p. 17).

Generally, the path to settlement of armed conflict in the Eastern Ukraine with Russia has been traditionally viewed as lying in Kyiv and Western capitals through the prism of altering Russia's behavior in the region, as **Kurt Volker** (the former US special representative on Ukraine), often reiterated, that quick withdrawal of troops from the Donbas, ending arms supplies to separatists, transferring Ukraine control over its border, and allowing local elections under international control by Moscow could have resolved this conflict in the region. This explains the link of Western sanctions to Russia's implementation of the Minsk Agreements. Although, successful reintegration of the Donbas into Ukraine requires more than ending the Russian military presence in the region and restoring Kyiv's sovereign control over the border with Russia. It also rests on designing a new institutional framework that could provide long-term guarantees to civilians and separatist insurgents, and to prevent conflict recurrence (Haug, 2016). This study intends to identify essential necessary provision of the Minks-2 protocol for political settlement using insights from cross-empirical documentary studies of the conflicts. The paper starts with the conceptual clarification of the Normandy Format and Minks agreements on the nature of armed conflict in the Donbas. It also provides a review of theoretical and literature studies on the Russia-Ukrainian crisis and their relevance to the settlements the conflict. The study equally provides analytical discussion of findings, conclusions and recommendation on the conflict ridden zone.

2.0 CONCEPTUAL CLARIFICATION

2.0.1 The Normandy Format

The Normandy format is a diplomatic grouping created in June 2014 with the aim of finding a peaceful resolution to the conflict following Russia's military aggression. In conjunction with other diplomatic efforts through the NATO-Russia Council, the Organization for Security and Cooperation in Europe (OSCE), and U.S.-Russia strategic stability talks, the Normandy format proves to be a useful platform for dialogue to lower the temperature at a time of high tensions with Russia. The Normandy format presents the advantage of having the main actors (Ukraine and Russia) around the table to discuss the burning issue of the conflict in the Donbas. In an ideal scenario, finding a political solution to this years-long conflict could contribute to reducing current tensions, therefore helping the larger discussions with Russia over the security order of Europe (https://warsawinstitute.org/revival-normandy-format-possible/). However, the approach is not seen without risks, as there are concerns in some circles that Russia's demands might compel Ukraine's Western partners to pressure it into accepting

disadvantageous outcomes in the Normandy format to avoid a wider confrontation with Moscow. Arguably, the Normandy format is an informal forum that was set up by French, German, Russian and Ukrainian diplomats in 2014, after Russia kick started a separatist conflict in Ukraine's eastern Donbas region. It takes its name from the Normandy landings in the Second World War. The first meeting took place in Normandy on the margins of the ceremony to mark the 70th anniversary of the allied landings in Normandy during the Second World War, as it aimed at resolving festering issues. The format similarly showed great promise when it facilitated the signing of the Minsk agreements in 2014 and 2015. These accords provided a blueprint to diffuse tensions. But the devil, as always, lay in the details. For instance, the proposed decentralization of power in the separatist-held regions would have resulted in a loose confederation, enabling Russia to continue to decisively influence outcomes in eastern Ukraine which is why, while a weakened Ukraine agreed to such terms, it subsequently refused to abide by them as they were too onerous. With the Normandy Format unable to resolve the impasse, the grouping became largely defunct in 2019 (Wittke, 2019).

Furthermore, the conception of the Normandy format in July 2014 began when four nations met in Normandy, France, to discuss about the future of Ukraine, following an armed conflict in eastern Ukraine that led to the annexation of Crimea by the troops of Russian Federation. Though, the negotiations were stalled from 2016 until autumn 2019, it operates mainly through telephone calls amongst the leaders and their respective ministers of foreign affairs. The Normandy Format has sometimes been expanded to include Belarus, Italy and the United Kingdom. The idea behind the formation of the Normandy Format was to bring to an end peacefully a conflict between government forces and pro-Russian separatists in the eastern Donbas region of Ukraine which is still without a lasting resolution (Wittke, 2019). However, it failed to stop the fight in Donbas and was thus followed with a new package of measures, called Minsk II, which was signed on 12 February 2015. Although it failed to halt war between Russia and Ukraine, the Normandy Format remains the basis for any future resolution to the conflict.

3.0 THE MINSK II AGREEMENT

As fighting raged at Debaltseve, emergency negotiations, brokered by Chancellor Angela Merkel of Germany and President François Hollande of France, took place in Minsk. These produced a 'package of measures for the implementation of the Minsk agreements' ('Minsk-2'). This document, signed on 12 February 2015 by representatives from the OSCE, Russia, Ukraine, the DNR and LNR, has been the framework for subsequent attempts to end the war. Minsk-2 is not an easy document to grasp (Allan, 2020). The product of hasty drafting, it tries valiantly to paper over yawning differences between the Ukrainian and Russian positions. As a result, it contains contradictory provisions and sets out a convoluted sequence of actions. It also has a gaping hole: although signed by Russia's ambassador to Ukraine, Mikhail Zurabov, the agreement does not mention Russia – an omission that Russia has used to shirk responsibility for implementation and maintain the fiction that it is a disinterested arbiter. Nine of the agreement's 13 points cover conflict management: a ceasefire and the pullback of heavy weaponry from the contact line (articles 1 to 3); an amnesty for those involved in the fighting (article 5); an exchange of hostages and unlawfully detained persons (article 6); humanitarian assistance (article 7); the resumption of socio-economic links between Ukraine and occupied Donbas (article 8); the withdrawal of 'all foreign armed formations, military equipment and also mercenaries' from Ukraine, and the disarmament of 'all illegal groups' (article 10); and the activities of the TCG (article 13). Four other sections address political matters: • Article 4: elections in Donbas. The day after the pullback of heavy weaponry from the contact line, a dialogue on local elections will start in accordance with Ukrainian law and the temporary law on special status adopted in September 2014. No later than 30 days after the signing of the

Minsk-2 agreement (i.e. by 14 March), Ukraine's parliament will adopt a resolution defining the area in which the temporary law on special status will apply (to be based on the delineation line in the memorandum of 19 September 2014). Article 9: the process of re-establishing 'full control' over the Ukraine/Russia border by the Ukrainian authorities (Allan, 2020). There is now no reference to Poroshenko's buffer zone or an OSCE monitored security zone. Instead, the process of returning the border to Ukraine's control begins the day after local elections have been held and concluded fter the 'comprehensive political settlement' (i.e. local elections plus constitutional reform providing for decentralization) due by the end of 2015 – but 'on condition' that article 11 (next bullet) has been implemented 'in consultation with and upon agreement by' the DNR/LNR.52. Article 11: constitutional reform. A new Ukrainian constitution will enter into force by the end of 2015. Its 'key element' will be 'decentralization', which will take account of the 'peculiarities' of occupied Donbas, as agreed with the DNR/LNR representatives. Ukraine will also adopt 'permanent legislation' on special status before the end of 2015. This law will include: an amnesty; 'the right of linguistic self-determination'; the involvement of the local authorities in the appointment of prosecutors and courts; agreements between Ukraine's central authorities and the local authorities covering 'economic, social and cultural development'; state support for the socio-economic development of Donetsk and Luhansk oblasts; assistance from the central authorities to support 'transnational cooperation' between the occupied regions and regions of the Russian Federation; rights for local parliaments to create 'people's militia units'; and no early termination of the powers of local parliaments and elected officials (Allan, 2020). Article 12: elections in Donbas. Election-related questions will be dealt with on the basis of the temporary law on special status adopted in September 2014 and agreed with the DNR/LNR. Elections will be held in accordance with the relevant standards of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR).

3.0.1The Peace Process

The political sections of Minsk-2 are weighted heavily in Russia's favor. In particular, the provisions on special status go way beyond the brief reference in Minsk-1. Exceptionally far reaching in scope, they would be enshrined in a permanent law and an amended constitution. Putin homed in on this point at a press conference in Budapest on 17 February (Allan, 2020). Russia was not finished. Surkov coordinated the drafting of extra demands (published on 13 May as proposals from the DNR/LNR). These would give the occupied regions even greater powers: responsibility for legal regulation of the Ukraine/Russia border; the right to conclude agreements with foreign states; their own charters and budgets to ensure financial autonomy. The rights to introduce states of emergency and to hold elections and referendums. Lastly, Ukraine would write a neutrality clause into its constitution. The Implementation of these measures in essence would destroy the Ukraine's sovereignty as a country. The DNR and LNR would be reincorporated into Ukraine but as distinct political, economic and legal entities tied to Russia – thus introducing a constitutional Trojan Horse that would give the Kremlin a lasting presence in Ukraine's political system and prevent the authorities in Kyiv from running the country as an integrated whole. Indeed, radical devolution to Donbas might well prompt other regions to press for similar powers, causing central authority to unravel and effectively balkanizing Ukraine. The implications for Ukrainian foreign policy would be far-reaching. A neutrality clause in the constitution would rule out NATO accession. Yet the DNR and LNR would be able to sign agreements with other countries (i.e. Russia), perhaps establishing Russian military bases on their territories. Fresh doubts would also surround EU integration. The adoption of Russia's demands might so weaken the central authorities in Kyiv that

implementation of the AA would be rendered impossible. Tellingly, the word 'sovereignty' does not appear in Minsk-2. The German and French leaders seem to have been so keen for a ceasefire that they assented to political provisions at odds with Ukraine's existence as a sovereign entity and, probably, its EU integration. This explains why the Kremlin used military power so demonstrably as talks were in session: to intimidate Western interlocutors who, it judged, lacked the stomach for confrontation – and who might be induced to get Ukraine to fold (Wittke, 2019)..

Furthermore, the Minsk II can therefore be read in quite different ways. Ukraine's version puts the re-establishment of control in the east before a political settlement. Russia would evacuate its troops and return the border to Ukraine. Elections would be held according to OSCE/ODIHR standards. Donbas would be reintegrated in line with the national decentralization programmes and subordinated afresh to the authorities in Kyiv. As a result, Ukraine would be restored as a sovereign state. Russia's version of Minsk-2 reverses key elements of this sequencing. A finalized political settlement would come before Ukraine retakes control of Donbas: elections would be held in the DNR and LNR; and Kyiv would agree a comprehensive devolution of power to these regimes (Wittke, 2019). This would entrench Russian-controlled state lets, breaking the back of the Ukrainian state, preventing the central authorities from running the country as an integrated unit and torpedoing its westward integration. Only then would Ukraine regain control over the border, although whether Russia would allow that is moot. In short, Minsk-2 supports mutually exclusive views of sovereignty: either Ukraine is sovereign (Ukraine's interpretation), or it is not Russia's interpretation but the 'Minsk conundrum'.

4.0 LITERATURE REVIEW

The current European Union's strategy on the Russian-Ukrainian conflict and the political process of resettlement has been based on the provisions of the "Minsk II" agreement that birth in the Normandy format (Wilson, 2014). It was against a backdrop of clashes and above all meant to end the bloodshed with the longer-term goal of bringing a lasting peace (Wilson, 2014). The implementation of the agreement was two weeks as a condition for the lifting of the second round of sanctions against Russia that was imposed following the outbreak of armed action in the Donbas region of Ukraine (https://warsawinstitute.org/revival-normandy-format-possible).

The impact of Minsk II saw how open war changed to limited war (Hunter, 2022). However, fighting never completely stopped. Furthermore, in spite of the effort put in by the Western side in the "Normandy format", no single section of the Minsk agreement has yet been fully implemented. In consequence of this, there is a widespread conviction in diplomatic and expert circles that the agreement is "unfeasible". The "unfeasibility" of Minsk II is usually linked to the unusually complicated issue of how to sequence the implementation of its provisions, the chaos in Ukraine, and the lawlessness of the separatists. However, there is the conviction that no better agreement could have been negotiated in the time given and so the West has no choice but to trudge through its implementation (Kuzio, 2018, Hunter, 2022 & Wilson, 2014). A refrain commonly heard from authoritative European decision-makers is that "the full implementation of Minsk II is the ultimate goal of our policy." It often seems that only the EU is genuinely interested in implementing the agreement and that both Russia and Ukraine are merely playing for time. It is difficult to refute the idea that it is impossible to reach a better compromise between Kiev and Moscow. Nevertheless, two years on from the signing of the Minsk agreement, it is clear that EU needs a more realistic and flexible approach to evaluating where the agreement should fit into its policy on Russia and Ukraine. Firstly, the impression that the implementation of the provisions may help solve the problem is a dangerous illusion

(https://www.csis.org/analysis/understanding-normandy-format-and-its-relation-current-standoff-russia). Paradoxically, the full implementation of Minsk II would bring Russia closer to fully achieving its political goals: to make Ukraine unstable or even to transform it into a vassal state. Secondly, the bureaucratic approach to Minsk II based on the pursuit of a gradual fulfilment of its provisions is accompanied by unsought for effects: it weakens Ukraine and makes it possible to forget about what is truly at stake in the conflict in the Donbas, that being the future of the international order. Thirdly, by linking the sanctions against Russia with the implementation of the Minsk agreement, attention is distracted away from the fact that the conflict in the Donbas is an inherent part of a much broader confrontation Russia's attempts to undermine the principles of security on the continent (Wilson, 2014). The policy on the conflict in the Donbas should then not so much be aimed at solving the conflict between Moscow and Kiev but should rather form part of a broader strategy of preventing the fundamental changes in the security architecture which are harmful to Europe (Wilson, 2014). This text shows that the EU's current strategy is characterized by significant tension. Its main operational aim is in contradiction with its strategic and geopolitical aim: to maintain a democratic and stable Ukraine and to frustrate Moscow in its attempts to change the international order (https://www.csis.org/analysis/understanding-normandy-format-and-its-relation-current-standoff-russia). Wilson, 2014 argued that focusing on seeking a realistic evaluation of the feasibility of implementing the Minsk agreement and on what role the document plays in its strategy on Russia, including in affairs other than the Russian-Ukrainian conflict would be essential.

5.0 FROM WAR TO SECURITY CONFRONTATION ON GOVERNANCE

One of the reasons that made Russia to take aggressive action against Ukraine was it doubtless opposition to Ukraine's autonomy (Kuzio, 2018). The 2013 pro-European social protest known as the "Revolution of Dignity" led to the ouster of the corrupt president who was in the thrall of the Kremlin and to the signing of an association agreement with the EU. From Moscow's point of view, this was the sign of a breaking off, a symbolic end to the "systemic dependence" stage and an attempt by a former colony to extract itself into complete independence (Haug, 2016). There are three reasons why Russia would not agree to a final "divorce". Firstly, the separation of Kyiv would open up the possibility of US or NATO forces being permitted on Ukraine's territory. This was and is perceived as a genuine security threat by a sizeable part of Russia's ruling elite. Secondly, independence from Russia opened up the possibilities of a real democratization of Ukraine. This prospect was life-threatening for the Russian leadership. A democratic Ukraine would be proof of the fact that post-Soviet countries are not doomed to live with corrupt authoritarian regimes but could choose other forms of government based on the rule of law and the freedom of citizens. Finally, "relinquishing" Ukraine would put the seal on the collapse of the Russian Empire. Ukraine was not merely one of the previous colonies — it was the absolutely crucial one, without which the post-Soviet area would lose its raison d'être. It is thus possible to view the Russian-Ukrainian conflict as the latest stage in the collapse of the Soviet empire (Haug, 2016). Although the USSR disappeared from world maps over two decades ago, the majority of post-Soviet countries have remained often against their will firmly in the economic, political and security orbit of their old imperial capital. Consequently, despite the appearance of uniform principles applicable to the continent as a whole, in Europe there were two security spaces: the "Western" one and the "post-Soviet one. Symptoms of these double standards can be found in: the presence of Russian armed forces in Transnistria (the separatist part of Moldova) against the will of Chisinau; the military and political subordination of Belarus and Armenia; and the war in Georgia which ended in

Abkhazia breaking away and the de facto Russian annexation of South Ossetia (Kuzio, 2018). Counting on the inviolability of this "dual nature of security", Russia expected that the situation in Ukraine would follow the course seen following the Georgian-Russian war in 2008 — after a short "feigned" crisis, the West would turn a blind eye and accept that the post-Soviet area has different principles than "Europe proper". However, much to Moscow's surprise, in March and June 2014 the EU adopted two packages of sanctions against Russia. The first was in response to the annexation of Crimea (in February 2014) and the second following the armed aggression in eastern Ukraine (which broke out in April 2014). The sanctions were meant to stop Russia from taking further aggressive measures. Above all, though, they were a strong symbolic signal that the EU does not treat the aggression towards Ukraine as an internal maneuver within Russia's sphere of influence but as a violation of the fundamental principles of security on the continent. In this way the conflict in Ukraine led to the double standards of European security being called into question — a phenomenon that had covertly existed since the fall of the USSR. In Russia's understanding this broke the last elements of the post-Cold War order on the continent which "respected its interests (Haug, 2016). It interpreted it as the West being active on its turf. The response was not limited to defending its right to decide on the post-Soviet sphere of influence, but extended to active "symmetrical measures" aimed at deconstructing the Western security governance and political order. Over the following months Ukraine clearly ceased to be the only field of battle. Moscow became involved in Syria on the side of President Assad, whom the West viewed as a war criminal. Its demonstrative military confrontations escalate. It also embarked on disinformation-propaganda actions and cyber-attacks in the EU and the US. As the confrontation took on further aspects, the Ukrainian issue began to be shifted further and further from center stage. This does not, though, change the fact that the aggression against Ukraine was and continues to be more than merely the beginning of the conflict — it is an inherent part of it. This is the case because the Ukrainian conflict became the catalyst for a strategic dispute over the continental order. Over time the range has become even greater — covering what was once symbolically called the area "from Vancouver to Vladivostok"(Haug, 2016).

6.0 DISCUSSION OF FINDINGS

6.0.1 Normandy Format and Minsk II Protocol: A Part to Resettlement of Dispute or Trap.

Attempts to solve the Russian-Ukrainian conflict should be analyzed based of the politico-strategic context of Normandy format and unfeasible Minsk II agreement implementation. First of all, the sources of the confrontation between Russia and Ukraine are not temporal but deeply rooted in the fundamental conflict of interests between the Western world and Russia. It is precisely these differences which meant that over the past three years it has been practically impossible to reach agreement as to how the conflict can be ended. Secondly, the way in which the dispute between Kiev and Moscow is resolved will not only define relations in the post-Soviet area for the long term — it will also have consequences for the entire Western world. The West's diplomatic efforts (in particular in the Normandy format) have thus far focused on preventing the escalation of the military conflict, limiting the number of victims, and the humanitarian catastrophe (Wittke, 2019 & Kuzio, 2018).

However, the controversial Minsk agreement brought about precisely this result, which is a precise gauge of its success. Besides the temporary effect, it is highly significant that it was possible to create a durable negotiation mechanism which, in spite of its lack of effectiveness, plays a stabilizing role. Although the humanitarian goal should still be given priority, it is a mistake to believe that the Minsk agreement provides a guarantee of peace (Wittke, 2019). The

negotiation process to date has shown that the "transformation" of the armed conflict into a diplomatic process was also very convenient for the Kremlin. If, however, Moscow at some point decides that open conflict is beneficial, it will happen regardless of the level of the agreement's implementation. Meanwhile, the approach to applying the agreement which is based on the fear of escalation and the illusion of security reduces the West's capacity for flexible diplomatic man oeuvres with Russia. It also demonstrates that the costs which Ukraine and the West are paying by engaging in a peace process based on the Minsk agreement are being overlooked or ignored.

Firstly, the "absolutisation" of Minsk II replicated the Russian propaganda narrative of the intra-Ukrainian nature of the conflict. In the signed documents, Russia is not treated as an aggressor or even as a party to the conflict, but as a mediator in a "civil war", having the same rights as France and Germany. This situation is frequently exploited by Moscow to propagate disinformation and to legitimize a false vision of the conflict. In consequence of this, although two years ago it was clear for everyone that this was nothing more than a diplomatic intervention required to reach a compromise, over time the theory that there is a civil war in Ukraine is ever more frequently uncritically accepted, including in the West. Furthermore, the focus on observing and implementing the agreement as the ultimate goal of EU policy is also commonly a source of the interpretation that there is a symmetry of blame for the conflict between the Russian and the Ukrainian sides. If the attention of the political elite and the media is fixed on what is happening in the Donbas and the progress in implementing Minsk II, then it is possible to form the impression that both parties to the conflict share equal responsibility for its continuance (both the separatists and Ukraine do in consequences: that the West should increase the pressure on Kiev to "fully" implement the provisions of the Minsk agreement and even that it is unfair to apply sanctions on Russia alone when Ukraine is also failing to implement Minsk II (Wittke, 2019 & Haug, 2016). This clearly distorts the view of the conflict where there is one aggressor (Russia) and the fact that it is far from regional in nature.

Secondly, the entry in the document concerning constitutional reform is a serious problem in that it would lead to the decentralization of Ukraine. The entry stating that the details of the reform would be agreed with the separatists is particularly controversial. The agreement also lays out the adoption of a special status for the Donetsk and Luhansk oblasts. This would, for example, allow the local authorities to create their own "people's militias". It is important to bear in mind that when the agreement was signed, President Poroshenko did not have any legal empowerment to make a commitment of this kind. This means that the entries here cited would be in violation of the drafting of laws, including the rules of how constitutional changes are introduced in Ukraine. This is particularly the case given that the majority of Ukrainian citizens and parliamentarians are opposed to what was agreed to in the document. One of the reasons for this opposition is the justified conviction that the solutions provided in the agreement would be counterproductive to attempts to construct an effective and democratic Ukrainian state. They would lead to the institutionalization of Russia's influence, implemented by criminal separatist regimes. Furthermore, they would promote the destabilization of Ukraine, for example by undermining the government's monopoly on the use of violence. In this situation the EU's declaration that "the full implementation of the Minsk agreement is necessary" causes far reaching controversies in Ukraine and undermines the EU's reliability. It is obvious that this goal is in contradiction to the promotion of the democratic principles of the rule of law, which is a recognized pillar of the EU's policy towards Kiev (Wittke, 2019).

Thirdly, there is a similar ambiguity in the issue of implementing the entry on holding local elections in the so-called "people's republics" of Donetsk and Luhansk (the DPR and the LPR). The character of the regimes in place in those republics (based on violence, lawlessness

and brutal propaganda) mean that democratic elections in accordance with OSCE standards are impossible. Nevertheless, in recent months it is precisely the holding of these elections which has become one of the most important gauges of the health of the Minsk agreement and of how involved the conflicted parties are in its implementation. The activity of the Normandy format is geared towards the creation of conditions which would make these elections possible. The issue of how the stages of the Minsk II agreement are sequenced plays an important role in this. This does not only concern the issues of withdrawing troops behind the demarcation line or facilitating unrestricted access to OSCE observers. The discussion also includes the "special status" of the DPR and LPR, which could be "temporarily" applied in order for elections to be held and only "finally" applied once they have been approved by the OSCE. The level of detail in these solutions bears witness to the West's determination and the conviction that the application of the provisions of Minsk II remains the ultimate and priority goal of its efforts. However, one of the political advisers from Berlin stated that "the biggest mistake would be to hold elections in the DPR and LPR that would not be fully free and fair but to approve them as such despite their shortcomings." The expectations of Brussels, Berlin and Paris regarding Kiev's progress in implementing this point are received in Ukraine as an expression of cynicism, double standards, or a lack of understanding of the current situation in the separatist regions. Furthermore, considering the critical attitude which Ukraine has towards the provisions of Minsk II, it will not in any way be incentivized to act by the proposed lifting of at least a part of the sanctions against Russia in exchange for elections which will weaken Kiev.

Fourthly, the excessive concentration on the implementation of the Minsk agreement redirects the limited sources of the inefficient Ukrainian state towards reforms which are entirely counterproductive from the point of view of the stabilization and democratization of the country. Furthermore, internal discussions linked to such controversial issues as the special status of certain regions of eastern Ukraine or election rights for separatisms weakens Kiev politically and also puts a strain on the trust it has towards its Western partners. In this way the West is paradoxically "using up" its own and Ukraine's potential, which is required to launch such crucial changes as the fight against corruption and decentralization concerning the non-separatist regions of Ukraine. Fifthly, the near dogmatic linking of the lifting of sanctions with the full implementation of the Minsk agreement which is currently functioning is highly problematic. In many EU countries there is the conviction that the sanctions are above all an instrument which are supposed to lead to the implementation of the Minsk process. In other words, should the political process fail to achieve the expected results (no progress in implementing Minsk II) then the justification for maintaining sanctions will also disappear. This assumption strips the sanction policy of two important advantages. The first are the chances of a measurable effectiveness — it is rather unlikely that there will be fast and clear progress in implementing the agreement. The second is the linking of sanctions to the ambiguous arrangements agreed on in the Belarusian capital, since this raises the risk that the strategic goal of the policy will drop out of sight. The goal of the sanctions was not meant to be and still should not be to force the implementation of the Minsk agreement — it should rather be to defend the principles of security and peace in Europe.

6.0.2 Proposing an Alternative Approach

The alternative ways to approach implementation of the Minsk agreements comprises six fundamental parts. The first is that western governments should define their objective, unequivocally as regards the defence of Ukraine's sovereignty (Haug, 2016). This would be the bottom line that too often has been missing from policy debates in Western capitals. It would mean being guided by what the authorities in Kyiv decided was feasible in terms of

implementation, particularly as regards elections and special status, even if this proved unacceptable to Russia, as it almost certainly would (Wittke, 2019). Equally, Western leaders should support a Ukrainian leader who freely reached agreement with Russia on these questions, although the likelihood of that seems remote given where Ukrainian public opinion is. What they should not do is push Ukraine to cede ground on the core issues. That would contradict their commitment to uphold Ukraine's sovereignty. Nor would it work. The likeliest effect would be to undermine the authorities in Kyiv, destabilizing the political situation there and encouraging Russia to press for more concessions. Second, in the absence of a settlement acceptable to Ukraine, Western governments should view the Minsk agreements and the Normandy process primarily as mechanisms for ending the conflict in Donbas. This is, after all, the starting point of both Minsk 1 and Minsk II. Decision-makers should welcome practical dialogue and confidence-building measures (e.g. withdrawal of weapons, prisoner exchanges, allowing the OSCE mission full access to the conflict zone, environmental/ ecological risk mitigation)82 to de-escalate the fighting, minimize casualties and build a sustainable ceasefire. But they should not expect movement over political issues, which would continue to divide Ukraine and Russia. The Minsk and Normandy processes would see many more 'draws', as Zelenskyy described the December 2019 Normandy summit (Wittke, 2019). The third element of this approach is not, strictly speaking, part of the Minsk agreements but flows from the commitment to uphold Ukraine's sovereignty. It would require Western capitals to maintain support for political and economic reform in Ukraine. The short- to medium-term priority is that Ukraine fulfils its commitments under the Stand-By Arrangement negotiated with the International Monetary Fund (IMF), preserving macroeconomic stability and pressing ahead with structural reforms to unlock its economic potential.84 Looking further ahead, the focus should be gradual implementation of the EU/Ukraine AA, which provides a long-term anchor that Ukraine otherwise lacks, and related fundamental reforms (such as public administration reform) which are supported by international donors. This would strengthen institutional resilience in the face of Russian pressure, which will continue without a political settlement to the Kremlin's liking. The scale of the reform challenge is daunting. Implementing the AA would require rebuilding (or building from scratch) much of Ukraine's state.85 It is debatable whether Ukraine has the capacity to deliver the AA in its entirety, in which case the prioritization of certain chapters would be advisable. Such an undertaking would also require a major commitment from Western countries and donors. Sustaining that at a time of 'Ukraine fatigue', and with governments and electorates battered by the COVID-19 pandemic, will be testing to say the least. It is imperative that donors apply firm conditionality to assistance, particularly as regards IMF programmes, which Ukraine has frequently failed to deliver since the mid-1990s (Wittke, 2019). In addition, Western assistance should include the supply of defensive military equipment to reinforce the capabilities of Ukraine's armed forces, thus raising the cost to Russia should it again decide to dial up the violence in a major way. Although there can be no military solution to the conflict, a warning in 2016 by International Crisis Group is still valid:

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

Fourth, Western governments should encourage the authorities in Kyiv to take a more inclusive approach towards those in occupied Donbas. Unlike the de facto states in Abkhazia

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and Transnistria, the DNR and LNR are not fully consolidated. Unlike with the conflicts in Georgia and Moldova, Russian actions were critical in fomenting war in 2014. Partly as a result (and partly because the regimes are synonymous with turbulence, criminality and violence), the legitimacy of the DNR/LNR leaderships is questionable. Crucially, people either side of the contact line retain similar identities. Yet the longer the occupied region exists in a separate space dominated by Russia, the likelier it is that an identity overtly hostile towards Kyiv will crystallize, causing the current division to harden still further. Certain actions by the authorities in Kyiv have added to this danger. One was the decision to cut or to disrupt economic, financial and social ties in late 2014, particularly the requirement that those in the occupied zone register on Kyiv-controlled territory at least every 60 days to qualify for state benefits and to acquire basic documents (including birth and death certificates, passports). Pension rights remain the biggest problem: hundreds of thousands of pensioners, it is estimated, do not receive regular payments.

Similarly, a related issue is the blockade imposed on occupied Donbas in 2017. Supposedly intended to combat smuggling and corruption, it depressed trade across the contact line, thus hitting living standards and prompting the DNR and LNR authorities to retaliate by expropriating large companies on their territories. Besides weakening the economic interaction that could help over time to rebuild political trust, such isolationist actions lend respectability to negative stereotyping of those in occupied Donbas, making reconciliation even more difficult. This is about more than a pragmatic argument over how to make reintegration eventually happen; there is a principle at stake. Ukraine's justified claim to sovereignty over occupied Donbas should go hand in hand with a recognition that those there are entitled to be treated as Ukrainian citizens. Commendably, Zelenskyy has adopted an inclusive tone, but more needs to be done to address humanitarian issues, rebuild trade links and facilitate people-to-people ties. Fifthly, the Western governments should assume that the DNR and LNR will not be de facto parts of Ukraine any time soon. For reasons of principle and consistency, Western capitals should continue to recognize Ukraine's de jure sovereignty over occupied Donbas. But an attempt at early reintegration would impose intolerable strains on Ukraine. A return to pre-2014 realities is inconceivable. Reconciling communities traumatized by war will be an immense challenge. The cost of economic reconstruction will be colossal. The DNR and LNR are enmeshed in Russia's military/security, economic and media spaces. The political gap separating them and Kyivcontrolled territory is wide and will become wider if Ukraine continues to reform to EU standards. Integration on terms agreeable to Ukraine would mean the effective dissolution of the DNR/LNR regimes. There is no chance that the Kremlin would accept that in the foreseeable future. A reformed and prosperous Ukraine might eventually act as a magnet, drawing people in occupied Donbas to reintegrate voluntarily. But that is not a plausible outcome for many years. And Russia's attitude would still have to change before it could happen. Until then, the priority for Western governments should be to help defend the sovereignty of unoccupied Ukraine against Russian pressure. Finally, the approach sketched here would logically entail a lengthy stand-off with Russia. This would last until Russia's leaders acknowledged Ukraine to be a sovereign country. That seems inconceivable as long as the current leadership holds power in Moscow, and is also unlikely to happen quickly in a post-Putin world. By implication, those US and EU sanctions on Russia that are tied to implementation of the Minsk agreements would remain in place for the foreseeable future. Are Western capitals really prepared for that?

7.0 CONCLUSION AND RECOMMENDATIONS

Awareness of the above challenges should not lead to radical steps being taken in the issue of the Minsk agreement or to it being undermined. However, it seems appropriate to understand the limits of this process, and also the role it plays in the confrontation between the West and Russia concerning the foundations of the international order. The EU must be aware that the full implementation of the Minsk II agreement is neither in its own interests nor is it in the interests of Ukraine. The problem is not, thus, the "unfeasibility" of Minsk which diplomats and experts are complaining about, but rather the profound dysfunction of its provisions. Since its implementation is currently distant, consideration of this subject may seem to be theoretical. But this is not the case. EU policy geared towards the application of Minsk II may lead (and often does lead) to false steps being taken (especially towards Kiev) which are incompatible with the EU's and Ukraine's interests. The EU should differentiate between the Minsk process and the Minsk agreement which enables the process. The Minsk process, understood as a forum for peace talks, is a very important instrument limiting conflict and it should be maintained and fostered. Discussion on the implementation of certain provisions of Minsk II is useful only so far as it can help deescalate the conflict or to freeze it. However, implementing Minsk II should not be confused with solving the conflict.

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