

WERE THE MINSK AGREEMENTS DOOMED TO FAILURE? AN ALTERNATIVE HISTORY*

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Abstract History does not allow for subjunctive mood but politics do allow. As Russia's special military operation is underway in Ukraine growing into a major, deadly conflict with unpredictable consequences, it is worthwhile to ask a question: could this conflict be prevented if the Minsk agreements were implemented? The 2014 and 2015 Minsk agreements were aimed at securing a ceasefire between the Ukrainian government and pro-Russian separatists in southeastern Ukraine (Donbass). The rebels from Donetsk and Lugansk drew their courage from the "Crimea precedent" – Moscow's incorporation of the Crimea "on the basis of voluntary self-determination and historical commonness". The Minsk agreements were a product of the Normandy format – a platform for senior diplomats from France, Germany, Russia, and Ukraine, created in June 2014 with the aim of finding a peaceful resolution to the conflict. The agreements ended large-scale fighting, but not creeping violence that posed the main obstacle for the political settlement of the conflict. The article provides an analysis of the Minsk agreements, including their strengths and weaknesses. Special attention is paid to the EU's political goals and instruments for the peaceful settlement of the Ukrainian conflict. The article also seeks to explain why the Europeans have not been able to take on a more visible and effective role in the implementation of their proclaimed goals.

Keywords European Union, Russia, Ukraine, Donetsk People's Republic (DNR), Lugansk People's Republic (LNR), European security, Minsk Agreements, Normandy format, "Steinmeier formula", peacekeeping operation

Название статьи Европейский союз и Минские соглашения: альтернативная история

Аннотация История не знает сослагательного наклонения, но политика его знает. В то время как на Украине идет специальная военная операция России, перерастающая в крупный опустошительный конфликт с непредсказуемыми

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последствиями, имеет смысл задаться вопросом о том, можно ли было предотвратить этот конфликт, если бы Минские договоренности были претворены в жизнь. Целью Минских соглашений 2014 и 2015 годов было обеспечить условия для прекращения огня между украинским правительством и пророссийскими сепаратистами на юго-востоке Украины (Донбассе). Повстанцев в Донецке и Луганске вдохновил «крымский прецедент» присоединения Москвой полуострова «на основе добровольного самоопределения и исторической общности». Минские соглашения стали детищем «нормандского формата» – площадки для высокопоставленных дипломатов Франции, Германии, России и Украины, созданной в июне 2014 года с целью поиска мирного решения конфликта. Они положили конец крупномасштабным боевым действиям, но не ползучему насилию, которое представляло собой главное препятствие для политического урегулирования конфликта. В статье дается анализ Минских соглашений, их сильных и слабых сторон. Большое внимание уделяется политическим целям и инструментам ЕС по мирному урегулированию украинского конфликта. Предложено объяснение тому, почему европейцы не смогли взять на себя более заметную и эффективную роль в реализации провозглашенных ими целей.

Ключевые слова Европейский союз, Россия, Украина, Донецкая народная республика, Луганская народная республика, европейская безопасность, Минские соглашения, Нормандский формат, «формула Штайнмаера», миротворческая операция

I. Introduction: political context

The 2014 conflict in and over Ukraine was a turning point in the Russia–West post-bipolar relations. Unlike the 2008 crisis in the Caucasus (Georgia), which was from the outset a confrontation between Russia and the North Atlantic Treaty Organization (NATO), the Ukraine conflict started as a political clash between the European Union and the Russian Federation or, rather, as the rivalry of their regional strategies – the EU's Eastern Partnership (EaP) and Russia's Eurasian Union. Nearly from the moment the Commonwealth of Independent States (CIS) was created, Russia's integration efforts were closely watched by the West. The latter soon began to fear that a new Russian Empire would be restored, all the more so since Moscow started claiming that it had special interests in the post-Soviet space. For this reason, the European Union and the United States supported the centrifugal trends in the CIS as a key condition for democratization of these countries and a guarantee that the USSR would never be revived in the post-Soviet space in whatever form.¹

As American scholar Peter Schmidt has pointed out in his 2016 article, "Ukraine was the object of a power rivalry between the EU and Russia in which each side wanted to extent its influence on Ukraine. The EU was well aware of this rivalry. That is why those in charge rushed towards the signing of the association agreement with Ukraine and disregarded Russia's interests. The problem: this policy assumed that Putin would apply only methods used in the past. Possible countermeasures by Russia based on a different set of instruments were not taken into consideration".²

Several landmarks of the exacerbation of the Russia-EU tensions can be highlighted, but the main turning point came in 2012. With Vladimir Putin's return to the presidency in 2012, Moscow switched the vector of its post-bipolar evolution from Europe to Eurasia, and it did not want Ukraine to be on the other side of the divide. Ukraine has

been central to both strategies, and “the either/or” choice presented to Kyiv ultimately made a conflict inevitable. However, the reason for this confrontation goes much deeper than the clash of two opposing regional strategies and is rooted in the 1990s. Therefore, the Ukrainian conflict may be viewed as manifestation of the Russian and Western mutual disappointments that resulted from their mistakes made following the end of bipolarity. The crisis stems from the profound misunderstanding of each other’s views regarding acceptable foundations of European and post-Soviet security. Continuous, open-ended debates on the European security were going on for years: Moscow was against European security centered on the EU and NATO, as Russia had no direct influence on NATO’s policy-making. At the same time, the post-Soviet space was never discussed openly and sincerely during the post-Cold War era. These contradictions are still casting a long shadow over Russia’s foreign policy. The 2008 conflict in and around South Ossetia (Georgia) gave rise to the Russia–NATO/U.S. differences over the security arrangements in the post-bipolar Europe, while the conflict in and over Ukraine smashed to pieces the EU–Russia “strategic partnership” that was based on four common spaces of cooperation. Notably, none of these spaces addressed the CIS issue.³

The prospect of Ukraine’s Association Agreement with the EU, envisaging the creation of a free trade zone, was met by Moscow negatively not only because of the clash of two regional projects, the EU’s Eastern Partnership (EP), and Russia’s Eurasian project. The Russian leadership also began to suspect that the EP was a smoke screen to cover up for the NATO expansion into the area of the Commonwealth of Independent States. In the opinion of Gerhard Schroeder, Russia took control of the Crimea because of the NATO enlargement: had Ukraine joined NATO, as Washington wanted it to, the city of Sevastopol (one of the key Russian sea ports) would be situated on the territory of the Western alliance.⁴ It has to be noted that the NATO enlargement had a big impact on Russia’s perception of the EU enlargement policy, as both the EU and NATO leaderships repeatedly stressed that these were two mutually connected and complementary processes for bringing the countries of Central and Eastern Europe “back into Europe”. Formally, the enlargement of NATO was justified by the desires of Central and Eastern European countries to restore a historical injustice violated by the Cold War order.

Although the European Union’s Copenhagen criteria do not define the NATO membership as a necessary condition for joining the EU, the waves of the EU enlargement that involved post-communist countries of Central and Eastern Europe demonstrated that the correlation between the two enlargements was very strong: first, the candidate countries joined NATO, and then they could claim the EU membership. These developments changed Russia’s initial positive attitude to the enlargement of the European Union and its Neighbourhood Policy and the Eastern Partnership. The Kremlin came to see the advance of both alliances to the post-Soviet space as a threat to the country’s vital interests.

Ukraine’s president Viktor Yanukovich tried to keep a balance between Ukraine’s relations with the EU and those with Russia. He inherited the Association Agreement negotiations from his predecessor Viktor Yushenko and planned to sign them at the EU–Ukraine summit in Vilnius in November 2013. However, under the Kremlin’s pressure he backed away. The so-called “Euromaidan” protests led to intensified use of force against the protesters in the early weeks of 2014, which culminated in the killing of dozens of people in the Kyiv’s city center on February 18–20.

Prior to the conflict, the EU policy towards Ukraine was led by the High Representative for Foreign Affairs and Security Policy (Catherine Ashton) and the President of the European Council (Herman van Rompuy). When the crisis erupted, the

range of major actors changed: the “European figureheads” disappeared from the scene and national players took the initiative. Obviously, these national actors mistrusted the actors in Brussels.⁵ Foreign ministers from France, Germany, and Poland helped broker the deal in Kyiv. President Putin sent his human rights ombudsman Vladimir Lukin to Ukraine to help mediating the talks between the Ukrainian government and opposition. Ukrainian opposition leaders signed the EU-mediated peace deal with President Viktor Yanukovich on February 21, 2014, that aimed to end a violent standoff and open the way for an early presidential election this year. German Foreign Minister Frank-Walter Steinmeier said the deal provided for the creation of a national unity government and an early presidential election this year, although no date had been set. Another European Union mediator, Polish Foreign Minister Radoslaw Sikorski, described the agreement as a “good compromise for Ukraine”; in his Twitter post, he claimed it “gives peace a chance”.⁶ However, the Maidan opposition was not satisfied with the deal and demanded the immediate resignation of Viktor Yanukovich. The EU mediators accepted the will of the protestors, the transition deal was broken, the administration of Yanukovich collapsed, and Yanukovich himself fled. Vladimir Lukin was not supposed to sign the agreement – this fact that was later interpreted in a way that Russia did not believe it would work out. However, the ease with which the EU envoys accepted the Maidan ultimatum, suggests that they dramatically underestimated Russia's possible reaction. It was a trigger to Kremlin's decision to return the Crimea to Russia.

A hastily organized referendum on March 16, 2014 reportedly produced a 96.77 percent vote in favor of joining Russia. On the following day the Crimean parliament declared independence from Ukraine and formally called for the Crimea to be admitted into the Russian Federation. The request was duly granted by the Accession Treaty signed in the Kremlin on March 18. Pro-Russian separatist entities in Donbass (Donetsk and Lugansk) followed the Crimean experience: their leaders proclaimed the establishment of the Donetsk People's Republic (DNR) on April 6, 2014 and of the Lugansk People's Republic (LNR)⁷ on April 27, 2014 and held snap referenda on separation from Ukraine on May 11, 2014. Their results were reported as 89.07 percent in favor of independence in Donetsk province and as 96.2 percent in Lugansk province, with a turnout of 74 and 75 percent, respectively.⁸

The Crimea's incorporation into Russia and developments in Donbass resulted in the deepest crisis in the EU/West-Russia relations, paving the way not only to the sanctions war but also to real hostilities between the Donbass separatists and Ukrainian armed forces. Meanwhile, Kyiv did not abandon its intention to sign the Association Agreement with the EU. The new Ukrainian President Petro Poroshenko signed the economic part of the Ukraine–European Union Association Agreement on June 27, 2014 (political provisions were signed on March 21, 2014), and described this as Ukraine's “first but most decisive step” towards the EU membership. The agreement entered into force on September 1, 2017.

While Ukraine continued its drift towards the European Union and the divide between Moscow and Brussels widened, the Kremlin became obsessed with the idea of returning Novorossiia (“New Russia” that became part of the Ukrainian Soviet Socialist Republic within the Soviet Union since 1922), framed as “primordially Russian lands”. President Putin referred to Novorossiia during his annual phone-in show on April 17, 2014: ... “what was called Novorossiia back in tsarist days – Kharkov, Lugansk, Donetsk, Kherson, Nikolayev and Odessa – were not part of Ukraine then. These territories were given the Ukraine in the 1920s by the Soviet Government. Why? Who knows? They were won by Potemkin and Catherine the Great in a series of well-known

wars. The centre of that territory was Novorossiisk, so the region is called Novorossiia. Russia lost these territories for various reasons, but the people remained”.⁹

The Kremlin aimed at keeping Ukraine within the Russian sphere of influence or, as a minimum, preventing it from cutting close ties to Russia and joining NATO or the European Union. Initially, this goal was supposed to be achieved through decentralization of Ukraine. As Russia’s foreign minister Sergei Lavrov stated several times in the second half of March 2014, the Kremlin wanted to bring this about through federalization of Ukraine, namely through a constitutional reform.

II. The background of negotiations

On April 7, 2014, a group of pro-Russian activists seized offices of Security Service of Ukraine (SBU) in Donetsk and Lugansk. This was the beginning of hostilities that unfolded over the course of several months. Fierce battles of 2014–2015 ended with one third of the Donbass territory under de facto control of the forces of two pro-Russian rebellious regions – the self-proclaimed Donetsk and Lugansk People’s Republics (the DNR and the LNR). By the end of June, the United Nations refugee agency found that over 110000 people had fled from Ukraine to Russia and that tens of thousands more were internally displaced. Of those that fled, about 9600 had filed for asylum.¹⁰ Escalation of hostilities since January 13, 2015 raised the total death toll to over 5000 and almost 11000 people were wounded between mid-April 2014 and January 21, 2015, according to the UN Office of the High Commissioner for Human Rights.¹¹

Being concerned about the prospect of a major armed conflict in Europe, the European Union initiated its multi-track diplomacy in an attempt to contribute to the settlement of the crisis in Ukraine. Aside from the separate tracks initiated by the EU member states, the EU was active in setting up the Geneva format for negotiating a peaceful settlement of the conflict and the stabilization of Ukraine. The representatives of Ukraine, Russia, the United States, and the EU first met in Geneva on April 17, 2014 and called for a ceasefire, disarmament, and amnesty. To support a constitutional reform, they also advocated “a broad national dialogue with outreach to all of Ukraine’s regions and political constituencies”, aiming at a process that would “allow for the consideration of public comments and proposed amendments”.¹² The Geneva agreement was cautiously welcomed. However, there were no guarantees that Russia and Ukraine would fulfill their commitments, which meant that this format was doomed.

Further steps were taken by the European leaders. Unlike the 2008 crisis in the Caucasus, it was not the EU leadership, but the leaders of the Franco-German tandem who took initiative to start peace talks with Ukraine and Russia. For many, it was not surprising to see that German Chancellor Angela Merkel took the initiative and also brought Paris into the format. The absence of the EU “hat” was regretted by certain EU countries and the EU institutions. Some EU member states were especially concerned about the fact that Germany and France went to negotiations and signed an open-ended deal (that was later accepted by the EU through endorsement by the EU Council). The same issue was raised with Frederica Mogherini, who argued that even though the EU was not directly involved, the leaders of France and Germany coordinated their actions with her.¹³

On June 6, 2014, German, French, Russian, and Ukrainian officials met on the margins of the 70th anniversary of the D-Day allied landings in the Normandy Format. At times the Normandy Format meetings were expanded to include Belarus, Italy, and the United Kingdom. The June 6 event in itself was viewed in EU as a step forward to a peace process, since having the Russian and Ukrainian leaders together amid

heightened tensions was already seen as a partial success. However, Russia never admitted its direct involvement in the conflict, portraying the latter as a civil war. Early talks in 2014 led to the establishment of the Trilateral Contact Group on Ukraine (TCG) that included representatives from Ukraine, Russia, and the Organization for Security and Co-operation in Europe (OSCE). It was formed as a means to facilitate diplomatic resolution to the war. At Russia's insistence, DNR/LNR representatives joined the TCG on June 23, 2014. According to the Kremlin, this put them on a par with the authorities in Kyiv.

Intensive diplomatic exchanges between Kyiv and Moscow continued during the summer of 2014, reflecting the changing situation in the war zone. President Petro Poroshenko (legally elected in May 2014) put forward a 15-point peace plan on June 20. The political sections of the plan made certain concessions to the insurgents: a partial amnesty, joint police patrols in the post-ceasefire conflict zone, decentralization ("by means of the election of executive committees, defence of the Russian language, draft changes to the Constitution"), pre-term local and parliamentary elections, and joint appointment of governors. At the same time, Poroshenko's plan envisaged a process fully controlled by his administration. Crucially, he called for a 10-kilometer buffer zone on the Ukraine–Russia border to stop Russia resupplying its "proxies".¹⁴ Poroshenko's plan avoided any explicit mention of Russia's responsibility for the conflict – it only alluded to that in one of its points by proposing that anti-Ukrainian combatants go back to Russia.¹⁵ The last ultimatum of Kyiv, presented on August 25, suggested for the border buffer zone to be established by September 5 and for Russia to secure the "self-disbandment" of the DNR/LNR by September 14. In response to this, the DNR and LNR units backed by the Russian volunteers regained much of the lost territory in subsequent days and made Poroshenko seek an immediate ceasefire.

Between September 2014 and February 2015, Russia, Ukraine, France, and Germany were involved in peace negotiations on the so-called Minsk agreements. The talks held in the Normandy format led to the signing of the Minsk Protocol, also known as the Minsk-1 agreement. The Minsk Protocol was drafted by Trilateral Contact Group, with mediation by the leaders of France and Germany. Following exhausting talks in Minsk, the agreement was signed on September 5, 2014 by representatives of TCG and by the then-leaders of the self-proclaimed DNR and LNR (falling short of recognition of their status).

Minsk-1 was a compromise that resulted from numerous previous attempts to stop the fighting in the region and was aimed at implementing an immediate ceasefire. This goal was not achieved. Both Russia and Ukraine repeatedly accused each other of violating the Minsk Protocol. Critics called the Minsk Protocol one-sided because it dealt with the Ukrainian government and separatists in the east, but not Russia.¹⁶

III. The Minsk agreements

The text of the Minsk Protocol (Minsk-1) included twelve focal points. It called for the following measures: an immediate bilateral ceasefire monitored by the OSCE; decentralization of power, including through the adoption of the Ukrainian law "On Temporary Order of Local Self-Governance in Particular Districts of Donetsk and Luhansk Oblasts"; the establishment of an OSCE-monitored "security zone" along the border regions of Ukraine and the Russian Federation; exchange of prisoners; withdrawal of "armed formations, military equipment and fighters and mercenaries" from Ukraine; early local elections in accordance with the Ukrainian law "On Temporary Order of Local Self-Governance in Particular Districts of Donetsk and Luhansk Oblasts"; and

the economic reconstruction program for Donbass.¹⁷ Skirmishes resumed two weeks after the signing of the agreement.

Talks continued in Minsk, and a follow-up to the Minsk Protocol was agreed to on September 19, 2014. This Memorandum clarified the implementation of the Protocol and introduced additional peacemaking measures. They included, first and foremost, withdrawal of heavy weaponry 15 kilometres (9.3 miles) back on each side of the line of contact, thus creating a 30-kilometre (19 miles) buffer zone.¹⁸ The memorandum was signed by members of the Trilateral Contact Group. This compromise looked reasonable, but it did not work either because from the very beginning the negotiators pursued differing if not opposite goals.

The Kremlin's goal was to force Ukraine to return to the Russian sphere of influence where it had been for three and a half centuries, from the 1654 Pereyaslav Rada¹⁹ to the 1991 Belovezhskaya Pushcha.²⁰ In the eyes of the Russian political elite, federalization of Ukraine implied that the emergence of two autonomous (Donetsk and Lugansk) regions would be the best guarantee of Ukraine's non-membership in the EU and NATO. Interestingly, this position reflected a widespread myth that territorial problems and conflicts in counties striving for the NATO membership would automatically disqualify them. Nothing of the sort is contained in any official NATO document, but the myth has played a destructive role in Russia's relations with the CIS countries, and vice versa. For instance, it encouraged president of Georgia Michael Saakashvili to try to resolve the territorial conflicts with breakaway regions of South Ossetia and Abkhazia by force in 2008 and thus remove forever the obstacle for Georgia's would-be membership in NATO. Conversely, this myth has discouraged and still discourages Russia to contribute to peaceful resolution of the CIS conflicts. As for the Minsk-1 agreement, Moscow insisted on (a) adoption of a "law on special status" that would temporarily decentralize power in favor of the self-proclaimed Donbass republics; and (b) holding local elections on that basis.

For Kyiv, the agreements were just an instrument to re-establish its sovereignty and territorial integrity in the following sequence: ceasefire; Russia's withdrawal from eastern Ukraine; return of the Ukraine–Russia border under the Ukrainian control; elections in the Donbass region; and a limited devolution of power to Russia's proxy regimes, which would be reintegrated and resubordinated to the authorities in Kyiv. In this case, Ukraine would be able to make its own domestic and foreign policy choices.²¹

The EU leaders, especially those who represented the European Union in the Normandy process, were being torn apart between fear, revenge, and strife for peace. Henning Hoff, the executive editor of "Internationale Politik Quarterly", noted about the Normandy talks: "if Putin is really serious about his extremely far-reaching demands that the Trans-Atlantic community could never accept, such as guaranteeing a Russian sphere of influence in Europe, there'll be no progress in this format".²² Russia's incorporation of the Crimea was viewed in Europe as a manifestation of Kremlin's imperial ambitions that in the eyes of European politicians became the biggest geopolitical challenge to the European Union. At the same time, more pragmatic considerations pushed the EU leaders to a compromise between Russia and Ukraine. According to Peter Schmidt, "from a strategic perspective, EU's policy approach was based on three blunders: a lack of attention to the domestic cleavages of Ukraine, a lack of sense for Realpolitik, and a thoughtless look at the possible consequences if Ukraine becomes closely associated with – or even a member of – the EU".²³

Different orders of priority put forward by Russia, Ukraine and the EU left little hope for a durable ceasefire. As fighting resumed in Debaltseve, a town in the Donetsk oblast, in February 2015, the leaders of the Franco-German tandem – Chancellor Angela Merkel

and President François Hollande – initiated the next phase of the Minsk negotiations that resulted in the “Minsk package”, or Minsk-2. This document signed on February 12, 2015 by representatives of the OSCE, Russia, Ukraine, and the DNR and LNR, formed the framework for subsequent attempts to end the war. Minsk-2 was a product of hasty drafting and attempted valiantly to paper over yawning differences between the Ukrainian and the Russian stances. As a result, it contained contradictory provisions and set out a convoluted sequence of actions. It also had a gaping hole: although signed by Russia’s ambassador to Ukraine, Mikhail Zurabov, the agreement did not mention Russia – an omission that Moscow used to shirk responsibility for implementation and to maintain the fiction that it was a disinterested arbiter.²⁴

One of the main contradictions embedded in the Minsk package was a kind of the egg-chicken dilemma – a sequencing procedure for the implementation of the peace plan. The provisions of Minsk-2 related to the military and political aspects of its implementation were mixed up, which allowed for different interpretations. Ukraine wanted pro-Russian forces to withdraw from the occupied territories and to allow Ukraine to re-establish its control of the border before the proposed local elections (to be held according to international standards) would take place. Only after that Kyiv would be ready to give the rebellious territories some extra powers within its existing, limited decentralization program.

Moscow’s interpretation differed from that presented by Kyiv. The Kremlin proceeded from the understanding that on the first day after the withdrawal of all heavy weapons by both sides and with the OSCE’s assistance in monitoring and verification of the ceasefire regime a dialogue was supposed “to start on modalities of conducting local elections in accordance with the Ukrainian legislation and the Law of Ukraine ‘On temporary Order of Local Self-Governance in Particular Districts of Donetsk and Luhansk Oblasts’, and also about the future of these districts based on the above-mentioned law”.²⁵ Then without delay, no later than 30 days from the date of signing of the document, a resolution should be approved by the Verkhovna Rada (parliament) of Ukraine, indicating the territory which would fall under the special regime in accordance with the law “On temporary Order of Local Self-Governance in Particular Districts of Donetsk and Luhansk Oblasts”, in accordance with the Minsk Memorandum of September 19, 2014 (Articles 1–4). Restoration of Ukraine’s control of its state border with Russia was supposed to start on the next day following the local election and end after the full political settlement is in place (i. e., local elections in particular districts of Donetsk and Lugansk oblasts are held based on the law of Ukraine and Constitutional reform). This was planned for late 2015, on condition that Article 11 is implemented and in agreement with representatives of “particular districts of Donetsk and Luhansk oblasts” (Ukraine’s preferred term to denote DNR/LNR) within the framework of the Trilateral Contact Group.²⁶

While periodically reaffirming its support for the Minsk agreements, the European Union, however, never expressed its clear backing for any of these interpretations of the agreements. The European critics pointed out that political sections of Minsk-2 weighted heavily in Russia’s favour. In particular, provisions on special status went way beyond a brief reference to it that could be found in the Minsk-1. These far-reaching provisions would be enshrined in a permanent law and an amended constitution.²⁷ Critics also feared that, as the result of the constitutional reform envisaged in Article 11, the devolution of power to Donbass would encourage some other regions of Ukraine to press for similar powers.

The contradictory nature of the Minsk agreements was the main obstacle for their implementation. While the accords prevented the forward movement of troops and

reduced the conflict to a low-intensity “trench war”, they did not result in a long-lasting peace in Ukraine. In 2016, looking for a way to break the deadlock, Frank-Walter Steinmeier – Germany's foreign minister at the time – proposed a simplified version of the Minsk agreements in order to get Ukraine and Russia to agree on the sequence of actions outlined in Minsk-2. The so-called Steinmeier's formula called for elections to be held in the separatist-held territories under Ukrainian legislation and under the supervision of the OSCE. If the OSCE judges the balloting to be free and fair, then a special self-governing status for the territories would be initiated and Ukraine would regain control of its eastern border with Russia. The Kremlin strongly supported the document and praised it as a positive step towards peace in Ukraine. The document was agreed and signed in Minsk on October 1, 2019 by representatives of Ukraine, Russia, the separatist entities of Lugansk and Donetsk, and the OSCE.

The new president of Ukraine Volodymyr Zelensky, who was elected in May 2019, was heavily criticized domestically for signing up to the Steinmeier formula that received mixed response in Ukraine. The document was rejected by some war veterans, opposition political parties, as well as by some civil society groups and ultranationalists on the grounds that it might benefit Russia. Zelensky was accused of treason by some far-right nationalists, although he promised that there would not be any elections held under the barrel of gun.²⁸ Since then, Kyiv repeatedly confirmed Ukraine's commitment to a political and diplomatic settlement of the ongoing tensions and promised to contribute to more intensive work of existing negotiation formats in order to facilitate the peace process.

Moscow came to the conclusion that Kyiv was playing for time, while the West, first and foremost the EU, was either unable, or unwilling to put pressure on Ukraine. As president Putin put it, the last talks on Ukraine in the Normandy format held in Berlin on February 10, 2022, ended without tangible results due to the unwillingness of Western countries to push Kyiv to implement the Minsk agreements.²⁹ Within this logic the likely became inevitable. In the morning of February 24, 2022, Vladimir Putin announced a “special military operation” to “demilitarize and denazify” Ukraine.

IV. Birth defect or missed opportunity?

According to a widespread opinion in the EU's academic community, the Minsk agreements were doomed to fail by default. This, for instance, was the prevailing opinion among broad range of experts who participated in the survey run by “Carnegie Europe”.³⁰

As Max Bader, lecturer on Russia and Eurasia at the University of Leiden, argued, the Minsk agreements were destined to fail because “the separatist leaders in eastern Ukraine and their Russian backers never intended to implement points 4 and 9 of the agreement”. Point 4 stipulated that new local elections in the separatist territories must be held under Ukrainian legislation. Point 9 provided for the full restoration of the Ukrainian control over the country's borders. According to Ian Bond, Director of Foreign Policy at the Centre of European Reform, the two Minsk agreements were doomed to failure because (a) Russia pretended to be a mediator rather than a party to the fighting; (b) the parties disagreed on the meanings of a number of ambiguous points in the agreements; (c) the Minsk-2 agreement effectively left it to Russia to decide whether Ukraine changed its constitution to Russia's satisfaction.

Despite all these problems, the Minsk process reduced the violence in Ukraine's east, although it did not stop it completely. Thomas De Waal, senior fellow at Carnegie Europe, believed that the Minsk agreements endured only because a bad peace was

better than no peace at all. However, the signatories of the February 2015 accord made promises that they could not keep. Hrant Kostanyan, researcher at the Centre for European Policy Studies, argued that the two Minsk agreements had to fail because of their design and a lack of political will to implement them. The list of critics could be extended further. Because of the stalemate in the implementation of the Minsk agreements, some experts even called for replacing these agreements with new formats.³¹

Some academic observers tried to define a set of those conditions that could become a framework for resolving the crisis. In order to overcome a deadlock in the Minsk process, a group of Russian and American experts, including former high-ranking officials, initiated the “second track” diplomatic initiative, known as the Boistö process (named after the Finnish island where the discussions were held).³² The academics developed a plan of 24 points, aimed at resolving the crisis in Ukraine. The Boistö plan was criticized by a group of American and European experts and former officials, coordinated by David Kramer of “Freedom House”, who wrote a response, rejecting the Boistö agenda and urging Russia to end its “aggression” against Ukraine.³³ Nevertheless, some of the Boistö points were included in the Minsk-2 agreement, although the most important point that envisaged the deployment a UN-authorized peacekeeping mission in the corridor between the warring parties in eastern Ukraine did not make it into the formal accords. Put simply, the idea was to create new conditions for the implementation of the agreements by establishing a lasting truce to resolve political differences.

Initially, none of the parties was interested in the deployment of a peacekeeping operation, for different reasons. The Minsk-2 agreement of February 2015 did not envisage an armed peacekeeping contingent. Around the time when the agreement was discussed and signed, President Poroshenko called for the deployment of the UN peacekeepers or an EU police mission in Donbass, but later he gave up the idea. The most frequently repeated argument of the EU opponents to a peacekeeping operation in the east of Ukraine was that it would just freeze the conflict. However, there is nothing scary in frozen conflicts if they are frozen properly: in accordance with the UN mandate and on a multilateral basis. Such frozen conflicts (e. g., the conflict in Cyprus) are strongly preferable to active or “postponed” conflicts that may appear to have been settled, but in fact remain unresolved. The latter can be illustrated by the case of Bosnia and Herzegovina, where the situation is potentially explosive. It should also be taken into account that Moscow feared that an international peacekeeping operation would reduce its international role, as well as its leverage over Kyiv.

Involvement of the U.S. Government, represented by Ambassador Kurt Volker, in the process of negotiations on Ukraine since 2017 did not make the game easier not only because of the U.S.’ tough stance on Russia, but also due to disagreements between Washington and its European allies. The Trump administration announced that it did not want to be a hostage to Minsk-2, in which the United States did not participate, and presented its own plan: to hold negotiations on a parallel track to lead to a new treaty on Ukraine, with the United States and Russia acting as guarantors. This plan faced stiff opposition from Angela Merkel who insisted that there was no alternative to Minsk.

Over time, the idea of a peacekeeping operation made its way and gained recognition. However, two different concepts of peacekeeping – the “Kosovo model” and the “Cyprus model” – collided. While the West, primarily the United States, insisted on the Kosovo version of the peacekeeping operation, namely, on the deployment of peacekeepers on the territory of the Donetsk and Lugansk de facto republics, it was obvious that this model would not be accepted by their populations. Regarding the

Kosovo model, it is important that the majority of the Kosovars stood for the deployment of peacekeepers on their territory. Without the consent of the populations of the DNR and LNR, the deployment of peacekeepers on these territories would be perceived by them as an occupation and resisted.

Russia was leaning towards the Cyprus settlement model. In April 2016, President Putin made an unexpected statement about the situation in Ukraine, framing it as a country that could hold the key to bringing peace to Donbass. "I recently spoke with [Ukrainian President] Petro Poroshenko and he suggested ... that the OSCE presence should be strengthened to achieve a complete ceasefire", Putin said, adding that Russia supported the proposal. "In particular, he [Poroshenko] suggested that armed OSCE officers could be deployed along the demarcation line. [...] Now we need to work with our Western partners so that the OSCE can make such a decision, increase its staff substantially and, if necessary, authorize its personnel to bear firearms".³⁴ Instead of being deployed on the territory of the Donetsk and Lugansk republics, the multilateral contingent would be based in a corridor between the two ceasefire lines (established by the Minsk-1 and Minsk-2 agreements, respectively) – the lines, from which the conflicting parties would have to withdraw their heavy weapons.

Deploying a full-scale peacekeeping mission under the mandate of the UN Security Council with the use of military contingents of OSCE countries, equipped with armored vehicles, artillery, helicopters, and drones, would have been the best guarantee against a possible escalation of the conflict. First and foremost, it would have excluded any external incursions. Also, by freezing hostilities such a peace operation could provide unlimited time to work out a compromise on political provisions. Details of such a peace mission, as well as the composition of its contingent, should have been the subject of negotiations, had a decision in favor of it been made.

V. Conclusion

Whatever the inherent shortfalls of the Minsk agreements, it is important to bear in mind that such agreements themselves form only one of the stages in a complex transition to peace. A ceasefire agreement is often confused with a peace treaty but there is a huge distance between them. A "good" ceasefire agreement, which results in a durable peace and excludes setbacks or a collapse of the peace process, is the necessary but only the first requirement for launching peace negotiations. As Jean Arnault, a French diplomat, rightly pointed out, "concern over the agreement's imperfections in terms of wording, feasibility or legitimacy should be weighed against the paramount need to maintain the momentum of the overall transition. Ambiguities, lacunae, even stark impossibilities are acceptable costs. Over time ambiguities will be lifted, lacunae will be filled, amendments will be made to take account of impossibilities and, most importantly, the relevance of seemingly intractable issues will erode as the parties gradually learn to value accommodation over confrontation. Implementation, in that sense, not only cannot, but should not, be expected to be a mirror image of the original agreement".³⁵ History knows many examples when politicians were forced to sign unfair peace agreements that looked like a defeat, but in the long run turned out to be a win because they saved entire nations and brought durable peace.

As the fighting in Ukraine continues, cities are being destroyed and people are dying, it is worth asking whether the Minsk agreements were truly doomed to failure or they were the victim of short-sighted policies and ambitions.

ENDNOTES

¹ Arbatova N. The CIS factor in Russia-West relations: origins of conflict // Social Sciences. 2019. V. 50. No. 1. P. 46.

² Schmidt P. Reasons for Big “Blunders” – EU policy towards Ukraine // L'Europe en Formation. 2016. No. 3. P. 73–100.

³ Alexandrova-Arbatova N. Geopolitical challenges for the post-bipolar Europe // Eastern Journal of European Studies. 2016. V. 7. No. 2. P. 31–46.

⁴ Шредер назвал расширение НАТО причиной возвращения Крыма в состав России // Коммерсантъ. 17 января 2021 [Schroeder called the Expansion of NATO the Reason for the Return of Crimea to Russia // Kommersant. 17 January 2021].

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URL: <https://www.euractiv.com/section/europe-s-east/news/eu-mediated-ukraine-agreement-gives-peace-a-chance> (accessed 19.04.2021).

⁷ “DNR” and “LNR” are abbreviations of “Donetskaya narodnaya respublika” and “Luganskaya narodnaya respublika”, respectively.

⁸ Yekelchik S. Russia’s annexation of the Crimea and the war in the Donbas // Yekelchik S. Ukraine: What Everyone Needs to Know. – Oxford: Oxford University Press, 2020. P. 104–139.

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¹¹ Death toll in Ukraine.

¹² Text of the Geneva Statement on Ukraine released by the US, EU, Ukraine and Russia. US Mission to International Organizations in Geneva. 17 April 2014. URL: <https://geneva.usmission.gov/2014/04/18/text-of-the-geneva-statement-on-ukraine-released-by-the-us-eu-ukraine-and-russia> (accessed 25.04.2022).

¹³ Litra L., Medynskiy I., Zarembo K. Assessing the EU's Conflict Prevention and Peacebuilding Interventions in Ukraine. – Kyiv: Institute of World Policy, 2017.

¹⁴ Duncan A. The Minsk Conundrum: Western Policy and Russia’s War in Eastern Ukraine. Chatham House Research Paper. – London: Chatham House, 2020.

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¹⁷ Minsk Protocol. Press Release. Organization for Security and Co-operation in Europe. 5 September 2014. URL: <https://www.osce.org/home/123257> (accessed 09.09.2014).

¹⁸ Memorandum of 19 September 2014. URL: <https://www.peaceagreements.org/viewmasterdocument/1362> (accessed 11.06.2022).

¹⁹ Pereyaslav Rada (1654) – an act agreed by the council of the Cossack army to submit Ukraine to the Russian rule and the acceptance of this act by Russia.

²⁰ Belovezhskaya Pushcha (1991) – an agreement between leaders of Belorussian, Russian, and Ukrainian Soviet republics to put an end to the USSR.

²¹ Duncan A. Op. cit.

²² Explained: “Normandy Format” talks for resolving the crisis in Ukraine.

²³ Schmidt P. Op. cit.

²⁴ Duncan A. Op. cit.

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