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OSCE and Donbas

Missing Piece





This paper¹ presents and analyses the hypothesis that

- in de facto terms, the war in Ukraine is not the cause of the extremely deep crisis in relations between the West and Russia since the end of the Cold war, but rather a consequence of it,

as well as the following events, developments and relationships:

- Several milestones in negotiations to end the armed conflict in certain areas of the Donetsk and Luhansk regions, commencing with the Geneva talks and continuing with the Minsk I and Minsk II agreements;
- The relationship between the Normandy format and the Trilateral contact group, which are the key platforms for peace talks and mediation attempts;
- The key factor underlying this conflict – a lack of political will on the part of political elites to settle it.

¹The paper was written in the period between November 2018 and April 2019, with research finished before the second round of presidential elections in Ukraine held in April 21, 2019.



Introduction

The Crimean scenario has exerted a certain attraction for several regions of Ukraine, in particular Donetsk and Luhansk. Local business and political elites panicked at the thought of losing their status in the national economy and political sphere in the wake of former President Yanukovich' flight to the Russian Federation. Yanukovich was a prominent representative of the "Donbass clan". These dynamics combined with popular "anti-Maidan" movements in several cities in the South and East coalesced to catapult this area of the Donbas region to the centre of resistance to the new government in Kiev. This resistance was led by several Russian citizens, the most prominent being the Russian Federal Security Service officer Igor Girkin (a.k.a. Strelkov), "experienced" individuals who were actively involved in events in the Crimea, volunteers from the Russian federation and local inhabitants. It resulted in open armed conflict between (regular and irregular) Russian forces allied with Donbas local militia on the one side and the Ukrainian Armed Forces, National Guard and (irregular) volunteer battalions on the other. This conflict has been raging for almost 4.5 years, taking a toll of more than 10,000 fatalities and tens of thousands of wounded on both sides, along with hundreds of thousands of displaced persons.

Understanding the armed conflict in Donbas requires several layers of analysis – this is why it is sometimes referred to as a "hybrid war" or, in the OSCE parlance, a "crisis in and around Ukraine". It needs to be understood in a broader context, avoiding the simplistic and fundamentally wrong assumption that it is an internal conflict in which only Ukrainian forces and militia in certain areas of Donetsk and Luhansk regions (CADLR) are engaged in conflict. The Russian Federation plays a key role, not only in the conflict itself, but also in its potential to settle it and put an end to the deadly clashes.

This paper focuses on the question of a possible resolution of the Donbas conflict and international peace negotiations to achieve it. Most of the ongoing negotiations are being mediated by the OSCE. This was not the case in the first attempts at negotiations, however. In this paper we briefly analyse all the various formats and agreements, namely

the Geneva Joint Statement on Ukraine from April 2014 and the two Minsk Agreements concluded in September 2014 and February 2015 (the Kiev agreement from February 2014 is not included into the analysis, as it was aimed at resolving the internal political crisis). Finally, we analyse current negotiating tracks, especially the so-called Normandy format and the Trilateral Contact Group, which are the most important current negotiation platforms.

Commencement of negotiations

Representatives of the U.S., the EU, Russia and Ukraine reached an agreement at the level of the ministers of foreign affairs on 17 April 2014 aimed at de-escalating the crisis in Eastern Ukraine. The Geneva Joint Statement on Ukraine², also called the "Geneva Agreement", was the first attempt to reach an agreement at the international level. It is worth stressing that this meeting saw the U.S. and the EU acting as a single bloc. Further negotiations took place without the involvement of the EU and the U.S.. The main provisions of this very short joint statement are as follows:

- Refraining from any use of violent means;
- Illegal armed groups are to be disarmed and buildings illegally seized returned to their rightful owners;
- Amnesty is to be granted except in the case of capital crimes;
- The OSCE Special Monitoring Mission is to play a crucial role in assisting Ukrainian authorities and local communities in implementing the particular de-escalation measures;
- The need for an inclusive, transparent and accountable constitutional process and establishment of a broad national dialogue.

By its very nature, this document imposed obligations mostly on Kiev, while not treating Russia as a

² "Geneva Statement on Ukraine", more information: https://mfa.gov.ua/mediafiles/sites/japan/files/Geneva_Statement_on_Ukraine.pdf



direct party to the conflict, thus affirming the false narrative of the conflict being an internal Ukrainian conflict. This underscores the different understandings of the situation in Eastern Ukraine and hence different sets of interests regarding the question of settlement. Following the talks, Ukraine, in order to comply with the provisions of the Agreement, halted operations in Anti-Terrorist Operation (ATO) zone in Eastern Ukraine the next day, 18 April 2014.

Skirmishing continued, however, and government buildings in several towns and cities remained occupied. In the night from 19 to 20 April, armed separatists carried out military operations in Slavyansk, in which three people were killed and two pro-Ukrainian activists were assassinated. In reaction, the president at the time, Oleksandr Turchynov, appealed to the belligerents to return to and respect the ATO.³ In the ensuing period, Russia announced that the Geneva agreement was no longer viable.⁴ "With militias in the Donbas region refusing to disarm and end their occupation of government facilities, no progress has been made on constitutional reform, and the activities of the OSCE mission have become the only element of real implementation. An attempt by the OSCE to have a roadmap for the implementation of the Geneva Declaration, agreed initially, failed (even though the Geneva Declaration was re-confirmed in the Normandy format in early July 2014)."⁵ This was the de facto end of the Geneva Agreement. In the wake of the tragic incident in Odessa, German foreign minister Frank-Walter Steinmeier called for a second meeting in Geneva in a TV interview televised on the German public broadcasting station ARD on 4 May 2014, through which he hoped to achieve a greater role for the OSCE in mediation attempts at the local level across Ukraine – however, no second round of negotiations ever took place. As Vladimir Socor puts it, "The Geneva statement sought to create a framework for negotiating a resolution to the conflict. It wrongly defined the conflict as internal to Ukraine, however, overriding Kiev's objections."⁶ As some experts saw it, the text of the joint statement was vague and did not call the conflict by its real name. To a certain extent this is undeniably the case. With the advantage of hindsight, however, it has to be borne in mind that this was the first international agreement concluded in the conflict, and in diplomatic terms

it would have been very ambitious indeed to expect a concrete roadmap and timeline, especially due to the considerable importance of Ukraine in Russian and EU foreign policy. The flexibility and room for manoeuvre offered by the Geneva agreement was in the following period leveraged more by Russian foreign policy. As noted in the foregoing, the basic ideas of the Geneva agreement were echoed in the Minsk I accords – both with positive and negative consequences.

From Geneva to Normandy

The situation in Eastern Ukraine subsequently deteriorated significantly. Hybrid war methods combined with conventional means - continuous fighting and shelling, engagement of irregular armed battalions, use of heavy weaponry and informational warfare coupled with an ever-worsening socio-political situation in the region prompted the international community to engage once again.

Francois Hollande, Angela Merkel, Petro Poroshenko and Vladimir Putin met together in Normandy on 6 June 2014, on the margins of celebrations marking the 70th anniversary of D-Day. It was the first meeting between Poroshenko and Putin since the crisis had broken out in Ukraine. This meeting provided the foundations for a primary mediating framework for the crisis in Donbas region – the so-called Normandy format (also called the Normandy four – N4 – or Normandy group).

All these labels designate subsequent meetings and contacts between high-level representatives – heads of state or ministers of foreign affairs or

³ Konończuk, W. - Wierzbowska-Miazga, A.: "The Geneva Disagreement on Ukraine". Available at: <https://www.osw.waw.pl/en/publikacje/analyses/2014-04-24/geneva-dis-agreement-ukraine>; Socor, V.: "Dead in Geneva: The Compromise with Russia on Ukraine". Available at: <https://jamestown.org/program/dead-in-geneva-the-compromise-with-russia-on-ukraine/>

⁴ "Putin says Geneva agreement no longer viable after Ukrainian military action". The Guardian. Available at: <https://www.theguardian.com/world/2014/may/02/putin-geneva-agreement-not-viable-ukraine-military-action>

⁵ Wolff, Melyarenko, T. – Wolff, S.: "The logic of competitive influence-seeking: Russia, Ukraine, and the conflict in Donbas". In *Post-Soviet Affairs*, 34:4, p. 198

⁶ Socor, V.: "Dead in Geneva: The Compromise with Russia on Ukraine". Available at: <https://jamestown.org/program/dead-in-geneva-the-compromise-with-russia-on-ukraine/>



high-level officials from ministries of foreign affairs – tackling the issue of armed conflict in Donbas.

One big difference compared to Geneva is the actors involved. The U.S. and EU are out – Germany and France are in. According to Hiski Haukkala, the notion that diplomatic contacts between Paris, Berlin and Moscow are disconnected from the wider EU approach is not correct. Haukkala terms the EU engagement “crowd-funded diplomacy” – emphasizing that the situation is marked by “two key policy entrepreneurs, Germany and France, who have taken the lead in handling the crisis particularly through their active participation in the work of the Normandy Format. This has been done with backing from other member states – and also the European institutions – who all have in a sense made political, and in the form of sanctions also economic investments in that policy line. The end result is not European foreign policy that would have been outsourced to some EU member states, but one that has been essentially ‘crowd-funded’, entailing that every EU member state, albeit perhaps not to equal degrees, has a stake in the success or failure of that policy.”⁷ On the other hand, there are very strong arguments regarding how to read the very same context. Feklyunina and Romanova cite fears among sections of the Ukrainian elite that “... Germany and France as key actors in the ‘Normandy Four’ format were unlikely to disregard their own interests related to cooperation with Russia. This understanding of the EU’s position led some members of the Ukrainian elite to advocate an extension of the negotiating format to include Washington, with a hope that the US would be more supportive of Kiev’s interests”⁸ Quoting Aleksey Chesnakov – a close ally of Vladislav Surkov, Iuslin asserts that the formal absence of the U.S. in the Normandy format would mean that Poroshenko would not have enough power to push Europeans to confront Putin.⁹ Since 2014, however, the dynamics in U.S.–EU and U.S.–Russia relations have changed significantly, and I would posit that there is little chance that the U.S. under its current administration will push for a more resolute confrontation with Russia because of Ukraine – applying tools going above and beyond economic sanctions. Another angle is that with regard to U.S. foreign policy, during the Geneva talks there was “... no reason to expect that the Obama administra-

tion, in its last eight months in office, would pick it up [the mediating role on Ukraine]. Whoever takes the presidential oath in January, he or she will need time to get organized and may not have Ukraine at the top of the in box in the Oval Office”¹⁰. Finally, there was a fortuitous coalescence of will on the part of Steinmeier and Merkel to settle the conflict in Ukraine, combined with the retreat of the U.S. due to the internal political situation, which resulted in the disengagement of the U.S. and E.U. in subsequent developments.¹¹

The first Normandy format meeting culminated in the establishment of the Trilateral Contact Group.

Trilateral Contact Group – stop in Minsk

The Trilateral Contact Group (TCG) is a crucial instrument in the Donbas peace process. In line with the proposal that was forwarded at the first Normandy format meeting, TCG is composed of senior representatives from Ukraine, the Russian Federation and the OSCE Chairperson in Office. The first meeting of the TCG took place on 8 July 2014, two days after its establishment. The representative of Ukraine was the Ukrainian ambassador to Germany at the time, Pavlo Klimkin; the Russian representative was its ambassador to Ukraine back then, Mikhail Zurabov, and the OSCE Swiss Chairperson in Office – Minister of Foreign Affairs Didier Burkhalter appointed Heidi Tagliavini as Special Representative in Ukraine and the Trilateral Contact Group. Soon afterwards, Pavlo Klimkin became

⁷ Haukkala, H.: “Crowdfunded Diplomacy? The EU’s Role in the Triangular Diplomacy Over the Ukraine Crisis”. In Birchfield, Vicki L. - Young, Alasdair R. (Eds.): “Triangular Diplomacy among the United States, the European Union, and the Russian Federation Responses to the Crisis in Ukraine”, pp 89-90

⁸ Feklyunina, V.: “Ukraine and Triangular Diplomacy: Kyiv’s Legitimacy Dilemmas in the Midst of the Crisis”. In Birchfield, Vicki L. - Young, Alasdair R. (Eds.): “Triangular Diplomacy among the United States, the European Union, and the Russian Federation Responses to the Crisis in Ukraine”, pp 159-160

⁹ Iuslin, M., et al.: “Parizh stoit Minska”. Available at: <https://www.kommerisant.ru/doc/2825147>

¹⁰ Pifer, S.: “Minsk is not working, but Kyiv should stay with it”. Available at: <https://www.brookings.edu/opinions/%E2%80%8Bminsk-is-not-working-but-kyiv-should-stay-with-it/>

¹¹ A very good piece on the role of West in crisis in Ukraine – Haran, O. – Burkovskiy, P.: Ukraine’s Foreign Policy and the Role of the West, https://dgap.org/sites/default/files/article_downloads/2017-easternvoices_ch04_haran-burkovskiy.pdf



Ukrainian Foreign Minister, with his position within the TCG being assumed by former President of Ukraine, Leonid Kuchma. Appointment to the position of OSCE Special Representative is the prerogative of the particular country that has the Chairmanship, with this rule preventing any consensus among the participating states regarding the person of the Special Representative. This appeared to be a very flexible and effective decision. Important to note in this regard is that all decisions, recommendations, agreements, press releases and other outcomes are adopted by a consensus between TCG actors. According to the current mandate, the Special Representative of the OSCE CiO in Ukraine and in the Trilateral Contact Group " ... chairs the meetings of the Trilateral Contact Group and coordinates the four Working Groups. He co-ordinates and maintains contact with representatives of Ukraine and Russia, participants from certain areas of the Donetsk and Luhansk region, as well as with a wide range of other actors. ... (i)s charged with identifying positions and scope for conflict-resolution efforts, including potential confidence-building measures. He also regularly reports to the Permanent Council."¹²

The first task of the TCG was to prepare the peace plan to de-escalate the situation in Eastern Ukraine and resolve the conflict. This soon came to form the foundations for Petro Poroshenko's Peace Plan, which was based on 14 key points and was released on 20 June 2014¹³. This plan provided for *inter alia* security for all participants in negotiations; amnesty to all those who would voluntarily lay down their arms; release of hostages; creation of a 10-km buffer zone on the border with the Russian Federation and withdrawal of illegal armed groups; a guaranteed corridor for the exit of Russian and Ukrainian mercenaries; disarmament; creation of divisions for joint patrols in the Ministry of Interior; handover of government buildings seized by terrorists; resumption of the activities of local authorities; resumption of central television and radio broadcasting in the Donbas; decentralisation of power; coordination of the appointment of governors with representatives of Donbas; early local and parliamentary elections; a jobs-creation programme for the region. Almost two and a half months later, on 3 September 2014, Putin, president at the time, also drafted his own

plan¹⁴, but it was not accepted by his counterpart in Ukraine, A. Yatsenyuk. Nonetheless, in its work the TCG took both initiatives into account on the way to proposing a real peace plan at a later stage.

TCG had regular contact in June 2014 with representatives of CADLR both personally in the city of Donetsk, which is not under the control of the central government in Kiev, as well as through video calls facilitated by OSCE Special Monitoring Mission (SMM). Due to the worsening security situation in Donbas, TCG met with CADLR representatives in Minsk on several occasions – which is why TCG is sometimes referred to as a Minsk group¹⁵. The TCG could be described as a negotiating platform combining and interconnecting top-to-bottom levels as well as a political instead of just technical approach to the particular issue. In other words, its work is not solely political, but also concentrated on apolitical, technical issues. Moreover, it is the only platform in which representatives of CADLR play an active role. Tagliavini in her very informative "behind-the-scenes" report¹⁶ on TCG work walks us through the work culminating in the TCG till Minsk I agreements (which we shall address later) and afterwards. One breakthrough in the conflict came on the heels of the shooting down of Malaysian Airlines Flight 17 (MH 17) on 17 July 2014. The TCG, together with OSCE SMM, served as the initial contact points in securing access for international experts to the scene of this crime. This incident not only sparked the interest of the international community in the Donbas conflict, but also precipitated fighting between Ukrainian forces and illegally armed militia in CADLR. The TCG's main activities were in the areas of ceasefire, border control, hostages and humanitarian assistance. Ceasefire mediation at this high level led to a unilateral suspension of the ATO by Poroshenko on 20 June 2018 and his proposal for a week-long ceasefire.

¹² More at: <https://www.osce.org/cio/martin-sajdik>

¹³ More at: <https://glavred.info/politics/282871-mirnyy-plan-poroshenko-dlya-donbassa-opublikovan-dokument.html>

¹⁴ More at: <https://www.vesti.ru/doc.html?id=1941917&tid=105474>

¹⁵ This gives rise to confusion with the already existing "Minsk group" on the conflict in Nagorno Karabakh, which is why the term Trilateral Contact Group is clearer and used here.

¹⁶ Tagliavini, H.: "Mediation in the Crisis in Eastern Ukraine up to 23 June 2015". In OSCE Yearbook 2015, pp. 217-229



Continued fighting, loss of government-controlled territory and several border check-points led to a resumption of ATO, however. The TCG carried on with ceasefire negotiations at local level. At the end of June 2014, after two meetings with representatives of the CADLR, the TCG together with OSCE SMM registered a victory – release of 8 OSCE military observers who had been captured by illegal groups in the CADLR since 29 May 2014. The situation in the region continued to deteriorate, hence intensive work on the part of the TCG to draft a peace plan. This resulted in the Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk on 5 September 2014¹⁷ and the subsequent Memorandum of 19 September 2014 outlining parameters for the implementation of the commitments set out in the Minsk Protocol of 5 September 2014¹⁸. The main aims were summed up in 12 points in the Protocol, which was signed by Tagliavini, Kuchma, Zurbach and CADLR representatives (without any reference being made to their position), Zakharchenko and Plotnitskiy: immediate cessation of hostilities, withdrawal of illegal armed forces and their military equipment from Ukrainian territory, monitoring of the ceasefire and of the Russian-Ukrainian frontier by the OSCE, the release of hostages and detainees, a law on amnesty, a national dialogue, decentralisation, local elections, humanitarian assistance, and economic rehabilitation of the zone of conflict. As mentioned above, these build on the Geneva agreement, the Poroshenko peace plan and the initiative by Putin. The subsequent Memorandum spelled out several obligations from the Protocol in more detail, e.g. consolidation of the ceasefire regime, establishment of a line of contact between the warring sides, the withdrawal of heavy weapons from this line and the establishment of a 30-km security zone free of heavy weapons and mines and subject to a no-fly regime.

According to Tagliavini, the main aim of the TCG after the adoption of the aforementioned documents was to work toward their implementation. One of the biggest successes that was registered was the establishment of the JCCC (Joint Center for Control and Coordination)¹⁹ based on a bilateral agreement between Ukraine and Russia. According to Hug, former Deputy Chief Monitor of OSCE SMM, the JCCC “played an important role in the implementation of

the Minsk Agreements, as its task is to assist in ensuring a comprehensive ceasefire and carrying out the overall coordination of mine-clearing work. The JCCC also has key functions relating to the safety and security of the SMM and is to assist in ensuring rapid response to possible cases of impediments to monitoring and verification by the SMM”.²⁰ Furthermore, approximately 2,500 detainees were freed by the end of 2014, although many still remained in captivity and hostage-taking never ceased. On 16 September 2014, Verkhovna Rada – the Parliament of Ukraine – adopted a law “On an interim local self-government order in certain areas of the Donetsk and Luhansk regions” – the so-called law on special status of CADLR. This has failed, however, according to Tagliavini, because “this law called for early municipal elections to be held in CADLR on 7 December 2014 under Ukrainian law. However, the rebel leaders eventually decided to hold ‘presidential and parliamentary elections’ on 2 November 2014, in contravention of Ukrainian law and the letter and spirit of the Minsk Protocol despite numerous appeals from the international community, including the OSCE, not to hold them. Furthermore, some rebel leaders issued calls for a revision of the Minsk arrangements. In view of these illegal acts committed by the self-proclaimed Donetsk and Luhansk “People’s Republics” (DPR/LPR), the Ukrainian President announced suspension of this law”²¹.

Even though the Minsk Protocol and subsequent Memorandum took the peace process to a qualitatively new level, they failed to produce a lasting ceasefire. Heavy shelling by illegally armed militia

¹⁷ “Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk, 5 September 2014”, 5 September 2014, <https://www.osce.org/home/123257>.

¹⁸ “Memorandum of 19 September 2014 outlining the parameters for the implementation of commitments of the Minsk Protocol of 5 September 2014”, 19 September 2014, <https://www.osce.org/home/123806>.

¹⁹ The Russian Federation withdrew its Armed Forces from JCCC in December 2014. According to S. Lavrov, due to “an unacceptable environment for Russian officers and unacceptable requirements made of them” (<https://www.unian.info/war/2302289-russia-to-withdraw-its-officers-from-jccc-osce.html>). Despite the Russian withdrawal, Ukrainian Armed Forces are still part of the JCCC and, thus, the centre still exists.

²⁰ Liechtenstein, S.: “Communication channels should be kept open at all times.” Available at: <https://www.shrmonitor.org/communication-channels-kept-open-times/>

²¹ Tagliavini, H.: “Mediation in the Crisis in Eastern Ukraine up to 23 June 2015”. In OSCE Yearbook 2015, p. 221



in CADLR and fights over strategic positions took place in the beginning of 2015, more specifically fighting at Donetsk airport, the towns of Debaltseve and Shchastya and the important Azov Sea/Black Sea port of Mariupol. At the same time, high-level diplomatic contacts continued within the Normandy format. These produced a new peace agreement.

From Minsk I to Minsk II

Merkel and Hollande took the lead and drafted a plan on 7 February 2015 based on talks held with Poroshenko, Putin and with support from the TCG. This led to a meeting within the framework of the Normandy format in Minsk on 11-12 February 2015. Coordinated efforts by larger teams were successful in having the TCG meeting take place at the same time and place. Thus, the new document, dubbed Package of Measures for the Implementation of the Minsk Agreements²², and signed by the representatives of Ukraine, the Russian Federation, the Special Representative of the OSCE Chairman in office to the TCG, and CADLR was accompanied by a Declaration²³ issued by the four Normandy format leaders supporting the Package of Measures.

The text calls for an immediate ceasefire in CADLR beginning at midnight, 15 February 2015, the withdrawal of heavy weapons and establishment of a security zone (50 km wide except for 100-mm-and-greater-calibre artillery, 70 km wide for multiple-rocket-launcher systems (MLRS) and 140 km wide for MLRS Tornado-S, Uragan, Smerch and Tochka U tactical missile systems) and for the process to be overseen by the OSCE with TCG support; the commencement of a dialogue on modalities regarding local elections to be held in line with the OSCE standards with ODIHR monitoring and a "law on special status"; amnesty and pardon; release and exchange of hostages; enabling access, delivery, storage and distribution of humanitarian aid; restoration of social and economic relations; restoration of control over the state border to Kiev; withdrawal of foreign armed forces; constitutional reform in Ukraine focusing on decentralisation and, finally, establishment of working groups within the TCG. An Addendum to this document was signed on 29 September 2015, based on a proposal by the

TCG Security Working Group. The main provisions of the addendum were "a plan for withdrawal to a distance of 15 km for tanks, artillery pieces up to 100 mm in calibre, and mortars up to and including 120 mm in calibre, creating a 30 km security zone. This withdrawal is to be implemented in two stages: The first stage has already started, and is to be implemented in most of the Security Zone in the Luhansk region. It is to be implemented according to weapon types – first tanks, then artillery, then mortars – and is to take 15 days. The second stage is to be implemented, once again according to weapon types, throughout the entire remaining Security Zone, and is to take 24 days"²⁴. OSCE SMM is in charge of monitoring and verifying this Addendum.

From this moment on, the main task of the TCG was to implement the so-called Minsk II agreements from February 2015. Beginning on 6 May 2015, TCG commenced work, splitting up into four working groups – one each for political issues, security, humanitarian and economic affairs. According to Tagliavini, a major problem cropped up on 2 June 2015: "... as a consequence of the ongoing controversy over the format and the status of participation of representatives of CADLR, the latter decided to walk out the consultations and were followed in this move by the representative of the Russian Federation"²⁵.

Tagliavini goes on to note that "the main objective of the WGs is to discuss, elaborate, and make concrete recommendations aimed at the implementation of the Minsk arrangements, agreed by consensus amongst all participants of the relevant group.

²² "Package of Measures for the Implementation of the Minsk Agreements agreed by the Trilateral Contact Group at the Summit in Minsk on 12 February 2015". Available at: <http://www.osce.org/cio/140156>

²³ "Declaration by the President of the Russian Federation, the President of the Ukraine, the President of the French Republic and the Chancellor of the Federal Republic of Germany in support of the "Package of Measures for the Implementation of the Minsk Agreements" adopted on February 12, 2015 in Minsk." Available at: <https://www.bundesregierung.de/breg-en/issues/declaration-by-the-president-of-the-russian-federation-the-president-of-the-ukraine-the-president-of-the-french-republic-and-the-chancellor-of-the-federal-republic-of-germany-in-support-of-the-package-of-measures-for-the-implementation-of-the-minsk-agreements-adopted-on-february-12-2015-in-minsk-603984>

²⁴ OSCE SMM Status Report as of October 2015. Available at: <https://www.osce.org/ukraine-smm/190821?download=true>

²⁵ Tagliavini, H.: "Mediation in the Crisis in Eastern Ukraine up to 23 June 2015". In OSCE Yearbook 2015, p. 224



These recommendations are then to be submitted to the TCG for its consideration and decision²⁶. Priorities of the WG for Security are mainly connected with the Minsk agreements items relating to cease-fire, withdrawal of heavy weapons and verification. Although real progress has been made, these commitments have not been fully implemented. The WG on Humanitarian Issues deals mostly with the release of hostages and detainees – in this regard, there have been several successes. The WG on Economic Affairs has concentrated on re-establishing banking facilities including payment of pensions, restoration of infrastructure and reaching a deal on issues posted to business in the area.

From Minsk II to ...?

The latest development in attempts to resolve the conflict in Eastern Ukraine is very interesting to follow. In fact it demonstrates once again that the conflict is not only in Ukraine, but also in surrounding areas – the OSCE “buzzword”, which is often criticised for being vague, is still, it would appear, quite appropriate ...

On 24 January, the Austrian magazine *Kleine Zeitung* published an interview²⁷ with the Special Representative of the OSCE Chairperson in Office in Ukraine and in the Trilateral Contact Group (TCG), Ambassador Martin Sajdik, an experienced Austrian diplomat. The interview aroused significant interest on the part of experts as well as Ukrainian society. Many leading Ukrainian newspapers and TV channels staged discussions with Ukrainian experts on the same plan that was unveiled in this interview.

Ambassador Sajdik spoke about an initiative or a “new plan” that had been elaborated together with the Chief Monitor of the OSCE SMM, Apakan, and the co-chair of the TCG Political Working Group, Morel. This time, however, it was their personal initiative. This “plan” foresees, among other things, the involvement of UN forces in Donbas, which would work together with the OSCE in military, police and monitoring areas under the common auspices of a “special representative”; economic reconstruction of the region with financial aid from the European Union; legitimisation of this initiative through a man-

date from the parliaments of N4 countries as well as a “new package of measures”, etc.

Based on the information provided in the interview, the plan would appear to be an interesting scheme (originally it encompassed 19 pages) worth discussing – most of the ideas and statements are very relevant and accurately describe the current situation. At the same time, it raises many questions which warrant further discussion and definitely requires much more in the way of details. In this connection, worth noting among recent sober commentaries from the Ukrainian expert community is a short commentary by Maksym Khylo²⁸.

It is true that Ambassador Sajdik presented the main features of this “plan” during the latest OSCE Ministerial Council in Milan in December 2018. It is most certain that the N4 countries and a number of participating states were present at this presentation. And based on the *modus operandi* between TCG and N4 (to be discussed in the next chapter), it is very likely that all N4 countries (at the least) knew about this initiative. The reactions from both Kiev²⁹ and Moscow³⁰ are therefore quite surprising – both reject the proposal, saying they did not receive any information about it before, nor do they have enough details. This certainly demonstrates how politically sensitive the question is, especially in the then run-up to presidential elections in Ukraine, and how the expert part of the settlement process has been sidelined. Given the context in which this plan was announced, in a few months the context might well change and it would then be a good idea to return to its substance.

²⁶ Tagliavini, H.: “Mediation in the Crisis in Eastern Ukraine up to 23 June 2015”. In OSCE Yearbook 2015, p. 225

²⁷ Wehrshutz, Ch.: “Sondergesandter Sajdik: Haben neuen Plan zur Lösung der Ukraine-Krise”. Available at: https://www.kleinezeitung.at/politik/aussenpolitik/5567894/ExklusivInterview_Sondergesandter-Sajdik_Haben-neuen-Plan-zur

²⁸ Khylo M.: “Why the Sajdik Plan for the Donbas will not Work”. Available at: <https://www.atlanticcouncil.org/blogs/ukrainealert/why-the-sajdik-plan-for-the-donbas-will-not-work>

²⁹ “Dyavol kroetsya v detalykh: V minvot neznayut podrobnostey plana Sajdika po Donbasu”. Available at <http://novosti.dn.ua/news/288443-dyavol-kroetsya-vdetalyakh-vmyinvot-neznayut-podrobnostey-plana-saydyka-podonbasu>

³⁰ “Gryzlov udilyen initsiativoy Sajdika po Donbasu” Available at: <https://tass.ru/politika/6051596>



Connection between the Normandy format and TCG

The Normandy format

There have been 18 meetings within the framework of the Normandy format (4 times in 2014, 7 in 2015, 2 in 2016, 3 in 2017 and 2 in 2018) since the outbreak of hostilities in Donbas.

In 2014, the platform focused on the creation of the TCG and elaboration of a roadmap towards settlement of the conflict. In Milan in October 2014, the Normandy format met during the ASEM 10 meeting (Asia-Europe Meeting), with the participants discussing peaceful solutions to the conflict in Eastern Ukraine and the issue of the Russian gas supply to Europe via Ukrainian territory.

Next year – 2015, is a year in which the focus is placed on the Minsk agreements and implementation of their provisions. The Normandy format met on 24 August 2015, but without the presence of the Russian Federation. This meeting followed on the heels of systematic violations of the ceasefire and Ukrainian concerns about open sabotage of the international monitoring mission by Russia and its proxies. At the next few meetings in the same year the participants also discussed the opening of new humanitarian logistics centres, with the exchange of prisoners and unrestricted access by the International Committee of the Red Cross being one of the main subjects. The meeting held in Paris in October 2015 reached an agreement to withdraw lighter weapons from the line of contact, with prospects for the removal of heavier weapons also appearing to improve. The main focus of the meeting, however, was on elaborating a timetable for elections in the CADLR.

In 2016, only two meetings took place, at one of which the situation in Syria was also discussed.

The following year, the focus remained on implementation of the Minsk agreements as top priority. Other issues on the table concerned the disengagement of forces along the line of contact, an exchange of prisoners and persons detained in the context of

the conflict, taking measures to prevent damage to the civilian infrastructure and humanitarian disaster, withdrawal of all heavy weapons, military forces and equipment from their positions in Stanytsia Luhanska, and secure access for the OSCE SMM to all parts of Donbas, including the temporarily uncontrolled parts of the Ukrainian-Russian border.

Following a break of almost a year, the Normandy format met on 11 June 2018 in Berlin. The main focus of the 2018 meetings remained implementation of the Minsk agreements, with a new element being a discussion of the deployment of the UN mission to Donbas. Disagreement remained over the form of the mission, where it was to be deployed and its main tasks. There is a general consensus, however, that the UN should be present in the Donbas region.

Besides these high-level meetings, the Normandy format also worked at the level of the vice-ministers of foreign affairs and directors of political departments at ministries of foreign affairs. An analysis of the outcomes of all the meetings indicates that there have been no major breakthrough since the Minsk agreements – and even these were drafted by the TCG. Expectations at the beginning were much greater. Since 2014, all Normandy countries have had elections: October 2014 – parliamentary elections in Ukraine, May 2017 – presidential elections in France, September 2017 – federal elections in Germany, March 2018 – presidential elections in Russia and, most recently, presidential elections in Ukraine held on 31 March 2019. 2015 was the most intensive year in terms of negotiations between representatives from Ukraine, Russia, Germany and France, which supports the argument that during that year there was enough space to engage in negotiations while avoiding serious politisation of the negotiations in the domestic political arena (with the exception of Ukraine, of course), compared to the periods before and after the elections.

The Trilateral Contact Group – TCG

The TCG is currently (since June 2015) chaired by the Special Representative of the OSCE Chairperson in Office in Ukraine and in the Trilateral Contact Group, Ambassador Martin Sajdik. Since its estab-



ishment in 2014, the TCG has met 91 times, for the most part in Minsk.

TCG work has produced a number of positive results, including the following:

- drafting of the Minsk Protocol, Minsk Memorandum and Package of Measures for Implementation of the Minsk Agreements;
- opening of the Joint Center for Control and Coordination in Debaltseve;
- negotiations of a number of agreed ceasefires as well as exchange of hostages and detainees;
- disengagement from Zolote, Petrivske, Stanitsya Luhanska, Yasynuvata and other sites;
- safe and secure access for repair teams to the Donetsk Filtration Station (DFS) - no shelling or other attack on the DFS, clearing of mines in the DFS zone and its access roads as well as security guarantees (facilitated by the JCCC) in order to enable safe and secure access for DFS staff, repair teams and the SMM;
- presentation of a reconstruction plan for the pedestrian bridge in Stanitsya Luhanska;
- stabilisation of the water supply to CADLR;
- significant steps to restore Vodafone Ukraine communication in CADLR;
- and repair of the Yuzhnodonbasska water pipeline, which commenced in the Avdiivka industrial zone.

Breaking down these results at the level of working groups, the efforts of the TCG exhibit the following features. The Working Group on Security Issues addressed the situation of IDPs and refugees as well as implementation of the Framework Decision on Disengagement of Forces and Hardware, in the first three areas – Petrivske, Zolote and Stanitsya Luhanska. The participants acknowledged that disengagement in Zolote and Petrivske had taken place and also established that there had been cer-

tain progress in mine-clearing. Disengagement was seen to be a key factor in strengthening mutual trust.

The Working Group on Economic Affairs discussed the re-opening and need to restore the additional Popasnaya-Stakhanov railway line and the necessity of completely restoring and securing railway communication at the Mikitivska-Mayorsk junction. Participants also discussed issues relating to the water and electricity supply, as well as restoration of railway tracks and electricity grids. The key issue was payment for the water supply and electricity, including arrears on payments in certain areas of the Luhansk region. When it comes to the water supply, more than two million people on both sides of the conflict line depend on the jointly used Donbas water supply system, which was damaged by shelling on an ongoing basis. The participants also discussed water pipelines and pumping stations near the settlements of Vasylivka, Petrivske, Krasnyi Lyman and the Yuzhnodonbasska water pipeline system. They furthermore also discussed external administration for Ukrainian-owned enterprises in certain areas of the Donetsk and Luhansk regions and the damage it has caused to the local economy. Another issue they focused on was the Vodafone mobile network in certain areas of the Donetsk and Luhansk regions. At the invitation of the TCG, a representative of Vodafone Ukraine took part in the meeting and provided assurances that the company was ready to contribute to solutions aimed at providing mobile communications in CADLR. The sides agreed to cooperate on cable repairs in the Donetsk region, with mediation being performed by the TCG and OSCE SMM. Another topic was the return of foreign-owned freight cars currently being retained in CADLR.

The Political Working Group focused on modalities for local elections in certain areas of the Donetsk and Luhansk regions as well as international practice in connection with election and electoral campaign financing. Participants in the group also exchanged views on amnesty issues, the so-called Steinmeier formula and modalities for local elections. Finally, they discussed ways to ensure the special status of certain areas of the Donetsk and Luhansk regions in accordance with the Minsk Agreements.

The Humanitarian Working Group discussed the ex-



change of detainees. The rights of children as well as problems relating to social transfers for children in orphanages in certain areas of the Donetsk and Luhansk region were examined in detail. The next key issue was the restoration of access to the pedestrian bridge over the River Seversky Donets and Stanytsia Luhanska. The Group was informed that the ICRC (The International Committee of the Red Cross) would provide financial and technical support. Ambassador Sajdik urged the parties involved to support the ICRC in its effort to restore access to the bridge and to ensure their safety and access to the area, including mine-clearing and/or marking and fencing off mined areas.

Instead of conclusion

When comparing the two levels – Normandy and TCG – a difference is evident not only in the structure but also in the content. In the Normandy format, the OSCE element is absent, while in the TCG neither France nor Germany are involved. At the same time, only Ukraine and the Russian Federation are present at both levels. The primary problem seems to be distraction from the TCG and Normandy format. Discussions with OSCE SMM and TCG staff indicate that this would appear to be not in proper alignment. The Normandy format or respective Ministries of foreign affairs of the four countries receive the same information and there is an adequate flow of information at two levels. Moreover, the TCG is co-chaired by four experienced diplomats who dispose over OSCE SMM and OSCE Secretariat material - Ertugrul Apakan (Security WG), Pierre Morel (Political WG), Toni Frisch (Humanitarian WG) and Per Fischer (Economic WG).

According to all experts interviewed³¹, the main problem is not to be found completely along the interface between TCG/OSCE SMM and the Normandy format.

- First and foremost, the main problem **lies in the lack of political will in the Normandy format countries to truly engage with regard to the armed conflict and resolve it.** The foreign policies pursued by the leaders of Germany and France, in particular, were more motivated by bilateral re-

lations with the Russian Federation at the expense of the situation in Donbas.

- It is partially due to a **different reading of the Minsk agreements by Russia on the one side and Ukraine, Germany and France on the other.**
- Moreover, it is also due to several elections that have taken place in all Normandy four countries – hence, the **settlement process finds itself in an “elections trap”, where it is highly politicised and being used to score political points** rather than truly engaging in the peace process.
- Another problem is the **inability to harness the momentum from cooperation in the TCG at the Normandy level in order not to just move things forward on the technical side, but also the political one.**
- In such case, it would be opportune to **provide greater political weight to TCG and its co-chairs**, which could then deal not only with technical aspects of conflict resolution, but would also be politically in a position to transfer this sort of cooperation to the Normandy level as well.
- Also, it would be expedient to **add the OSCE element to the Normandy format** – in such case, the OSCE would be present both in the TCG as well as in N4 and could serve as a “third party” interface. The OSCE could serve as the connecting point, providing space and good services for N4 negotiations while calling for a more proactive approach and constantly reminding the various parties of the need to engage more actively.

In short, the objectives and steps that should be undertaken are relatively clear at the TCG level. Summarising the foregoing discussion, the core measures are:

- in the security area – immediate ceasefire, withdrawal of heavy weapons and irregular foreign combatants, disarmament, demobilisation;

³¹ Part of the research has been conducted within the project “Negative impacts of armed conflicts and its possible solutions” no. 015EU-4/2018, KEGA - Cultural and Educational Grant Agency of the Ministry of Education, Science, Research and Sport of the Slovak Republic



- at the political level – implementation of the Steinmeier formula, a special status for CADLR under Ukrainian jurisdiction, organisation of local elections and granting of amnesty;
- in the economic field – revival of business and trade with CADLR including proper functioning of the banking system and services and a return of property seized by CADLR authorities to its legal owners;
- in the humanitarian field – an exchange of detainees and hostages and an improvement in health-care services, education and transportation network between CADLR and neighboring oblasts.



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FES ROCPE in Vienna

The goal of the FES Regional Office for Cooperation and Peace in Europe (FES ROCPE) of the FES in Vienna is to come to terms with the challenges of peace and security in Europe since the collapse of the Soviet Union a quarter of a century ago. These issues should be discussed primarily with the countries of Eastern Europe – Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine – and with Russia, as well as with the countries of the EU and with the US. The security order of Europe, based until recently on the Helsinki Final Act (1975) and the Paris Charter (1990), is under threat. This is, among others, a result of different perceptions of the development of international relations and threats over the last 25 years, resulting in divergent interests among the various states.

For these reasons, FES ROCPE supports the revival of a peace and security dialogue and the development of new concepts in the spirit of a solution-oriented policy. The aim is to bring scholars and politicians from Eastern Europe, Russia, the EU and the US together to develop a common approach to tackle these challenges, to reduce tensions and to aim towards conflict resolution. It is our belief that organizations such as the FES have the responsibility to come up with new ideas and to integrate them into the political process in Europe.

We support the following activities:

- Regional and international meetings for developing new concepts on cooperation and peace in Europe
- A regional network of young professionals in the field of cooperation and peace in Europe
- Cooperation with the OSCE in the three dimensions, the politico-military, the economic and the human

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