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The Minsk (dis)agreement and Europe's security order

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For two years now the European Union's strategy on the Russian-Ukrainian conflict and the political process aimed at solving it have been based on the provisions of the "Minsk II" agreement.¹ It was concluded on 12 February 2015 against a backdrop of clashes and was above all meant to end the bloodshed with the longer-term goal of bringing a lasting peace. A few weeks after it was signed the EU made full implementation of the agreement a condition for the lifting of the second round of sanctions against Russia imposed following the outbreak of armed action in the Donbas.

The impact of Minsk II saw the situation of open war change to limited war. However, fighting never completely stopped. Furthermore, in spite of the effort put in by the Western side in the "Normandy format", no single section of the Minsk agreement has yet been fully implemented. In consequence of this, there is a widespread conviction in diplomatic and expert circles that the agreement is "unfeasible".² The "unfeasibility" of Minsk II is usually linked to the unusually complicated issue of how to sequence the implementation of its provisions, the chaos in Ukraine, and the lawlessness of the separatists. However, there is the conviction that no better agreement could have been negotiated in the time given and so the West has no choice but to trudge through its implementation. A refrain

1 The document was negotiated by the heads of state of the "Normandy format" countries (which comprises France, Germany, Russia and Ukraine) and was signed by representatives of the "Trilateral Contact Group": the Russian ambassador to Ukraine, the special representative of Ukraine (former president L. Kuchma), the self-styled leaders of the separatist republics, and representative of the OSCE.

2 See, Judy Dempsey, *Judy Asks: Can the Minsk Agreement Succeed?*, Carnegie Europe, 22 February 2017, <http://carnegieeurope.eu/strategieurope/68084>.

commonly heard from authoritative European decision-makers is that “the full implementation of Minsk II is the ultimate goal of our policy.” It often seems that only the EU is genuinely interested in implementing the agreement and that both Russia and Ukraine are merely playing for time.

It is difficult to refute the idea that it is impossible to reach a better compromise between Kiev and Moscow. Nevertheless, two years on from the signing of the Minsk agreement, it is clear that EU needs a more realistic and flexible approach to evaluating where the agreement should fit into its policy on Russia and Ukraine.

Firstly, the impression that the implementation of the provisions (however remote that currently appears) may help solve the problem is a dangerous illusion. Paradoxically, the full implementation of Minsk II would bring Russia closer to fully achieving its political goals: to make Ukraine unstable or even to transform it into a vassal state.

Secondly, the bureaucratic approach to Minsk II based on the pursuit of a gradual fulfilment of its provisions is accompanied by unsought for effects: it weakens Ukraine and makes it possible to forget about what is truly at stake in the conflict in the Donbas, that being the future of the international order.

Thirdly, by linking the sanctions against Russia with the implementation of the Minsk agreement, attention is distracted away from the fact that the conflict in the Donbas is an inherent part of a much broader confrontation — Russia’s attempts to undermine the principles of security on the continent. The policy on the conflict in the Donbas should then not so much be aimed at solving the conflict between Moscow and Kiev (which seems fairly unrealistic at present) but should rather form part of a broader strategy of preventing the fundamental changes in the security architecture which are harmful to Europe.

This text shows that the EU’s current strategy is characterised by significant tension. Its main operational aim (to execute further provisions of the Minsk agreement) is in contradiction with its strategic and geopolitical aim: to maintain a democratic and stable Ukraine and to frustrate Moscow in its attempts to change the international order. This is why the West needs to shift its focus away from seeking a realistic evaluation of the feasibility of implementing the Minsk agreement and to focus on what role the document plays in its strategy on Russia, including in affairs other than the Russian-Ukrainian conflict. We begin our analysis by outlining the significance this conflict has in the context of discussions on the model of European security (part 1) and of Russia’s policy on the West (part 2). Moving on from this perspective, we subsequently present the risks associated with the process of implementing the Minsk agreement (part 3) and end with several conclusions for EU policy.

1. From a post-colonial war to a confrontation on security governance

Of the reasons which led Russia to take aggressive action against Ukraine, the crucial one was doubtless its opposition to Ukraine’s full independence. The 2013 pro-European social protest (the “Revolution of Dignity”) led to the ouster of the corrupt president who was in the thrall of the Kremlin and to the signing of an association agreement with the EU. From Moscow’s point of view, this was the sign of a breaking off, a symbolic end to the “systemic dependence” stage and an attempt by a former colony to extract itself into complete independence. There are three reasons why Russia would not agree to a final “divorce”. Firstly, the separation of Kyiv would open up the possibility of US or NATO

forces being permitted on Ukraine's territory. This was and is perceived as a genuine security threat by a sizeable part of Russia's ruling elite. Secondly, independence from Russia opened up the possibilities of a real democratisation of Ukraine. This prospect was life-threatening for the Russian leadership. A democratic Ukraine would be proof of the fact that post-Soviet countries are not doomed to live with corrupt authoritarian regimes but could choose other forms of government based on the rule of law and the freedom of citizens. Finally, "relinquishing" Ukraine would put the seal on the collapse of the Russian Empire. Ukraine was not merely one of the previous colonies — it was the absolutely crucial one, without which (according to Russia) the post-Soviet area would lose its *raison d'être*.

It is thus possible to view the Russian-Ukrainian conflict as the latest stage in the collapse of the Soviet empire. Although the USSR disappeared from world maps over two decades ago, the majority of post-Soviet countries have remained — often against their will — firmly in the economic, political and security orbit of their old imperial capital. Consequently, despite the appearance of uniform principles applicable to the continent as a whole, in Europe there were two security spaces: the "Western" one (based on international law, recognising the doctrine of the equality of nations) and the "post-Soviet" one (based on a master-vassal relationship and the principle of "might is right"). Symptoms of these double standards can be found in: the presence of Russian armed forces in Transnistria (the separatist part of Moldova) against the will of Chisinau; the military and political subordination of Belarus and Armenia; and the war in Georgia which ended in Abkhazia breaking away and the *de facto* Russian annexation of South Ossetia. Counting on the inviolability of this "dual nature of security", Russia expected that the situation in Ukraine would follow the course seen following the Georgian-Russian war in 2008 — after a short "feigned" crisis, the West would turn a blind eye and accept that the post-Soviet area has different principles than "Europe proper". However, much to Moscow's surprise, in March and June 2014 the EU adopted two packages of sanctions against Russia. The first was in response to the annexation of Crimea (in February 2014) and the second following the armed aggression in eastern Ukraine (which broke out in April 2014). The sanctions were meant to stop Russia from taking further aggressive measures. Above all, though, they were a strong symbolic signal that the EU does not treat the aggression towards Ukraine as an internal manoeuvre within Russia's sphere of influence but as a violation of the fundamental principles of security on the continent.

In this way the conflict in Ukraine led to the double standards of European security being called into question — a phenomenon that had covertly existed since the fall of the USSR. In Russia's understanding this broke the last elements of the post-Cold War order on the continent which "respected its interests". It interpreted it as the West being active on its turf. The response was not limited to defending its right to decide on the post-Soviet sphere of influence, but extended to active "symmetrical measures" aimed at deconstructing the Western security governance and political order.

Over the following months Ukraine clearly ceased to be the only field of battle. Moscow became involved in Syria on the side of President Assad, whom the West viewed as a war criminal. Its demonstrative military confrontations escalated (e.g. encroachment on the airspace of the Baltic states). It also embarked on disinformation-propaganda actions and cyber-attacks in the EU and the US. As the confrontation took on further aspects, the Ukrainian issue began to be shifted further and further from centre stage. This does not, though, change the fact that the aggression against Ukraine was and continues to be more than merely the beginning of the conflict — it is an inherent part of it. This is the case because the Ukrainian conflict became the catalyst for a strategic dispute over the continental order. Over time the range has become even greater — covering what was once symbolically called the area "from Vancouver to Vladivostok".

2. Russian aggression against the West

The wish to revise the post-Cold War order in Europe appeared in Russian foreign policy back in the 90s and has noticeably intensified over the last decade. The Russian vision did not only reject the doctrine of the equality of nations, it also negated the role of NATO in the field of security. Moscow de facto supported the fragmentation of Europe (and, further, of the transatlantic area), it also belittled the system of liberal democracy, portraying it as being just as inefficient and corrupt as the regimes in place in the post-Soviet area. This vision was repeatedly put forward (in a more or less open fashion) in the statements of Russian leaders. Russia's determination to play by its own rules intensified in 2015 in line with the deteriorating economic situation. Faced with declining living standards in the country, the Kremlin began to look for new sources of legitimisation. One of these was to show society that there is no alternative to corrupt Russian authoritarianism. In this situation it became Russia's overriding priority to discredit liberal democracies and the allies of the Western world. Moscow began to "exploit" the conflict with Ukraine as a launch pad for attacks on the Western world.

It cannot be ruled out that the Russian aggression towards Ukraine could transform into open war and that the limited armed conflict in the Donbas may turn out to have been merely the lead up to it. The scale and direction of the expansion of Russia's armed forces, the scenarios of military exercises (with Ukraine taking centre stage) and also the important influence of the ministries responsible for the military and law enforcement all mean that this eventuality cannot be entirely ruled out. Nevertheless, focusing solely on the military aspect of the threat would be a mistake. Moscow's preparation (and capacity) for an invasion of Ukraine is less likely than a political strategy at the heart of which the military is skilfully used in a limited way³. This is based on: military manoeuvres near to NATO's borders, locating medium-range missiles in Kaliningrad, military rhetoric, and the development of advanced military capabilities. The accumulation of these means of applying pressure on the West does not mean they will be made full use of. Rather they are part of an attempt to win concessions in issues crucial to Russia (including it in the "concert of powers") and political influence. There is much to show that the conflict in the Donbas is the perfect example of the application of this strategy. It may be assumed that it is not aimed at preparing for a full-scale war with Ukraine, nor at seizing territory, as happened with Crimea. In the case of eastern Ukraine, something completely different is at stake. The Donbas has become one of Russia's bargaining chips in the dispute over the shape of the international order. The value of this chip changes according to the constellation of power in the world. However, the more that Russia will want to play for high stakes (and Donald Trump's politics is certainly a strong incentive to this), the more likely it is that it will want to cash in this chip.

These political goals which guide Russia in its war with Ukraine must be a reference point for the West regarding this conflict. In the coming months this strategy will require a lot of insight, perseverance and a cool head. The war with Ukraine may appear to be limited, but only in a military sense. In reality it concerns the future of the whole of Ukraine (and not merely one bit of it) and Russia's imperial identity. Crucially for the West, this war also represents a test of the new generation of political instruments. This can be seen in the fact that the hybrid war with Kiev is where new technologies of aggression are developed and tested. The infiltration of non-governmental entities needs to be included into these new tools: social organisations, business, the media. "Unchecked globalisation" is exploited (i.e. global links which — due to the lack of regulation — have taken on a pathological form of opaque financial and political links) as is cyber-aggression etc.

3 Mark Galeotti, *Heavy metal diplomacy*, European Council on Foreign Relations, 19 December 2016, http://www.ecfr.eu/page/-/Heavy_Metal_Diplomacy_Final_2.pdf.

The countries of the EU need to understand this new reality and the role the Russian-Ukrainian conflict plays in it, otherwise they risk responding in a way that will rather help Russia fulfil its objectives than avert danger.

3. The peace process — a tactical success and a strategic trap

Attempts to solve the Russian-Ukrainian conflict should only be analysed when the above-mentioned strategic context is taken into account. First of all, the sources of the confrontation are not temporary — they are deeply rooted in the fundamental conflict of interests between the Western world and Russia. It is precisely these differences which meant that over the past three years it has been practically impossible to reach agreement as to how the conflict can be ended. Secondly, the way in which the dispute between Kiev and Moscow is resolved will not only define relations in the post-Soviet area for the long term — it will also have consequences for the entire Western world.

The West's diplomatic efforts (in particular in the Normandy format) have thus far focused on preventing the escalation of the military conflict, limiting the number of victims, and the humanitarian catastrophe. The controversial Minsk agreement brought about precisely this result, which is a precise gauge of its success. Besides the temporary effect, it is highly significant that it was possible to create a durable negotiation mechanism which, in spite of its lack of effectiveness, plays a stabilising role. Although the humanitarian goal should still be given priority, it is a mistake to believe that the Minsk agreement provides a guarantee of peace (and that undermining it in any way will inevitably lead to an escalation of the conflict). The negotiation process to date has shown that the "transformation" of the armed conflict into a diplomatic process was also very convenient for the Kremlin. If, however, Moscow at some point decides that open conflict is beneficial, it will happen regardless of the level of the agreement's implementation.

Meanwhile, the approach to applying the agreement which is based on the fear of escalation and the illusion of security reduces the West's capacity for flexible diplomatic manoeuvres with Russia. It also demonstrates that the costs which Ukraine and the West are paying by engaging in a peace process based on the Minsk agreement are being overlooked or ignored.

Firstly, the "absolutisation" of Minsk II replicated the Russian propaganda narrative of the intra-Ukrainian nature of the conflict. In the signed documents, Russia is not treated as an aggressor or even as a party to the conflict, but as a mediator in a "civil war", having the same rights as France and Germany. This situation is frequently exploited by Moscow to propagate disinformation and to legitimise a false vision of the conflict. In consequence of this, although two years ago it was clear for everyone that this was nothing more than a diplomatic intervention required to reach a compromise, over time the theory that there is a civil war in Ukraine is ever more frequently uncritically accepted, including in the West.

Furthermore, the focus on observing and implementing the agreement as the ultimate goal of EU policy is also commonly a source of the interpretation that there is a symmetry of blame for the conflict between the Russian and the Ukrainian sides. If the attention of the political elite and the media is fixed on what is happening in the Donbas and the progress in implementing Minsk II, then it is possible to form the impression that both parties to the conflict share equal responsibility for its continuance (both the separatists and Ukraine do in fact break truces). This evaluation has far-reaching consequences: that the West should increase the pressure on Kiev to "fully" implement the provisions

of the Minsk agreement and even that it is unfair to apply sanctions on Russia alone when Ukraine is also failing to implement Minsk II⁴. This clearly distorts the view of the conflict where there is one aggressor (Russia) and the fact that it is far from regional in nature.

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

Thirdly, there is a similar ambiguity in the issue of implementing the entry on holding local elections in the so-called “people’s republics” of Donetsk and Luhansk (the DPR and the LPR). The character of the regimes in place in those republics (based on violence, lawlessness and brutal propaganda) mean that democratic elections in accordance with OSCE standards are impossible. Nevertheless, in recent months it is precisely the holding of these elections which has become one of the most important gauges of the health of the Minsk agreement and of how involved the conflicted parties are in its implementation. The activity of the Normandy format is geared towards the creation of conditions which would make these elections possible. The issue of how the stages of the Minsk II agreement are sequenced plays an important role in this. This does not only concern the issues of withdrawing troops behind the demarcation line or facilitating unrestricted access to OSCE observers. The discussion also includes the “special status” of the DPR and LPR, which could be “temporarily” applied in order for elections to be held and only “finally” applied once they have been approved by the OSCE. The level of detail in these solutions bears witness to the West’s determination and the conviction that the application of the provisions of Minsk II remains the ultimate and priority goal of its efforts. However, one of the political advisers from Berlin stated that “the biggest mistake would be to hold elections [in the DPR and LPR] that would not be fully free and fair but to approve them as such despite their shortcomings.”

The expectations of Brussels, Berlin and Paris regarding Kiev’s progress in implementing this point are received in Ukraine as an expression of cynicism, double standards, or a lack of understanding of the current situation in the separatist regions. Furthermore, considering the critical attitude which Ukraine has towards the provisions of Minsk II, it will not in any way be incentivised to act by the

4 Reinhard Veser also draws attention to the problem, Ukraine-Konflikt: Wer den Krieg nährt, FAZ, 21 February 2017.

proposed lifting of at least a part of the sanctions against Russia in exchange for elections which will weaken Kiev.

Fourthly, the excessive concentration on the implementation of the Minsk agreement redirects the limited sources of the inefficient Ukrainian state towards reforms which are entirely counterproductive from the point of view of the stabilisation and democratisation of the country. Furthermore, internal discussions linked to such controversial issues as the special status of certain regions of eastern Ukraine or election rights for separatists weakens Kiev politically and also puts a strain on the trust it has towards its Western partners. In this way the West is paradoxically “using up” its own and Ukraine’s potential, which is required to launch such crucial changes as the fight against corruption and decentralisation concerning the non-separatist regions of Ukraine.

Fifthly, the near dogmatic linking of the lifting of sanctions with the full implementation of the Minsk agreement which is currently functioning is highly problematic. In many EU countries there is the conviction that the sanctions are above all an instrument which are supposed to lead to the implementation of the Minsk process. In other words, should the political process fail to achieve the expected results (no progress in implementing Minsk II) then the justification for maintaining sanctions will also disappear. This assumption strips the sanction policy of two important advantages. The first are the chances of a measurable effectiveness — it is rather unlikely that there will be fast and clear progress in implementing the agreement. The second is the linking of sanctions to the ambiguous arrangements agreed on in the Belarusian capital, since this raises the risk that the strategic goal of the policy will drop out of sight. The goal of the sanctions was not meant to be and still should not be to force the implementation of the Minsk agreement — it should rather be to defend the principles of security and peace in Europe.

Conclusions

Awareness of the above challenges should not lead to radical steps being taken in the issue of the Minsk agreement or to it being undermined. However, it seems appropriate to understand the limits of this process, and also the role it plays in the confrontation between the West and Russia concerning the foundations of the international order.

Firstly, the EU must be aware that the full implementation of the Minsk II agreement is neither in its own interests nor is it in the interests of Ukraine. The problem is not, thus, the “unfeasibility” of Minsk which diplomats and experts are complaining about, but rather the profound dysfunction of its provisions. Since its implementation is currently distant, consideration of this subject may seem to be theoretical. But this is not the case. EU policy geared towards the application of Minsk II may lead (and often does lead) to false steps being taken (especially towards Kiev) which are incompatible with the EU’s and Ukraine’s interests.

Secondly, the EU should differentiate between the Minsk process and the Minsk agreement which enables the process. The Minsk process, understood as a forum for peace talks, is a very important instrument limiting conflict and it should be maintained and fostered. Discussion on the implementation of certain provisions of Minsk II is useful only so far as it can help deescalate the conflict or to freeze it. However, implementing Minsk II should not be confused with solving the conflict. In other words, implementation of the agreement should only be treated as a process in itself and not as a realistic objective to achieve.



Thirdly, the EU should stop applying so much pressure on Ukraine to implement the provisions of Minsk II (understanding that they do not serve its interests) and focus on internal reforms which serve to strengthen the resistance and stability of the country. The implementation of the DCFTA is an incredibly powerful instrument in this context, especially since Ukraine itself committed to introducing the changes identified, which increases the chances Brussels has to apply pressure in this area.

Fourthly, as far as Minsk II is concerned, the EU should place the emphasis on the implementation of the non-political elements of the deal, for example those concerning the ceasefire, the exchange of prisoners, humanitarian aid, and economic issues. This should take precedence ahead of an overall settlement of the conflict, which goes beyond the possibilities of Minsk II and the Normandy format. The goal should not be to find a way to end the conflict but rather how to end the dispute in a safe framework which will enable Ukraine to strengthen as a state. This solution is only possible by combining the involvement of different actors in terms of their possibilities: Ukraine itself (reform); the countries of the region (especially Poland, by avoiding nationalist divisions and conflicts between Poles and Ukrainians; and the European Union.

Fifthly, a strategic narrative is required to separate the sanctions from Minsk II. This is meant in a political sense, not necessarily in a formal sense. The message that the goal of the sanctions is not to implement a controversial agreement but rather to defend peace and the fundamental principles of international coexistence could be much more persuasive for EU citizens. This narrative not only removes the pressure to find immediate measurable effects of the policy of sanctions, it also provides arguments in favour of accepting the costs connected with them.



The way the situation is developing worldwide, in the US and around the EU shows that Europeans themselves will be increasingly responsible for security in the Old Continent. The policy taken on the Ukrainian conflict will to a large degree determine which principles and conditions the new European order will be based on. This is because the EU's decisions on the conflict in Ukraine will be received in Moscow as concerning not only Ukraine but also the continent as a whole. The lifting of sanctions with no genuine change in Russian policy will be treated as an acceptance of the (dis)order forced through by Moscow. It would above all represent the final seal on the principle of the fragmentation of European security, i.e. the existence of different standards for certain countries, dependent on their geographical location and military potential. It would also constitute the confirmation of how effective the new hybrid instruments of aggression are and would be an incentive for the Kremlin to use them on a greater scale, not only against Ukraine, but also against the countries of the European Union.

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