Ukraine in the Poroshenko Era: The Politics of Power, Reform, and War

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Ukraine in the Poroshenko Era
THE POLITICS OF POWER, REFORM, AND WAR

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Program Directors: Henry E. Hale and Marlene Laruelle Managing Editor: Alexander Schmemann Senior Research Associate: Sufian Zhemukhov Research Assistant: Minhaj Abdullah

PONARS Eurasia
Institute for European, Russian and Eurasian Studies (IERES) Elliott School of International Affairs
The George Washington University
1957 E Street NW, Suite 412
Washington, DC 20052
Tel: (202) 994-6340
www.ponarseurasia.org
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About the Authors

Mikhail Alexseev is Professor of Political Science at San Diego State University.

Andrew Barnes is Chair and Associate Professor, Department of Political Science, Kent State University.

Volodymyr Dubovyk is Associate Professor in the Department of International Relations at Mechnikov National University, Odessa, Ukraine.

Oleksandr Fisun is Professor and Chair of Political Science at Kharkiv National University (Ukraine).

Olexiy Haran is Professor at the National University of Kyiv-Mohyla Academy and Head of Research at the Democratic Initiatives Foundation, Ukraine.

Sergiy Kudelia is Professor of Political Science at Baylor University.

Volodymyr Kulyk is Head Research Fellow at the Institute of Political and Ethnic Studies, National Academy of Sciences of Ukraine. He is Visiting Professor for 2016-2017 at the MacMillan Center, Yale University.

Yuriy Masiyevsky is Associate Professor, Department of Political Science, Ostroh Academy National University, Ukraine.

Arkady Moshes is Program Director of the EU Eastern Neighborhood and Russia Research Program at the Finnish Institute of International Affairs.

Maria Popova is Associate Professor in the Department of Political Science, McGill University.

Oxana Shevel is Associate Professor of Political Science at Tufts University.

Oleksandr Sushko is Research Director at Institute for Euro-Atlantic Cooperation, Kyiv, Ukraine.

Oleksii Sydorchuk is a PhD candidate at the National University of Kyiv-Mohyla Academy and Political Analyst at the Ilko Kucheriv Democratic Initiatives Foundation.

Yuri M. Zhukov is Assistant Professor of Political Science at the University of Michigan.
Since the Euromaidan revolution, Ukraine has been facing both deep transformations and “business as usual.” The country’s interactions with the West have been evolving as the United States and Europe have been engaging it with a quite unsuccessful game of carrots and sticks aimed at reforming Ukraine’s political system and economy and at fostering pro-Western and—in particular—pro-NATO sentiment among Ukraine’s population.

The Ukrainian domestic scene has changed less than its foreign policy. Controversial decommunization laws have been put in place and the Poroshenko government's policies on historical memory have been quite radical, while its language policy has remained ambivalent. In terms of political habits, Ukraine has continued to be shaped by a tight interweaving of political and business circles, and by patronal, clientelist patterns.

The Donbas conflict does not help improve the situation at the national level, on the contrary “justifying” suspending rule of law with reference to the war situation. PONARS Eurasia experts offer diverse explanations of this instance of asymmetric war, debating the primacy of either the external element—Russia—or the domestic sources of local grievances. Yet, all agree that exiting the deadlock of the Minsk I and II agreements will not be easy, as many involved actors in fact have no genuine interest in finding peaceful solutions.
I. Ukrainian Foreign Policy Perceptions and Its Interactions with the West
Before 2014, the majority of Ukrainians did not view the goal of European integration as a “national idea.” Even so, most Ukrainians had positive views about developing relations with and integrating into the EU. And even though former Ukrainian president Viktor Yanukovych refused to accept the idea of joining NATO, he officially maintained EU integration as a priority. In fact, the Yanukovych administration helped finalize and initialed the text of the EU-Ukraine Association Agreement. Yanukovych’s sudden refusal to actually sign it, under Russian pressure, was the spark that set off the mass protests in late 2013 that would become the Euromaidan revolution. The success of the Euromaidan and the ensuing long-awaited signing of the Association Agreement signaled a shift among Ukrainians at both the national and regional level in favor of the EU. In addition, after Russia’s annexation of Crimea, Ukrainians came to favor joining NATO for the first time since independence. Simultaneously, support plummeted for Ukraine’s “Eurasia vector,” i.e., joining Russia-led institutions like the Customs Union/Eurasian Economic Union (EEU).

Ukraine’s Foreign Policy Dualism Has Now Disappeared

Ukraine’s dilemma, whether to pursue a European or Eurasian vector in its foreign policy, is now off the agenda. The share of EU supporters in Ukraine has increased in recent years, despite some ups and downs (see Figure 1). Support for the Eurasian vector has decreased dramatically in Ukraine, as indicated by the low preference for joining the EEU. The percentage of those in favor of non-alignment has increased, and given Ukraine’s ongoing conflict with Russia, it is unlikely this segment would return to

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*Olexiy Haran* is Professor at the National University of Kyiv-Mohyla Academy and Head of Research at the Democratic Initiatives Foundation, Ukraine.

†Mariia Zolkina is Analyst at the Democratic Initiatives Foundation, Ukraine.

‡EEU members are Russia, Belarus, Kazakhstan, Kyrgyzstan, and Armenia. Before 2014, it was the Customs Union of Russia, Belarus, and Kazakhstan.
The Demise of Ukraine’s “Eurasian Vector”

choosing the Eurasian vector. In general, mistrust of Russian geopolitical projects pervades.

**Figure 1. What Foreign Policy Path Should Ukraine Choose? (%) Feb. 2013–Dec. 2016**

Before 2014, only among respondents in the 18- to 29-year-old age group was there an absolute majority in favor of joining the EU. By May 2014, according to polls by the Democratic Initiative Foundation (DIF), more than 50 percent of respondents in all age groups were in favor (with the exception of those over 60 years old, where the number of supporters was slightly less).

**The Hope for Simultaneously Joining Both Integrationist Projects Is Ruined**

Before the end of 2013, geopolitical ambivalence existed among Ukrainians. Part of Ukrainian society did not understand that integration in both directions—with the EU and Customs Union with Russia, Belarus, and Kazakhstan—was not possible. Half of Ukrainians would say “yes” to joining the EU and also “yes” to joining the CU. This situation has completely changed. Already in 2014, polls showed that the idea of membership in the CU/EEU was being strongly rejected. A poll conducted by the Kyiv International Institute of Sociology (KIIS) in December 2016 showed that if there was a referendum on joining the EU, 50 percent would vote in favor and 29 percent would vote against. If there was a referendum on joining the EEU, only 26 percent would be in favor and 59 percent would be against. In practical terms, public support for the multi-vector stance, which was also once popular among Ukrainian officials and politicians, has collapsed.

As a sidenote, Ukrainians are responsive to the European vector when they sense the EU is having a positive impact on sectorial reforms (the EU recently and directly supported reforms in public services, anti-corruption, judiciary, and budget transparency). The

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1 See Olexiy Haran and Maria Zolkina, “Ukraine’s Long Road to European Integration,” PONARS Eurasia Policy Memo No. 311, February 2014.
recent recognition by the European Commission that Ukraine had fulfilled all of the preconditions for implementing a visa-free regime with the EU opens the way for the introduction in summer 2017 of a “short travel” visa-free regime for Ukrainians going to the EU.

The Most Dramatic Change in Ukraine’s Outlook about the Eurasian Vector Has Been in Eastern and Southern Regions

The traditional division of Ukraine into two parts—one strongly in favor of European integration and the other for “Eurasia”—has changed. In the South, East, and Ukraine-controlled Donbas, despite some fluctuations, the populations that supported EEU integration substantially decreased between 2013 and 2016, and those who took a non-allied position toward both unions grew by a factor of three (see Table 1).

Table 1. What Foreign Policy Path Should Ukraine Choose? (Regional Dynamics, 2013-2016)

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<td>Join the EU</td>
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<td>Join the CU/EEU</td>
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<td>61</td>
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<td>28</td>
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<tr>
<td>Join neither the EU nor the CU/EEU</td>
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<td>46</td>
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<td>Difficult to say</td>
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<td>7</td>
<td>12</td>
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<td>6</td>
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Source: Kyiv International Institute of Sociology polls (KIIS). Data for Table 1 was recalculated by Tetyana Petrenko and Tetyana Piaskovska from KIIS according to Ukraine’s “macroregions,” which, as defined by DIF, are: Western: Volynska, Zakarpatska, Ivano-Frankivska, Lvivska, Rivenksa, Ternopilska, and Chernivetska; Central: Kyiv city, Kyiv region, Vinnytsya, Zhytomyrska, Kirovohradska, Khmelnytska, Poltavska, Sumksa, Cherkaska, and Chernihivska; South: Mykolaivska, Odessa, and Khersonska; Eastern: Dnipropetrovska, Zaporizka, and Kharkivska; and Donbas: two-thirds of the Donetsk and Luhansk regions are controlled by Ukraine.

It is apparent that in the South and East, support for the EU and EEU are now close. Even with the difficulties of polling in the war-torn Donbas, the number one choice there is not for the EU or EEU, but for the non-aligned category.
After the Euromaidan’s “Euro-Euphoria,” the Number of EU Supporters in Ukraine Slightly Decreased and Then Stabilized

The primary factors that have most likely contributed to the slight decrease and then stabilization in Ukraine’s public attitudes toward the EU include:

- The Association Agreement may be somewhat connected in public opinion to domestic economic hardships.
- Crises within the EU (Brexit, refugees, etc.).
- Disappointment with the EU on various issues, such as:
  - The negative vote in the Netherlands’ consultative referendum on the EU-Ukraine Association Agreement.
  - Delays in introducing an EU visa-free regime for Ukraine.
  - Frequent media coverage of the possibility that the EU might reduce or even lift the economic sectorial sanctions that had been imposed on Russia after its intervention in Donbas.

The fluctuations in the pro-European integration attitudes should be treated as logical and normal when taking the above factors into consideration as well as Ukraine’s current difficulties with its economy and the war. Even so, a core of supporters for European integration has already formed in the South and East.

As 2017 begins, the general sense is that European integration for Ukrainians is becoming more practical, visible, and directly related to concrete domestic policies and reforms. This follows the Euromaidan, the partial implementation of the Association Agreement, and, perhaps most tangibly, the final stage of the EU-Ukraine visa-free plan.

How Would NATO Fare in a Ukrainian Referendum?

The most dramatic changes in Ukrainian foreign policy outlook since 2013 concern NATO. Supporters of joining NATO have always been in the minority in Ukraine. At some point prior to 2014, polls found that support for NATO was even lower than support for a military union with Russia (although the latter was never considered seriously by Ukrainian policymakers or experts). The option that has historically been most supported by the Ukrainian public has been non-bloc status—belonging neither to Western nor Russia-led military alliances. However, the official goal adopted by the Ukrainian parliament in 2003 during the presidency of Leonid Kuchma was to join the EU and NATO while “preserving strategic partnership” with Russia.

In July 2010, Yanukovych broke with this course. The Ukrainian parliament adopted a new law on the fundamentals of Ukraine’s foreign and domestic policy that excluded integration with NATO and established a policy of “non-alignment” aimed at appeasing the Kremlin. At the same time, EU membership was kept as a priority. However, this
approach did not prevent Russia’s unprecedented economic and information attack against Ukraine in the summer-fall of 2013 when Yanukovych was working on signing the Association Agreement. Since Russia’s annexation of Crimea and aggression in the Donbas, the number of NATO supporters among Ukrainians has grown dramatically (see Figure 2).

**Figure 2. Which Way of Guaranteeing the National Security of Ukraine Would Be Best? (%) Dec. 2007–Dec. 2016**

The most dramatic increase in views favoring NATO between 2013 and 2016 happened in the East and South of the country. From April 2012 to May 2016 supporters of NATO in the East increased from 2 percent to 29 percent, in the South from 7 percent to 19 percent, and in Ukrainian-controlled Donbas from 1 percent to 24 percent (see Figure 3).

**Figure 3. Regional Support for Joining NATO (%) 2012–2016**
In these regions, the supporters of non-bloc status still dominate (38, 44, and 33 percent, respectively). However, they are largely demoralized and not politically active. According to a poll by DIF, if a referendum on NATO membership were held in May 2016, for those who would vote, 72 percent of those in the South would vote “yes” with 24 percent “against,” while in the East the breakdown would be 64 percent vs. 31 percent, and in Ukrainian-controlled Donbas the votes would be equally divided. Not surprisingly, in the whole country, 78 percent of those who would participate in a referendum on the matter would say “yes” to NATO and 17 percent would be “against.”

However, joining NATO is hypothetical. The problem is that although supporters of NATO prevail, a potential campaign to do so may lead to the mobilization of the anti-NATO camp, which is currently silent because of the Russian aggression in Donbas. If a NATO referendum is announced, they may become more active, and an intensive debate in the mass media may increase the turnout of those who are against NATO. Furthermore, freezing or de-escalating the conflict in the East may lessen pro-NATO attitudes. Finally, the ongoing lack of support from NATO to Ukraine in its conflict with Russia, especially if conditions worsen, could also decrease support for joining NATO.

It is safe to say that Russia’s incursions have led to changes in Ukraine’s official position about NATO. In December 2014, the new parliament (which was seated in October 2014) cancelled Ukraine’s non-bloc status and incorporated the goal of reaching the criteria necessary for NATO membership. However, Ukrainian officials are quite cautious regarding a referendum on NATO. They sense that holding it would increase the polarization of the country and catalyze anti-NATO eruptions.

There is also EU politics to consider. Kyiv does not want to irritate European decision-makers (namely in Berlin and Paris) as much as it does not want to irritate Moscow. Ukrainian officials like to point to Georgia’s experience as an impediment. In 2008, Georgians overwhelmingly said “yes” to NATO but the country, to date, has still not received a NATO Membership Action Plan (MAP). Critics of Poroshenko (and his reluctance) point out that at the July 2016 NATO summit in Warsaw, and at Georgia’s insistence, NATO reaffirmed the statement it made at the 2008 Bucharest summit that Georgia “would become a NATO member” (the same provision from Bucharest regarding Ukraine was not mentioned at the 2016 summit). The 2016 summit stressed that Georgia would receive, at some point, a MAP. In September 2016, Ukraine sent NATO an official request to join its Enhanced Opportunities Programme (which includes Australia, Finland, Georgia, Jordan, and Sweden.).

Conclusion

Before 2014, Ukrainian citizens were rather indecisive about their country’s geopolitical orientation. Many simultaneously supported deepening ties with both the EU and the Customs Union with Russia, Belarus, and Kazakhstan. However, the Euromaidan and
Russia’s military campaign against Ukraine led to the collapse of support for the Eurasian vector. At present, the prevalent division in outlook is between the pro-EU camp, which is now supported by a majority of Ukrainians, and the non-aligned camp. Ukrainians are generally responsive to the European vector as they sense the EU is having a positive impact on domestic reforms. Support for NATO in Ukraine has dramatically increased. If a referendum was held today on the issue, results would show, for the first time in Ukraine’s history, significant favorability for joining NATO. This change in outlook has occurred in all regions of Ukraine, although regional differences certainly remain. For its part, the Ukrainian government officially stresses that membership in both the EU and NATO are strategic priorities. However, it is currently concentrating on what it deems to be pragmatically reachable: deepening programs of cooperation with NATO and implementing the stipulations of the Association Agreement.
Will Europe Blink First on Ukraine?

PONARS Eurasia Policy Memo No. 422
March 2016

Arkady Moshes
Finnish Institute of International Affairs

Since July 2014, when Malaysian Airlines MH17 was shot down over the Donbas, the European Union has demonstrated an unprecedented level of solidarity with Ukraine that extends far beyond macroeconomic and technical assistance. Even with the conflict still active, the EU has worked to incrementally integrate Ukraine into its economic and legal spheres. This January, the Deep and Comprehensive Free Trade Agreement (DCFTA), the central part of the EU-Ukraine Association Agreement, entered into force. The EU has helped Ukraine build a system of reverse gas supply, which enabled it in 2015 to import more gas from Europe than from Russia. EU-Ukraine visa liberalization procedures are also underway.

At the same time, the EU has been applying pressure on Russia. The sanctions imposed by the EU after the Malaysian Airlines tragedy are linked to the full implementation of the Minsk II agreements, a detailed plan for the de-escalation and eventual reintegration of the separatist Donbas regions into Ukraine. As members of the so-called “Normandy Four,” Germany and France are co-architects of Minsk II, together with Ukraine and Russia. Economic losses notwithstanding, the EU twice prolonged sanctions, and the sanctions currently extend through July 2016. France’s refusal to deliver two Mistral-class aircraft carriers to Russia became a symbol of Europe’s firm response to Russian intervention.

This approach, however, is starting to erode. In June 2015 sanctions were extended automatically. By December, Italy was blocking a similar extension and instead demanding “discussion” of the sanctions. Apparently, keeping the EU involved in Ukraine and preserving its current level of pressure on Russia is becoming difficult, even in the short term.

The Swing of the Pendulum

While a return to “business as usual” is hardly conceivable, there are quite a few actors in the EU that are tempted to turn the page on the Ukraine crisis. Several powerful

*Arkady Moshes is Program Director of the EU Eastern Neighborhood and Russia Research Program at the Finnish Institute of International Affairs.
factors contribute to such thinking. Most significantly, the shock caused by Russia’s annexation of Crimea and its participation in the separatist regions has eroded. First, NATO has already taken measures to strengthen the security of its European allies. Second, the economic downturn that was hitting Russia before the sanctions and compounded by them has seemingly undermined Moscow’s will to provoke a greater crisis in relations with the West. Third, Russia’s “Novorossiya” project, a Russia-friendly political entity stretching from Kharkiv to Odessa, has been abandoned. Separatists control only some three percent of Ukrainian territory. As a result, Russia is not perceived in Europe as the existential threat that the Soviet Union used to be. Consequently, the geopolitical argument that helping Ukraine is a central element in containing Russia does not strongly resonate.

Bolstering such sentiment is the fact that the European political class has never come to a consensus in diagnosing what exactly motivated Moscow’s actions in Crimea and the Donbas. One influential school of thought portrays Russia as the victim of Western expansionism (NATO and EU enlargement), whereby Russia acted out of weakness rather than strength to protect its interests in areas of vital importance. Adding to this is a mentality that the West “needs” Russia, stemming from the hope that Russia and the West can join forces to fight common security threats (like destabilization in the Middle East, terrorism, and migration) and from fears that an uncooperative Moscow will undermine Western efforts in these and other areas.

A “Russia-first” approach is most prominent in the economic sphere. Even amid the downturn in relations, Russia has been able to make attractive offers to European companies, which then serve as lobbyists for normalization. For example, in September 2015, European energy majors E.ON (Germany), BASF (Germany), OMV (Austria), Royal Dutch Shell (British-Dutch), and ENGIE (French) signed a controversial agreement with Gazprom on the construction of the Nord Stream-2 pipeline in the Baltic Sea. As well, in August 2015, Finland was able to conclude a deal with Rosatom on building a nuclear power plant (partly financed by Russia’s National Welfare Fund). It is thus apparent that Ukraine can be reduced to a secondary issue when Russia applies large-scale economic incentives.

Furthermore, Russia’s reciprocal economic sanctions have been painful for EU exporters. In the first ten months of 2015, Russia-EU trade shrank by 39 percent and EU exports to Russia fell by 43 percent. Germany lost 40 percent of its exports, France 48 percent, Italy 38 percent, Finland 45, and so forth. According to a poll conducted by the Russian-German Trade Chamber, among 110 German companies doing business in Russia, 65 percent admitted that the sanctions had negatively affected their operations. Although the primary explanation for the trade collapse is Russia’s recession rather than sanctions (by comparison, Russia’s trade with “sanction-free” China and the Eurasian Economic Union has also fallen by some 30 percent), businesses in several key member states continue to take a public stance in favour of the repeal of sanctions.
We should also recall that the EU sanctions on Russia reached a relatively high level rather accidentally, mostly as a “black swan” effect of the Malaysian Airlines catastrophe. Before then, several influential EU member states demonstrated an extreme reluctance to levy meaningful sanctions and, in practice, had largely acquiesced to Russia’s annexation of Crimea. Another indication of European reluctance was the EU’s refusal to tighten sanctions after two rounds of military escalation in Ukraine, first in August-September 2014 and then in January-February 2015—even as EU members acknowledged Russia’s direct role.

Public opinion in leading EU member states reflect this reluctance. According to a spring 2015 Pew Research Center survey, 46 percent of Germans thought sanctions should be kept at the same level and 29 percent wanted them decreased, while only 20 percent wanted them increased. In France, the same measures were 49, 25, and 25; in Britain it was 53, 12, and 23; and in Spain it was 49, 15, and 24. Only in Poland was there strong sentiment in favour of greater sanctions, at 49 percent. These figures demonstrate that however solid the pro-sanction majority was, Europe’s general public was not ready to step up pressure on Russia.

Meanwhile, Europe is again developing Ukraine fatigue. Ukraine’s deepening economic crisis, procrastination in implementing reforms, inability to fight oligarchic power and corruption, and the open quarrels among leaders seriously worsen the country’s “revolutionary” image, undermine trust in its leadership, and produce an unwillingness to materially support such a seemingly dysfunctional system. The window of opportunity continues to narrow. Unless Ukraine demonstrates a rapid breakthrough in reform, pressure for a deal with Moscow will only grow stronger.

A turning point may arrive in April, when a national referendum will be held in the Netherlands on the question of ratifying the EU-Ukraine Association Agreement. Although this referendum is not binding, it is inconceivable that the Dutch government would be able to fully ignore a negative result (which is a possible outcome). President of the European Commission Jean-Claude Juncker has already admitted that the issue could grow into a “continental crisis.”

All these feelings should be put into the broader European context. Current issues of concern to the EU are the refugee crisis, possible British exit from the EU, and sluggish economic growth, compared to which the future of Ukraine is less urgent. A lot depends on German Chancellor Angela Merkel, the champion of Ukraine’s cause in the EU, but Germany may not have enough energy or diplomatic resources to continue pushing and could conceivably opt for a compromise at the expense of Ukraine’s interests.
Keeping Up Appearances

The contours of a planned “settlement” are surfacing rather clearly. First, a narrative is being created that military de-escalation has already taken place. Hence, the European diplomatic mantra has transformed into various versions of an “ongoing ceasefire.” The reality on the ground does not support this view, however. From March to December 2015 (after Minsk II), 563 Ukrainian servicemen died in the conflict zone, according to Ukrainian data. In December 2015, UN statistics cited more than 9,000 dead in the conflict in the Donbas, as compared to a casualty count of 8,000 three months before. These figures do not seem to affect the European appraisal of the “ceasefire.” Even less attention is paid to the unfinished business of exchanging prisoners of war.

Second, EU mediators openly push Kyiv toward adopting constitutional changes (so-called decentralization), which would allow for local elections in separatist-controlled areas in accordance with some ad hoc rules, thereby domestically legitimizing the Donbas territories and their leaders. An initiative known as the Morel Plan (named after French diplomat Pierre Morel), allegedly containing a respective set of proposals, was actively discussed by the Ukrainian expert community last fall. The implementation of this plan would likely confer a special autonomous status for the separatists, which Kyiv has always found to be unacceptable. The plan, however, would enable Berlin, Paris, and Brussels to claim success in resolving the conflict. Germany’s OSCE chairmanship in 2016 creates yet another contextual incentive to declare the “mission accomplished.”

Third, a number of top European politicians have de facto broken the official consensus. Germany’s Vice Chancellor Sigmar Gabriel has suggested that sanctions on Russia should be eased after the implementation of the first fundamental elements of the Minsk II agreement, which runs counter to a decision by the European Council that demands full implementation of the deal. In October 2015, Gabriel also paid a visit to Moscow where he called for leaving behind “past situations” and a search for new ways to restore Russian-German cooperation. Horst Seehofer, leader of the German CSU (Bavarian sister party to Merkel’s CDU), has raised the question of whether the time had already come to discuss lifting the sanctions. Italian Prime Minister Matteo Renzi said in December 2015 that he expected a “full debate” and “review” of the sanctions within several months. Former French president Nicolas Sarkozy is also an advocate of “talking” about the issue. His successor, Francois Hollande, can hardly be dismissive about the statement of his main political rival, taking into account France’s Russophile foreign policy tradition and the fact that Hollande himself needs to communicate with the Kremlin in the Syrian context. Austrian President Heinz Fischer confirmed that his country is interested in lifting the sanctions. A list of European actors looking for similar “openings” goes on.

Finally, some elements of what might be offered to Moscow as main pillars of a general compromise are no secret. Ukraine’s military non-alignment or its “Finlandization” is a
well-established part of the Western discourse. A direct relationship between the EU and the Russia-led Eurasian Economic Union, which implies recognition of the latter by the former, was officially tabled by European Commission President Jean-Claude Juncker in November 2015. Reactivation of the NATO-Russia Council was announced the following month upon the initiative of German Foreign Minister Frank-Walter Steinmeier, even though it is unclear whether the Russian leadership would see this as useful.

Conclusion

Internal EU pressure to overcome the current crisis in relations with Russia is on the rise. A certain easing of the sanction regime is thus likely in the foreseeable future. As concerns Russia, however, Europe’s gains would be insignificant. EU-Russia relations would still be burdened by many conflictual issues, by Russia’s own economic crisis (which makes the country objectively less attractive to European companies), and by a mutual lack of trust between decisionmakers at all levels. “Compartmentalization,” the new catchword for European policy on Russia, which is supposed to combine firmness on some issues (like European security) with cooperation in others, may look attractive to policymakers on paper but is not necessarily practical in real life.

With regard to Ukraine, a premature compromise with Russia would cost Europe a lot. The Ukrainian leadership would hardly be able to simultaneously push through conflict settlement and domestic reforms without collapsing. Prioritizing the former at the expense of the latter will lead to an ineffective use of scarce EU diplomatic and financial resources and an entrenchment of “Ukraine fatigue” in Europe. Even worse, it could result in deeper internal political destabilization in Ukraine and the loss of the European pro-reform investments and sacrifices made to date.
Coercion and Financial Secrecy in Ukraine’s Emerging Economy
WHAT THE IMF APPROACH MISSES

PONARS Eurasia Policy Memo No. 480
June 2017

Andrew Barnes*
Kent State University

Much analysis of how Ukraine’s economy operates takes place through the lens of International Monetary Fund (IMF) recommendations and reviews, which focus on budget deficits and anti-corruption efforts. Excessive emphasis on formal policy changes, however, and the “political will” to carry them out, ignores a number of forces at play in creating and maintaining real economic activity on the ground. While high-level discussions are occurring in Kyiv or Washington, people in Ukraine are creating new patterns of economic activity in practice. This memo examines some of these developments, demonstrating the ubiquity of both coercion and secrecy in market interactions. These characteristics are not unique to wartime Ukraine, although they are easier to see in that context. Likewise, within Ukraine, they are not confined to Crimea or the Donbas; they flourish throughout the country. The lesson, therefore, is that we need to think more about how to redirect and reshape these activities, rather than simply trying to eliminate them.

The Usual Story

Ukraine joined the IMF in 1992 and has signed no fewer than ten major agreements with it—two since the Euromaidan in 2014. The goals of macroeconomic stabilization and structural reform have remained remarkably stable over the years, and each new agreement has been signed amid renewed optimism because the IMF has routinely professed conviction that the government is ready to muster the “political will” to implement the required reforms.

In some respects, Ukraine has achieved extraordinary success in areas the IMF deems important. Most notably, the economy returned to growth in 2016, despite the ongoing fiscal and physical toll of the war. Although industrial growth was still negative, retail and agriculture led the economy to a 2.3 percent growth rate in 2016 after declines of 6.6

* Andrew Barnes is Chair and Associate Professor, Department of Political Science, Kent State University.
percent in 2014 and 9.9 percent in 2015. The blockade against Donbas coal hampered industrial production in the first third of 2017, but an IMF statement in May continued to predict GDP growth of over 2 percent for the year. In addition, the annual inflation rate has remained under 10 percent; the Ukrainian hryvnia (which has remained free-floating, consistent with IMF recommendations) has avoided any precipitous drops, even though it has crept downward in value over the past year; and the government has remained up-to-date on payments on external debt, except on a disputed $3 billion Eurobond owned by Russia.

On the structural side, Ukraine has made striking changes in its natural gas sector. In a policy change aimed directly at satisfying IMF demands, the country unified the tariff for gas beginning in May 2016. The old system included different price points for different consumers and, like any other multi-tiered pricing system, was subject to cheating: insiders falsified invoices to buy and sell at their preferred prices. In addition, Ukraine has eliminated its gas imports from Russia, relying instead on supplies from elsewhere in Europe. This change was not in response to IMF requirements, but it makes the country less vulnerable to Russia-imposed shocks in the gas sector.

Despite these successes, the standard drama with the IMF continued, albeit with characteristics unique to Ukraine’s situation. On the macroeconomic side, budgetary brinksmanship captured the attention of observers for several months in the winter of 2015-16, when the IMF insisted on a federal deficit of less than 3.7 percent of GDP, but parliament refused to pass it. In February 2016, Ukraine’s Latvian-born Economics Minister Aivaras Abromavičius resigned from the cabinet, prompting further concern from the IMF that appropriate reforms would not be undertaken. Prime Minister Arseniy Yatsenyuk barely survived a no-confidence vote in February 2016 but resigned in April and was replaced by Volodymyr Hroisman (see below). Throughout this political turmoil, the IMF continued to conduct its reviews of the Extended Fund Facility, but the evaluation was well behind schedule and the IMF did not approve releasing the next tranche of funds until September 2016. Another standoff occurred in 2017 over the governments’ unwillingness or inability to end the rail blockade in the East, but the next tranche was released in April 2017.

The structural issue most consistently highlighted by the IMF in post-Euromaidan Ukraine has been high-level corruption. Indeed, many observers of Ukrainian politics saw corruption as the reason for untamed deficits and the resignations of favored reformers like Abromavičius. Any number of examples could be raised to show the extent of the problem, but four will suffice here. First was Yatsenyuk’s narrow escape from the threat of a no-confidence vote in February 2016. His survival (for two months) was apparently tied to a deal among the country’s leading oligarchs: it was a last-minute walkout by parliamentarians connected to those oligarchs that saved him. Second was the political drama that played out around General Prosecutor Viktor Shokin. For several months in late 2015 and early 2016, accusations grew that Shokin was blocking
prosecutions of high-level corruption allegations, but he continued to hold his post. Even after President Petro Poroshenko ostensibly removed him from office in February, he remained in his post until March 29, when parliament finally voted to remove him. A third striking incident occurred in August 2016 when one office responsible for combatting corruption (the General Prosecutor) arrested two staff members from another office responsible for combatting corruption (the National Anticorruption Bureau of Ukraine). Finally, in March 2017, the government amended an anti-corruption law that required public servants to disclose assets, extending it to NGOs and journalists who report on corruption—an action many saw as an attempt to silence the watchdogs.

The Centrality of “Marginal” Activities

There is nothing inherently wrong with following the drama of budget debates, high-level resignations, or corrupt machinations in government. While high-level discussions are going on, however, citizens are developing a real economy across the country. This activity reveals important truths about economics that standard models typically do not highlight, namely the ubiquity of coercion and financial secrecy. Below are examples of these different sources of coercion in economic transactions in Ukraine, as well as a short discussion of the emerging financial system that provides context for those activities.

At the top of the wealth pyramid are oligarchs, who face myriad threats—from the state, from other oligarchs, from would-be oligarchs, and from external shocks—but they also have access to a wide variety of coercive resources to defend against those potential threats and/or to strengthen their own position. The case of Ukraine’s richest man, Rinat Akhmetov, provides an almost limitless supply of examples of this process. When the Kyiv government tried to punish him for raising electricity prices in 2015, hundreds of workers from his coal mines picketed the Energy Minister’s office, and a parliamentary bloc understood to be financially supported by him walked out of legislative proceedings. His coal and electricity conglomerate had holdings in both eastern and western Ukraine, and for three years he was able to operate successfully in both regions, partly because he also ran a network of trucks delivering humanitarian aid in the Donbas. Doing so required the direct application of coercive power in the form of hired security forces, as well as negotiations with other powerful actors, notably the bodies attempting to set rules in Donetsk, Luhansk, and Kyiv.

After the imposition of the rail blockade at the start of 2017, however, the strongmen of the Donetsk and Luhansk “People’s Republics” began to seize his property (and those of other Ukrainian owners), and the tightening blockade stopped the flow of coal from the Donbas to the rest of Ukraine. Interestingly, Akhmetov was never able to defend his holdings in Crimea, where the self-declared parliament of the peninsula voted to nationalize his energy and telecommunications holdings and armed men took over the facilities. Likewise, several branches of his First Ukrainian International Bank were shut down on rebel territory, and separatists seized equipment from his television channel.
He is powerful, and his access to coercive power is significant, but even an oligarch’s hold on productive assets is not unbreakable.

Another group of economic players in Ukraine are what might be referred to as warlord businesspeople: individuals who use their control over physical coercion in part to take desirable assets, operate lucrative trade routes, and directly enforce their claims to wealth. In other words, they are engaged directly in the creation and operation of an economic activity. One example is Aleksandr Zakharchenko, Prime Minister of the self-proclaimed Donetsk People’s Republic, who commands 3-4,000 armed men and controls much of the regional retail trade, including the “nationalized” ATB supermarket chain. He and his men also allegedly control the gasoline trade in Donbas. Another example is Alexander Khodakovsky, the commander of the Vostok battalion, who allegedly provides protection to Akhmetov’s trucks and controls the illicit trade across the separatist border with the rest of Ukraine. These phenomena are not unique to Donetsk and Luhansk, as leaders of the former “volunteer battalions” use their coercive resources to operate or protect businesses in western Ukraine. These figures, and others like them, face threats from other warlords and from any “state actor” that wants to impose “order” on them. Their main defense is the direct application or threat of force, which illustrates the role of naked coercion in the conduct of economic activity.

Similar to the warlord businesspeople, but without direct control over the means of coercion, are the entrepreneurs who operate informal or illegal businesses and need to protect their assets. One of the most common sectors for such work in Ukraine is amber mining and smuggling. To mine amber, groups of workers clear forest areas, pump high-pressure water into the soil, and skim the debris that floats to the surface. They need to protect the mining area from potential competitors and state authorities. When they transport their product illegally, they must protect it from confiscation—the greatest threat they face is from state employees, usually either police or border guards. These businesspeople generally cannot apply force directly and instead hire protection, pay off state actors, or both.

If business is impossible without coercion, it is also impossible without banking—not necessarily a system for connecting savers and borrowers, but simply a system for moving money. Furthermore, most business does not take place without banking secrecy—a system for moving money without being tracked by formal state institutions. In Ukraine, we see several strategies for moving money surreptitiously, which provides context for all other economic activity. In the self-proclaimed republics of Luhansk and Donetsk, so-called “Central Banks” were established to facilitate payments among businesses, to collect taxes, and to distribute rubles coming from Russia to pay pensions. Their activities are largely opaque to outside observers. In Crimea, hundreds of bank branches saw their premises taken over almost overnight and turned over to Russian banks. Interestingly, these were not the biggest and best-known Russian banks, probably because their Russian headquarters were afraid of international sanctions. The banks in
Crimea include one with an owner who has been investigated by both the FBI and the Russian Investigative Commission and one that was part of a $20 billion money-laundering scheme. Like the use of coercion in economic activity, banking secrecy is not unique to the territories most affected by the war. Oligarchs, leaders of armed groups, illicit entrepreneurs, and corrupt officials throughout Ukraine make use of extensive offshore networks to hide both legal and illegal profits.

**Conclusion**

It may be tempting to see the phenomena described in this memo as resulting from Ukraine’s particular situation of occupation and war, but that is not the case. Coercion and secrecy are ubiquitous in Ukraine not because of anything peculiar about Ukraine, but because of the simple coexistence of coercive power and desirable assets. These patterns appear in Kyiv-controlled Ukraine just as they do in Crimea and the Donbas, even if they take somewhat different forms in different areas. Indeed, they appear in economies around the world.

This observation suggests that the IMF’s advice to Ukraine, while not entirely wrong, is quite limited in its likely effects. First, inasmuch as the advice is premised on the assumption that in a well-performing economy coercion would be applied only by a rule-of-law state and the movement of money would be transparent, its foundation does not comport with what we see throughout the world. Second, while no one should doubt that official corruption is a significant problem in Ukraine, that is only one version of coercion and secrecy (or one source of power to engage in them) that appears in real economies. While it may be theoretically possible to root out oligarchs, mafias, strongmen, bribes, and grey finance, that is not what we see in most settings. Instead, we see different forms of coercion and different strategies of financial secrecy. Research and recommendations therefore need to be aimed at channeling those tendencies in less harmful directions, rather than trying to eliminate particular types of them entirely.
Is Ukraine a “Client State” of the United States?

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Volodymyr Dubovyk
Odessa National University

To ask whether Ukraine is a client state of the United States might seem provocative. In the opinion of some, being a “client state” is negative, implying that the state is no longer free, particularly in the international arena—akin to being a colony. This negative connotation resonates with the message coming from the Kremlin (and Russian propaganda) that Washington is somehow in control of Ukraine, dictating its policies and each and every move. This is certainly not the case. But while Washington does not have diktat over Ukrainian affairs, Ukraine has greatly depended on U.S. support over the past three years, with both positive and negative effects. More pressure may be needed on Ukrainian leaders to accentuate the positive aspects and avoid the negative ones.

A History of Seeking Influential Allies

Ukraine is substantially dependent on the West. But this patron certainly does not always get its way in Ukraine’s decision-making, which would be detrimental to Ukraine’s positive development. Prior to 1991, each and every attempt to create a secure and autonomous Ukrainian state was coupled with a delicate, often painful, and frequently failing balancing act. It constantly looked to an influential ally for support. There were times when searching for an influential ally brought positive results and there were times when it did not. However, time and again, building a Ukrainian state failed due to internal differences and infighting—regardless of foreign “interventions.”

The period since 1991 is the longest sustained time that Ukraine has enjoying statehood and freedom. During this stretch, Ukraine experienced its fair share of troubles and needed external assistance. The United States has stood out as the most influential and most committed partner and provider of aid to Ukraine.

U.S. Support for Ukraine 1991-2014

In the early years, it was Washington that pressed Ukraine to denuclearize. But it was also Washington that provided substantial financial packages. The United States gave

* Volodymyr Dubovyk is Associate Professor in the Department of International Relations at Mechnikov National University, Odessa, Ukraine.
security assurances to Ukraine when it cast away its nuclear weapons (regardless of what one thinks about the meaning and efficacy of those assurances). Through turbulent years of economic turmoil, social instability, political crises, and other challenges—the United States has stood and offered help. U.S. assistance was crucial for fighting astronomical inflation, stabilizing the national currency, and proceeding with needed privatization (leaving aside some of the controversial and dubious features of that process). Closing down the Chernobyl nuclear power station for good and providing its secure shelter were also done with substantial American support.

In the early years of Leonid Kuchma’s presidency, Ukraine needed U.S. assistance badly, and Kuchma went to great lengths to get it. However, he also set the standard for abusing U.S. trust and assistance. He made all the right noises, promising to deliver reforms and liberalization, but instead his regime deteriorated into a non-democracy. He maintained a bright façade but was cynical and corrupt in the shadows. The positive dynamics of his proclaimed strategic partnership with the United States—the Kuchma-Gore Commission, the Ukraine–NATO Charter, and so forth—yielded to bleak times that included journalist Georgiy Gongadze’s murder, the Kolchuga controversy, the Tape Scandal, and irregularities in elections, to name a few.

What kind of “lessons were learned” by both sides? Ukrainian leaders saw that you can pretend to be “good” and get U.S. assistance, services, and benefits, while simultaneously sticking to petty and nasty agendas. Over time, this approach led to fallings out of trust and favor and a loss of assistance from the West. Washington policymakers saw that you cannot let yourself be endlessly fooled and must instead verify that policies are actually implemented, make assistance conditional, and not let money pour into the abyss of corruption.

The Orange Revolution of 2004 was a new major test for Ukraine–US relations. Again, Ukraine was in need of U.S. support. The George W. Bush administration was happy to provide assistance because Ukraine delivered on promises of radical reform and change. However, positive momentum was soon wasted—rhetorical statements were not followed by much-needed systemic reforms and the window of opportunity for change was shut. “Ukraine fatigue” overtook Washington (and many capitals in the West) because Ukraine disappointed.

Ukraine as Client State after the Euromaidan

Since the start of the Euromaidan, the United States has shown a keen interest in resolving the Ukrainian political crisis. The Obama administration entered the situation reluctantly—it did not want to insert itself into the middle of the crisis—but felt obligated to take an increasingly strong position as the situation became more urgent. Despite stories and Russian propaganda to the contrary, Washington was not particularly supportive of the revolutionary scenario and was not looking for regime
change. Once former Ukrainian president Viktor Yanukovych abandoned his post, there was no way back, for anyone. Moving forward toward Western standards was the clear choice.

The United States extended a helping hand to the new government in Kyiv and sought to help heal the wounds of the domestic crisis. It provided assistance to get a governance system functioning. Kyiv’s new leadership direly needed support to counter claims of “illegitimacy” from Russia, all the while Ukraine’s economic situation was leading it into default and collapse. Ukrainians felt that Moscow was looking for ways to avenge the success of Ukraine’s “revolution of dignity” and they felt that to buttress the fragility of the new Kyiv government, U.S. support was crucial. Thereafter, the degree of Kyiv’s dependence on the United States grew exponentially, especially among Ukrainian leaders—U.S. support was (and is) critical to their success.

Washington’s sway grew so large that when Russia seized Crimea, the Kyiv leadership asked the United States what to do. The advice from Washington was unambiguous: do not engage in military hostilities. This advice was adhered to (granted, Kyiv might very well have come to the same decision) but Washington’s advice mattered enormously. Memory of the Russia-Georgia war in 2008 was in everyone’s mind. In that case, the Georgian leadership engaged in military hostilities to defend the country’s territorial integrity from Russia, but Russia used this pretext to inflict larger harm on Georgia, while the West stood by and did not do anything.

In the post-Euromaidan era, the United States has given assistance to Ukraine—diplomatic, financial, and military (excluding lethal weapons). Ukraine was injured and faced a number of colossal challenges. Kyiv had to deal with the Crimea situation, hostilities in its East, carry out reforms, and fight corruption. Ukraine’s degree of dependency on the United States during this period is without precedent in Ukraine’s contemporary history.

Ukraine has effectively become a “client” state of the West, and of the United States, in particular. U.S. Vice President Joe Biden was frequently involved in Ukrainian affairs. He made direct appeals to Ukrainian elites on a number of occasions, being highly forceful about reforms and eradicating corruption. Former U.S. ambassador to Ukraine Geoffrey Pyatt was also deeply involved in Ukrainian affairs, often on a daily basis.

Is Being a Client State Good or Bad for Ukraine?

The United States has clout, but is it good or bad? The biggest problem lies in the halls of the Ukrainian government, where politicians have a long history of appealing to the United States when it served them well. This kind of behavior continues at many levels of officialdom. Ukrainian politicians like to cast themselves in a positive light while trying to demean their political opponents in the eyes of Washington, even when issues
are minor. For example, there was a conflict between the head of the Odessa regional customs administration, Yulia Marushevska, and the head of Ukraine’s fiscal service, Roman Nasyrov. During their quarrel, Marushevska appealed directly to the U.S. ambassador for help to provide her department with gasoline (of all things). She got the gas. Client states do not necessarily display such behavior, but it supplies a negative way in which Ukraine brings upon itself higher-power interventions. This is how medieval nobles fought, often resorting to calls for the king to impose a resolution. Certainly, the U.S. presence in Ukraine should not become a substitute for governance by Ukrainians themselves.

Most of the pressure coming from Washington, however, pushes Ukraine in the right direction. This “clienting” is good in the short run. But Ukraine needs to efficiently run itself, and there is no doubt that Washington wants to see Ukraine be self-sustaining. The country has also changed for better since Yanukovych’s departure. However, reforms have not been fully implemented and corruption persists. Ukraine’s political elites often resist radical and necessary changes, pushing back on Washington pressures. Apparently, some Ukrainian leaders think Ukraine is “too big to fail” and have the expectation that Washington (and Europe) will keep providing assistance and writing checks to Ukraine regardless of actual progress in implementing reforms and fighting corruption. Unfortunately, much of the power in Ukraine is still in the hands of the old elite, and as “guardians” of it, how are they to dismantle it?

**The Need for “Sticks,” Not Just “Carrots”**

In recent months, there has been a spike in the number of people calling for the West to consider not just positive incentives (the proverbial “carrots”) but also negative ones (“sticks”) in order to really impact Ukrainian politicians. I support the use of “sticks.” They must know that time is precious and substantial reforms are needed now. One method discussed is for narrow and targeted Western sanctions on non-performing Ukrainian politicians. Obviously this is a delicate situation because the United States cannot appear to cut its support for Ukraine (as a European country that has been the victim of unprovoked external aggression).

Ukraine’s challenges—territorial integrity, external threats, corruption, and systemic reforms—should be seen as inter-connected (holistic). The United States, alongside the many forward-thinking Ukrainian activists, should keep applying pressure on leaders in Kyiv. This is a type of patron-client relationship that is more teamwork than detrimental dependency. Ultimately, Ukraine must be able to manage its own affairs. This is an outcome that the United States encourages.
How Can the EU Help Ukraine Build the Rule of Law and Fight Corruption?

ROMANIA AND BULGARIA AS GUIDEPOSTS

PONARS Eurasia Policy Memo No. 469
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Maria Popova*
McGill University

There has been overwhelming rhetorical commitment in post-Euromaidan Ukraine to reforming the judiciary and battling corruption. However, despite the adoption of numerous new relevant laws and constitutional amendments, and the creation of a slew of new institutions, there has been no breakthrough in these critical domains. Nearly three years after the Euromaidan, the Ukrainian judiciary has not been emancipated from political control and public trust in it is at a historic low. An effective anti-corruption campaign is still not under way. Can the EU nudge forward much-needed reforms? Can it help distinguish the real reformers from the ersatz ones? One expedient instrument could be the EU Cooperation and Verification Mechanism (CVM), which the EU applied with some success in Bulgaria and Romania and which could be adapted and applied to Ukraine.

Reform-makers and Reform-fakers

Why is there so much talk about reform but so few results? One possibility is that actors who want to pursue judicial reform and anti-corruption in earnest (reform-makers) are outnumbered and overpowered by actors who feign commitment to these causes to please the electorate and the international institutions that demand reforms (reform-fakers).

The reform-makers struggle to achieve results and are marginalized. The reform-fakers pay lip service to the goals of the Euromaidan but reap the benefits of a dependent judiciary and political corruption. Self-interested calculations and the pursuit of political clout stymie progress; reform-fakers perceive that the status quo best protects their interests. Could the EU empower reform-makers and expose and undermine reform-fakers?

* Maria Popova is Associate Professor in the Department of Political Science, McGill University.
There are limits to what the EU can achieve due to obstacles associated with rule-of-law promotion efforts, the nature and mechanisms of EU conditionality, and Ukraine’s specific situation. But the EU can push things forward. Its track record of promoting judicial reform and anti-corruption efforts in Bulgaria and Romania suggests a number of lessons for Ukraine. Specifically, the Cooperation and Verification Mechanism (CVM) that the EU applied in Bulgaria and Romania since 2007 can be adapted to Ukraine. The EU can use levers like this to extend political protection to reform-makers who inevitably come under attack by threatened elites. Concretely, the Bulgarian and Romanian experience suggests that the EU’s top priority should be the identification and protection of reform-makers in prosecutorial institutions, rather than in the judiciary or in the Ministry of Justice. It also suggests that the proliferation of new institutions tasked with different aspects of anti-corruption campaigns helps reform-fakers avoid accountability by blaming the lack of results on institutional rivals. What the EU cannot do is use its soft power to create reform-makers out of thin air or use its levers to make reform-fakers behave as if they were reform-makers.

Why is Rule-of-Law Reform so Hard?

Expectations of what the EU can achieve in Ukraine should be tempered by the realization that rule of law promotion rarely works wonders. Independent courts cannot be created through institutional engineering. A comparative study of judicial institutions has found weak correlations between judicial institutions, which conform to supposed best practices, and de facto judicial independence and power. In the area of anti-corruption, reform-fakers can easily feign activity by conducting sloppy investigations and taking weak cases to court. Responsibility can be diffused because judges, prosecutors, and the Ministry of Justice can all blame each other for the failure to tackle political corruption.

To complicate matters further, the EU has no unified position on what a good judiciary should look like or how countries should best tackle corruption. As we know, there is a high-level of institutional diversity within the EU. Only in 2011 did EU member states agree on a method to evaluate the status of corruption and progress when it comes to rule of law. Efforts to create an EU-wide European Public Prosecutor’s Office have been unsuccessful so far. There is no acquis communautaire toward rule of law and anti-corruption that the EU could push Ukraine to adopt. For these reasons, EU conditionality vis-à-vis central and southeast Europe has lacked effectiveness in these areas.

Finally, Ukraine is not subject to membership conditionality and is unlikely to be, which limits what the EU can achieve there. Ukrainian stakeholders in judicial reform and

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anti-corruption efforts do not have the long-term benefits of EU membership to justify short-term sacrifices of rents. Ukraine’s political corruption problem is also larger than that of post-Soviet EU members. Anti-corruption reform-makers face a particularly well-entrenched network of corrupt elites who are unlikely to give up their rents without a serious fight. The Ukrainian judiciary tends to display unambiguous political subservience, so judicial reform-makers face an especially complicated task.

What Can the EU Do to Push Ukraine toward the Rule of Law?

- **Adapt and apply the Cooperation and Verification Mechanism (CVM) instrument**

  When Romania and Bulgaria joined the EU in 2007, Brussels was worried that both countries did not meet the Copenhagen criterion on rule of law. As a result, both countries were given roadmaps with judicial reform and anti-corruption measures that they were supposed to continue implementing even after officially joining the EU. In order to monitor the implementation of these steps, the European Commission introduced the CVM. Under the CVM, each country was assigned a team of European Commission experts who were tasked with producing semi-annual reports assessing progress. The experts made routine visits to each country and met with a wide range of stakeholders in the government, the judiciary, and civil society. They requested and analyzed data from local institutions—for example, the number of anti-corruption cases opened in a time period, the number of judges disciplined by supreme judiciaries, and data (from NGOs) about the harassment of judges. In the area of anti-corruption, CVM experts monitored the movement of high-profile cases through the criminal court process.

- **Use the CVM instrument to help distinguish between reform-makers and reform-fakers**

  In Bulgaria and Romania, the level of cooperation by different local actors revealed their commitment to reform. Reform-makers were dramatically more transparent and willing to share data on activities than the reform-fakers. The reform-makers see the CVM missions as opportunities for useful knowledge transfer to improve local reform strategies. They routinely advocate for the continuation of CVM instruments since they see them as supportive of their goals. Reform-fakers, on the other hand, approach CVM missions with suspicion, try to present certain reforms as complete, and generally seek to terminate the CVM. Distinguishing between reform-makers and reform-fakers is a crucial first step in effectively moving reforms forward. To its credit, the EU has adjusted its strategies to bolster reform-makers. In Romania, for example, when the National Anti-Corruption Directorate needed a new head in 2013, the EU pushed for the appointment of Laura Kovesi, whom it had identified as a reform-maker.
How Can the EU Help Ukraine

Maria Popova

- **Extend political protection to reform-makers**

Reform-makers in government are bound to be in a precarious situation. The political elites that they target are likely to try to unseat them. The EU can help by communicating to leaders that this kind of retribution is unacceptable and carries direct consequences. The EU has done this repeatedly in Romania. In 2008, EU ambassadors and EC representatives in Bucharest put intense pressure on the Romanian government to reappoint Daniel Morar to lead the country's National Anti-Corruption Directorate (DNA). Morar had been singled out for praise in the CVM report but had found himself under intense attack by the governing parties. Without the EU’s backing, Morar would likely have lost his job. As DNA’s anti-corruption drive kicked into high gear in the early 2010s, first under Morar and then under his successor Laura Kovesi, politicians started openly criticizing the DNA for overstepping its powers and there were several attempts at curtailing it. Through CVM reports and purportedly through direct conversations, the EU communicated to the Romanian government that such steps would be unacceptable and the DNA’s mandate remained intact.

- **Recognize that it cannot shape the reform process in Ukraine because it has insufficient knowledge of who the reform-makers and reform-fakers are**

By now, potential reform-makers in Ukraine’s Office of the Prosecutor General have been pushed out and various reform-makers in government are under attack. Two deputy prosecutors, Vitaly Kas’ko and David Sakvarelidze, were ousted and criminal cases opened against them. Serhii Leshchenko, a vocal anti-corruption legislator, is under scrutiny by the Prosecutor’s Office. The EU has not intervened in any way in these cases. If the EU had a CVM-like instrument in Ukraine, it would have been able to form an opinion as to whether Kas’ko, Sakvarelidze, and Leshchenko are indeed reform-makers and should have support.

- **Push for the appointment of reform-makers at the Office of the Prosecutor General**

One of the lessons that can be drawn from the Romanian and Bulgarian experience with anti-corruption reform is that reform-makers in the Prosecutor’s Office can make the largest difference because they build and bring cases to court. Reform-maker prosecutors put together cases that can stand up in court, while reform-faker prosecutors bring cases full of holes that even a reform-maker judge would feel compelled to dismiss. Romania’s DNA has received high praise from the EU and Romanian civil society actors for building airtight cases against high-level politicians and oligarchs. Its conviction success rate in court is about 90 percent. By contrast, the Bulgarian prosecution has often been the subject of criticism in CVM reports for lack of transparency and will to take on political corruption in earnest. Under intense EU pressure to show results, the Bulgarian prosecution filed roughly the same number of indictments against high-level politicians, organized crime, and major business figures.
as its Romanian counterpart. However, the Bulgarian prosecution is yet to achieve a single final conviction.

Identifying reform-fakers among judges is a waste of resources without first making sure that Ukraine’s Prosecutor General’s Office is led by reform-makers. Judges can only rule on what the prosecution gives them. If there are reform-fakers among judges, who dismiss good cases for political/corrupt reasons, the reform-makers at the prosecution can eventually expose them and make such behavior unattractive for other judges. This is what happened in Romania in 2010-2012 when a few judges who had previously delivered acquittals or dismissals in high-profile corruption cases were themselves prosecuted for corruption. Judges cannot do anything about corruption in the prosecution, so supporting reform-makers within the judiciary should be a secondary priority for the EU. Furthermore, the EU’s job would be easier if a reform-maker was in charge of the Ministry of Justice (but this is not essential). A reform-maker Minister of Justice can draft and push for the adoption of quality laws and enhanced institutions—as Bulgarian Minister of Justice Hristo Ivanov did in 2014-2015. Still, a justice system cannot achieve much if there are reform-fakers at the court level. All in all, laws can be circumvented by reform-fakers in the institutions that are supposed to implement these laws.

- Discourage the proliferation of anti-corruption and judicial governance institutions

It may seem like a good idea to have multiple institutions that control different aspects of anti-corruption or judicial reform efforts. The first rationale is that institutions can provide checks and balances on each other: if one gets taken over by reform-fakers, the other can expose them. The second rationale is that the institutions could compete with each other for the EU’s stamp of approval and thus push each other toward more effectiveness. However, the dangers of institutional proliferation seem to outweigh the potential benefits. Corruption networks are extremely complicated to uncover and prosecute effectively even without the danger from reform-fakers seeking to undermine the activities. If an investigation is not coordinated under one roof, the danger of moles compromising the process increases. Also, jurisdictional power and turf disputes become more likely, which further reduces the chances of success. Competition for power erodes both the effectiveness and popular legitimacy of all institutions. The Romanian and Bulgarian cases suggest that a single independent institution—Romania’s National Anti-Corruption Directorate—is more effective than multiple departments in different institutions that are supposed to work together. In Ukraine, there is already evidence of institutional rivalry and a power struggle between two of the new institutions: the National Anti-Corruption Bureau headed by Artem Sytnik and the Special Anti-Corruption Prosecution headed by Nazar Kholodnytski. The introduction of the State Bureau of Investigation in 2017 will likely only complicate matters further.
Use visa-free travel as a lever

Once reform-makers are identified, the EU can use the cancellation of visa-free travel as a “stick” to beat off attacks by reform-fakers on the reform-makers. Visa-free travel can be a powerful lever regardless of EU membership status. First, it directly affects the electorate. The Ukrainian elites know that the public will feel the consequences if the EU grants or withdraws freedom-of-movement benefits. There is little that the government could do to spin such a decision or diffuse responsibility. Second, visa-free travel is a more flexible instrument than membership conditionality—it can be granted and canceled multiple times. Bulgarian and Romanian rule-of-law reform trajectories illustrate the power of visa-free travel as a conditionality instrument. The biggest success story of how the EU pushed rule of law reform—Romania’s DNA-led anti-corruption drive—happened after Romania joined the EU rather than before. Indeed, the EU’s main lever with Romania and Bulgaria after 2007 pertained to inclusion in the European free-travel Schengen zone.

Conclusion

The EU can use its experience in promoting the rule of law in Bulgaria and Romania to devise a strategy to push Ukraine in the right direction. However, the EU’s potential for impact is highly contingent on domestic factors. The success of reforms in Romania shows that the EU can support and bolster the political position of Ukrainian reform-makers. The failure of reforms in Bulgaria shows that the EU cannot always use soft power or leverage to create reform-makers or turn reform-fakers into reform-makers. Nonetheless, the EU could step in and use its clout and hands-on experience to shine a light on Ukraine’s reform dysfunctions. In the process, it could empower domestic forces to weed out the reform-fakers in Ukraine’s government and courts.
II. Ukrainian Politics: Stability and Changes
Decommunization in Post-Euromaidan Ukraine

LAW AND PRACTICE

PONARS Eurasia Policy Memo No.
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Oxana Shevel
Tufts University

Ukraine’s infamous decommunization legislation, enacted in May 2015, may be less divisive than it initially appeared. The laws ban positive public expression toward the Soviet past and mandate the renaming of thousands of localities with Soviet-era names. Critics have said that the laws will prohibit open discussion of Ukraine’s complex history and may deepen societal divisions. Thus far, however, the process has not led to any sizeable protests, and parties that vocally opposed the laws have not been able to convert their stance into any actual mobilization. At the same time, there is no evidence of widespread support for decommunization within society, with the reasoning being more economic than ideological. In the end, Ukraine’s decommunization efforts may turn out to have a modest yet significant effect: the successful shedding of the Soviet symbolic legacy.

A New Order

On May 15, 2015, President Petro Poroshenko enacted four new laws that have become collectively referred to as “decommunization laws.” They are:

- **Law No. 2558**: “On the condemnation of the communist and national socialist (Nazi) regimes, and prohibition of propaganda of their symbols.”
- **Law No. 2538-1**: “On the legal status and honoring of fighters for Ukraine’s independence in the 20th century.”
- **Law No. 2539**: “On remembering the victory over Nazism in the Second World War.”
- **Law No. 2540**: “On access to the archives of repressive bodies of the communist totalitarian regime from 1917-1991.”

The laws were submitted to parliament only a few days before they were adopted in their first and final reading (without public or parliamentary debate) last April. Immediately afterward, the debate and criticism began and from a variety of fronts, including the Russian Foreign Ministry, Communist party leaders, former Party of Regions/Opposition

*Oxana Shevel* is Associate Professor of Political Science at Tufts University.
Bloc members, Ukrainian and international rights groups, Ukrainian academics and public figures, and Western experts.

Critics said the laws would aggravate domestic divisions in Ukraine by alienating the south and east from the rest of the nation, and that this would have potentially explosive consequences at a time of territorial conflict with Russia and economic crisis. Indeed, most places that require re-naming are in the southern and eastern regions of the country. According to the Ukrainian Institute of National Memory, 877 localities needed to be renamed by November 21, 2015. Leading the list are three eastern regions: Donetsk with 10 cities, 27 towns, and 62 villages; Dnipropetrovsk—3 cities, 10 towns, 71 villages; and Kharkiv—27 towns and 70 villages. Next on the list are eastern and southern regions: Crimea—1 city, 11 towns, 54 villages; Odessa—2 cities, 4 towns, 49 villages; and Luhansk—6 cities, 25 towns, 23 villages.

Other critics said the laws would stifle historical study and debate. The laws banned publicly expressing any “wrong” opinions about the Communist era, communist leaders, or certain individuals and organizations who were “fighters for Ukraine’s independence,” such as the Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UPA). Still others said the laws would lead to significant financial costs due to the mandated renaming and removal of many thousands of Soviet-era monuments and place names.

**Did Trouble Brew?**

Now that the implementation of the laws has been rolling forward, we can see if they have been as divisive as was claimed. To date, they did not lead to rampant domestic instability. While decommunization is actively and often heatedly discussed in the press and in local council meetings, there have not been any sizeable protests against the measures or street actions taken when monuments are physically removed. The main Ukrainian groups that opposed the laws—the Opposition Bloc and the Communist Party—never translated their rhetoric into action or gained from their opposition to the laws.*

At the same time, there is also no evidence of widespread support for decommunization in society. Available polling data shows that the majority of the population is lukewarm (or opposed) to decommunization. One poll found that only 10.5 percent support decommunization and 89 percent do not (with 34.5 percent strongly opposed to it and 54.6 percent moderately opposed). Local polls from Kirovohrad and Poltava, two cities in central Ukraine, show that no more than a third of the population fully supports decommunization.

*According to a [July 2015 poll](#) by the Kyiv International Institute of Sociology, the Opposition Bloc had a 7.2 percent support rate, less than the 9.5 percent they had in the October 2014 elections, and the Communist Party had 1.9 percent, less than the 3.9 percent it had in October 2014.
Why So Blasé?

There are three reasons why there has been so little protest against the laws, despite such low support. The first are the changes in public opinion spurred by the Euromaidan and the subsequent conflict with Russia. Since 2013, Ukrainians have become far less fond of the Soviet era and more supportive of Ukrainian independence. Pollsters see evidence of the active formation of a Ukrainian political nation, such as a sharp increase (from under 10 percent to 42 percent) in the number of respondents who name patriotic feelings as a factor uniting Ukrainian citizens. Support for “an independent Ukraine” are at the highest level they have been since 1991. Such sentiments show regional variation, however, being stronger in the west and the center, and weaker in the south and east—but even in the latter, substantial changes in opinion have taken place (opposition to NATO membership, for example, declined in the Donbas from 95 percent in 2010 to 60 percent in 2015). This increase in pro-Ukrainian patriotic sentiments has made society overall more “receptive” to cutting ties with the communist era.

The second factor making the decommunization process less contentious is the new political geography produced by the Russian annexation of Crimea and the insurgency in the Donbas. Many of the towns, villages, streets, and squares to be renamed are located outside of government-controlled territory, in Crimea and the separatist-controlled parts of the Donetsk and Luhansk regions. Of 54 localities to be renamed in Luhansk, only 19 are in Ukrainian-controlled territory. In other words, where opposition to decommunization would have been strongest, the process is not going to take place due to the inability of the central government to enforce the law.

In the regions of Ukraine where decommunization will take place, the process will be somewhat unsystematic because there were already spontaneous decommunization movements before the laws were adopted. In December 2013, as the Euromaidan protests were going on in Kyiv, an iconic monument to Lenin in the center of Kyiv was torn down by nationalists. In the following months, the spontaneous felling of monuments to Lenin (called “Leninopad,” or “Lenin falling”) unfolded across much of central and some of southern and eastern Ukraine (in western Ukraine most of the Lenin monuments were already removed in the 1990s). According to the Ukrainian Institute of National Memory, 504 Lenin monuments were torn down in Ukraine after December 2013, with 436 of them removed between December 2013 and September 2014—all before the adoption of the decommunization laws. These activist-led decommunization efforts were not a reflection of broad public support. Still, low opposition to the process arguably eased the way for a quick enacting of the official decommunization laws.

Another reason why the lack of popular support for Ukraine’s decommunization laws has not spurred public protest (nor bolstered the standing of political actors who oppose the undertaking) is the non-ideological nature of much of the opposition to decommunization. Polls, media interviews with citizens, and records of town hall meetings show that people
often oppose decommunization not for ideological reasons (like having positive views of the Soviet era) but because of the perceived financial costs of renaming and deconstruction and the feeling that decommunization will not have any impact on their socioeconomic status. Such non-ideological opposition leads to a certain public passivity rather than physical protest.

In the end, decommunization is simply not a high priority issue for citizens. There have been relatively low levels of participation in public discussions on the issue. In Kyiv, for example, where some 120 streets are to be renamed to comply with the law, the city administration opened an online portal where citizens can suggest new names. Kharkiv and Dnipropetrovsk operated similar online platforms. On average, only a few hundred people took part in online voting and far fewer actually submitted new names.

Nonetheless, as hundreds of villages and towns are forced to come up with new names for streets and squares, the public is drawn into a civic participation process, which is beneficial. The decommunization process in Kharkiv, Ukraine’s second largest city, offers evidence of this dynamic. By participating in legally-mandated local hearings on decommunization, local activists prevented authorities from undermining the spirit of the law with plans to preserve some street names such as Dzerzhinsky and Frunze by simply re-dedicating them, for example from Felix Dzerzhinsky to his brother Vladislav Dzerzhinsky, a doctor. In another example of civil society’s effectiveness, state employees who were made to attend public hearings on decommunization in a Kharkiv district ended up voting for the proposals offered by attending activists rather than the proposals made by local authorities.

**Conclusion**

Ukraine’s May 2015 decommunization laws were strongly criticized for the expense involved, for curtailing discussion about Ukraine’s history, and for deepening societal divisions and prompting violence. However, they did not cause the expected strife, due to post-Euromaidan attitudinal changes and the exclusion of the most “pro-Soviet” regions (Crimea and Donbas) from the national campaign. And even though the laws did not increase pro-Ukrainian feelings and reduce support for separatism, as supporters of the laws expected, they did give citizens and activists a say in the process. As a result, the decommunization process may well strengthen civil society in Ukraine while helping it shed wide swathes of its monumental and toponymic Soviet legacies.
Two and a half years after the Euromaidan revolution, Ukraine represents a mixed story of improvements and setbacks. In April 2016, a new cabinet was formed under Prime Minister Volodymyr Groysman. So far, it is struggling to meet the expectations both of society and Ukraine’s foreign partners.

The ongoing military conflict in the Donbas aside, popular demand for change remains high across Ukraine. A persistent energy emanates from Ukraine’s pro-European civil society, even while progress on key reforms remains uneven. The high quality of newly-adopted legislation contrasts sharply with its weak implementation.

Although hope is high, trust in political actors continues to fall. While Groysman and President Petro Poroshenko are close, the disintegration of the parliament’s pro-European coalition has significantly reduced their support base, forcing them to work with non-aligned and “oligarchic” members of parliament.

While the political opposition demands another round of pre-term elections, authorities would like to avoid it, arguing that elections would destabilize the country and play into the hands of Vladimir Putin.

**New Government, Familiar Practices**

Groysman’s ascent to the premiership was preceded by two months of political crisis, triggered by the dissolution of the ruling coalition. Tensions grew high in February after Ukraine’s parliament tried but failed to dismiss the cabinet of Arseniy Yatsenyuk, who had become extremely unpopular. Subsequently, parliamentary factions and groups engaged in wearisome negotiations with Poroshenko and Yatsenyuk on ways to reshuffle the cabinet. Finally, in April, Yatsenyuk announced his resignation. The appointment of 38-year-old Groysman four days later revealed the lasting divisions in parliament: three
parties that had defected from the ruling coalition refused to back him. The Petro Poroshenko Bloc and Yatsenyuk’s People’s Front had to turn to non-aligned deputies for support.

Groysman has traditionally been a close ally of Poroshenko. His tenure as parliamentary speaker from November 2014 to April 2016 confirmed his willingness to follow the president’s lead. The relationship between the president and prime minister could be a double-edged sword, however. In Ukraine’s premier-presidential system, both figures share executive power and control certain public policy spheres. The establishment of working relations between the two could prevent a return to the conflict-ridden environment present in post-2005 Ukraine, especially in areas where the constitution does not sufficiently delineate spheres of responsibility. On the other hand, Groysman’s loyalty to Poroshenko risks turning him into a subordinate, undermining any balance of power or accountability to parliament.

So far, the results are mixed. Former prime minister Yatsenyuk has retained some influence over the new cabinet, particularly through Arsen Avakov, the powerful Minister of Interior, and Pavlo Petrenko, Minister of Justice, both members of the Yatsenyuk cabinet and his close allies. At the same time, Groysman has been able to secure some ministerial posts for his own loyalists, demonstrating his ability to retain some independence as a political actor. Although Poroshenko too was able to strengthen his influence on the cabinet by including several new ministers who are personally loyal (such as Minister of Economy Stepan Kubiv and Minister of Finance Oleksandr Danylyuk), Groysman’s cabinet still looks more like a mosaic of different interest groups than a top-down patrimonial pyramid run by Poroshenko.

One can draw some additional conclusions from the quota principle underlying the formation of the new cabinet. Choosing ministers first and foremost according to their political and personal loyalties has downgraded the overall professionalism of the cabinet. At the same time, the compromise-based practice of filling governmental posts might actually ensure the smoother functioning of the cabinet since it means that all key veto players are stakeholders in Ukrainian political life.

**Illusions of Coalition**

While relations between the president and cabinet are currently calm, damage to the parliament’s relationship with both institutions has not been repaired. Although the parliament installed a new cabinet, a formal ruling coalition is not actually in place. This is because the Petro Poroshenko Bloc and the Popular Front have only 223 deputies together, three short of a simple majority. In order to compensate for this shortcoming, both factions typically enter into situational alliances with independent deputies and, primarily, two non-aligned parliamentary groups, *Vidrodzhennia* (Renaissance) and *Volia Narodu* (People’s Will). Although this kind of shadow coalition allows the president and cabinet to pass
certain important initiatives, their support comes with a price. The two groups consist mostly of oligarch-friendly MPs: *Vidrodzhennia* is associated with billionaire and ex-head of the Dnipropetrovsk regional administration Ihor Kolomoisky, while *Volia Narodu* is composed of many former members of the Party of Regions.

Meanwhile, former coalition members *Samopomich* (de facto led by Lviv mayor Andrii Sadovy), *Batkivshchyna* (Yulia Tymoshenko), and the Radical Party of Oleh Lyashko are not consolidating their efforts while trying to distance themselves both from the government and the Opposition Bloc (a parliamentary faction consisting of ex-Party of Regions members). *Batkivshchyna* and the Radical Party are trying to build parliamentary strategies around opposition to the cabinet’s economic and social policies, especially, of late, a long-anticipated increase in utility prices, and to Poroshenko’s commitment under the “Minsk process” to dealing with Russian proxies in the occupied parts of the Donbas. While both policies are flawed, lately the behavior of *Batkivshchyna* and the Radical Party has been entirely unconstructive, aimed more toward prompting pre-term parliamentary elections than presenting plausible alternatives. *Samopomich*, meanwhile, is undergoing an internal crisis as it struggles to find its place as a pro-reformist political force in opposition to the government.

**New Efforts in Fighting Corruption**

This year, the government has tried to engage in various anti-corruption reforms with limited success. The National Anti-Corruption Bureau and Specialized Anti-Corruption Prosecutor’s Office set their sights on combatting high-ranking corruption, which is *perceived* by the majority of Ukrainian citizens as the number one needed reform. While these new anti-corruption bodies have been able to target some mid-level officials and take cases to court, their ability to investigate the wrongdoings of senior politicians and civil servants remains limited due to weak coordination with the General Prosecutor’s Office, as well as resistance from unreformed courts. In the most notorious case, anti-corruption prosecutors indicted parliamentary deputy Oleksandr Onyshchenko, who is *believed* to have embezzled state funds through fake gas company contracts, but he was able to escape the country prior to his arrest.

To reform Ukraine’s notoriously corrupt and politically dependent courts, parliament adopted constitutional changes in June that the president had proposed. The changes were positively *assessed* by the Venice Commission, the Council of Europe’s legal advisory body, and aim to limit the influence of both the president and parliament on the courts, simplify the organization of the judicial system, and lay a new groundwork for the process of selecting, replacing, and seating judges. In a split parliament, the two-thirds majority vote demonstrated Poroshenko’s ability to maneuver and find the necessary votes, even from among political opponents. However, Ukrainian nongovernmental experts *remain cautious* about the prospects of the judicial reforms. For example, a separate law on the judiciary which was passed right after the constitutional amendments could compromise
the latter’s intended positive effects by preserving a degree of presidential control over the judiciary. There also remains the widespread practice of judges protecting each other within the system.

Reforms to the General Prosecutor’s Office face serious challenges as well. The plan to hire regional prosecutors through open competition became a farce, as nearly all vacant posts were filled with existing prosecutors. The parliament’s dismissal of discredited Prosecutor General Viktor Shokin in March 2016 sent a positive signal to society and the West, but the appointment of his successor, Yuriy Lutsenko, became mired in controversy since parliament made ad hoc legal changes in order to allow him to be appointed given that he lacked the appropriate legal qualifications. At the same time, Lutsenko has so far demonstrated a willingness to act with some independence from the executive branch and has begun to investigate some important overdue cases.

Public Trust Diminished, but not Wasted

Apart from the reform agenda, the stability of the current political regime rests on the attitudes of the Ukrainian population toward their general economic circumstances and the ongoing military conflict in the Donbas. So far in 2016, the level of public trust in all state institutions, except the army, remains low, with the courts and prosecutor’s office faring the worst. Meanwhile, both volunteers and NGOs (together with the army) are generally trusted by the public, reflecting the great potential civil society has in shaping the future of the country. There is a sharp rise of trust in the new police forces, and even state security forces have begun to gain the support of the population.

The electoral attitudes of the population also reflect diminishing trust in the authorities. The ruling parties continue to lose support while opposition forces are struggling to attract disenchanted voters. While people are highly dissatisfied with the current parliament, only 38 percent want pre-term parliamentary elections (47 percent are against). One of the main reasons for this is the absence of clear political alternatives to the existing parties. Several reformist-oriented MPs and civic activists recently announced the creation of two parties that have a liberal ideologies and transparent funding sources, but a lack of cooperation between them may prevent either from challenging the established political forces.

The key factor preventing pre-term parliamentary elections is the unwillingness of both Poroshenko (who has the exclusive right to initiate snap parliamentary elections) and the two ruling parties to advocate for it. Indeed, snap elections would be suicidal for the unpopular People’s Front, and new electoral campaigns would most likely result in an unhealthy confrontation between key political forces and disrupt existing reform efforts. According to poll conducted by the Ilko Kucheriv Democratic Initiatives Foundation in

*The first one, Democratic Alliance, has existed since 2010. In July 2016, three visible public activists and deputies from the Petro Poroshenko Bloc, Mustafa Nayem, Serhiy Leshchenko, and Svitlana Zalishchuk, joined its ranks. The other potential party with the suggested name “The Wave” is considered to be close to Mikheil Saakashvili, the governor of the Odesa region, but it hasn’t been created so far.

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August, a new parliament would still be fragmented, and the formation of a new coalition would be difficult.

While the ruling elites have little to worry about mass popular protest at this time, they should not rest easy. There is continual public dissatisfaction with their activities. In a May 2016 survey, only 26 percent of the population expected the new Groysman cabinet to be effective, although the number is higher than that for the previous cabinet.

Conclusion

Ukraine’s new cabinet is unlikely to significantly change the political trajectory of the country. Improved cooperation between the president and cabinet is offset by fragmentation within parliament. One cannot rule out the possibility that political life may suddenly spiral out of control, even without another pre-term election this year. Reformist efforts are likely to remain halfhearted and driven mostly by Ukrainian civil society and the West. While Ukrainians are significantly dissatisfied with the pace and effects of reforms, their readiness to protest is strongly undermined by fear of instability and the possibility that Russia will capitalize on political turbulence. Preventing bleak scenarios depends on the government’s ability to continue striving down the path of reform and progress, communicate clearly and openly, and deliver visible reform benefits.
Among the many challenges faced by the Ukrainian government after the victory of the Euromaidan, two issues have the highest potential for dividing society and thus weakening the country in its ongoing confrontation with Russia: memory and language. In these two domains, the government has had to reconcile the active minority’s call for a radical break with imperial legacies and the majority’s call to preserve the existent milieu. Ukrainian activists have been insisting that in view of the war with neoimperial Russia, Ukraine must cut all ties with the Moscow-led “Russian World.” However, Kyiv policymakers hold into account that any such policy shifts could impact the loyalty of many citizens who support ideologies and practices brought about by Russian/Soviet imperial rule and which have been maintained during the two-plus decades of half-hearted Ukrainian independence.

Although both memory and language are highly contentious issues, the government chose very different courses for each. It pursued a rather radical nationalist agenda for the memory domain, even though a large part of the population opposed this, particularly those who disapproved of the Euromaidan and resented its consequences. In the language domain, the authorities have largely refrained from making any resolute changes in favor of Ukrainian, mostly out of fear of alienating those who wished to continue relying on Russian. The structural asymmetry of policymaking in the two domains can be explained by political expediency and actors’ misperceptions of public preferences.

A Split in Identity Policies

The best-known aspect of post-Euromaidan memory policies has been the adoption and subsequent implementation of the so-called de-communization laws. The adoption of these laws in April 2015 caused considerable domestic and international controversy. One provision denounced communist (as well as Nazi) ideology and prohibited the
“propaganda” of its symbols. Another glorified a long list of “fighters for Ukraine’s independence” and made it a criminal offence to deny the legitimacy of their struggle. A number of intellectuals, politicians, and activists (in Ukraine and abroad) protested the uncritical embrace of these formations and warned that the imposition of one historical narrative as legally binding could result in limitations on free speech and historical scholarship. They argued that the glorification of World War II Ukrainian nationalists who fought against the Soviet regime but also at times participated in anti-Semitic pogroms and anti-Polish ethnic cleansing, would alienate ethnic Russians in eastern Ukraine and harm Ukrainian relations with Poland and other Western partners. Notwithstanding these warnings, President Petro Poroshenko signed the bills into law. In December 2015, the Council of Europe’s Venice Commission announced that the laws were in violation of its standards and called for a revision, but the Ukrainian authorities have not followed its recommendations.

The implementation of the laws included, first and foremost, the removal of monuments and names related to communism. Numerous monuments to Lenin and other communist figures were toppled in the central, southern, and eastern regions of the country (they were removed from the western regions in the 1990s). The names of streets, town squares, villages, etc., across the country were changed from communist names to neutral names or names linked to new nationalist narratives of Ukrainian history (often as a way to propose continuity between the past and present anti-Russian struggles).

If local councils did not change names from the ground up, the parliament would impose changes by fiat, which sometimes provoked protests from conservative residents. In addition, the law on the prohibition of communist propaganda provided legal ground for the ban of the Communist Party, which the Ministry of Justice initiated in 2014 due to the party’s involvement in separatist activities. The court’s verdict in December 2015 ultimately outlawed the party, leading to the reconfiguration of Ukraine’s electoral field.

In contrast, there has been no consistent policy in the language domain. If anything, the government refrained from resolute action, most likely out of fear of alienating Russian-speakers who, it was believed, would oppose the active promotion of Ukrainian because it would lead to the curtailing of the use of Russian. After an unfortunate attempt immediately after President Viktor Yanukovych’s political demise to revoke the supposedly Russification-oriented language law that he had insisted on adopting in 2012 for electoral purposes, the post-Euromaidan leadership seemed to conclude that that law was there to stay because abolishing it would ignite a political confrontation playing into Kremlin hands. The Ukrainian Constitutional Court, which is dependent on and usually honors requests from the presidential administration, refused to consider, for more than two years, an appeal made by Ukrainian-language supporters to annul the law. In recent months, the court finally started hearing the appeal but it has not yet delivered a verdict. In the meantime, Ukraine’s parliament has refrained from adopting a new language law to replace Yanukovych’s discredited one. It is only very recently that several bills were
submitted by pro-Ukrainianization parliamentary deputies but it is far from certain if any of them will become a law.

The Ukrainian government was reluctant to revise laws or executive provisions regulating language use in particular areas, even those where the situation of the titular language was particularly worrisome. Two legislative provisions that the parliament did adopt by no means resulted from any comprehensive program of Ukrainianization, even if their passing demonstrated the considerable weight of Ukrainian-language supporters in the parliament. The first was the new Law on Civil Service that was adopted in December 2015 and which stipulates that civil servants are obliged to master the state language (Ukrainian) and use it when on duty. While seemingly trivial, the confirmation of the exclusive role of the state language in the public sector demonstrated the prevalence of supporters of Ukrainian over those deputies who wanted the new act to reflect the 2012 law provision allowing the use of so-called regional languages (meaning first and foremost Russian) alongside the state language. Because the newly adopted civil service law excluded the use of Russian, it presented a challenge to many public servants who primarily rely on Russian in their work and to those with low proficiency (or low esteem) of Ukrainian. It remains to be seen how strictly the law will be implemented, but based on previous experience (pre-and post-Euromaidan), it does not bode well for actually expanding the usage of Ukrainian.

Second, amendments were made to Ukraine’s broadcasting law that took effect in November 2016. The law requires radio stations to play 35 percent of their songs in the titular language, a move intended to remedy its nearly complete marginalization (by Russian) in this domain. Although the champions of Ukrainian language overcame resistance from the “radio lobby” that argued there were simply not enough Ukrainian-language songs to fill the 35 percent quota, the adopted law turned out to be less ambitious and have less impact than originally planned. The amendment only covers radio and not television. Television remains the most popular information source in Ukraine and the Russian language prevails, particularly during prime time.

It is clear that the status and use of the titular language has not considerably improved since the Euromaidan, notwithstanding the new government’s declarative support for its development, which differs markedly from Yanukovych’s focus on the rights of Russian-speakers.

**Why the Different Approaches?**

Although many in the Ukrainian government think that the differing state approaches about memory and language reflect the attitudes of the population toward the two issues, in fact, both are contentious to roughly the same degree. In both cases, the general population is divided over the appropriateness of radical change, though the pro-Euromaidan segment predominantly supports a resolute course. A nationwide survey
conducted by the Kyiv International Institute of Sociology in September 2014 (half a year after the Euromaidan) revealed that 39 percent of the entire sample “fully agreed” or “rather agreed” that “Ukraine must be cleansed of symbols of the Soviet past,” while 33 percent resolutely or hesitantly disagreed. Among respondents who indicated a “positive” or “rather positive” attitude toward the Euromaidan (just over half of the sample), the level of agreement with the above statement was as high as 64 percent, and disagreement was as low as 13 percent. Similarly, while 33 percent of all respondents indicated a generally positive attitude toward the WWII Ukrainian Insurgent Army (one of the most controversial entities on the list of “fighters for Ukraine’s independence” in the 2015 law), in the pro-Euromaidan subsample, this share amounted to 60 percent.

On the language issue, based on the same survey, while 40 percent of all respondents wanted Ukrainian to be used “more than now” and 50 percent would rather keep its scope “same as now,” for the Euromaidan supporters the respective figures were 64 percent and 33 percent, a clear preference for change. In the entire sample, 46 percent believed that the primary task of state language policy was to promote the expansion of Ukrainian in all social domains, while 34 percent wanted the state to “resolve” the issue of the status of Russian (which in the Ukrainian context means “enhance” rather than “downgrade”). In contrast, the pro-Euromaidan segment clearly preferred the promotion of Ukrainian, with 70 percent for it versus 14 percent for “resolving” the issue. On some aspects of state policy, the pro-Ukrainianization attitude prevailed in the sample as a whole. For example, 59 percent agreed that public servants were obliged to answer in Ukrainian (at least to citizens addressing them in Ukrainian) and a further 23 percent preferred the obligation to be limited to territories with a Ukrainian-speaking majority.

Part of the reason why post-Euromaidan Ukrainian political parties do not respond to the pro-Ukrainianization attitude of their constituencies is that they misinterpret what the public prefers, probably because they get caught up in noisy discourses rather than focusing on sociological data (which reveal public opinion). This is demonstrated by the occasional statements of politicians, and is confirmed in my interviews with several political consultants working with coalition parties. Influential policymakers tend to believe that the current laissez-faire policy approach better reflects the preferences of the Ukrainian population in general (and the pro-Euromaidan segment) and that the aggressive promotion of Ukrainian would provoke discontent among Russian-speakers. While accepting the argument of some popular bloggers that insistence on the exclusive use of Ukrainian amounts to disrespect for Russian-speaking patriots defending Ukraine in the Donbas, these policymakers downplay the counter-argument of Ukrainian-speakers who find the continued prevalence of the former imperial language unacceptable, particularly in view of Ukraine’s current war with neoimperial Russia.

* The survey was funded by a grant from the Canadian Institute of Ukrainian Studies, University of Alberta. All figures in the text are based on the author’s analysis of the raw data.
Looking at social media (Facebook) discussions about language and memory policies in Ukraine, for pro-Euromaidan writers (often highly educated and politically active urbanites), language does seem to be more contentious than memory. Most discussants support a somewhat radical break with the Soviet past, not least because the “Russian World” continually and aggressively asserts its continuity in the Ukrainian region (and often beyond). The apparent difference between the two domains hides both the strong preference for some kind of Ukrainianization, at least among Euromaidan supporters, and the considerable opposition to de-communization among other segments of the population.

This misperception of public preferences explains why Ukraine’s new government has not initiated any substantive changes in language policy, limiting its support for the titular language to the declarative appreciation of its symbolic value and the endorsement of its exclusive legal status. In a bit of a twist, Poroshenko has placed emphasis on the importance of English, declaring it the main language of opportunity and therefore a language worth actively learning and using. Prominent figures in the government do not usually publicly object to initiatives calling for the expansion of Ukrainian because they do not want to be seen as indifferent to the national language, which could tarnish their reputations. Such was the case with the law introducing language quotas for music on radio stations (a project initiated by language activists and Ukrainian musicians); it was eventually supported by all coalition factions in the post-Euromaidan government.

In view of the lukewarm attitudes of political actors toward the language issue, their pursuance of a consistent memory policy is assisted by the government’s designated body that was set up to deal with this domain: the National Institute of National Memory, which is charged with both the elaboration of legislation and supervision of its implementation. In contrast, language policy was assigned to several agencies whose leaders have different views on the topic and about what priority it should be on the government agenda. While this structural asymmetry existed long before the Euromaidan, the new government gave the memory domain a boost when it appointed Volodymyr Viatrovych, an energetic manager and staunch supporter of the nationalist narrative, as the National Institute’s director. He thus became the main driving force of the adoption and implementation of de-communization laws and other memory-related legislation. It would take great effort, and the government obviously did not consider it necessary, to create a special agency for language matters.
Conclusion

It is too early to tell whether the difference between the Ukraine government’s courses on memory and language is igniting a conflict between groups that hold opposing views or whether it serves to dampen their viewpoints. While social network discussions vividly demonstrate incompatible positions and heated emotions, they cannot be taken as a reliable indicator of public opinion, and no comparative survey data on popular attitudes to state policies in the two domains is available. So far, political forces seeking to mobilize their constituencies against the incumbent government have not utilized these issues. They prefer, for the time being, to focus their criticism about low living standards and the unabated war in Donbas. It remains to be seen whether memory and language will reemerge in future electoral campaigns in the same way the issues were featured in confrontations between rival elites following the Orange Revolution.
Old Political Habits Die Hard in Ukraine

Yuriy Matsiyevsky

Ostroh Academy National University, Ukraine

Since Ukraine’s independence, no government in Kyiv has ever completely become authoritarian or democratic. While many states in the region have been seized by authoritarianism, Ukraine has been trapped by political hybridity. Fairly free elections take place and new faces come to power, but informal political practices endure and pyramids of power are re-established.

Three years have passed since the Euromaidan, enough time to evaluate Ukraine’s new political dynamics. What we see is that Ukraine’s internal enemies have arisen yet again: elite graft, corruption, secret dealmaking, and rent-seeking. To help Ukraine break out of this institutional trap, better comprehension of its post-Maidan political and institutional trappings is needed. Indeed, a prerequisite for progress is that the institutional core of Ukraine’s hybrid regime system needs to be truly dismantled.

Regime Dynamics

One of the main political science approaches to understanding regime dynamics emphasizes “democratic breakthroughs” and “autocratic reversals.” Actors matter, but even more important are the rules they share. A genuine regime change occurs when new players arise and actors accept new rules, which has not been the case with Ukraine.

According to major democratization indices, the political regime in Ukraine since the mid 1990s has always been “hybrid”—marked by competitive elections but lacking the rule of law.† The Orange and Euromaidan revolutionary political cycles allowed new players to enter politics but new rules were not developed. What have often been interpreted as Ukrainian democratic breakthroughs have instead amounted to the replacement of one group of rent-seekers with another. Informal rules and practices circumvent formal procedures. Political hybridity, therefore, might be conceived as an institutional trap. An analytical approach that focuses on such trappings seems well equipped to explain


† See, for example, Freedom House democratization indices for Ukraine from the mid 1990s to 2016.
Ukraine’s reform impasses and likewise other political dynamics across Eurasia. I discuss here the changes in the formal and informal institutions and the elite structures since the Euromaidan.

Pyramid-Power Systems

A single-pyramid system is where power is concentrated in the hands of one entity. After the fall of the Yanukovych government in February 2014, a new majority was formed in the parliament. On February 22, 2014, Oleksandr Turchynov was elected as head of the parliament and the next day the body appointed him interim president of Ukraine. On February 27, a new parliamentary majority coalition appointed Arseniy Yatsenyuk as prime minister with the task of running a “government of national unity.” Therefore, supported by the new parliamentary majority, the Turchynov-Yatsenyuk duumvirate (both from Yulia Tymoshenko’s Fatherland party) had decisive influence on all decision-making processes in Ukraine, though Tymoshenko herself was effectively isolated from power by her “allies.”

This post-Euromaidan system lasted for four months, from the time of Yanukovych’s escape to Russia and the pre-term presidential elections in May 2014. During this period, the leaders of the former official opposition bargained among themselves for key government positions, namely: Yatsenyuk-Turchynov of Fatherland, Oleh Tyahnybok of Svoboda, and Vitaly Klytchko of UDAR. The result of this trade-off was that UDAR, which did not officially take part in the government formation, received several important posts, including deputy minister of justice, head of the security service, head of the foreign intelligence service, and heads of at least five state administrations. These appointments were allegedly agreed to in exchange for Klytchko not running for president and supporting Petro Poroshenko in his presidential campaign.

In the first Yatsenyuk government (February–December 2014), the Fatherland party received the seats of the first deputy prime minister, five additional ministerial positions, and seven heads of regional state administrations. For its part, Svoboda received the posts of vice prime minister, prosecutor general, head of the state agency of land resources, three additional ministers, and six heads of regional state administrations. As Ukrainian investigative journalist and parliamentarian Serhiy Leshchenko remarked, “positions are distributed by quotas [between the parties, behind doors], without public announcement.”

In formal terms, the new legislators took steps to shift Ukraine from a presidential-parliamentary model to a premier-presidential model, similar to what Ukraine had between 2005 and 2010. What happened in reality is a shift that can be described as going from a “single-pyramid system” to a “competing-pyramid” one.

* In anticipation of pre-term parliamentary elections, a group of politicians headed by Yatsenyuk and Turchynov left the Fatherland party in late August 2014. In the October 2014 election, their newly registered People’s Front party won 82 seats, while Tymoshenko’s Fatherland received only 19 seats, losing 93 seats.
Though there was an increase in the number of players bargaining for a share in the second Yatsenyuk government (December 2014–April 2016), the nomination principle was the same. What transpired was that the “Euromaidan quota,” which was initially filled with prominent Euromaidan figures and experts, was virtually eliminated by new players. One aspect of note was that compared to previous governments, Yatsenyuk’s were the youngest, with an average age of 38, and more professional; only two ministers in his second government did not speak English. However, the way the government was formed indicates that old habits die hard.

The quota principle that was first noticed in 2002, at the time of Yanukovych's premiership, has been an ongoing major principle in filling senior positions in Ukraine. In contrast to merit-based competitive nominations, quota-based nominations garner loyalty to the higher authority. If an outsider receives a post, he or she cannot transform the system. This was discovered, to their own chagrin, by Pavlo Sheremeta, Ayvaras Abramavychus, Natalie Jaresko, and Mikheil Saakashvili.

Abramavychus’ resignation as minister of economic development in the second Yatsenyuk government exposed the hidden rivalry between the president and the premier for control over important state enterprises and the struggle between reformers and rent-seekers. His resignation provoked a political crisis that the president, the premier, and certain oligarchs solved by reformating the government and replacing Yatsenyuk with Volodymyr Groysman, a protégé of Poroshenko. This new elite deal resulted in the advent of a “strategic septet” — an informal group of the most influential players in Ukrainian politics. This “shadow politburo” emerged to retain control over the rent under challenges provoked by the Russian aggression on the one side and the pressure for reforms – from the West and civic activists – on the other side.

Thus, despite the growth of the informal influence the president has over the executive, legislative, and judiciary, he has to share resources with other political and economic actors and groups. One small example of how the government and private interests intermingle is the nationalization of Privatbank, the largest private bank in Ukraine, which came about because of an informal agreement between Poroshenko and Ihor Kolomoisky and Gennadiy Bogoliubov, the bank’s majority stakeholders. The major political division in today’s Ukraine is thus between an alliance of major state and business actors on one side and reformers in parliament, the media, and civil society on the other.

The new elite consensus reveals three things. First, facing both external and internal challenges, Ukraine’s ruling coalition tries to cooperate rather than fight. However, in contrast to various Eastern and Central European “elite pacts” that try to keep a foot on the pedal of reform (more or less), Ukraine’s elites mostly strive to preserve a system that enables rent extraction, even in times of war. Second, rent-seeking prevents the development of any long-term elite pact and opting to play by the rules. A recent spark between Poroshenko and the mayor of Lviv, Andriy Sodovy, whose faction in the
parliament is essential for maintaining the coalition, illustrates how “would-be partners” easily turn into opponents when rents are at stake. Third, the probability of Ukraine descending to a Yanukovych-type one-man rule system is quite low. Poroshenko, like his predecessors, is building a single-pyramid system, but pressures from within and without force him to rely on “partners.”

In this regard, Poroshenko’s presidency differs from that of Yanukovych, who ruled by family clan, and from that of the Orange revolution’s Viktor Yushchenko, who fought with the Tymoshenko power node. Under favorable circumstances—for instance if there is some economic growth, a lessening of Western reform pressures, and/or the Donbas becomes a frozen conflict (probably the best case scenario)—Poroshenko’s regime might come to resemble that of Leonid Kuchma—one with a “diffuse network.”

Clientelism, Elite Rotations, and Pay-to-Play

In a competing-pyramid system, no player is able to establish his or her single network, making the struggle for dominance an inherent trait of the system. This is how newly-elected Poroshenko started to build his own network and undermine the Turchynov-Yatsenyuk duumvirate. During his first year in office, Poroshenko dismissed 22 of 24 heads of regional state administrations who were appointed by Turchynov. Clientelism in the form of loyalty and favoritism took the upper hand and became an important factor of appointments to public office.

Commentators and journalists described that stage as the “coming of the Vinnytsya clan to the capital” (Vinnytsya is Poroshenko’s native region). This is how the former Vinnytsya mayor, Groysman, initially became the head of parliament and later prime minister. This is also how Ihor Kononenko became the deputy head of Poroshenko’s faction in the parliament and Borys Lozhkin became the head of the presidential administration. It was quite common to hear at that time (September 2014) “that the president is repeating the mistakes of his predecessor,” as evidenced by Valeriy Heletey becoming minister of defense and Valeriya Hontarieva becoming head of the National Bank.

Meanwhile Yatsenyuk’s network, including the head of the Security and Defense Council (Oleksandr Turchynov), the Minister of Internal Affairs (Arsen Avakov), the head of the People’s Front faction in parliament (Mykola Martynenko) and, allegedly, aligned oligarchs (under Ihor Kolomoisky), continues to operate even after Yatsenyuk left the post of prime minister.

The circulation of elites in Ukraine never produced a genuine renewal. Neither in 1991 nor in 2005 were entrenched rent-seekers replaced by true reformers. Until the beginning of the 2000s, parliament was dominated by communists. This group was partially moved and partially incorporated into the new oligarchy. In regular electoral cycles, elite circulation was actually elite reproduction; in moments of crisis, like during the 2004 Orange and 2014
Euromaidan cycles, it was quasi-replacement. If we look at the percentage of those who pursue public and not private (party) interests, renewal has been quite limited. Even though there was a 56 percent quantitative renewal of parliament in the 2014 elections (out of 423 MPs), less than one-hundred legislators truly pushed for reforms (based on my analysis of voting patterns).

Tomas Fiala, the founder of Dragon Capital investment bank in Ukraine, once revealed that both Yatsenyuk and Poroshenko traded seats on their party lists for $3-10 million. This allegation is supported by Oleksandr Onyshchenko, who was a former Poroshenko parliamentary broker and now a fugitive. He claims he paid $6 million to be placed on Poroshenko’s party list. The reality is that two-thirds of members of parliament today are millionaires, and preserving the status quo appeals to them. On one hand, a genuine elite renewal was blocked by the deputies themselves who preserved the mixed electoral system. On the other hand, the Euromaidan movement failed to form a reform party capable of gaining a majority in parliament.

In the executive and administrative branches of government, elite renewal was higher, though the quality of governance did not improve. Though Yanukovych’s Party of Regions is formally out of power, 29 of its former members entered parliament via Opposition Bloc seats, 17 of them with the help of the Petro Poroshenko Bloc. Moreover, 64 members of parliament voted for the “dictatorship laws” in January 2014, and 37 deputies who were under investigation by the media became parliamentarians. The previous parliament had seven “family clans,” the most notable being the Yanukovych clan. At least 55 deputies had relatives in the parliament or in executive bodies. We see similar networks today. For example, clan members of Petro Poroshenko, Yuriy Lutsenko, and Victor Baloha are in parliament thanks to the help of powerful relatives. Thus, in Ukraine, we see repeat dynamics of “new faces, old system” as well as “same faces, same system.”

Conclusion

Ukraine has had relatively free presidential and parliamentary elections, which legitimizes new governmental actors. However, genuine renewal is elusive and old elite codes keep Ukraine’s institutional core unchanged. Informal practices, clientelism, and corruption continue within new pyramidal-power schemes. Under Poroshenko, political competition for rent prevents developing stable elite agreement.

The institutional core of Ukraine’s regime system persists. This is a challenge to dominant political science conjectures about governance dynamics and regime change hypotheses. With this understanding, Western policies toward Ukraine should be threefold. First, supporters of Ukraine should prioritize initiatives that dismantle the informal institutional core of its hybrid system (transparent financial e-declarations for state officials would be a good start). Second, the West should support long-term institution building over short-
term financial stabilization. And third, it should reconsider relying on Kyiv’s leadership and instead support grass-roots initiatives that press for reforms.
Today, Ukraine has a coalitional-presidentialist political system that can best be categorized as a semi-managed democracy. This model has four main features: consolidation of power by President Petro Poroshenko, formation of a pro-presidential coalition in parliament, integration of former president Viktor Yanukovych’s oligarchic representatives, and a rise in the importance of sub-national politics. This political system confirms the end of the post-Euromaidan era of political diversity, even though a consolidation of presidential power remains uncertain and the regime will probably face new tests in the coming months.

Poroshenko at the Pinnacle

The first feature of Ukraine’s current system is that Poroshenko consolidated his powers in 2016. He now wields considerable influence over national and regional politics. He has personal legitimacy from popular elections and relative autonomy from all political parties (even his own parliamentary party is fairly weak). He uses a classic “carrots and sticks” method, bestowing elites with patronage rents or law enforcement investigations (blackmail). Poroshenko has also successfully expanded his formal control and informal influence over key political institutions, including the Cabinet of Ministers, Prosecutor’s Office, Defense Ministry, security services, judiciary, and governors.

The president is the key “veto player” in government; he has the most power in the country to block initiatives. His April 2016 blitzkrieg to reconfigure the governing coalition demonstrated his semi-coercive political negotiation mechanism at work and marked the “return” of the presidency as the central player. When Arseniy Yatsenyuk resigned as prime minister last year, his People’s Front party became a junior partner of Petro Poroshenko Bloc—“Solidarity” (BPP). The appointment of Volodymyr Groysman to replace him created the prerequisite for an increase of presidential influence on the Cabinet of Ministers and on the entire executive branch of power. In fact, Groysman’s appointment significantly hinders the duality and competition among informal networks of executive power and integrates the premiership into the president’s patronage pyramid. This situation recalls the historical tandems of Kuchma-Pustovoitenko, Yushchenko-
Of note, a crucial factor that contributed to the strengthening of Poroshenko’s power was the appointment of Yuriy Lutsenko as Prosecutor General of Ukraine in May 2016. This move allowed the president to maintain control over the Prosecutor’s Office and use it as an instrument of influence.

Coalitional Cartels

The second feature of Ukraine’s political development is the new composition of the pro-presidential parliamentary coalition, which consists of a political cartel involving the BPP and the People’s Front. This configuration informally operates in a “two plus two” mode with key political decisions passed with the support of two oligarchic factions in the parliament: Vidrodzhennya (backed by Dnipro oligarch Ihor Kolomoyskyi) and Volya Narodu (supported by several clans). Without these two factions, BPP-People’s Front can secure a maximum of 221 parliamentary votes, or about 205 votes in practice. Currently, 226 votes are needed to pass a bill out of 450 (50 percent +1); Vidrodzhennya and Volya Narodu can contribute up to 40 votes. Under some circumstances, Oleh Lyashko’s Radical Party could add 20 votes.

Therefore, in order to implement his policies, Poroshenko has to rely on oligarchic factions. To get their votes, he needs to provide them with concessions and privileges, such as sources of rents and/or immunity from persecution. In contrast, most parties from the former 2014 democratic coalition, including Yulia Tymoshenko’s Batkivshchyna and Andriy Sadovyi’s Samopomich, as well as independent majoritarian MPs, have aligned to become the anti-presidential consolidated coalition.

It is likely that in the near future there will be a coalition recomposition into a “one-plus-one” involving a full-blown merger of BPP with the People’s Front, and the formation of a new party, possibly called Nash Kray, which will consist of Vidrodzhennya and independent majoritarian MPs. This new party could ostensibly become a partner of BPP (replacing People’s Front).

Yanukovych’s Reborn Representatives

The third major development in contemporary Ukrainian politics is the wide-scale integration of oligarchic representatives of the Yanukovych regime into the BPP-People’s Front cartel. To a large extent, the expansion of the political, economic, and electoral base of BPP-People’s Front is based on the re-integration of the regional political machines of the former Party of Regions. The cooptation of these regional patron-client networks and local clans, as financial donors and organizational bases, allows the cartel to expand its electoral influences at local levels.
The relationship between politics and economy in Ukraine, thus, still has an oligarchic and neo-patrimonial nature. In the current system, the sources of rent in state corporations, ministries, and regions are controlled by BBP-People’s Front via so-called smotryashchie—people who oversee shadow money flows and corruption schemes in regional entities. This type of rent allocation facilitates shadow investments into politics, making politics in Ukraine a highly lucrative business.

Active Local Politics

The fourth trend is the rapid development of sub-national politics in Ukraine. This process is substantially stimulated by Kyiv’s partial loss of control over regional elites and the relative autonomization of local clans. This trend has resulted from the post-Euromaidan partial collapse of central authority coupled with decentralization reforms, leading to the transfer of financial resources to regional and local government. In fact, one may observe the formation of a new two-tier political system marked by the development of regional political regimes that have peculiar electoral compositions and which are very different from politics taking place at the national level. Sub-national political regimes are based on the dominance of relatively autonomous local patron-client systems and political machines that enter into various arrangements with national political players and the party of power. Oftentimes, however, these networks maintain forms of autonomy. This trend produces multiple configurations of political settlements at the local level and promotes the emergence of regional party projects and electoral blocs.

It is the formation, continuity, and durability of sub-national political machines in Ukraine that explains why the country can be called a “semi-managed” and not “fully managed” democracy. For the most part, sub-national political machines and patron-client networks rely on autonomous corruption sources and local sources of rent. As a rule, local sub-national political machines are incorporated into, or turn into, junior partners of the pro-presidential party of power. In addition, they may sometimes become recruiting, organizational, and financial cores of the presidential network. In the past, for example, this was the case with the Dnipro and Donetsk political machines. The best example currently is the west-central city of Vinnytsya, which is Poroshenko’s original homeland. In most cases, local political machines can maintain political autonomy for a long time, as has happened in Zakarpattia, Odessa, Kharkiv, and Lviv.

The local elections of October 2015 illustrate these trends. In that election, the president’s candidates had no success in the largest regional centers of Ukraine, including Kharkiv, Dnipro, Odessa, and Lviv, despite the active expansion of the presidential network at many levels. BPP candidates failed to win most mayoral elections because local political machines successfully nominated their own candidates. Key examples include Hennadiy Kernes winning the mayorship of Kharkiv, Borys Filatov in Dnipro, Gennadiy Trukhanov in Odessa, and Andriy Sadovyi in Lviv.
The failure of upsurges by pro-Russian People’s Republics in Kharkiv, Dnipro, and Odessa can be explained not by official policies or actions from Kyiv but by the rent-seeking interests of local and regional clans, many of which are part of Kolomoyskyi’s regional belt network. Consequently, actors in these southern and eastern regions are beneficiaries of the post-Euromaidan system and stand as strongholds of the center’s authority in these regions.

Key Issues that Will Test the System

There are several critical issues that may very well affect Ukraine’s political arena in the short and medium term.

• Reconfiguration of the political landscape due to (early) parliamentary elections

This issue is on the horizon of the populist opposition (Batkivshchyna, Samopomich and, partially, the Radical Party) and the Opposition Bloc. All these forces want to expand their parliamentary presence and will seek to do so by criticizing the president, the government, and the current coalition’s policies. The main objective, therefore, of the ruling BPP-People’s Front cartel is to block or delay early elections. The People’s Front will unlikely repeat its autumn 2014 success (at that time it won the party-list competition and successfully nominated Yatsenyuk for the premiership). The electoral promise of the BPP as a major parliamentary player at the moment is unclear.

• Potential merger of the BPP and People’s Front

The instinct of political survival may push the People’s Front to join a stronger partner, such as the BPP. However, the competition of business interests and power-sharing over rents makes certain that some influential players within the People’s Front will want to maintain an autonomous status, which they would lose if the parties fully unify. The potential deal-breaker is control over the Ministry of Internal Affairs (MIA), the only power institution that is not yet under presidential control. Under the sufficiently skillful leadership of Arsen Avakov (a founding member of the People’s Front), the MIA has become one of the main power centers in the post-Euromaidan system. It has control over many paramilitary groups and voluntary battalions, and has powerful leverage on political processes and rent sources. The People’s Front’s unwillingness to lose control over the MIA is one of the main obstacles to a merger of the two parties. As political bargaining plays out, it will be interesting to see if Avakov will keep hold of his office and if the MIA will succumb to presidential control.

• Redistribution of the media market

The largest national television networks, such as Inter TV and 1+1, are controlled by the groups of Firtash-Lyovochkin and Kolomoyskyi, respectively. One of the options within a
potential Poroshenko-Kolomoyskyi trade-off arrangement presupposes the latter truly securing control over some of his own assets in exchange for him selling the 1+1 network to pro-presidential business structures. Similar negotiations are being held in relation to Inter TV, which was the target of intense attacks by the People’s Front in September 2016, and to the popular news channels 112 Ukraine and News One.

- Subjugation of independent political machines in major Ukrainian cities

In the near future, one could observe a possible subordination to presidential authority or the destruction of the independent political machines in the major cities of Kharkiv, Dnipro, Odessa, and Lviv. Past pro-presidential attacks (using law enforcement structures and media) did not lead to the disruption of the status quo in these areas.

- Informal subordination of the new anti-corruption bodies

The new anti-corruption bodies like the National Anti-Corruption Bureau and the anti-corruption agency of the Prosecutor’s Office could potentially lose their autonomy. In Ukraine, as in many other hybrid regimes, there is a tendency toward the selective use of anti-corruption investigations as a tool for suppressing political opponents and redistributing business assets. All Ukrainian presidents have been very successful in the art of selective justice. The success or failure of informal subordination and soft integration of the new anti-corruption structures into the presidential power vertical is a key test for Ukraine’s democratic reform.

Conclusion

The 2016-2017 reconfiguration of Ukraine’s political system yielded a semi-managed democracy. It marked the end of the post-Euromaidan divided rule system of 2014-2016, with an intense expansion of presidential control over key political institutions and the dismissal of Yatsenyuk as an independent power player. Poroshenko demonstrated apt usage of both formal and informal levers of patronal presidentialism to harness an effective coalition. His moves are part and parcel of the four change dynamics identified here:

- presidential consolidation;

- coalition recomposition;

- oligarch co-optation; and

- ascendant sub-national political machines.

However, consolidation of presidential control is not complete because competition and contention within the political system continue. There are parties and elites in the parliament and at the local level that can effectively impede the presidential agenda. Many
prospective civil society political projects, such as the Democratic Alliance or Mikheil Saakashvili’s New Forces Movement, plan to gain significant popular support and occupy more of a place in the political system. Taking into consideration the key issues raised when looking ahead, a test of the durability of the current system is in stor
III. The Donbas Unresolved Conflict
Domestic Sources of the Donbas Insurgency

PONARS Eurasia Policy Memo No. 351
September 2014

Sergiy Kudelia
Baylor University

The armed conflict in the Donbas has been widely portrayed in Western policy circles and mainstream media as a result of Russia’s covert military aggression against Ukraine with little local support. On April 13, Ambassador Samantha Power, the U.S. Permanent Representative to the United Nations, compared events in the region to Russia’s intervention in Crimea, stating that there was “nothing grassroots-seeming about it.”* Three former U.S. ambassadors to Ukraine, in a joint article in late April, accused the Kremlin of “running an insurgency in Ukraine’s east” and suggested that an order from President Vladimir Putin would compel insurgents to lay down their arms.† Since then, Western media reports and analysis have increasingly focused on exposing Russia’s ties to the insurgency. Concentrating on Russia’s role in the conflict, however, overlooks the fact that the armed separatist movement emerged in direct response to the violent regime change that took place in Kyiv. It initially consisted largely of locals and had the support of at least a quarter to a third of the residents of Donbas.‡

This memo views the Donbas insurrection as primarily a homegrown phenomenon. It argues that political factors—state fragmentation, violent regime change, and the government’s low coercive capacity—combined with popular emotions specific to the region—resentment and fear—played a crucial role in launching the armed secessionist movement there.

Structural Feasibility

On the structural level, political instability in the capital and low state capacity—two variables associated with a higher feasibility of civil war—were clearly prominent in Ukraine’s case prior to the start of the insurrection. As political scientists James Fearon and David Laitin note, weak hybrid regimes with an unstable mix of political forces or

* http://abcnews.go.com/ThisWeek/week-transcript-ambassador-samantha-power/story?id=23293462&page=2
‡ In a June 26 – July 2 KMIS poll, 34.8 percent of respondents in the Donetsk region said they trusted the leadership of the DNR and 26.2 percent of Luhansk region residents expressed trust in the leadership of the LNR. The estimate of the composition of the insurgency has been offered by the interim deputy head of Ukraine’s presidential administration Serhiy Pashynskyi: http://reporter.vesti.ua/61677-vy-ne-predstavliaet-kak-tjazhelo-bylo-zastavit-armiyu-voevat
governing arrangements substantially increase the probability of the onset of war “due to weak local policing or inept and corrupt counterinsurgency practices.” In Ukraine, regime change in late February 2014 was preceded by the gradual loss of government control over almost half of state territory as protesters seized regional state administrations. It was also accompanied by the use of violence, by both law enforcement and protest participants, which had become especially pronounced since January 19. Low-level violence quickly spread from Kyiv to other regions. The first violent clash in the Donbas between supporters and opponents of the Euromaidan occurred in the main square of Donetsk on January 21. These clashes became more intense after Viktor Yanukovych’s ouster and resulted in the first killing of a demonstrator from the nationalist Svoboda party in Donetsk on March 13.

Three political variables markedly increased the feasibility of war in the Donbas.

1) **Fragmented State.** Regional self-governed enclaves in western and central Ukraine that emerged in late January 2014 defied rule from Kyiv, created a sense of state fragmentation, and further accelerated in the final phase of the Euromaidan. The authorities’ failure to stop the violent seizure of government buildings and reestablish control over half of the country indicated a de facto disintegration of the state. Their continued rule in eastern and southern Ukraine rested primarily on the political dominance of the Party of Regions (PR) and limited support there for the Euromaidan. Once the regime collapsed and former opposition leaders captured power, the PR began to fall apart and a powerful centrifugal force spread to the east. This was accompanied by the diffusion of resistance tactics earlier used by Euromaidan activists and later adopted by the emergent separatist movement.

2) **Low Government Legitimacy.** Ukraine’s new post-Euromaidan authorities were widely viewed as illegitimate across the southeastern regions, but Donbas residents stood apart in the strength of their beliefs. In early April, approximately half of all respondents in the Donetsk and Luhansk regions expressed strong confidence in the illegality of the acting president and the new government, compared to about a third or fewer respondents in other southeastern regions with a similar view. † This intense rejection of the new authorities could be tied to an overwhelmingly negative opinion of the Euromaidan. Seventy percent of residents in the Donetsk region and sixty-one percent in the Luhansk region viewed the protest movement as a Western-sponsored armed coup. ‡ The average for the rest of southeast was almost half that number (37 percent). While new Kyiv-appointed governors in Donetsk and Luhansk had dubious legitimacy, the Party of Regions with a majority in local councils also lost its authority. Only four percent in each region wanted to see its members represented in the new government. The resulting power

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† Ibid.
vacuum created an opening for previously marginalized political entrepreneurs to claim a popular mandate and lead a challenge both against Kyiv and the established local elites.

3) **Coercive Failure.** The coercive capacity of the new government in the Donbas proved highly limited from the start. This was partially because the local police was staffed with Yanukovych loyalists but also because of the perceived disregard of former opposition leaders for law-enforcement bodies. During the first anti-Kyiv rallies, police chiefs in various Donbas towns promised to remain “on the side of the people.” Berkut officers returning from the Maidan were hailed as heroes and invited to speak at the rallies. Although Ukraine’s Security Service (SBU) managed to arrest several separatist leaders in Donetsk and Luhansk in March, it did not stem the popular tide. Once protesters started seizing government buildings across the region, police either fled or defected to the protesters’ side. One high-ranking defector was Aleksandr Khodakovsky, who earlier led the SBU special operations unit in Donetsk and has since become an insurgent commander of the “Vostok” battalion. The peaceful withdrawal of the Ukrainian army from Crimea similarly signaled that the Ukrainian government was not ready to fight. Ukraine’s coercive failure became further apparent when the first armored vehicles with Ukrainian soldiers appeared in the Donbas in mid-April as part of the government’s “counterterrorism operation.” Surrounded by locals, the soldiers surrendered their vehicles or retreated back to their bases. This first encounter between the government and newly-organized rebel forces showed that local support could tilt the power balance in the latter’s favor even though they remained outmanned and outgunned.

**Group Emotions**

While structural theories may point to variables that create an opportunity for armed resistance, they do not specify the exact mechanisms that push people to fight. As political scientist Roger Petersen notes, “structural change produces information that is processed into beliefs that in turn create emotions and tendencies toward certain actions.” He suggests three instrumental emotions—fear, resentment, and hatred—that help to explain the beginning of ethnic conflicts. Hatred requires a prior history of conflict and long-standing animosity between ethnic groups, which has not been pronounced in Ukraine. Resentment and fear, by contrast, bear direct relevance to the Donbas conflict.

*Resentment* emerges out of a perception that one’s group has been unfairly subordinated and would remain in a politically inferior status unless force is used. In the Donbas, this emotion was linked to the region’s regional identity as an industrial stronghold “feeding” the rest of Ukraine and to its predominantly Russian-speaking culture. The peculiar Donbas identity has been rooted in its historic status as a “frontier land” that traditionally

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resisted the metropolitan attempts at domination either by Moscow or Kyiv. This identity solidified during Ukraine’s independence with 69.5 percent of Donetsk respondents identifying themselves primarily with their own region. The region’s economic weight relative to other regions gave it a sense of political entitlement to power, or at least to having a say in Ukrainian politics. Its Russian-speaking milieu, with a heavy presence of ethnic Russians, made the Donbas, along with Crimea, particularly responsive to pro-Russian emotive appeals. Almost a ten-year rule of Yanukovych and the Party of Regions allowed Donbas residents to feel both politically influential and protected from discrimination on cultural or ethnic grounds. Its abrupt end accompanied by the party’s disintegration and prosecution of some of its members meant a sudden reversal of their politically-privileged status. At the same time, the parliament’s vote to revoke a language law allowing Russian to be a regional language, combined with threats to turn off Russian media, signaled a new risk of cultural discrimination. On top of this, the subsequent spread of dehumanizing terms in reference to pro-Russian activists meant that secession was not only a path to protect one’s status but also one’s human dignity.

Resentment-based emotion in Donbas was further amplified by the rise of fear. Fear spreads in situations of state collapse when institutions and rules safeguarding a certain group become non-functional. The resulting violence is then viewed as a form of self-defense. In the Donbas, fear was a direct response to the growing prominence of nationalist paramilitary groups, like the Right Sector, which spearheaded violent clashes with the police and seized public buildings. Ukrainian nationalists were commonly regarded as “fascists” in the Donbas during World War II, and locals still viewed them with great antipathy. The first “self-defense” units to protect the Donbas from “neo-Nazi” threats emerged even before Yanukovych’s ouster, in early February, and multiplied after he fled. Expressions of fear in reference to Ukrainian nationalist groups have been common for pro-Russian rally participants across the Donbas. Early reports of lawlessness from western Ukraine, where Right Sector activists harassed local public officials, probably served to reinforce this emotion. In early April, 46 percent in the Donetsk region and 33 percent in the Luhansk region viewed disarming illegal radical groups as the main step in maintaining the country’s unity. Instead, the government authorized transforming them into semi-private militia battalions tasked with fighting separatists in the east. This made

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‡ In the 2001 census approximately 38 percent of Donbas residents identified themselves as ethnic Russians; in a July 2012 survey 82 percent named Russian as their native language and 23 percent reported difficulties with understanding formal Ukrainian-language paperwork, which was a higher proportion than in any other region: [http://ratinggroup.com.ua/upload/files/RG_Movne_pytannya_072012.pdf](http://ratinggroup.com.ua/upload/files/RG_Movne_pytannya_072012.pdf)
§ Kuromiya, 279; in a 2004 poll, 42.7 percent of respondents in Donetsk identified “Ukrainian nationalists” as a group they had the most negative opinion of and the least in common with: Ukraine Moderna, 2007: [http://uamoderna.com/images/archiv/12_2/1_UM_12_2_Zmist.pdf](http://uamoderna.com/images/archiv/12_2/1_UM_12_2_Zmist.pdf); only 2.2 percent of Donbas respondents had a positive view of Stepan Bandera compared to 21.6 percent in the rest of Ukraine, KMIS and Ivan Katchanovski, May 2014.
** Interview with *Global Post* journalist Danylo Peleshchuk, July 26, 2014.
the desire for protection more salient and led locals to support or join their own town militias.*

**Elite Strategies**

Theories of elite-led violence point to the decisive role of political leaders in: 1) setting the discursive logic of the conflict; 2) providing financial and organizational resources; and 3) coordinating initial violent actions to mobilize more members of the group. The significance of leaders in launching a separatist insurrection in the Donbas, however, remains dubious.

At first, pro-Russian demonstrations in the region lacked an identifiable leader or a coherent organizational structure. The two self-proclaimed people’s governors—Pavel Gubarev in Donetsk and Aleksandr Kharitonov in Luhansk—had a history of activism in local politics, but they were largely unknown figures region-wide. After the SBU locked both of them up by mid-March, they played no role in transforming political protest into a militarized secessionist movement. The first leader with a military background—Valeriy Bolotov—emerged in early April and claimed power after seizing the SBU building in Luhansk. However, he played no prominent role in the rallies preceding the building seizures and capitalized on public mobilization instead of spurring it.

When it comes to messaging, the speakers at the anti-Kyiv rallies utilized old and familiar narratives. Yanukovych and the Party of Regions have framed their political opponents as “fascists” since the 2004 presidential election. The PR similarly used war-related symbols, like the St. George’s ribbon that became an insurgent emblem, as identity markers setting the anti-fascist Donbas apart from nationalist western Ukraine. Finally, calls for federalism and the enhanced status of the Russian language have been voiced since the 1990s. The first regional referendum on Ukraine’s federal structure was held in the Donbas in March 1994 with large majorities in the two regions supporting a federal system and Russian as a second state language. Another attempt to hold a referendum on similar questions occurred during the Orange Revolution when the Donetsk regional council initially approved but later cancelled the decision. Pro-Russian rallies in March-April 2014 thus relied on ideological scripts, imagery, and slogans that had been exploited for at least a decade.

One relatively unknown symbol that emerged during the protests was a black-blue-and-red flag, which alluded to the Donbas’ only historical experiment with statehood in 1918. However, it has also been long popular in local pro-Russian activist circles. This flag was a staple of the “Donetsk Republic” non-governmental organization that was created in 2005 and later banned as a separatist organization. One of its founders, Andrei Purgin, was

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* See the exchange on the barricades between Slaviansk’s self-proclaimed mayor Viacheslav Ponomarev and locals on the threat of a nationalist incursion into town, April 13, 2014: [https://www.youtube.com/watch?v=DDhEPPsFX7I](https://www.youtube.com/watch?v=DDhEPPsFX7I)
active in organizing the first anti-Maidan rallies in February, but he remained peripheral to the development of the movement.

None of the groups involved in staging the rallies—Russian Bloc, Donetsk Army Volunteers, Lugansk Guard, etc.—had serious organizational or financial resources to fund the movement. At the same time, there has never been any conclusive evidence proving that the movement was funded by wealthy PR leaders such as Yanukovych or Rinat Akhmetov. In fact, appeals to lay down arms and end secessionist attempts by some of the region’s most authoritative figures, such as Akhmetov, Boris Kolesnikov, and Aleksandr Lukianchenko, played seemingly no role in de-escalating the violence. The Akhmetov-funded regional television channel Donbas TV portrayed the insurgency in a negative light and advocated for Ukraine’s unity. Most importantly, the regional political elite, including members of regional councils and city councils, largely refused to support the separatist movement despite demonstrators’ attempts to gain their endorsement. As a result, new regional self-declared councils included mainly random people chosen from among the demonstrators.

Finally, the spread of violent seizures of government buildings across the Donbas in April happened sporadically and in a decentralized manner. The self-declared “people’s mayors” of different Donbas towns were local political opportunists who used the implosion of authority to claim power rather than members of a clandestine organization coordinated from a single center. Paramilitary commanders who propped them up were often in conflict regarding their respective spheres of influence. In addition, separatists in the Donetsk and Luhansk People’s Republics followed different strategies that were adopted in an ad hoc manner—the former rushed to declare its independence in early April while the latter decided to announce its separation from Ukraine only after the referendum. A more centralized coordination of armed resistance in the Donetsk region appeared only in late May when Aleksandr Borodai’s group and the Vostok battalion imposed their authority on disparate separatist groups in Donetsk.

Conclusion: Key Domestic Drivers

The armed conflict in Donbas resulted from a complex interplay of structural and agency-based variables. Monocausal explanations pointing to Russia as the sole culprit miss crucial domestic drivers of the insurrection. They include structural variables linked to the state and regime dynamics and popular emotions based on resentment and fear. Without domestic conditions favoring an armed secessionist movement, external prodding would have failed to produce a sustained and large-scale insurgency. Those who came to lead it merely capitalized on public apprehension about the growing anarchy in Kyiv and resorted to long-established narratives to keep it in motion. This does not absolve the

*Gubarev claims Akhmetov even tried to bribe some of the separatist activists to put secessionist movement in check, but failed. Interview with Pavel Gubarev, Rossiyskaya Gazeta, May 12, 2014: http://www.rg.ru/2014/05/12/gubarev.html
insurgents, together with the Ukrainian and Russian governments, of responsibility for the subsequent calamities of war. Still, as this analysis suggests, merely suppressing the insurgency by force without addressing its deeper internal causes is unlikely to make the Donbas a less troublesome and volatile part of Ukraine.
The Tale of Three Legitimations

THE SHIFTING TONE AND ENDURING SUBSTANCE OF MOSCOW’S UKRAINE POLICY

PONARS Eurasia Policy Memo No. 431
June 2016

Mikhail Alexseev*
San Diego State University

The ongoing military conflict between Russia and Ukraine is a stark reminder that shifts in political tone and military tactics do not necessarily correlate with each other or represent substantive shifts in a state’s foreign policy goals. In fact, such shifts can serve to obfuscate policy continuities. A systematic analysis of official Russian statements and military conflict data over the last two years reveals that Moscow has no plans to accept Ukraine’s sovereignty over the Donbas. The Kremlin’s enduring Ukraine policy is to stall genuine conflict resolution unless the Donbas is provided political autonomy on Moscow’s terms, essentially turning the region into Russia’s client statelet.

Softer Words, Harder Bombings

The Kremlin’s characterizations of the political situation in Ukraine are only partially suggestive of Russia’s militarized support for its client insurgents in the Donbas. Back when the conflict started in 2014, there appeared to be a clear relationship between the harshness of Moscow’s political tone and its military actions in Ukraine. The Kremlin’s virulently aggressive characterizations of Ukraine’s post-Euromaidan pro-Western leadership (“rampaging neo-Nazis”) closely preceded Russia’s intervention in Crimea and the Donetsk and Luhansk regions (the Donbas). In August 2014, Vladimir Putin framed Ukraine’s effort to retake territory captured by Moscow-backed insurgents in the Donbas as akin to the Nazi siege of Leningrad in World War II. The following month, regular and irregular Russian forces and mercenaries surrounded and massacred hundreds of Ukrainian government troops near Ilovaisk.

However, the softening of the Kremlin’s tone toward Ukraine at the end of 2014—Putin stopped making parallels between Nazis and Ukrainians, for example—did not lead to a reduction in violence. Moscow’s militarized support to the Donbas continued. Russia and its proxies drove Ukrainian government troops out of the Donetsk international airport, annihilated Ukrainian troops near Debaltseve in early 2015, battled down the Azov Sea

* Mikhail Alexseev is Professor of Political Science at San Diego State University.
coastline toward Mariupol, and launched deadly rocket and artillery attacks across the Luhansk region.

The attacks continue today. Casualty data unequivocally defy the notion that the war between Russia and Ukraine ended in early 2015. The OSCE reports hundreds of weekly violations of the Minsk ceasefire accords, mostly by Russia-backed separatists. Official data from the United Nations is even more telling. As Figure 1 shows, U.N. human rights agencies reported that 4,364 people were killed in the Russia-Ukraine conflict between April and December 2014. Since then, the death toll has continued to climb, however, reaching a casualty count of 9,371 by late May 2016. Most deaths have resulted from offensive operations by Russia-backed separatists. The death toll of about 4,285 for the period from last February to May is more than four times the annual rate that international relations scholars use to classify armed conflicts as wars.

**Figure 1. Death Toll in Russia-Ukraine Donbas War (UN Data)**
*(Note: Markers show the Minsk I and Minsk II ceasefire accords.)*

Since March of this year, there has not been a major spike in violence, but this too does not mean the war is over. It only means that Kremlin-backed military operations have become more circumspect. There was some hope when the cumulative death toll from December 2015-February 2016 increased by the lowest margin (69 deaths) of any three-month total. However, a spike of military operations originating in the separatist-controlled territories resulted in another 204 deaths from February to May 2016.

More than that, softer rhetoric and military tactics have not equated to a greater acceptance of Ukraine’s sovereignty and right to choose its own geopolitical orientation—in other words, even less military conflict does not mean an increased prospect of resolution.
That becomes clear if one looks at the Kremlin’s position on three key issues regarding the legitimacy of a) Ukraine’s sovereignty within the borders it inherited from Soviet times; b) its post-Euromaidan government leaders and institutions; and c) the Moscow-backed insurgent governments in the Donbas.

**Putin: “What is Ukraine?”**

A Google and Lexis/Nexis news search with keywords of “Putin” and “Ukraine” from January 1, 2000 through January 1, 2016 reveals no indication—direct or oblique—that Putin has abandoned his long-standing insistence that Ukraine lacks a legitimate claim to be an independent sovereign state within its internationally recognized borders (if at all).

At a closed session of the Russia-NATO Council in 2006, Putin, according to the Russian newspaper *Kommersant*, “blew up” and turned to then-President George W. Bush, saying, “As you must understand, George, Ukraine is not even a sovereign state! What is Ukraine? Part of its territory is Eastern Europe, and another part, a significant part, was our gift to them!” *Kommersant*, which at that time was relatively independent from the Kremlin, interpreted Putin’s statement as a thinly veiled threat that if NATO granted Ukraine a path to membership, Russia would dismember Ukraine.

In his nationally televised call-in show in April 2014, Putin reiterated this view, claiming that the entire eastern part of Ukraine was “New Russia” (*Novorossiya*) and that the Bolsheviks “gifted” it to Ukraine in the 1920s “for God knows what reason.”

In Putin’s most recent public statement on the topic, he tied Ukraine’s sovereignty to its geopolitical orientation. In a September 2015 interview on the U.S. news program *60 Minutes*, Putin implied that Ukraine has no right to sovereignty if its government decided to leave what he considers to be Russia’s sphere of influence. Putin said, “Respect for sovereignty means not to allow unconstitutional action and coup d’états, the removal of legitimate power.” The reference was to the February 2014 ouster of the pro-Moscow government of Viktor Yanukovych and the arrival to power of a pro-EU and pro-NATO government. Putin has never publicly disavowed or revised these views.

**Post-Euromaidan Government: Damning with Faint Recognition**

Despite the softening of rhetorical aggression vis-à-vis Kyiv since early 2015, Moscow has continued to view Ukraine’s government as illegitimate and hostile to Russia. Critically, its acceptance of a freely and competitively elected Ukrainian president, parliament, and local government structures has been conspicuously guarded or cursory—particularly when compared to the Kremlin’s characterizations of the ousted Yanukovych administration and of other entrenched autocratic governments. An additional Google News search from January 2015 through May 2016 has yielded no reports suggesting otherwise.
The Kremlin first delayed and then obfuscated congratulations to Petro Poroshenko on his victory in Ukraine’s presidential elections in May 2014. Three days after the polls closed and the results were evident, the Kremlin claimed that it was waiting for the complete count. When the count was announced at the start of June, Moscow was silent. Some days later the Russian presidential administration did refer to Poroshenko as the “president of Ukraine,” while reporting on a phone call in which Poroshenko reportedly congratulated Putin “on the occasion of Russia Day.” However, though the phone call was confirmed, and there does not appear to be any public documentation of when, where, and how Putin formally congratulated Poroshenko on his election victory.

The Kremlin’s official response to Ukraine’s 2014 presidential election, as expressed by Security Council Secretary Sergey Ivanov, was to “treat the choice of the Ukrainian people with respect.” At the same time, Russia’s Kremlin-controlled mass media continued to accuse Kyiv of mass polling violations (based solely on reports from separatist territories). It also used the same phrase to characterize the unrepresentative and unverifiable results in the insurgent-held territories of the Donbas.

Meanwhile, in two other countries, Putin quickly and unambiguously endorsed the uncompetitive rubber-stamped re-elections of entrenched post-Soviet autocrats Nursultan Nazarbayev of Kazakhstan and Aleksandr Lukashenko in Belarus. He referred to the former’s election as “evidence of wide-ranging popular support” and the latter’s as “strong evidence of popular respect and trust.” The Kremlin issued no such endorsement for any of the major elections in Ukraine (presidential, parliamentary, or local) even though, unlike in Belarus and Kazakhstan, Ukraine’s elections were certified as free, competitive, and well-organized by international observers. Finally, breaking with tradition, the Kremlin did not issue standard protocol congratulations to the Ukrainian government on Ukraine’s Independence Day in 2014 or 2015.

**Donbas: Legitimating Insurgent Clients**

The Kremlin firmly insists that the Donetsk and Luhansk “people’s republics” (DNR and LNR) represent the will of the majority of the local population and deserve a high degree of autonomy, including in foreign policy. They claim this despite the fact that these are warlord-ravaged enclaves, organized and defended by Russia, and from which as many as two million people have fled. The Kremlin’s position on the DNR and LNR is particularly indicative of its overall anti-Western geopolitical stance. (The names of the DNR and LNR parallel Moscow’s Soviet-era naming of client communist dictatorships in Eastern Europe as “people’s democracies.”)

In May 2014, the DNR and LNR held referendums on “state independence.” Even though the referendums were hasty, haphazard, and unrepresentative, Moscow “respected” these acts as “expressions of popular will.” Two months later, the Russian military and its local client forces defeated Ukrainian border guards and occupied several hundred kilometers
of Ukraine’s internationally recognized border with Russia. The Kremlin then dispatched Vladimir Antyufeev to *de facto* run the separatist entities. Antyufeev is a seasoned Russian official who spent a quarter-century successfully institutionalizing the Russian client statelets of Transnistria, Abkhazia, and South Ossetia. Russian military assistance also increased, enabling the DNR and LNR armed forces to launch a counter-offensive and inflict mass casualties on Ukrainian troops attempting to reclaim insurgent-occupied lands.

Moscow legitimated further uncompetitive and unrepresentative elections in the separatist entities. In November 2015, Putin’s influential advisor, Vladislav Surkov, in his capacity as a representative of the Russian president’s administration, congratulated DNR leader Alexander Zakharchenko on the anniversary of his “election,” a courtesy not extended to Petro Poroshenko.

Moscow’s insistence on the DNR/LNR’s legitimacy has been the cornerstone of its bargaining position in international negotiations on the conflict. Most notably, it uses the conflict to hold Ukraine’s sovereignty hostage. Moscow applies pressure on Kyiv to grant the Donbas *de facto* state sovereignty, something that would legitimate the entities nominally within Ukraine but, for all intents and purposes, keep them under Moscow’s rule.

Moscow has also largely remained silent on most of the 12 points in the Minsk Agreements, placing almost exclusive emphasis on issues pertaining to DNR/LNR political autonomy (items 4, 5, and 11 in the Package of Measures). In a November 2015 press conference, Putin was adamant that the insurgent DNR and LNR governments receive formal legitimacy through certain changes in Ukrainian law that will give them *de facto* veto power over Ukraine’s domestic and foreign policy. Until that happens, Russia will not allow Ukraine to control its international border. Putin reiterated this position in a January 2016 interview with Bild magazine, in which he also accused the Ukrainian government of delaying constitutional reforms that would accommodate the demands of the DNR and LNR.

The Russian Foreign Ministry has articulated similar arguments. In an October 2015 press interview, Foreign Minister Sergey Lavrov symptomatically singled out only three of the Minsk measures for conflict settlement: amnesty for DNR/LNR insurgents, special status (autonomy) for the DNR/LNR, and constitutional reform in Ukraine.

**Implications**

U.S. and European governments need to recognize that as long as the Kremlin does not change its stance on the relative legitimacy of the Ukrainian state, its leadership, and the separatist entities, expectations of diplomacy resolving the Donbas conflict are naïve at best. The Kremlin’s rhetoric indicates that international negotiations on conflict resolution for the Donbas are part of a larger Kremlin strategy to block Ukraine’s integration with the


EU and NATO by strengthening and internationalizing the legitimacy of the DNR and LNR. Any disagreements about their autonomy enable Moscow to delay a political settlement indefinitely and hold Ukraine’s sovereignty hostage to the Kremlin’s geopolitical ambitions. Russia’s signing of international agreements on resolving the conflict is not an indication of military restraint or any other change in policy.

What can Western policymakers do to make their diplomacy more effective? First, given the tenacity of the Kremlin’s line, the West’s position on any internationally-negotiated settlement will be significantly strengthened if the United States—the only actor with military capabilities superior to Russia’s—rejoins the process. Moscow will not change its strategy based on its convictions, but it could do so out of uncertainty about further military costs. This means graduating away from the Minsk format to a quadrilateral U.S.-EU-Ukraine-Russia format.

Second, Western policymakers should consider revising their bargaining strategy to decouple tradeoffs between political and military issues. Trading off Ukraine’s restoration of border control for Donbas autonomy is a recipe for impasse and protracted military conflict. Instead, the West could insist that tradeoffs be issue-symmetric. Military withdrawal and cessation of hostilities should come first and be considered separately, with further sanctions on Russia if Ukrainian forces are not allowed to regain control of the entire length of its internationally-recognized eastern border. Separately, political tradeoffs could be negotiated. Ukraine would be more open to Donbas autonomy if Moscow publicly recognized the legitimacy of Ukraine’s sovereignty and its post-Euromaidan elected leadership.

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1 Figure 1. Sources
Note: The first date below corresponds to the date in the chart; the second date is the publication date.)
11-2014: http://www.rferl.org/content/un-says-4000-killed-in-ukraine/26669172.html (11/01/2014)
A Poisoned Chalice

HOW THE MINSK ACCORDS DESTABILIZE UKRAINE

PONARS Eurasia Policy Memo No. 456
February 2017

Mikhail Alexseev*

San Diego State University

Signed in February 2015, the Minsk II ceasefire accord strengthened the original protocol provisions to grant partial sovereignty ("special status") to the self-proclaimed, Russia-backed governments of the Donetsk and Luhansk People’s Republics (DNR, LNR). Minsk II was inked at the same time that Russia’s regular, irregular, and mercenary forces exploited Kyiv’s compliance with Minsk I (September 2014) to surround and brutally assault Ukrainian troops around Debaltseve.

Minsk II stipulates that Ukraine should change its constitution to allow for greater regional decentralization. It is a poisoned chalice for peace and stability in Ukraine, as follows:

1. It contains the insidious implication that failure to grant special status to DNR/LNR is a major putative cause of the war in Donbas. This obfuscates the decisive role of Russia’s continuing hybrid military and political intervention in Ukraine.

2. Decentralization is less and less realistic in light of DNR/LNR’s ongoing sovereignization of their territories, looking to join Russia, and demonizing the Ukrainian government.

3. Implementation of the Minsk-mandated decentralization threatens the social and political stability in Ukraine and weakens its Westward geopolitical orientation.

From Russia with Trains, Trucks, and Death

According to the Office of the UN High Commissioner for Human Rights, the Donbas war claimed 31,690 casualties from mid-April 2014 through July 31, 2016, including 9,553 people killed. This means the death toll has nearly doubled (risen by 4,500) since the signing of Minsk II in February 2015. Even though the death toll’s pace slowed down from November 2015 through February 2016 (69 people were killed), it has picked up since

* Mikhail Alexseev is Professor of Political Science at San Diego State University
then—204 deaths by the end of May 2016 and 182 deaths by the end of July 2016 (see Figure 1).

**Figure 1. Death Toll in Russia-Ukraine Donbas War (UN Data)**

Markers show the Minsk I and Minsk II ceasefire accords

The war grinds on and people continue to be killed and injured. The Ukrainian government reports dozens of attacks on its forces and several casualties daily along the ceasefire line, while the OSCE reports dozens of ceasefire violations, mostly without attribution to who initiated the use of force. Detailed reports by Andrew Kramer of *The New York Times*’ from the frontline near Avdiivka, just north of Donetsk, clearly shows a prevailing pattern of military action. Most attacks are initiated from the DNR/LNR side after dark, when the OSCE monitors stop patrolling the area. As the Ukrainian forces come under increasingly heavy automatic weapon and artillery fire, they respond in kind. Kramer noted the insistence by the Russians, not the Ukrainians, that OSCE monitors are not allowed to use binoculars.


The DNR/LNR attack capabilities come from Russia through the section of its border with Ukraine (that Ukraine no longer controls). Most shipments come by train, often in open
flatcars. Not only has the international media reported on these shipments, but the separatist leaders have widely acknowledged them. This deadly equipment does not stay idle. Most recently, a spike in the number of attacks on Ukrainian positions in late July 2016 occurred after Ukraine’s defense ministry reported the arrival on July 19, 2016 of “thirty flatcars with tanks and self-propelled artillery, railcars with military servicemen, and tanks with fuel and lubricants” at the Donetsk-2 railway station; of ten tanks and 500 tons of diesel fuel at Khartzisk and six tanks with 300 tons of diesel fuel as well as “two self-propelled artillery systems, three 122mm MLRS Grad launchers and two APCs.”

Preceding this spike in violence in Donbas was the arrival of the 54th convoy carrying 750 metric tons of unverified cargo on July 16, 2016. Numbering between around 100 and 200 KAMAZ military trucks repainted white, these convoys have been regularly coming into Donbas since August 2014 without Ukraine’s government ability to inspect them on the way in or out. Neither Minsk I nor II stopped these shipments (nor the associated death tolls once the trucks’ cargo was delivered and dispersed).

To Russia with Propaganda

A systematic review of the DNR and LNR official websites yields no indication that these entities intend to reach out to Kyiv and negotiate the re-integration of their separatist territories into Ukraine. On the contrary, Ukraine is systematically and egregiously demonized. This is exemplified by the DNR website page (at right) titled “Ukraine Kills Us” and showing pictures of local children. In the center of the page is the DNR map with the borders including the entire Donetsk Oblast—an implicit claim of DNR’s territorial aspirations.

These DNR/LNR websites try to institutionalize their sovereignty implicitly and explicitly with daily flows of reports legitimatizing their activities as providing security and social services and the dissemination of the approved sovereign symbols (flags, coats of arms, and anthems). The lyrics of the DNR anthem strongly suggest that its sovereignization is a path toward Russia, not Ukraine. Its anthem refers to the DNR as “Donetsk-Russia (Donetskaya Rus’) … a holy state of the people.” It does not refer to, say, “Donetsk-New Ukraine” or “Donetsk-the Other Ukraine.” In the same vein, the LNR anthem promises: “And so the power of the people will be sanctified. In one single and strong Union. In it will be brotherhood, valor, and freedom. And the holy glorious Russia.”
The DNR and LNR websites have no Ukrainian language versions. Neither Minsk I nor Minsk II mandated the DNR and LNR leadership to undertake measures to integrate with Ukraine, just as the government in Kyiv was mandated to reform its constitution and decentralize. This is a glaring and woeful asymmetry.

**Into Ukraine with Tension**

In addition to being unfair in principle and allowing Russia to obfuscate the decisive role of its military intervention in the Donbas war, the asymmetry of mandates favoring decentralization over integration gradually destabilizes Ukraine’s society and politics.

Recent survey data point to perils from the poisoned chalice of the Minsk protocols. The three main ones are outlined below. Mink increases political divisiveness along regional and language lines and fragments Ukraine’s pro-European party coalition. The data come from the annual nationwide Omnibus surveys conducted by the Institute of Sociology of Ukraine’s National Academy of Sciences. The surveys are based on multi-stage probability samples of about 1,800 respondents age 18 and older in all provinces of Ukraine, including the Donetsk and Luhansk Oblasts under government control, but excluding DNR, LNR, and Crimea. The margin of sampling error is less than 2.5 percent.

**Regional Divides**

Following Minsk II, the Omnibus surveys in July 2015 and July 2016 asked two questions about respondents’ policy preferences regarding DNR and LNR. Regional differences, though clearly present in 2015, have increased markedly, showing the divisiveness of the issue.

- Support for continuing military operations to regain the DNR/LNR occupied territories changed little in the West, Center, and South of Ukraine (all within the combined sampling error margin), but dropped sharply in the East (from 16.4 percent of those who answered the question to 9.5 percent) and in Donbas (from 22.2 to 1.2 percent) (see Table 1). Based on the data in 2015, residents in the West were about 50 percent more likely to support military action than residents in Donbas—but in 2016 it was about 3,000 percent, or 30 times, more likely.

- Support for granting DNR and LNR “partial sovereignty” and conducting talks on their “special status” within Ukraine stayed unchanged in the West, Center, and South, but skyrocketed in the East (29.6 to 45.2 percent) and in Donbas (40.7 to 73.3 percent). Even though about 30 percent of respondents gave no answer, changes of such magnitude are unlikely to be due to chance or sampling flaws. In 2015, an average resident of West Ukraine regions was about four times less likely to support partial independence of the DNR/LNR than an average resident in the East and more than five times less likely than an average resident of the
government-controlled Donbas. In 2016, these gaps widened to five times and nine
times, respectively (see Table 1).

- The polls also show that if a referendum were held in Ukraine, the share of
  respondents supporting DNR/LNR autonomy would have dropped more than
twofold in Ukraine’s West and by almost one fifth in the center, but increased by
about one fifth in Donbas from 2015 to 2016 (see Table 2). The gap between
the West and Donbas on this issue thus widened almost twofold (from 30 to 55
percent).

Table 1.
Q: Which scenario of conflict resolution in East Ukraine is acceptable to you? (N=1,333 in 2015; N=1,236 in 2016)

<table>
<thead>
<tr>
<th>Scenario</th>
<th>WEST</th>
<th>CENTER</th>
<th>SOUTH</th>
<th>EAST</th>
<th>DONBAS</th>
<th>N Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continue military action until all these territories are regained</td>
<td>2015</td>
<td>38.6%</td>
<td>25.3%</td>
<td>13.9%</td>
<td>16.4%</td>
<td>22.3%</td>
</tr>
<tr>
<td></td>
<td>2016</td>
<td>35.6%</td>
<td>22.8%</td>
<td>15.0%</td>
<td>9.5%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Recognize the right of DNR/LNR for partial independence, conduct talks on their special status</td>
<td>2015</td>
<td>6.8%</td>
<td>25.9%</td>
<td>44.4%</td>
<td>29.6%</td>
<td>40.7%</td>
</tr>
<tr>
<td></td>
<td>2016</td>
<td>8.7%</td>
<td>27.3%</td>
<td>45.9%</td>
<td>45.2%</td>
<td>73.3%</td>
</tr>
</tbody>
</table>

Table 2.
Q: If Ukraine held a referendum on the status of self-proclaimed territories, which position would you support? (N=1,391 in 2015, N=1,296 in 2016)

<table>
<thead>
<tr>
<th>Position</th>
<th>WEST</th>
<th>CENTER</th>
<th>SOUTH</th>
<th>EAST</th>
<th>DONBAS</th>
<th>N Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant these territories autonomy within Ukraine</td>
<td>2015</td>
<td>22.3%</td>
<td>30.6%</td>
<td>43.8%</td>
<td>43.3%</td>
<td>52.5%</td>
</tr>
<tr>
<td></td>
<td>2016</td>
<td>9.6%</td>
<td>31.5%</td>
<td>49.6%</td>
<td>44.3%</td>
<td>64.4%</td>
</tr>
</tbody>
</table>


Identity Fissures

Differences between Ukrainian and Russian language users also sharpened over the same questions of DNR/LNR status and conflict resolution options. This is particularly evident in looking at the differences between respondents who completed the surveys in Ukrainian and those who completed them in Russian.

- Among respondents opting for Russian, support for granting DNR/LNR partial independence ("special status") increased significantly, from 31 percent in 2015 to 44 percent in 2016. Among respondents opting for Ukrainian, it stayed at about the
same level, 19 percent in 2015 and 18 percent in 2015. The gap between the two groups widened more than twofold, from 12 to 26 percent.

- In a hypothetical referendum, support for granting DNR/LNR autonomy within Ukraine dropped from 34 to 20 percent among Ukrainian speakers, but remained unchanged among the Russian speakers in the surveys (at about 45 percent). The gap widened from 9 to 25 percent.

- Showing a deviation from the regional patterns (see Table 1), differences in support for continuing military operations to regain Donbas have not changed significantly from 2015 to 2016 across linguistic lines—amounting to 31 and 27 percent, respectively, among Ukrainian users and 19 and 15 percent among Russian users.

Logistic regression tests—analyzing preferences at the individual level—show that regional and language use differences contributed independently to support for DNR/LNR special status or autonomy. In other words, language differences matter regardless of whether a majority of a region’s residents speak Ukrainian or Russian.

**Political Center Split**

Mass protests in front of Ukraine’s parliament (*Verkhovna Rada*) left three people dead and scores injured in September 2015. The upheaval was in response to the parliament passing the first draft of the law on decentralization that attempted to meet Minsk II provisions. Right there, Minsk showed its destabilizing impacts on Ukrainian society and polity. Those impacts are more insidious and strike at the core of Ukraine’s post–Euromaidan government.

Parliamentary political systems such as Ukraine’s are prone to fragmentation by design and often resemble a cauldron of chaotically competing ambitions. President Petro Poroshenko’s effort to pass the laws on decentralization (which includes a law on the special status of Donbas territories under DNR and LNR control) are not helping mitigate discord. Moreover, they contribute to a serious split within the original Euromaidan coalition of parties through shifting political fortunes of the supporters and opponents of decentralization laws.

**Table 3** makes this point evident. The Euromaidan coalition parties that currently have nearly 60 percent voting share of Ukraine’s Rada but cast 50 percent or higher vote for the draft decentralization law in August 2015 (Petro Poroshenko Bloc, Revival, and National Front) have seen their electoral fortunes plummet into low single digits in the July 2016 Omnibus poll. By contrast, the three pro-Europe parties that opposed the decentralization law (Fatherland, Self-Reliance, and the Radical Party) have seen their electoral fortunes rise. If elections were held this past summer, Yulia Tymoshenko’s Fatherland party would get the largest share of the vote (13.2 percent). The three anti-decentralization parties
would gain close to 30 percent of the popular vote. The three pro-decentralization parties would gain just 7 percent of the total vote.

<table>
<thead>
<tr>
<th>Party Name</th>
<th>2015 Law (Yes)%*</th>
<th>2016 Rada%**</th>
<th>2016 Poll%***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bat'kivshchyna [Fatherland] (Tymoshenko)</td>
<td>0</td>
<td>4.5</td>
<td>13.2</td>
</tr>
<tr>
<td>Petro Poroshenko Bloc (Lutsenko)</td>
<td>81</td>
<td>34</td>
<td>5.4</td>
</tr>
<tr>
<td>Revival (Bondar)</td>
<td>50</td>
<td>5.5</td>
<td>0.9</td>
</tr>
<tr>
<td>National Front (Yatsenyuk)</td>
<td>85</td>
<td>19.2</td>
<td>0.7</td>
</tr>
<tr>
<td>Opposition Bloc (Boyko)</td>
<td>88</td>
<td>10.2</td>
<td>11.6</td>
</tr>
<tr>
<td>Samopomich [Self Reliance] (Sadovyi)</td>
<td>19</td>
<td>6.2</td>
<td>8.2</td>
</tr>
<tr>
<td>Radical Party of Oleg Lyashko</td>
<td>0</td>
<td>5.0</td>
<td>8.1</td>
</tr>
</tbody>
</table>

Notes: *Percent of party deputies casting a yes vote for the decentralization law in August 2015. **Voting share in the Rada in mid-2016. ***Respondents who would vote for the party if elections were held at survey time in July 2016.

Assessment and Implications

If Moscow intended to use the Minsk ceasefire framework to foster Ukraine’s decentralization, obfuscate its military intervention, make the West forget about Russia’s annexation of Crimea, and destabilize Ukraine, it has been working well. If the accords were designed to stop killings and reintegrate Donbas into Ukraine, they have squarely failed. Whereas the Minsk agreements probably succeeded (so far) in constraining Russia’s military interventions outside Donbas, its decentralization provisions gradually erode those constraints.

What could the United States and the EU do? First and foremost, based on this analysis, the review of sanctions on Russia should not be contingent on Ukraine’s constitutional reform as mandated currently by Minsk II. Moreover, considering Moscow’s continuing military support for the DNR/LNR, deadly attacks on Ukrainian forces, and the lack of DNR/LNR moves toward integration with Ukraine, the sanctions should be increased significantly. The review should be primarily contingent on Russia’s military intervention and a return of border control to Ukraine. After all, Moscow can still bring peace to Donbas with Russian President Vladimir Putin calling off the troops and making one televised statement saying no military or economic support will be forthcoming to the DNR/LNR unless they acknowledge Ukraine’s sovereignty. Absent that, the United States needs to participate more actively in the ceasefire process and monitoring—if only by dint of being the only global actor whose military capabilities are superior to Russia’s. Europe lacks the military power to have diplomatic clout with the Kremlin. The illegal seizure of Crimea and the violation of the Budapest Memorandums must also not be disregarded by the West.
A profound reform of Minsk or its replacement with another framework is urgently needed to stop the loss of life and Ukraine’s destabilization. One option is to separate the Minsk protocols into two distinct components: military and political. Another option is to dispose of the Minsk agreements altogether and recognize that including Russia in ceasefire negotiations is as detrimental to the process as treating an arsonist as a firefighter. The United States and the EU need a new framework clearly emphasizing the need for collective security to contain Russia’s aggression in Ukraine (and possibly elsewhere). The poison in the Minsk II chalice is strong; it is vital to stop ingesting it.
Is There a Way Out of the Minsk Agreement Deadlock?

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Oleksandr Sushko*
Institute for Euro-Atlantic Cooperation, Kyiv

Despite years of talks under the specter of the Minsk protocols, no rapprochement has taken place between Russia and Ukraine on the “special status” of the Donbas. In fact, the situation has steadily deteriorated. Both Minsk I (September 2014) and Minsk II (February 2015) called for immediate ceasefires but deadly skirmishes have continued in a never-halting stream and spikes in violence routinely occur. Major rounds of hostilities took place in the summer of 2016 and again in late January 2017. It seems clear that the Minsk accords are untenable. As the Economist stated in September 2016, “the agreement is riddled with loose language and the sequencing of many steps is highly convoluted.” All sides need to return to the fundamentals: establish a genuine ceasefire, followed by an updated sequence of confidence-building measures.

The Situation on the Ground

Heavy-duty Russian forces continue to encircle Eastern Ukraine. Russia has deployed numerous divisions, brigades, and regiments near Ukrainian borders since the Euromaidan. The Institute for the Study of War (ISW) stated in August 2016, “Russia’s current force posture allows it to threaten or conduct military operations into Ukraine from multiple directions, increasing Ukraine’s vulnerability to Russian or Russia-backed separatist forces.”

Russian officials claim that the militarization of Russia’s border with Ukraine is a response to NATO actions. However, many doubt this considering that NATO has been active mostly far afield, in Poland and in the Baltics. Last summer, Russia established a large military base in Belgorod, 25 miles north of the Ukrainian border near Kharkiv, an area that has been peaceful. At that time, it switched on its S-400 air defense system near the border. When Russia expands its force projection capabilities, it signals preparations for a large-scale military conflict. In the context of the Minsk protocols, these are escalatory actions rather than peace-building moves.

Last summer, the Kremlin began to increasingly disseminate the message that Ukraine was preparing a major offensive and killing civilians in Donbas. These statements were

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* Oleksandr Sushko is Research Director at Institute for Euro-Atlantic Cooperation, Kyiv, Ukraine.
considered by many as an attempt by Moscow to accuse Kyiv of violating the Minsk agreements and to therefore justify separatist hostilities. Tensions were triggered when Russia’s Federal Security Service (FSB) claimed that it had prevented a terrorist attack in Crimea that was “plotted by Ukrainian military intelligence” to “target vital infrastructural facilities in the peninsula.” Reports said that a Russian soldier and a FSB agent were killed combating two Ukrainians, Yevhen Panov and Andriy Zakhgtye, who were subsequently arrested and charged with being connected to Ukrainian military intelligence.

In the recent spike of deadly violence in late January 2017, statements from Kyiv and Moscow reveal just how far apart both sides are in respecting the Minsk provisions. The Ukrainian Foreign Ministry said, “Russian occupation forces carried out massive attacks across the contact line using all available weapons...” At the same time, the Russian Foreign Ministry said that Ukrainian troops “continue to conduct offensive operations to seize positions held by self-defense forces...”

A New Approach?

A number of alternative approaches to the Minsk protocols have been suggested. One of the more far-reaching is by Rutgers University professor Oleksandr Motyl who has consistently argued that Ukraine should get rid of the Donbas because integrating it would sound a death knell for the whole country:

“Tragically ... the power of Ukrainian patriotic rhetoric—‘The Donbas is eternal Ukrainian land!’—may wind up saddling the country with a burden so heavy that it will crush its sovereignty and its democracy, move it decisively away from Europe and the world, and succeed in achieving what Viktor Yanukovych failed to do: transform Ukraine into a backward hinterland of a backward imperialist petro-state.”

Though recommendations such as these are not acceptable for the majority of the Ukrainian public and leadership, it does raise a singular good point about “burden,” which ties into the failure of the Minsk agreements. The Donetsk and Luhansk People’s Republics (DNR/LNR) are too “toxic” to be reintegrated into the Ukrainian political landscape without dismantling the full-fledged administrative and military structures in the separatist-controlled areas that Moscow has built. Many believe that Russia’s goal is to obtain systemic, legitimized leverage over Kyiv through its de facto control of the Donbas. Allowing DNR\LNR elements to enter Ukrainian national institutions would thus bring destabilization into Ukraine’s political life.

One possible remedy would be to have a round of free and fair elections in the Donbas. This would create new, legitimate politicians, who could then enter the political system with far less resistance from the Ukrainian authorities. However, election issues in the
Donbas are unsettled and it is not clear that new local elites with reconciliatory views toward Kyiv can appear and survive. Properly revisiting election rules could potentially build confidence for all sides. At the moment, Russia and its proxies insist that elections in the Donbas should be managed by the separatists themselves. According to the election proposals submitted by the separatists to the trilateral group, their electoral commission should be created by the local authorities and the Central Election Commission of Ukraine should appoint only one person per local commission. In effect, legitimate Ukrainian political parties would not be allowed to campaign freely or nominate candidates.

Russia also calls for only “selected” media to provide coverage of elections in the Donbas. Moreover, the proposal says that only residents who have stayed permanently in the occupied zones since 2014 can be allowed to run as candidates and that internally displaced persons (IDPs) may only vote if they return and register with local authorities before the voting date. The separatists also stated they would only accept a disarmed, temporary, international police mission, and that the existent Russia-controlled military units, which de facto run the entire area, are to remain in their current position and roles.

For its part, the Ukrainian side advocates for the full restoration of political freedoms as a precondition for legitimate elections. Kyiv calls for allowing free and secure political activities (such as public campaigning) and asks for the OSCE and other international and domestic observers to enjoy unrestricted access to all areas. Kyiv also demands that political parties should be able to (re)establish local branches and operate freely, and that journalists should have freedom of movement.

The Minsk accords are unable to resolve the contradictory perspectives on holding elections. The only area where modest success has taken place within the bounds of the accords has been in the exchange of prisoners. A few hundred people returned to their homes on both sides. However, even this process began to lose its positive dynamics in early 2016 and is now experiencing stagnation.

**Public Opinion: Divided and Uncertain**

It would be helpful if the Russian and Ukrainian public made demands for a sincere peace process. It is hard to discern how the Russian public feels and whether it is able to influence its policymakers. In Ukraine, uncertainty prevails. Public opinion expectations toward the Donbas conflict is unstable because of the ups and downs of the political stalemate and bouts of military escalation.

However, in a broad sense, there is the indication that Ukrainians seek peace. In a May 11-16, 2016, poll by the Democratic Initiatives Foundation, Ukrainians were asked a range of questions about the conflict. One of the more pertinent ones was about the “price of peace.” The majority of Ukrainians, 70 percent, felt that compromise was the best way to
overcome the conflict. About 23 percent felt ready to agree to “peace at any price.” Only 14 percent supported a “military solution” to resolve the conflict. The notion of “compromising on anything with anyone to reach peace” was supported by about a third of all respondents in the south and east of the country, and by about 16 percent in the center and west. The poll also indicated that about half of the population, 48 percent, believe that the DNR/LNR should return to Ukraine and be part of the country on the same terms as before the conflict started. Forty-three percent do not think elections are acceptable in the occupied areas in the near future, while 58 percent support the idea of an international peacekeeping mission in the Donbas. Ukrainian public opinion seems to share the “Minsk discourse,” which contends that the key to the solution lies in the Donbas itself.

Ukraine and its Western partners should not be constrained by short-term views and outdated plans. It is doubtful, for example, that Ukraine can rapidly re-establish formal sovereignty over the Donbas or that the separatists can take the lead on implementing fair elections and salvaging the peace process. In effect, Russia is currently dictating the conditions of Donbas “re-integration.” It appears that Russia’s real, though not openly articulated, objective is to have neither an independent Donbas nor a dependent Novorossiya, but a weakened and failed Ukrainian state. To prevent the further dysfunctionality of Ukraine, Kyiv (and the West) need to set up clear red lines and conditions for this reintegration. The principles of democratic functionality and real sovereignty should be valued higher than rhetoric of territorial integrity.

Conclusion

Peace in the Donbas is not near at hand and the Minsk roadmap is not helping. Human lives are being lost, sometimes on a daily basis, as was the case in summer 2016 and January 2017. Mistrust prevails on all sides, between Moscow and Kyiv, and between Kyiv and the secessionist elites. On the Ukrainian side, the population is divided over the issue of the “price of peace.” Surveys indicate high acceptability for compromise (to find peace), but the current DNR/LNR regimes are seen as hostile, so incorporating them into Ukrainian politics would be toxic for the country. These uncertainties could be partly reduced if the Minsk roadmap were re-drawn. If a ceasefire can be put in place—without preconditions—a transitional period of three to five years could be set up for dialogue between all stakeholders: Ukraine, Russia, and residents of the Donbas (separatists, Ukraine supporters, and IDPs). During this period, non-local militants (Russian citizens) could withdraw from the Donbas, which would lead to a revival of political pluralism, normalized economic transactions, and human rights values—all of which would boost confidence and stability. The logical next step, in the medium-term, would be to hold legitimate elections in the Donbas. Two referendums could be considered: one in the Donbas and one nationwide. The results of these would provide incisive guidance for the long-term political solution.
The U.S. intelligence community’s January 6 report about Russian meddling in the 2016 U.S. presidential election highlighted the role of Russian media organizations in spreading fake news and amplifying leaked materials in an attempt to manipulate public opinion. While few Americans receive their news directly from Russian sources, it is hard to dispute that a major consequence is that U.S. journalists and policymakers now face the challenge of restoring public trust in the media. This would not be the first case of a society trying counter biased and false information in the press.

Ukraine has been engaged in full-fledged information warfare against Russian propaganda since 2014, when Russia annexed Crimea and vitalized rebellions in eastern Ukraine. Ukraine’s information war is not going very well. Rather than helping to establish “ground truths,” Ukraine’s response to Russian propaganda has actually made truth more elusive, particularly with respect to the conflict in the Donbas. It has potentially made the conflict more difficult to resolve.

Harvard political scientist Matthew Baum and I performed a parallel analysis of thousands of incident reports from Ukrainian, Russian, rebel, and third party sources. We investigated the extent to which different sources suggested different patterns of strategic interaction between warring sides, and advanced different conclusions about the causes, location, and timing of violence.

We found that information warfare profoundly affects inferences about armed conflict, particularly about which actors are most responsible for violence. According to Ukrainian sources, rebels are more likely than the government to use force, kill civilians, and violate ceasefires. According to Russian and rebel sources, the opposite is true. Both Ukrainian and rebel sources report more violence than do outside, third-party sources such as the OSCE.

*Yuri M. Zhukov is Assistant Professor of Political Science at the University of Michigan.
Each perspective has its own implications for how different actors behave in war, the sustainability of ceasefire agreements, the need for sanctions or third-party intervention, and whether intervention should be neutral or one-sided.

**Background on Ukraine’s Information War**

Before the Euromaidan movement swept President Viktor Yanukovych from power in February 2014, the Russian media had a heavy presence in Ukraine, particularly in Crimea and in the south-east. In contrast to Western media portrayals of the Euromaidan as a largely peaceful protest movement confronting riot police and hired thugs, the mainstream Russian media devoted coverage to nationalist militants storming the Ukrainian parliament and hurling Molotov cocktails. Both images were in a narrow sense true, but neither represented the complete picture. The Russian perspective on events generated impressions on those rallying in Crimea and in the south-east, who then condemned the Euromaidan movement as a “Western-backed coup” and “fascist junta.”

Concerned about the Russian media’s potential for mobilization, Ukraine’s new authorities took a series of steps to counter it. In March 2014, before the first shots were fired in the east, Kyiv banned Russian federal broadcasters from Ukrainian television. Several months later, Kyiv banned some Russian films and television programs and placed travel bans on Russian journalists. In December 2014, Ukraine established the Ministry of Information Policy to protect Ukrainians from “unreliable information,” register media outlets, and define professional journalism standards. To spread government-approved content in social media, the Ministry launched an “Information Army” of patriotic volunteers.

Ukrainian authorities also exerted direct pressure on some information providers. In September 2014, Ukraine’s Security Service (SBU) raided the offices of the newspaper Vesti, accusing it of violating Ukraine’s territorial integrity through its coverage of the Donbas conflict. In February 2015, Ukrainian authorities arrested a blogger on charges of treason for posting a YouTube video criticizing the government’s military mobilization campaign. The same month, Ukraine’s Television and Radio Council accused popular television host Savik Shuster of violating the law on “incitement of hatred” after a Russian journalist criticized the government’s military operations on his show. Multiple similar incidents ensued.

In the rebel-held territories of the Donbas, separatists moved to create a similar closed information environment. After seizing the Donetsk regional administration building in April 2014, one of their next steps was to take control of the television towers in the region. Their aim was to take Ukrainian channels off the air and broadcast Russian programs. Later that year, the self-proclaimed Donetsk People’s Republic established an official News Agency (DAN), while multiple privately-owned pro-rebel outlets emerged to fill the regional media vacuum. Wary of journalists from outside Russia and the region, rebels detained several reporters on suspicions of espionage, including an American journalist.
with Vice News.

In 2014, across Ukraine (including rebel areas) there were: 7 documented killings of journalists, 286 physical assaults, 78 abductions, multiple physical attacks on offices, and cyber attacks on websites, according to Freedom House. Predictably, these developments raised concerns over freedom of speech, including that an informational firewall between dueling and contradictory media narratives would only deepen existing divisions.

A Post-Truth Armed Conflict

How has Ukraine’s information war affected public attitudes toward the conflict? Survey evidence suggests that very few Ukrainians outside of the Donbas see Russian state media as a reliable or truthful source, which may be evidence either of the success of Ukraine’s counter-propaganda efforts or the ineffectiveness of Russia’s. Residents of rebel-held areas appear to have a similarly skeptical view of Ukrainian media, particularly due to its unwillingness to report on civilians killed by pro-government troops—incidents which Kyiv routinely denies.

To take stock of reporting biases in the Ukrainian conflict, we collected data on 72,010 violent events, as reported by 17 information providers, between February 23, 2014, and May 2, 2016. Our sources included official newswires, television channels, Internet news sites, and blogs from Ukrainian, rebel, Russian, and external, third-party outlets. We also included the Russian-language edition of Wikipedia, and daily briefings from the OSCE Special Monitoring Mission to Ukraine. We used natural language processing and supervised machine learning to classify each event into a series of pre-defined categories, by event type, initiator, target, tactic, and casualties.

How do Russian and Ukrainian sources differ in their coverage of the Donbas conflict? To answer this question, we estimated the relative bias of each information provider in covering rebel versus government violence. We did so using methods developed by scholars of American electoral politics to estimate “house effects” (Jackman, 2005; Pickup and Johnston, 2008) of individual survey firms (for example, which pollsters have a “pro-Trump” bias and which have a “pro-Clinton” bias).

Figure 1 shows these estimates, with event reports published by the OSCE as the reference category (vertical line at zero). Positive values indicate that a source is more likely to cover rebel than government violence, and negative values indicate greater relative coverage of government violence. Where the margin of error covers zero, relative levels of coverage were similar to reports by the OSCE.
Figure 1. Ukrainian Sources Report on Rebel Violence, Pro-Russian Sources Report on Government Violence

The data reveal large systematic differences in the armed actors who receive coverage in Ukrainian, rebel, Russian, and international sources. Overall, Ukrainian information providers (blue circles) devote more news coverage to rebel violence and less to government operations than any other group of sources. Four out of the five sources that systematically “over-report” rebel attacks are Ukrainian: the military blog Information Resistance (Sprotyv), and the television channels 112, Espreso, and Channel 5 (the latter is owned by President Petro Poroshenko). *

Most sources that “over-report” government violence are based within Russia (red circles) or the self-proclaimed Peoples’ Republics of Donetsk and Luhansk (DNR, LNR) (orange circles). DNR-based media outlets NewsFront and Donetsk News Agency (DAN), in

* The term “over-report” indicates that a source reports a higher share of rebel-to-government (or government-to-rebel) attacks than the OSCE.
particular, have the most acute actor-specific bias in the data, reporting almost exclusively on violence by the Ukrainian government.

Russian sources have the same general direction of bias as rebel sources, but with somewhat lower magnitude. With a single exception—the independent, opposition-oriented Dozhd television channel, which is closer to the median Ukrainian source—Russian media report disproportionately on government violence. The only Ukrainian outlet with a comparable bias in the opposite direction is Interfax-Ukraine, a Russian-owned wire service. Between rebel and Ukrainian media, there is a much clearer separation—the “left-most” Ukrainian outlet is still to the right of the “right-most” rebel outlet.

A very different picture appears in third-party sources, like OSCE reports and Wikipedia. These sources are more “neutral,” in the sense that they are unlikely to attribute violence to any armed group at all. The language in these reports tends to be more passive and non-specific (“shelling was reported near village X”) than language in local media. For the OSCE, this finding is consistent with anecdotal reports that—because it must maintain working relations with all sides—the monitoring organization is cautious about attributing violence to specific initiators. For Wikipedia (green circles), this pattern may reflect the crowd-sourced nature of the data: users flag entries as biased, remove offending information, and eventually reach a “neutral” compromise.

Not only have Ukrainian and rebel media reported disproportionately on violence by the “other” side, they report mainly on indiscriminate violence (e.g., artillery shelling, rockets, heavy armor) by the “other” side. Ukrainian news coverage of rebel violence cites indiscriminate tactics 66 percent of the time, compared to 45 percent in rebel media. Coverage of government violence is a near-mirror image: 32 percent of the government violence reported by Ukrainian sources is indiscriminate, compared to 57 percent for rebel sources. Russian and international sources, again, fall somewhere in between.

Beyond simply making the opponent “look bad,” these biases have implications for conflict resolution. We looked specifically at coverage of ceasefire violations after the Minsk I and Minsk II agreements, and ran a series of simulations to see which actor is most likely to break the peace, according to each set of sources. Unsurprisingly, the greatest disparity here was between Ukrainian and rebel sources. Ukrainian sources predicted that rebels are more than twice as likely to unilaterally violate the ceasefire as are government troops. Rebel sources predicted an even stronger pattern in the opposite direction, with government troops almost ten times more likely to unilaterally escalate than the rebels. According to Russian and outside sources (OSCE, Wikipedia), however, ceasefire violations should be relatively rare overall, and both sides are about equally likely to violate.

These predictions have divergent implications for conflict resolution. In the case of outside sources like the OSCE, a news consumer or policymaker may conclude that sanctions or
intervention are not necessary to reduce violence. Here, violence diminishes organically over time, and neither side appears likely to unilaterally escalate—a situation in which a negotiated settlement may become self-sustaining. Local sources yield very different lessons: here, transgressions appear to be more common, and a negotiated settlement less likely to hold. For violence to decline, enforcement efforts and sanctions should target whichever side is more prone to unilaterally escalate. According to Ukrainian sources, this intervention should seek to restrain rebels; according to rebel sources, it should target the government.

Conclusion

The relative direction and magnitude of actor-specific reporting biases in Ukraine represent the exact opposite of what would be needed to quickly resolve the conflict. The net effect is that domestic audiences (in government-controlled vs. rebel-controlled territories) may become less interested in striking a bargain with the opposing side, reasoning that an actor inclined to use unilateral violence is unlikely to stick to the terms of a negotiated agreement. Meanwhile, outside audiences (in Russia vs. the West) may develop contradictory perceptions of how intractable the conflict is likely to be, whether sanctions or third-party enforcement is necessary to stop it, and whether that response should be impartial or directed at one side.

Reversing these biases is, of course, easier said than done. Absent attributions of responsibility for violence, leaders and activists interested in conflict resolution will need to better inform journalists about the details of specific incidents. Where attribution exists, governments and NGOs will need to expand audiences’ access to multiple sources of information.

As the United States adapts to a more polarized and uncertain media landscape in 2017, the main lesson of Ukraine’s information war is that efforts to respond to propaganda through counter-propaganda are unlikely to bring us closer to the truth.