

Breaking the Russia-Ukraine Stalemate

How Russia and Ukraine Can Reach an Agreement

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Abstract

This paper examines Russian-Ukrainian relations of the past four years in the context of the present political regime in Ukraine and the interests of its ruling elite. It focuses on the fundamental changes in the Ukrainian leadership's foreign policy strategy and points to long-term risks associated with Kiev's hopes that Western patronage will help strengthen its security. In conclusion, the author considers three scenarios for the development of the Ukrainian state in the coming decade and analyzes their possible consequences for Russian-Ukrainian relations.

Key words: Political regime, internal fragmentation, nationalist narrative, nation-building, scenarios for development, Russia-Ukrainian relations.

The revolutionary events of the winter of 2014 came as a jolt to the Ukrainian political class, yet they did not change the established rules of the Ukrainian politics. Today, Ukraine is still ruled by elites that acquired their capital and political weight during the first decade of Ukraine's independence. Their distinctive features are the absence of value and ideological frameworks, the attitude to the state as the main source of enrichment, the desire to

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monopolize state power, and the perception of society solely as an object of manipulation. In many ways, the fragmentation of the state and the economic collapse of 2014 was the result of a protracted intra-elite confrontation, which also involved a certain part of society. This conflict was actively fueled from the outside and made it impossible to create a stable state model that would embrace diverse intra-Ukrainian preferences. Kiev's swaying from the West to Russia only aggravated the regional polarization, strengthened the influence of external players and culminated in sweeping protests.

The former elites retained their positions in power after the revolution largely due to considerable resource asymmetry between them and new political players. This imbalance will likely allow them to dominate during the next electoral cycle. However, it promises to be the last cycle for the political generation of the 1990s. By 2030, Ukraine's image will be formed mainly by those who came into politics in the current decade. Their political views were primarily shaped by the loss of some of Ukraine's territories as a result of outside aggression and by the fueling of a military conflict inside the country. Therefore, their main goal will be to restore Ukraine within the 1991 borders or, at least, neutralize external and internal threats to its integrity. Ways that will be chosen to accomplish these tasks will determine a new format for Russian-Ukrainian relations and the future state system in Ukraine. In this article, I analyze changes that have taken place in Ukraine's domestic and foreign policies in the past four years and possible scenarios for the development of Russian-Ukrainian relations in the next decade. I also suggest ways to resolve the conflict between the two countries, and principles on which they could build long-term good-neighborly relations. Today, this development seems unrealistic, yet both parties already now can take steps to create prerequisites for a long-term restoration of bilateral relations on a fundamentally new basis.

METAMORPHOSES OF THE HYBRID REGIME

Ever since it was formed, the Ukrainian political regime has been in the "gray zone" where formal democratic procedures and competition for power coexist with authoritarian control over political processes

and frequent violations of basic civil liberties by the government (Hale, 2015). Until recently, significant differences in regional preferences, high mobilization potential of part of society, and diversification of resources among financial and political groups were the main obstacle to eliminating political competition (D'Anieri, 2011; Way, 2015). Attempts by previous Ukrainian presidents to consolidate their authoritarian rule led to open opposition from the counter-elite and to active social resistance (Kudelia, 2014). So, constant internal instability and increased vulnerability to external interference was the price Ukraine paid for preserving its democratic institutions.

While earlier such costs seemed acceptable, in a protracted military conflict, traditional ways to counter authoritarianism lose their attractiveness. This has created favorable conditions for spreading authoritarian practices. Over the past four years, Ukraine has seen systemic violations of the freedom of speech and assembly, deprivation of civil rights, restriction of political competition, and politically motivated selective justice. Another common practice is the unpunished use by security agencies of extrajudicial violence against political suspects, especially those suspected of collaborating with separatists or Russian special services (UN OHCHR, 2014-2018). The persecution of Mikhail Saakashvili has shown that the fight against the “fifth column” is also used to crack down on the most outspoken political opponents.

All these violations are widely covered in reports of international organizations, yet they are little criticized by Western states (Human Rights Watch, 2018). While earlier, during the time of Leonid Kuchma and Victor Yanukovich, similar actions served as the ground for freezing relations with Ukraine, now Pyotr Poroshenko is using authoritarian practices without any serious reputational losses. This may entail further degradation of political institutions in the country and new attempts to achieve public consent primarily through coercive leverage. In these conditions, elections may finally lose their importance as the only real way for society to control the government. If this helps the incumbent president stay in power for another term, it will also significantly increase his personal risks when that term expires.

Another deviation from the practices of the previous two decades is the introduction of an ethnocentric humanitarian policy in Ukraine. This policy includes the introduction of language quotas in the media, restrictions on the sale of Russian books, and discriminatory innovations in secondary education aimed, according to the Venice Commission, mainly against the Russian minority (Human Rights Watch, 2018). The new politics of memory is based solely on the nationalist narrative, codified in law after the adoption of “decommunization laws.” This narrative presents as heroes only those who fought for an independent Ukrainian state, and the entire historical process is subordinated to the logic of “national liberation.” In this approach, there is no place not only for other ethnic groups but also for millions of Ukrainians who did not embrace the nationalist ideology and who defended the future of Ukraine as part of other state entities. The government, which imposes its exclusive interpretation of Ukrainian history, has also introduced, for the first time ever, criminal responsibility for public disagreement with the official dogma. The criminalization of negative remarks about the Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UPA) denies society the possibility of conducting an open dialogue and expanding their knowledge about one of the most tragic and controversial periods in its history (Marples, 2015).

The nativism of the Ukrainian government in the humanitarian sphere where advantages are given to the “original” population is directly linked with the authoritarian turn in political development. Democratic protests in the post-Soviet space were successful only when the opposition convinced the public that the authorities presented a threat to nation-building (Way, 2015). Poroshenko’s ethnocentrism, which he had never displayed before he came to power, is to help him prevent mass protest mobilization under the slogan “The authorities have betrayed our national interests.” Although anti-corruption slogans have become even more relevant during his tenure as president, they are not enough to organize a mass protest movement. At the same time, the government’s cultural policy is also intended to divide society and foster distrust and enmity between different opposition

groups. The result is an aggravation of internal conflicts and inter-ethnic intolerance and reduced opportunities for a peaceful settlement of the armed conflict in Donbass. This, in turn, may increase tensions in relations between Kiev and Moscow.

EXTERNAL CHALLENGES TO UKRAINE

Ever since Ukraine became independent, its government has viewed the Russian Federation as the main source of military threat and sought a balance in international security guarantees. Back in 1992, President Leonid Kravchuk asked the U.S. administration to provide Ukraine with guarantees that would be as strong as those provided for by Article 5 of the North Atlantic Treaty in exchange for Kiev's giving up its nuclear weapons (Pifer, 2017). However, the watered-down text of the Budapest Memorandum of 1993 denied Kiev any chance to count on military support from the West in case of foreign aggression. Therefore, all Ukrainian presidents viewed efforts to maintain Ukraine's military and political cooperation with the alliance as the only available way to neutralize external threats. Meanwhile, Russia remained the key economic partner of Ukraine and the main source of rent for its financial and political groups. Ukraine's multi-vector policy was thus a way to gain maximum economic dividends from relations with Russia and, at the same time, minimize costs to national security, stemming from these relations (D'Anieri, 1999).

The overnight annexation of the Crimean Peninsula by the Russian Federation vividly showed the shortsightedness of this strategy. On the one hand, it allowed Russia to co-opt a significant part of the Ukrainian elite and use it to influence public attitudes about the EU and NATO. On the other hand, it did not create any essential levers for ensuring Ukraine's security, except for a largely declarative partnership with the North Atlantic Alliance and token military assistance from the United States. The Barack Obama administration declined to directly interfere in the Russian-Ukrainian conflict in 2014 or even supply armaments to Ukraine, which was a bitter eye-opener for many pro-Western Ukrainian politicians. At the same time, the active assistance to separatists in Donbass turned

Russia from a potential threat into a direct military enemy. And whereas the annexation of Crimea could be a sign of Russia's limited territorial claims, the covert participation of the Russian military in the hostilities on the side of "militias" and Russia's support for the unrecognized "republics" pose more fundamental challenges to the Ukrainian state.

The first challenge is the continuing internal fragmentation of Ukraine and the weakening of state monopoly on violence by paramilitary organizations. Another challenge is the militarization of the Ukrainian economy, which only creates new sources of rent for security agencies and prevents intensive economic development. Further concentration of state resources in the defense sector means higher poverty, lower education and health standards, and a brain drain. The third challenge is posed by the final emasculation of democratic institutions in Ukraine, the elimination of pluralism and the establishment of a harsher form of authoritarian rule.

The threat of disintegration of the Ukrainian state remains a priority challenge to the Ukrainian government and its Western partners. That is why the United States and the European Union imposed the bulk of their sanctions against Russia only with the beginning of active military operations in Donbass. Simultaneously, Washington began to use financial levers to set priorities for reforms conducted by the new Ukrainian government and even name candidates for government posts. At the same time, the American assistance to the Ukrainian security sector has reached a scale that is unprecedented for Ukraine. In all, since 2014, the U.S. has provided Ukraine with military assistance worth about \$1 billion. This assistance included the training of the Ukrainian military and supplies of modern communication and surveillance equipment (Morelli, 2017). This is more than Ukraine had received in the previous two decades. The recent decision of the Donald Trump administration to sell lethal weapons to Kiev shows that the U.S. continues to play the role of the main security donor for Ukraine. Also, Washington's stepped-up mediation efforts to resolve the conflict in Donbass increase its role in the diplomatic process, formerly dominated by Germany and France.

CONTROVERSIES IN KIEV'S RUSSIA POLICY

Ukraine's new strategy towards Russia includes five interrelated components. The first component is pressure on Moscow through Western sanctions. One of the main tools for that is making Western allies uncertain about Moscow's military and political goals, especially with regard to the Baltic and Central European countries. The second component is Ukraine's demonstrative withdrawal from the Russian cultural and information space to weaken the Kremlin's influence on the public opinion in Ukraine. The third component is the decision to forgo direct energy supplies from Russia and thus limit the Kremlin's ability to engage in geopolitical blackmail and bribe the Ukrainian political elite. The fourth component is the freezing of bilateral political dialogue and the holding of summit meetings only with Western allies where mainly the restoration of Ukraine's territorial integrity is discussed. The fifth component is efforts to discredit Russia as an aggressor state in the international arena and undermine its reputation through international legal actions, information campaigns and civil actions.

What are the ultimate goals of this strategy? First of all, it is to increase the Kremlin's costs for its further interference in Ukraine's affairs to a level where it will be more advantageous for Russia to respect its territorial integrity. Another goal is to demonstrate the unlikelihood of a partition or liquidation of the Ukrainian state, which is under Western patronage. This should render irrational any attempt to undermine the Ukrainian state.

However, President Poroshenko's statement that NATO membership is a "guiding star" for Ukraine increases the level of long-term threats to Russia stemming from an independent Ukraine. Thus he cancels out his own attempts to make the Kremlin reconsider benefits from further military intervention in Donbass. Even American scholars point to the strategic inconsistency of this policy and say that a neutral status for Ukraine would reduce tensions over the Ukrainian issue along the West-East axis (O'Hanlon, 2017). And yet, the incumbent Ukrainian government views the policy of joining the alliance as having no alternative.

So, Ukraine will remain strategically vulnerable in relations with Russia, which cannot be fixed by Western military instructors or American arms supplies. At the same time, prospects for settling the conflict in Donbass are becoming dependent on the state of Russian-American relations, which have already entered a “second Cold War” (Blackwill and Gordon, 2018). This is evidenced by the Pentagon’s new defense strategy which defines “long-term, strategic competition” with Russia and China as the central challenge to U.S. prosperity and security (Department of Defense, 2018). As a result, Ukraine may become a hostage to a major geopolitical confrontation, in which it will have to play the unenviable role of an “eternal victim.” Support for this policy will lead to a final breakup in relations with Moscow and perpetuation of unresolved territorial conflicts, with Ukraine having to be content with informal Western patronage without firm security guarantees.

These developments may have catastrophic consequences for long-term bilateral relations and the whole of the region. The main risk comes from a gradual expansion of the military conflict zone beyond Donbass and further destabilization in various sections of the Russian-Ukrainian border. This escalation will finally turn Ukraine into a territory of proxy war between Russia and the United States and a source of instability in the region. Ukraine will also lose the chance to achieve sustainable economic development, which will make it the poorest country in Europe and its prospects for joining the European Union in the next decade still less likely.

At the same time, maintaining the smoldering conflict with the large neighboring state meets the interests of the ruling elite in Ukraine. It is used as an excuse for economic backwardness, limited civil liberties and the persecution of political opponents. The continuing conflict also allows the authorities to exclude a large part of Ukrainian citizens, strongly opposed to the incumbent regime, from the electoral process. For society, the price of the ongoing confrontation is measured not only in lost lives but also in higher internal intolerance, the degradation of social spheres, the growth of crime rates and the outflow of human capital abroad. This situation requires a search for a model of stable peaceful coexistence between the two states.

PRINCIPLES OF NEW DETENTE

Although there are no prerequisites yet for the restoration of Russian-Ukrainian relations, contours of a new *détente* policy between Kiev and Moscow can be outlined already now. This policy should rest on five basic principles that should ensure stability of the bilateral relations.

The *first* principle is recognition of common security interests of the two countries and renunciation of the use of force to solve bilateral problems. This will help avoid any actions that may infringe upon or undermine the security of the other party, and work to build mutual trust. The asymmetry of the military potential between Ukraine and Russia means that Ukraine can inflict substantial damage to Russia's interests only through a military alliance with third countries. That is why Kiev's statements about its desire to join NATO exacerbate the security dilemma between the two countries and prevent a peaceful settlement of the conflict in Donbass. Obviously, the goal of restoring trust with Moscow requires Ukraine to declare itself a permanently neutral state, while remaining committed to the goal of joining the EU, like Sweden or Austria. At the same time, a revision by Kiev of its Euro-Atlantic aspirations is impossible while Russia maintains its military presence on part of Ukrainian territory. This means that the settlement of their relations in the security sphere will require one-time mutual concessions, to be encoded in multilateral agreements.

The *second* principle is renunciation of the use of trade and economic ties for political purposes. Further integration of Ukraine into the EU economic space promises new benefits also to Russian companies in the Ukrainian market. It will create favorable conditions not only for sales but also for investment, exchanges of advanced technologies and economic partnership with Ukrainian and European companies. However, Russian producers will no longer have economic hegemony in Ukraine and will have to compete for Ukrainian consumers on an equal footing with companies from other countries. Also, they should abandon attempts to exert political pressure or finance individual parties and public organizations. Russia should also

recognize the absence of Ukraine in Eurasian integration projects as a given and work for mutually advantageous economic rapprochement with Ukraine, while respecting its pro-European choice.

The *third* principle is free access to the information, cultural and educational space of the two countries, free cross-border movement of people, and safeguards for the rights of religious communities affiliated with the mother churches in Russia or Ukraine. Further manifestations of discriminatory practices in the humanitarian policies of the two states would invariably revive conflicts which will violate the strategic stability of bilateral relations. Kiev will have to return to an inclusive policy that respects the cultural rights and educational needs of the Russian minority and many other Russian-speaking people in Ukraine. Equal respect for the identity and historical distinctness of regional communities on the part of the central government is a must for maintaining peace in Donbass. Although these goals are now hard to achieve, progress in resolving security issues will facilitate a revision by Kiev of its ethnocentric policy and help resume cooperation in humanitarian spheres.

The *fourth* principle is pluralism in matters of historical memory and desire for reconciliation over the most contentious issues in the common history of the two peoples. This concerns not only events of the past centuries but also modern history, primarily the revolutionary protests in Kiev, the annexation of Crimea and the armed conflict in Donbass. A new politics of memory will succeed only if the authorities stop limiting public discussions of historical issues or trying to impose their narrative on regions and ethnic groups with different historical experiences as the “only correct” one. Symbolic moves by politicians and public figures of the two countries towards reconciliation and mutual forgiveness will be particularly important for interstate relations. However, as the difficult Ukrainian-Polish historical dialogue has shown, a search for mutual understanding after centuries of confrontation is always a long and painful process. Yet, even accepting the inevitability of differences in views on certain events in history may be enough for these differences not to be an obstacle to a common future.

Finally, the *fifth* principle is depersonalization of cooperation through the creation of permanent institutional mechanisms for interaction both at the state level (through a special ministry or special commissions) and at public and regional levels. Such a dialogue should help establish trust, resolve outstanding conflicts and quickly respond to the emergence of contentious issues between the two countries. The creation of communication platforms with broad public representation will help depoliticize relations, end their dependence on certain personalities in the leadership of the two countries and limit the influence of spoilers on both sides.

SCENARIOS FOR UKRAINE

Obviously, the unresolved conflict in Donbass and the territorial dispute over Crimea are the main obstacles to the restoration of bilateral relations. The situation is exacerbated by a growing disagreement between the two countries over broader geostrategic issues, particularly ways to ensure their security. In the absence of early progress on these issues, there may emerge new obstacles, which will be much harder to overcome.

One such obstacle may be a further authoritarian reversal of the political regime in Ukraine, especially if radical nationalists from among ultra-right groups come to power. Although their electoral support remains low, the leaders of these parties enjoy the patronage of senior government officials and freely form a wide network of paramilitary groups across the country. Their gradual merger with law enforcement agencies will help stop street protests in case elections are cancelled or rigged. Already now, they are trying to impose on society a new nationalist agenda under the slogan of establishing “Ukrainian order.” Even if the West weakens its support for Ukraine, a growth of nationalist sentiments in the country will invariably result in the escalation of the Russian-Ukrainian conflict. The creation of a nationalist-authoritarian regime in Ukraine will pose new major risks for the Kremlin. In particular, it will provoke the Kremlin into open military actions against Ukraine, which may result in new sanctions, significant economic losses, more active military intervention by the U.S., and political destabilization in Russia.

Another scenario presupposes the preservation of a hybrid regime in which political pluralism is supported by the struggle among oligarchic groups, while democratic institutions primarily serve as a screen for rent-sharing among the elites. This type of regime best met the Kremlin's interests for two decades of Ukraine's independence. It allowed Moscow to use internal conflicts in Ukraine and corrupt Ukrainian politicians to promote its own interests. In the new conditions, however, the larger part of the Ukrainian elite has reoriented itself towards the West, while the reduction of bilateral economic ties leaves little room for corrupt deals. As anti-Russian rhetoric has become the only way for the ruling elite to retain power, the hybrid regime will only exacerbate the existing antagonisms and prevent a peaceful settlement of the conflict.

Under a third scenario, the ruling elite will be deposed and the country will switch to a parliamentary system, with the consolidation of key democratic institutions. This transformation will help eliminate the system in which "the winner takes it all" and then becomes the dominant player for the whole of his tenure, and build a consocial model for the distribution of executive and legislative power among political forces representing the interests of various ethnic and cultural groups and regions. Some powers of the central government will be delegated to regional communities, which will receive exclusive competencies in the economic and humanitarian fields. This model is an acceptable alternative to "federalization," which many people in Ukraine view as a threat of the country's further disintegration. It will help balance preferences of different groups of voters in Ukraine and involve them in public administration at all levels. This model will also create an institutional basis for re-integrating Donbass on equal terms with other regions and will open up opportunities for broader agreements between Moscow and Kiev.

THE FIRST STEPS TOWARDS AGREEMENT

Ukrainian society has in the past four years viewed Russia's policy vis-à-vis Ukraine as the implementation of the "limited sovereignty" doctrine which denies it the right to decide its own destiny. This view

has told on Ukrainians' attitude towards Russia (Center for Insights in Survey Research, 2017). At the end of 2017, only 18 percent of Ukrainians were ready to admit that they had warm feelings towards Russia. Simultaneously, the average person in Russia firmly associated Ukraine with hostile American influence. In December 2017, almost a third of respondents in Russia (29 percent) described Ukraine as an enemy and placed it second after the United States among enemy states (Levada Center, 2018). Such public sentiments are fueled by official propaganda of the two countries and create a very negative background for any attempts to start Russian-Ukrainian reconciliation. Many Western politicians, too, are interested in stirring antagonisms, as they view Ukraine as an important bridgehead for containing "revisionist" Russia. Therefore, they will keep encouraging pro-Euro-Atlantic rhetoric among Kiev politicians, even though Ukraine's chances for NATO or EU membership are dim.

In these conditions, the initiative for resuming a meaningful dialogue can come only from Moscow. The first signs of its readiness for that will be changes in the information policy of the state-run media, which now seek to discredit the Ukrainian state and set one part of Ukrainian society against another. One way for Russia to show its goodwill is to release about fifty Ukrainian prisoners who were convicted for political reasons. This may help reach a compromise on the deployment of a UN peacekeeping force and the establishment of provisional international control over territories controlled by separatists.

With the beginning of the settlement of the conflict in Donbass, both states should expand the negotiation agenda. The negotiations should be aimed at finding a formula for ensuring mutual security and reaching accord on the principles of building long-term relations. Although a quick solution to the problem of the status of Crimea is unlikely, the parties could use the Anglo-Irish agreement of 1985 as an example of how they could begin the settlement of bilateral relations, while putting off a final decision on the disputed territorial issues. This tactic would facilitate the parties' search for a compromise. Specifically, Russia could stop the persecution of Crimean Tatar activists, while

Ukraine could pardon some prisoners convicted for “separatism.” To build up mutual trust, the parties can create mechanisms for the mutual monitoring of the observance of human rights in Crimea and Donbass. The negotiation process should go hand in hand with cooperation between the two countries in restoring the economic and social infrastructure of the Donetsk and Lugansk regions. To add more legitimacy to the negotiations, they could involve members of major political forces represented in parliament. Obviously, the key issue after the conclusion of a new Russian-Ukrainian treaty will be guarantees for its implementation. To strengthen these guarantees, the treaty should be approved in parallel referendums to be held in the two countries, and its main principles should be encoded in their constitutions.

The aforementioned steps towards reconciliation and rapprochement will take many years and will apparently succeed only after a new generation replaces the current ruling elites in the two countries. However, this factor does not make decisions of present politicians less significant or crucial. In the long run, it is these decisions that can lay the foundation for agreement or, on the contrary, make the Russian-Ukrainian conflict still harder to resolve.

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Serhiy V. Kudelia

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