

The Future of the Minsk Agreements

Press for Implementation and Support Sanctions

Susan Stewart

The Minsk agreements are currently the principal instrument for achieving a lasting settlement in the occupied regions of eastern Ukraine. Moscow and Kyiv, however, are showing little enthusiasm for implementing the associated package of measures. Unless this changes by the summer, the European Union would be ill-advised to lift or relax its economic sanctions against Russia. As well as harming the Union's political credibility, such a step would encourage Russia both to expand its influence in the post-Soviet space and to continue its attempts at dividing the EU.

The Minsk agreements consist of a protocol from September 2014 and a package of measures from February 2015. They were prepared under OSCE auspices and signed by Russia, Ukraine, the OSCE and the separatists in the so-called “people’s republics” of eastern Ukraine. The process is monitored by Germany, France, Ukraine and Russia, whose representatives meet regularly in the “Normandy format”.

For over a year now, implementation of the Minsk agreements has failed to progress beyond partial fulfilment of individual items. In the meantime, the European Union’s unity over sanctions against Russia has been gradually eroding, and there is some doubt as to whether they will be extended again in the summer. Given that the EU has made complete implementation of the agreements a condition for lifting sanctions, it may soon find itself with a credibility problem.

A Tricky EU Context

The European Council Conclusions of 19–20 March 2015 state: “The European Council agreed that the duration of the restrictive measures against the Russian Federation, adopted on 31 July 2014 and enhanced on 8 September 2014, should be clearly linked to the complete implementation of the Minsk agreements, bearing in mind that this is only foreseen by 31 December 2015.” After the deadline was missed, the parties extended it into 2016.

Within the European Union, Germany has taken on the greatest responsibility for achieving a resolution in eastern Ukraine. As well as playing a key role in the Normandy format together with France, Germany also assumed the OSCE Chairmanship in January 2016, and is thus now integrated even more closely into the existing conflict-resolution mechanisms. The OSCE’s Special Monitoring Mission in Ukraine is keeping

the situation on the ground under permanent observation, and the OSCE is also responsible for the contact group in which talks on implementation of the Minsk decisions occur. Under this framework it should be possible to stabilise the situation in the occupied parts of the Donbas and improve humanitarian conditions, thereby paving the way for implementation of political measures such as local elections and elements of decentralisation.

To date only one of the thirteen Minsk items has been fully implemented: the work of the contact group has been intensified. The ceasefire in eastern Ukraine remains fragile, the withdrawal of heavy weapons has been only partial and the exchange of prisoners has yet to be completed. Other agreed steps are also still pending: neither has a special status been instituted for parts of the Donbas, nor have elections been held in the occupied areas. And Russia has yet to hand control of the border back to Ukraine. In view of the lack of progress in the Minsk framework, the EU member-states decided in December 2015 to extend their economic sanctions against Russia for a further six months.

However, the European Union's collective resolve on sanctions seems to be weakening. On the one hand, the arguments that made certain countries sceptical from the outset continue to be advanced. The EU's sanctions and Moscow's counter-measures are causing trade and investment losses to firms and certain economic sectors in a number of member-states. And Ukraine aside, even if many European actors are quite dissatisfied with Russia's role in Syria, most continue to regard the Russian Federation as an important international partner. Generally, many EU states find the potential consequences of stricter isolation of Russia unpredictable and alarming.

New factors also play a part. With eastern Ukraine remaining relatively calm in recent months, Russia's destabilising role there has slipped out of the focus of European attention, especially as the refugee crisis has come to overshadow most other

issues. The Kremlin has also succeeded in strengthening pro-Russian voices in certain EU member-states by supporting right-wing forces, which have been gaining additional ground as a result of growing opposition to the recent influx of migrants. Finally, there is widespread disappointment with Ukraine, since Kyiv has been slow to conduct important reforms and is experiencing domestic political instability. As a result, there are numerous calls emanating from business, politics and society in various member-states (including Germany) for a relaxation or lifting of sanctions, despite the clear language of the Council Conclusions. The French elites are divided on this question, while Italy, Austria, Greece and Hungary fundamentally question the point of the measures.

Russia: Unyielding

Moscow is plainly seeking to have the sanctions relaxed, or better still lifted. But it wishes to achieve this without having to fulfil its Minsk obligations. Instead the Kremlin is pursuing a three-pronged approach. Firstly, it is seeking to present itself as a constructive actor. At the beginning of 2016 the Russians made a series of moves that many observers interpreted as signs of a new willingness to make progress on implementing Minsk. These included the appointment of Boris Gryzlov – former speaker of the Duma and today a member of the Russian Security Council – to represent Russia in the OSCE-led contact group. At the same time Moscow responded positively to a meeting between Victoria Nuland, US Assistant Secretary of State, and Putin adviser Vladislav Surkov in Kaliningrad on 15 January, where possible next steps in the Minsk process were discussed in detail. There is, however, no reason to believe that Russia has altered its objectives in the Ukraine conflict. There has in fact been no positive shift in Moscow's behaviour (or that of the Russian-controlled separatists) with respect to Minsk. Furthermore, Russia has taken military measures which would

allow the fighting in the Donbas to resume at any time. Germany and the EU must therefore assume that Russia is still seeking to destabilise Ukraine and remains unwilling to relinquish control of the occupied areas in the east.

Secondly, the Russians never tire of repeating that Ukraine is not fulfilling its own Minsk obligations. The Kremlin concentrates particularly on the requirement to grant the occupied territories in the Donbas a special status in the Ukrainian constitution, presenting Ukraine as the main obstacle to implementation of the Minsk package. Thirdly, Moscow is seeking to deepen fault lines within the EU to a point where consensus on extending the sanctions can no longer be achieved in July. Germany is currently one of the targets of this policy. The Russian international media campaign claiming (falsely) that a girl possessing both German and Russian citizenship had been raped by refugees in Berlin is just one example of Moscow's attempts to discredit Germany and depict it as a dangerous country with incompetent security organs. One of Russia's goals here is to make life difficult for the German government by sowing discord in society. Ultimately, Moscow would like to undermine Germany's dominant role within the European Union, in order to increase the influence of more strongly pro-Russian member-states.

Moscow is thus attempting to provide the European Union with arguments for relaxing or lifting sanctions, even though Minsk is still far from full implementation. One outcome of such a course would be a scenario in which the situation in eastern Ukraine remains unresolved, while Russia no longer has any incentive to agree to compromises within the Minsk framework. In that event Russia's politically and economically strengthened position would be likely to lead Moscow to make new demands. The Kremlin would also feel that its approach of fomenting strife within the European Union had been vindicated.

Ukraine: Foot-dragging

For several months Ukrainian politicians created the impression that realising two points of the Minsk agreements lay within reach: a constitutional amendment to allow decentralisation and a law on local elections in the occupied areas. But since the beginning of 2016 the Ukrainians have been insisting that Russia and the separatists must do more to observe the first part of the agreements: ceasefire, withdrawal of heavy weapons and exchange of prisoners. Until these points have been fulfilled, they argue, Ukraine cannot meet its ensuing obligations. It is indeed hard to imagine how a special status could be introduced or an election held according to OSCE standards in the unstable context of the so-called people's republics of Donetsk and Luhansk. Credible steps to improve security in these areas could boost Ukrainian confidence that Russia is genuinely committed to the Minsk framework.

Currently, however, a climate of mistrust of Moscow prevails in Ukraine, with the measures needed to implement Minsk consequently rejected by large segments of the political elite and the society. This applies most of all to the question of a special status for the Donbas. Some fear that a loosely formulated constitutional amendment would leave Ukraine powerless to control how that status was concretely implemented. The situation is exacerbated by severe tensions within the government coalition, which has essentially collapsed. It is correspondingly difficult to achieve a broad consensus on sensitive legislative proposals.

In relation to local elections in the occupied areas, there are growing fears in Kyiv that the OSCE could water down its standards in order to obtain a recognised election result to advance the Minsk process. The state of discussions in the contact group shows that positions on the conditions necessary for elections to be held are still miles apart. In the current precarious domestic political situation, the chances of achieving a rapid Ukrainian consensus on the Minsk framework are poor. Even if a

reshuffle were to produce a more reform-oriented government, it would not necessarily be any more willing to implement the agreements. Moreover, some Ukrainian politicians appear to regard a blockade of Minsk as insurance that EU sanctions against Russia will be upheld.

Parallel Tracks

Despite its dual role as OSCE Chair and a key actor in the Normandy format, Germany possesses only limited possibilities for influencing the behaviour of Russia and Ukraine with respect to the Minsk agreements. The signs do not currently point towards rapid implementation. It would therefore be advisable for Berlin to expend more energy within the European Union to build support for extending the economic sanctions.

The German government could complement that approach by stepping up its targeted pressure on Kyiv to institute rule-of-law reforms, working on the assumption that successful reforms would make it easier to rally support for Ukraine within the EU. And the sanctions against Russia should also be understood as a form of support for Ukraine, in the sense that they increase the cost of Russia's destabilisation of the Donbas.

It is also important to avoid abandoning the sphere of information to Russian and Ukrainian actors. Instead an assessment of the implementation of the Minsk measures needs to be generated using the most objective possible sources and discussed on this basis with European partners. The data on the ceasefire and the withdrawal of heavy weapons gathered by the OSCE mission could be useful, as could information from organisations such as the International Crisis Group, which possesses important insights into the situation in the Donetsk and Luhansk regions. This would create a partial counterweight to Russian propaganda in particular, which is increasingly pervasive and perfidious.

It could also be useful to hold a structured discussion about how the economic

losses caused by (counter-)sanctions could be minimised through a coordinated diversion of trade flows. Such a dialogue could also include third states such as Turkey.

None of this would in the slightest exclude further talks in the Minsk framework. Despite the ongoing difficulties with implementation of the agreements, the existing combination of the Minsk documents, the Normandy format meetings, and the OSCE-led contact group appears to be the best option for pursuing conflict settlement in the current environment. While there have been numerous mentions of a potential "Minsk III" or a negotiation format including a different constellation of actors, it is unclear how an effective transition to such a format might be conducted, or why such changes would make a resolution of the conflict in eastern Ukraine more likely. The measures recommended above are thus conceived as a parallel track, to help ensure the European Union's consistency and credibility in the event that the Minsk process fails to achieve clear progress in the coming months. In view of the present calculations of the parties to the conflict – and these include Russia, despite its protestations to the contrary – this is unfortunately to be expected.

© Stiftung Wissenschaft und Politik, 2016
All rights reserved

These Comments reflect the author's views.

SWP
Stiftung Wissenschaft und Politik
German Institute for International and Security Affairs

Ludwigkirchplatz 3–4
10719 Berlin
Telephone +49 30 880 07-0
Fax +49 30 880 07-100
www.swp-berlin.org
swp@swp-berlin.org

ISSN 1861-1761

Translation by Meredith Dale

(English version of
SWP-Aktuell 12/2016)