



Ukraine - No Shortcuts on the Long Road Ahead

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INTRODUCTION

The refusal of President Viktor Yanukovich to sign the Association Agreement between Ukraine and the European Union (EU) at the Vilnius Eastern Partnership Summit on 28-29 November 2013 marked a turning point that triggered the momentous events of 2014.

The Euromaidan protests that followed led to the flight of Yanukovich to Russia and the emergence in Ukraine of an EU-oriented government led by Arseniy Yatsenyuk at the end of February 2014. In March 2014, Russia invaded Crimea, the annexation of which was followed by the signing of a decree by Russia's President Vladimir Putin on 17 March 2014, approving the admission of Crimea into the Russian Federation. Clashes broke out in Donetsk and Luhansk in Eastern Ukraine, resulting in parts of the territory being controlled by pro-Russian forces (a combination of local pro-Russian fighters and Russian army servicemen) and declarations of independence in May 2014 (Donetsk People's Republic - DPR and Luhansk People's Republic - LPR)¹. Armed conflict with Ukrainian regular forces and civilian volunteer battalions² erupted, resulting in thousands of fatalities and the displacement of millions of people.

On a more positive note, the post-Euromaidan government in Ukraine received unprecedented financial assistance from the EU and International Monetary Fund (in March 2014, the EU pledged €11 billion over seven years). After Petro Poroshenko was elected President in the first round of presidential elections on 25 May 2014, the parliamentary elections of 26 October 2014 saw the emergence of the Petro Poroshenko Bloc and the People's Front led by Yatsenyuk as the two largest parties - two parties committed to closer integration with the EU. Importantly, both elections were internationally recognised as free and fair (with the caveat that it was not possible to hold the elections in Russian-occupied Crimea or in the rebel-held territories in Eastern Ukraine).

A National Action Plan for the Implementation of the Association Agreement was adopted on 17 September 2014, the day after the European Parliament and the Verkhovna rada (parliament of Ukraine) simultaneously ratified the agreement.

The legacy of the Yanukovich government included the worst business climate of all six Eastern Partner countries, a dysfunctional judiciary and law enforcement authorities, and endemic corruption.

The efforts taken by the new government at national and local level to tackle corruption and reform the economy, alongside plans for decentralisation and privatisation, need to be sustained, and the performance of the mayors and local government councils emerging from the October and November 2015 local elections will be an important factor in the likely successes of anti-graft efforts and in the reform process as a whole.

A key to the reform process will be the establishment of a culture of more inclusive policymaking, working closely with civil society and strategic international partners, such as the EU. Most importantly, the Ukrainian people need to be convinced that the political forces in power at national and local level are sincerely committed to long-term, sustained reforms in policymaking and implementation. In turn, the EU must sustain pressure on all democratic actors in Ukraine to work together for open government, rule of law, respect for and engagement with independent media, and the pursuit of a long-term commitment to public administration reform and democratic renewal.

TERRITORIAL CONFLICT

The estimated number of war casualties - both civilian and servicemen - in the conflict zone in Eastern Ukraine vary from optimistic numbers provided by the United Nations³ or the Ukrainian administration, which are close to 8,000,

1 Russia engaged, according to many experts, in hybrid warfare - efficiently co-ordinated actions of Russian soldiers, pro-Russian local separatists, Russian media and diplomacy. "Unlike in the case of Crimea, Moscow never admitted to the involvement of Russian regular armed forces in Eastern Ukraine. However, Russian support for the insurgency in Eastern Ukraine was evident from the start. The most effective units of the Donetsk and Luhansk separatist movements consisted of the same highly trained and disciplined, well-equipped 'polite green men', wearing Russian uniforms and using Russian military equipment similar to that used in Crimea." (Racz, 2015, p.10)

2 Most volunteer battalions are composed of Russian-speaking Ukrainians fighting for Ukraine.

3 United Nations, Close to 8,000 people killed in eastern Ukraine, 8 September 2015, available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16394&LangID=E>

up to 50,000, estimated by the German intelligence agency, BND⁴. According to *Internal Displacement Monitoring Center*, more than 2.2 million people have been displaced from their homes in Ukraine due to the conflict in Eastern Ukraine and the occupation of Crimea. Most have been displaced internally to other parts of Ukraine, but others have fled to neighbouring countries. Official Ukrainian statistics as of August 2015 recorded 1.4 million registered Internally Displaced Persons (IDPs) in the country - with the highest numbers in Donetsk, Luhansk and Kharkiv oblasts⁵; the exact number is not known, however.

Despite the two ceasefires agreed (Minsk I – September 2014, and Minsk II – Normandy format⁶, 12 February 2015), with the second ceasefire date set for 15 February 2015, heavy fighting continued.

Besides the ceasefire, Minsk II envisaged, among other provisions, the exchange of prisoners (with which the parties involved complied only partially), the withdrawal of armed forces and heavy weapons, and the organisation of local elections in the two separatist republics in line with the Ukrainian constitution. Furthermore, according to the agreements, full control of its Eastern border should be restored to Ukraine by the end of 2015.

The Organization for Security and Co-operation in Europe (OSCE) was tasked to monitor the situation. Between February and August 2015, the OSCE mission repeatedly recorded violations of the agreement, and reported heavy fighting and the presence of heavy weapons.⁷ A situation much closer to a ceasefire was observed from the beginning of September 2015.

The negotiations within the Normandy format continued. On 12 September 2015, the foreign ministers of Ukraine, Russia, Germany, and France met and reaffirmed Minsk II as the basis for settlement of the conflict. The meeting concluded with a three-point agreement, focused on security (compliance with the ceasefire from 1 September 2015, and improved access for the OSCE monitoring mission), a political settlement, stipulating that the conditions for holding the local elections should be negotiated by the Trilateral Contact Group⁸, and humanitarian and economic issues (unlimited access for humanitarian workers to the conflict zone, post-conflict reconstruction, energy and water supplies).

On 2 October 2015, the Normandy format met in Paris at the highest level involving the Presidents of Ukraine, Russia and France, and German Chancellor Angela Merkel.

The group agreed on several points: the local elections called by DPR and LPR representatives would not take place (a clear violation of Minsk II had been the announcement by the representatives of DPR and LPR that they would hold separate local elections originally on 18 October 2015 and 1 November 2015 respectively).

It was agreed that the elections, subsequently postponed by the representatives of DPR and LPR until 21 February 2016, would be conducted in line with international standards and Ukrainian legislation (the adoption of a special law was envisaged), and subjected to international monitoring, including by OSCE observers.

Furthermore, it was agreed that Ukraine should grant immunity for candidates in the elections and an amnesty for separatist leaders and fighters. After the elections, all foreign fighters would be withdrawn from these territories and the OSCE mission would be granted access to the whole territory up until the borders of the Russian Federation. As of 3 October 2015, light weapons should have been removed from the line of combat. Some points were agreed with reservations, on the provision that the working groups of the Trilateral Contact Group on Ukraine would work on the details, especially on the modalities of local elections and the amnesty. Some of the agreed provisions are

4 Frankfurter Allgemeine, Sicherheitskreise: Bis zu 50.000 Tote, 8 February 2015, available at: <http://www.faz.net/aktuell/politik/ausland/ukraine-sicherheitskreise-bis-zu-50-000-tote-13416132.html>

5 Internal Displacement Monitoring Center, Displacement figures in Ukraine fail to reflect a complex reality, Policy Brief, 3 September 2015, available at: <http://www.internal-displacement.org/europe-the-caucasus-and-central-asia/ukraine/new-archive/displacement-figures-in-ukraine-fail-to-reflect-a-complex-reality>

6 Ukraine, Russia, France and Germany were represented at the highest level.

7 For example, OSCE, Russia's ongoing violations in Ukraine, 18 June 2015, available at: http://osce.usmission.gov/jun_18_15_ukraine.html. Free movement of OSCE observers and execution of the OSCE mandate has, however, been limited by both parties of the conflict, with effectively no access on the territory of DPR and LPR.

8 The Trilateral Contact Group on Ukraine comprises Ukrainian, Russian and OSCE representatives; it was formed in May 2014.

politically a hard sell for President Poroshenko in Ukraine.

While grappling with the war and the necessity to design and implement reforms, the Ukrainian authorities need also to address the need to provide effective assistance to IDPs and to improving the collection of related data. Decentralisation and better performance of local authorities are crucial to improving the facilitation of this assistance.

LOCAL ELECTIONS

The post-Euromaidan political constellation has continued to evolve, and the results of the first round of voting in local elections in 2015 displayed some consolidation around the main political groups, but also highlighted the emergence of new political forces in different regions.

In the first elections held throughout Ukraine (with the exception of Russian-occupied Crimea and the rebel-held parts of Donetsk and Luhansk) since the parliamentary and presidential elections of 2014, Ukrainians went to the polls on 25 October 2015 to elect mayors and local councils - regions (oblasts), districts, towns, and villages.

Pending the second round of voting in run-off elections (to be held no later than 15 November 2015), the results confirmed a consolidation of the governing parties around President Poroshenko, on the one hand strengthening his position within the pro-EU forces and the governing coalition, but at the same time confirming that the electorate was not impressed by the pace of reforms being implemented by the government, and that the east-west divide in the country remained a sharp one.

The turnout was not high, but at 46.6 per cent it was not low for local elections, when compared against the 52.4 per cent turnout in the parliamentary elections in October 2014.

The most embarrassing development was the cancellation of polls in the port city of Mariupol over concerns that ballot papers might have been misprinted (the printing house is owed by Rinat Akhmetov, a billionaire former ally of ex-President Yanukovych). Importantly, however, in its statement of preliminary findings, the Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights (OSCE/ODIHR) concluded that the elections "were competitive, well organised overall, and the campaign generally showed respect for the democratic process". The statement did point to the need for continued reforms, not least due to "the dominance of powerful economic groups over the electoral process, and the fact that virtually all campaign coverage in the media was paid for", but it stressed that "the voting and counting process was transparent and orderly overall".⁹

In contrast to the 2010 local elections, when then President Yanukovych's Party of Regions emerged with majority control of almost all oblasts except for the five western regions, it is unlikely that the Petro Poroshenko Bloc-Solidarity party will emerge from the second round in sole control of many oblast local councils. President Poroshenko's party emerged as the strongest in 15 of the 26 regions, leaving Yulia Timonshenko's Batkivshchyna (Fatherland) party far behind; the Opposition Bloc led in six regions, all in the south and east.

While Vitaliy Klitschko went into the second round for re-election as mayor of Kyiv with a resounding lead (taking 40 per cent), it was Poroshenko's party that took by far the most votes in the elections to Kyiv city council (28 per cent). In contrast, the weak economy and concerns at the slow pace of reforms had seen the People's Front party led by Prime Minister Yatsenyuk fall to just a few percentage points in ratings, as a result of which it did not even field its own candidates in the local elections.

Regional results revealed a strong performance by Svoboda (Freedom), which had failed to win seats in the parliamentary elections of 2014, in the western regions of Lviv, Ivano-Frankivsk and Ternopil. Other regional successes included those of Yedynyi Tsent (Unified Centre) in Zakarpattia, Nash Krai (Our Land) in Chernihiv, Vidrodzhennya (Renaissance) in Kharkiv, and UKROP (Ukrainian Unity of Patriots) in Dnipropetrovsk and Volyn. The need for the Petro Poroshenko Bloc-Solidarity party to find coalition partners meant that some of these forces

9 OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), with the Congress of Local and Regional Authorities of the Council of Europe (Congress) and the European Parliament (EP), International Election Observation Mission (IEM) Ukraine - Local Elections, 25 October 2015: Statement Of Preliminary Findings And Conclusions, available at: <http://www.osce.org/odihr/elections/ukraine/194406?download=true>

might emerge as regional players, gaining leverage in return for power sharing at the local level. These new parties, along with *Batkivshchyna* and *Samopomich* (Self-Reliance) - which joined the coalition government after the 2014 parliamentary elections - would need to weigh up their options after the second round of voting, deciding whether to profile themselves in opposition to the central government or to position themselves to join in local government coalitions so as to benefit from the redistribution of power in the pending decentralisation process.

The lack of one-party dominance was a sign of a healthy competitive process, but concerns persisted that strong business players, usually oligarchs, would continue to dominate in some cities. For instance, Ihor Kolomoisky, an oligarch in Dnipropetrovsk and owner of the popular 1+1 television station, is a controlling player in two parties, *Vidrodzhennya* and *UKROP*. Mayoral candidates backed by Kolomoisky were well-placed to win the second-round votes in the key cities of Kharkiv and Odessa - in the case of Odessa, posing a continuing challenge to the anti-corruption drive led by Mikheil Saakashvili, the former President of Georgia who was appointed as Governor of Odessa by President Poroshenko in May 2015.

According to *Local Elections In Ukraine: Preliminary Political Synopsis*, an analysis by the Ilko Kucheriv Democratic Initiatives Foundation, "on the flipside, partnership with a pro-government political force (PPB-Solidarity) at the local level will somewhat tarnish the image and reputation of opposition political forces and could obstruct the achievement of more strategic goals - namely, the insistence on re-election of the current composite of the Verkhovna Rada. Those political forces that are not satisfied with their current 'lever of influence' in the parliament (i.e. *Batkivshchyna*) or currently have no representation (*Svoboda*, or new regional parties) may potentially be interested in such a scenario."

PACE OF REFORMS

The pace of reforms increased during 2015, and President Poroshenko made government ministers and heads of state bodies personally responsible for implementation of the reforms. Despite progress on macroeconomic stability and several centrally implemented reform success stories with nation-wide impact, a major problem for the successful implementation of the reforms rested in the regions, where the local leadership and provincial bureaucracy had been largely obstructionist. No tangible change was underway there, and thus many commentators viewed the reforms as a mere mimesis.

Real reforms require a social consensus. Despite an active civil society and vigilant media working to hold accountable the government in Kyiv and elsewhere in the regions, public opinion polls and the results of the local elections did not provide much space for optimism, as the support for the reformers was eroding.

The lack of impact of the reforms in the regions had been repeatedly acknowledged by President Poroshenko himself: "The lower we go down the vertical, the less the energy for reforms, and the less changes are felt. Often people do not feel any changes at all at the level of the city, village or district."¹⁰ Another related problem was the poor communication to the public of the results of reforms.¹¹ The intra-coalition tensions between President Poroshenko and Prime Minister Yatsenyuk over policy designs and power also contributed to the diminishing discipline of ruling coalition deputies in the Verkhovna Rada, exposing some reforms to the risk of being voted down in the Parliament.

In the wake of the war in Eastern Ukraine and trade disputes with Russia, Ukraine's economy shrank 7.5 per cent in 2014, and looked set to shrink a further 10 per cent in 2015, but the outlook for 2016 had raised the prospect of a return to modest growth. The deal with international creditors to restructure Ukraine's debt, concluded in August 2015, and approved by the Parliament, was good news. The banking sector was undergoing reform, but remained fragile with potentially one-third of the banks likely to leave the market. Proposals were unveiled concerning further reform of fiscal policy, further deregulation in several economic sectors, and improvements to the business environment.¹²

10 Ukrinform, Reforms in regions not effective enough, Poroshenko says, 2 April 2015, available at: http://www.ukrinform.net/rubric-politics/1831798-reforms_in_regions_not_effective_enough_poroshenko_says_330333.html

11 Grant, Charles, The battle for reform in Kyiv, Center for European Reform, 16 September 2015, available at: <http://www.cer.org.uk/insights/battle-reform-kyiv#sthash.yPkXdm9.dpuf>

12 For details, see Carnegie Endowment for International Peace, *Ukraine Reform Monitor*: October 2015, available at:

Economic reforms were well on track thanks to the efficient work of Finance Minister Natalia Jaresko and Economic Development and Trade Minister Aivaras Abromavicius. The list of success stories to date included the new, uncorrupted patrol police, servicing initially the four largest cities (Kyiv, Odessa, Kharkiv and Lviv) and more to follow, and the 20 per cent cuts in public administration, with further reductions of staff scheduled to continue before the end of 2015.

At the same time, **corruption** remained a major problem, blocking headway on many key issues, including visa liberalisation with the EU. Although an Anti-Corruption Bureau had been established and was scheduled to become operational upon the nomination of the special anti-corruption prosecutor,¹³ and several cases of investigation of corrupt officials had been launched, one of the major corruption-related efforts - the replacement of corrupt judges and public prosecutors - had not been successfully tackled. Political corruption persisted, with the funding of the political parties as one of the key issues to be addressed in order to curb the control of business groups over the democratic process.

Decentralisation was seen by many as a panacea for a number of issues and a major challenge to the Ukrainian ruling class. The decentralisation package was submitted to the Parliament on 15 July 2015 and immediately a vote was passed for its submission to the Constitutional court,¹⁴ which ruled that the package was in compliance with the Constitution. On 31 August 2015, the package of decentralisation measures passed its first reading: "It gives the local councils the right to establish executive offices, grants equal rights to all local communities and allows the President to act through the prefects (local representatives) to dissolve local councils or to overrule their decisions."¹⁵

Violent clashes took place in front of the Verkhovna Rada, as protesters opposed the proposal, especially the right of self-administration for communities in separatist-controlled territories in the East, leaving several dead and many injured. Others criticised the introduction of the position of prefects who are to ensure central government's oversight over local decisions, a measure seen as a tool designed to increase presidential powers.¹⁶

The introduction of decentralisation is closely connected to effective anti-corruption efforts. If it is to be effective, decentralisation needs first to disrupt the entrenched oligarchic structures in the regions. Otherwise, the position of the incumbent local elite could be further cemented.

PUBLIC OPINION

The 2015 local election results provided an indication of the level of support for President Poroshenko, and also the strength of opposition groups in the south and east. Moreover, a number of public opinion polls showed significant shifts that reinforce the pro-Western orientation of Ukraine since the Euromaidan protests and the end of the rule of President Yanukovich.

In a public opinion survey conducted throughout Ukraine (except the occupied territories of Crimea, and the rebel-held parts of Donetsk and Luhansk oblasts) by Rating Group Ukraine on behalf of the International Republican Institute on 7-21 September 2015, voting intentions if a referendum were to be held on NATO membership saw a rise from 34 per cent in favour (43 per cent against) in March 2014 to 48 per cent in favour (28 per cent against) in September 2015. In the same vein, if Ukraine had to make a choice between joining the European Union or joining the Customs Union with Russia, Belarus and Kazakhstan, support for EU membership had increased from 52 per

<http://carnegieendowment.org/2015/10/05/ukraine-reform-monitor-october-2015/iik7>

13 The head of the bureau was appointed after an open, competitive, and transparent selection process, and 25 special investigators were hired. See Carnegie Endowment for International Peace, Ukraine Reform Monitor: October 2015, available at: <http://carnegieendowment.org/2015/10/05/ukraine-reform-monitor-october-2015/iik7>

14 Radio Free Europe/Radio Liberty (RFE/RL), Ukraine's Constitutional Court approves decentralisation bill, 31 July 2015, available at: <http://www.rferl.org/content/ukraine-approves-decentralization-bill/27162787.html>

15 Carnegie Endowment for International Peace, Ukraine Reform Monitor: October 2015, available at: <http://carnegieendowment.org/2015/10/05/ukraine-reform-monitor-october-2015/iik7>

16 Ibid

cent to 57 per cent, while support for Customs Union membership had fallen from 24 per cent to 17 per cent over the same period.

Even stronger support was registered in a poll conducted throughout Ukraine (except occupied Crimea and the rebel-held territories of Donetsk and Luhansk) on 22-27 July 2015 by the Ilko Kucheriv Democratic Initiatives Foundation in co-operation with the Razumkov Centre, which found that almost two-thirds of Ukrainians would vote in favour of NATO membership (63.9 per cent in favour, 28.5 per cent against, and 7.6% undecided). Even in the least supportive region of Donbas, the poll showed the number of those opposed to joining NATO at about 60 per cent compared with 95 per cent opposition in 2010.¹⁷

The same poll also examined citizens' attitudes to the government's reforms, finding that 48.4 per cent believed there had been no reforms, and 24.6 per cent believing that only one-tenth of possible reforms had taken place. When asked to identify who was responsible for the absence of reform, Ukrainians targeted as the principal brakes on reform the oligarchs (51.5 per cent), the government (51.5 per cent), the majority coalition in Parliament (44.5 per cent), government officials (44 per cent), and the President (39.1 per cent).

The survey also showed which reform areas Ukrainians considered most important, namely corruption (65.2 per cent) and law and order (58 per cent), followed by pensions and social security reform (39.9 per cent) and health care (35.9 per cent).

These answers suggested a consensus among the public that the slow pace of reforms was caused by the combination of a cumbersome state bureaucracy, failure of the justice system, and the blocking power of oligarchs. The IRI poll also showed slipping support for the ruling coalition, revealing that only 24 per cent of respondents approved (somewhat or strongly) of the performance of President Poroshenko, down from a 55 per cent approval rating in September 2014. The Cabinet's rating was lower still at 13 per cent, while the Parliament's approval rating trailed at barely 11 per cent.

While 46 per cent of respondents thought the decentralisation and local government reforms passed by the parliament on 31 August 2015 "will not change anything", compared with 12 per cent expecting a change for the better, and 15 per cent a change for the worse, the introduction of new patrol police in Lviv, Kyiv and Odessa was met with a resounding 75 per cent approval, reinforcing the IKDIF poll's conclusion that citizens deemed corruption and law and order to be the highest priority areas in need of reform.

EU ENGAGEMENT WITH UKRAINE

Successful internal reforms are a prerequisite not only for the country's development, but also for conflict resolution and the restoration of Ukrainian sovereignty and control over the lost territories. Neither Ukraine nor the West wants the emergence of another frozen conflict zone. Even more importantly, long-term EU engagement will be crucial given the nature and scope of mutual contractual legal obligations. The years 2014-2015 have brought into play a major test of the EU's resolve to support the Eastern Partnership countries, and of the EU's capacity to serve as a counterweight to Russia, which has showed no qualms about infringing Ukrainian sovereignty.

On many instances, the EU has not managed to stand firm towards Russia, which has tested the EU's determination to support Ukraine, its close partner and a pivotal country of its Eastern neighbourhood. The EEAS's widely discussed *Issue Paper on Relations with Russia*,¹⁸ drafted for the January 2015 EU Foreign Affairs Council, started a debate about defining the end goal of EU policy towards Russia. However, this debate further corroborated the skewed discourses of the EU and Russia.¹⁹ Russia's current leadership is not motivated by rational achievements or economic benefits that would help to modernise the country and its economy. Its end goal is to divide the West and challenge its values even at the expense of its own citizens.

17 Ilko Kucheriv Democratic Initiatives Foundation, Reforms in Ukraine: Public Opinion Poll, available at: <http://dif.org.ua/en/polls/2015a/reformi-v-elennja-.htm>

18 Financial Times, Issue Paper on Relations with Russia, available at: <http://blogs.ft.com/brusselsblog/files/2015/01/Russia.pdf>

19 For example, Liik, Kadri, The real problem with Mogherini's Russian Paper, ECFR, January 2015, available at: http://www.ecfr.eu/article/commentary_the_real_problem_with_mogherinis_russia_paper402

The implementation of the **Deep and Comprehensive Free Trade Area (DCFTA)** agreement, which is part of the Association Agreement between the EU and Ukraine, should take effect on 1 January 2016. While the EU already began to apply its part of the DCFTA in 2015, the implementation on the Ukrainian side was postponed after Russian pressure on Ukrainian and EU leaders (President Poroshenko and the then European Commission President José Manuel Barroso) at the negotiations in Kyiv (September 2014).

The trilateral negotiations between the European Commission's Directorate-General for Trade (DG Trade), Ukraine and Russia, dealing with guarantees for legitimate concerns of Russia over possible negative effects of the DCFTA on the Russian economy, were at a stalemate at the end of October 2015. The last trilateral meeting between the European Commissioner for Trade, Cecilia Malmström, the Ukrainian Foreign Minister, Pavlo Klimkin, and the Russian Minister of Economic Development, Alexei Ulyukayev, took place on 7 September 2015 and yielded no concrete outcome. The technical work continued with a draft technical report circulated among the parties. The major issue remained unresolved, however: the EU and Ukraine wanted to work within the framework of the existing agreement, while Russia wanted to make changes to the text of the deal, which would not be acceptable for the two parties to the agreement, the EU and Ukraine.

According to Borderlex,²⁰ the discussions focused on customs co-operation, transition periods for phasing in technical standards, a working group on technical barriers to trade (i.e. technical standards), and the recognition of veterinary certificates for Ukrainian food exports to Russia. The DCFTA requires Ukraine to phase out Soviet-era technical standards and to implement and adopt EU standards in its domestic production and market. This could result in some Russian products disappearing from Ukraine, as Russian standards may diverge from EU standards. Russia is developing its own standardisation system within the Eurasian Economic Union – a customs union with Kazakhstan, Belarus, Armenia, and from 1 August 2015 Kyrgyzstan.²¹

Trade experts believe Russia's concerns over the implementation of EU standards are partly valid on commercial grounds, but largely politically motivated. According to Russian internal analyses²², the implementation of the DCFTA by Ukraine would be beneficial for the Russian economy, and could help the country emerge from the economic slowdown, as the adoption of EU standards would further open not only the EU market but also world markets to Russian exports. President Putin, on the other hand, claimed that the very same technical standards would harm trade between Russia and Ukraine, and thus Russia needed to introduce further unilateral sanctions against Ukraine on 1 January 2016.²³ The suggested protectionist measures were not, however, in compliance with World Trade Organization (WTO) rules, to which Russia is a contractual party.

DG Trade is determined to launch the implementation of the DCFTA with Ukraine this time according to schedule. As Russia is likely to disrupt the developments, possibly even through military escalation in Eastern Ukraine, the EU and Ukraine should agree on a joint approach and EU response in case of renewed external pressure from Moscow.

The **EU Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine)**, a civilian mission established under the EU's Common Security and Defence Policy to support the Ukrainian administration, has been rather a disappointment in Kyiv. The mission contributed to the reform of law enforcement agencies and intelligence services but owing to its rather narrow mandate its voice has been only consultative, without any real executive power. Strong in public outreach, the concrete policy outputs of the Mission are limited. The mandate of the Mission is currently being reviewed. Given the expenditure already invested, the EU should strive to turn EUAM into an effective tool for leveraging important reforms in Ukraine.

Visa liberalisation is one of the tangible benefits of close relations with the EU, and the latest Visa Liberalisation Action Plan (VLAP) evaluation report was scheduled to be published in mid-December 2015. Ukraine had complied with most of the necessary technical standards for the introduction of a visa-free regime with the EU. The hesitation

20 Borderlex, No Breakthrough in Trilateral Negotiations on Ukraine DCFTA, September 8, 2015, available at: <http://www.borderlex.eu/trilateral-negotiations-ukraine-dcfta-deferment/>

21 Ibid

22 Source: European Commission and EEAS

23 Further sanctions would hurt but Ukraine already copes with Russia's sanctions, border blockages, health controls, etc. and Ukraine's exports to Russia were cut by 80% already. Source: Ministry of Finance of Ukraine.

of several EU member states over granting a visa-free travel regime had been linked to security and migration concerns, and to concerns about corruption, which had still not been brought under control by the Ukrainian authorities. The European Council's Working Party on Eastern Europe and Central Asia (COEST) would very probably postpone the final decision on a visa-free regime in December 2015, but it remained likely that a visa-free regime for Ukraine would materialise during the course of 2016.

The Support Group for Ukraine embedded within the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR) continued to focus on additional technical assistance and financial resources for the Ukrainian reform process. Over € 6 billion of the original € 11 billion support package announced in March 2014 had already been allocated by the end of October 2015 - in addition to standard EU funding instruments. Given the scale of the assistance, and the need for the government of Ukraine to implement reforms to turn around the country's economic performance and to clamp down on rampant corruption, the EU should actively involve Ukrainian civil society and independent Ukrainian media in the monitoring of EU spending in Ukraine.

The **East StratCom Team** established within EEAS in June 2015 in order to challenge Russian propaganda and support media freedom across the Eastern neighbourhood lacks appropriate resources and a mandate to deliver on the selected priorities.²⁴ The strategic communications of the EU need to be strengthened, as Russian propaganda is part of the hybrid approach pursued by Russia not only towards Ukraine and the Eastern neighbourhood, but also towards EU member states.

CONCLUSIONS

Russia is the key player in tackling the security equation in Ukraine and should "be treated decently" by the EU, as the European Commission's President, Jean-Claude Juncker, has suggested,²⁵ on the condition that it abides by agreed international rules and norms and stops destabilising its neighbours. Many experts estimate that Russia's economic performance and its capacity to sustain its envisaged domestic social transfers and other budgetary demands, including military budgets, will be possible for only two to four years. Under pressure of economic meltdown, the possible course of Russia's further actions towards Ukraine include many scenarios. Likewise, the internal political developments in Ukraine offer numerous options of future development. It is clear that achieving the economic and territorial security of Ukraine will require the long-term engagement of domestic and international players, and will require political and financial support, not only from the EU.

Ukraine is making headway with the reforms, but several problems persist. The local leadership and provincial bureaucracy has been largely obstructionist to the implementation of the reform agenda and the results are not seen and felt by the Ukrainian citizens beyond Kyiv and other big cities. Corruption remains a widespread problem, blocking the way forward on many issues, including visa liberalisation with the EU. A high level of political corruption persists, and the funding of political parties is one of the key issues to be tackled in order to curb the control of business groups over the democratic process. Public opinion polls and the results of the first round of the local elections in 2015 suggest that the support for the reformers has been shrinking - because the reform is not visible enough and not dynamic enough. Decentralisation and a change in the power structures is important but, in order to be effective, the entrenched oligarchic structures in the regions need to be disrupted first. Otherwise, the position of the incumbent local elite could be further cemented.

A strong and active civil society and media are a great asset for the future in Ukraine. A culture of more inclusive policymaking, effective monitoring and scrutiny of political leadership and administration, needs to be nurtured and actively sought after by the strategic international partners, such as the EU. And most importantly, the Ukrainian people need to be convinced that the political forces in power at national and local level are sincerely committed to long-term, sustained reforms.

24 See Action Plan on Strategic Communication, available at: <http://eap-csf.eu/assets/files/Action%20Plan.pdf>

25 Europe needs better relations with Russia - Juncker, 8 October 2015. See: <http://uk.reuters.com/article/2015/10/08/uk-eu-juncker-russia-idUKKCN0S22MF20151008>

The path to economic and territorial security will require far-reaching market-driven reforms, a war on corruption, and security sector reform. It will necessitate political will on the part of a plurality of political players in Ukraine, and must be backed up by sustained, long-term international support and engagement

KEY RECOMMENDATIONS

- The security of Ukraine and its people - both those in the conflict zone in Eastern Ukraine and the internally displaced - must take centre-stage, so that Ukraine can take control of its own destiny. This will require:
 - full implementation of the Minsk agreements, including the resumption of Ukraine's control of its Eastern borders, and a Ukrainian military that is equipped to maintain and monitor its borders, and has training and equipment that enables it to deter foreign military incursions
 - proactive crisis planning, and security co-operation with the EU, building on the EU Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine), but also working with the US and other NATO members, not only to manage crisis situations, but to preempt the escalation of tensions in Eastern Ukraine and the threat of further military intervention by Russia
 - dynamic support for Ukraine from the side of NATO, which must strengthen its conventional defence capabilities in the Baltics and Poland, and at the same time provide greater military assistance to the Ukrainian army - both steps designed as deterrents to raise the costs of any further Russian offensive actions in Eastern Ukraine
 - OSCE-mediated engagement between the Ukrainian government and the authorities in separatist-held Donetsk and Luhansk to open up space for greater autonomy within Ukraine, backed up by intensive EU diplomacy and political will to find a peaceful solution to the conflict on the part of the Ukrainian government.
- The relationship between the EU and Ukraine needs to be based on clear long-term planning built around the EU-Ukraine Association Agreement, with clear annual targets for policy reforms and clear measures of implementation.
- The EU needs to be consistent in its commitment to working with all democratic parties throughout Ukraine, not pinning its hopes on a small number of political forces. This long-term approach should be combined with strong engagement with civil society, not least in hiring independent expertise to monitor the use of EU funding in the country, and with support to independent media and a plurality of voices in Ukraine.
- The top challenges facing Ukraine include the need to stamp out the endemic rent-seeking and the stranglehold of oligarchs on Ukrainian politics. The new Anti-Corruption Bureau should be provided with the training and resources to tackle corruption, but its success will require continued reform of the police and a swift overhaul of the judiciary that should take place through a process engaging a wide spectrum of civil society and international experts.
- The privatisation of the ca 1,800 state-owned enterprises, which run up losses to the tune of billions of euros, needs to be launched in 2016. The process needs to be transparent with the publication of all bids, subject to independent monitoring, and designed alongside a strategy to foster a dynamic business sector in Ukraine, backed up by swift introduction of policy reforms to improve the business environment throughout the country.

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