

Ukraine's EU-Russia Dilemma: the Essence of the Choice

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Executive summary

After Ukraine's former President Viktor Yanukovich refused in November 2013 to sign the country's Association Agreement (AA) with the EU, a series of events unfolded that have dramatically changed the relationship in the EU-Ukraine-Russia triangle. The outcome of the Euromaidan protests – a transition of power from Yanukovich to the opposition, led to military intervention by Russia, first with the illegal invasion and annexation of Crimea and then the rise of insurgent militia in Donbas. By February 2015 the war had left more than 6000 people dead and more than a million displaced². Another outcome of the Euromaidan was that the AA between the EU and Ukraine was eventually signed and ratified. Russia failed to bring about the revision of the AA, but succeeded in demanding postponement of the Deep and Comprehensive Free Trade Agreement (DCFTA) implementation

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² Office of the United Nations High Commissioner for Human Rights, *Report on the Human Rights Situation in Ukraine. 1 December 2014 – 15 January 2015*, UNHCR 3 March 2015. Available at: http://www.un.org.ua/images/stories/9thOHCHRreportUkraine_1.pdf

for a year - an event that reconfirmed that Russia does have a certain veto power in EU-Ukraine relations. By having signed and ratified the AA, Ukraine formally made a choice in favour of European integration and the option of joining the Eurasian Economic Union can effectively be ruled out³. Yet, Ukraine's relations with Russia are disrupted on many levels. The territory of Donbas controlled by pro-Russian insurgents might evolve into a frozen conflict that will have repercussions for years to come. Moreover, Russia has continuously interrupted supplies of gas to Ukraine, exercised pressure on some EU member states who agreed to transport gas to Ukraine from the EU and blocked import of Ukrainian products. This is not to mention the mutual perception between Ukrainians and Russians, which has worsened in recent months. There is however, another dimension to the choice between the EU and Russia - that of the normative order and governance model. In practical terms departure from the Russian or post-Soviet model, which Russia is currently reproducing and even exporting, means transformation of Ukraine from a "captured" state to a system with the "open access order"⁴. The Maidan fought for this transformation and there are signs that Ukraine might be embarking on this path. Yet, the outcome of this process is still undefined. It is important for Ukraine to undergo this domestic transformation, change the social con-

³ Joining the Eurasian Economic Union would mean that Ukraine will have to opt out of the Association Agreement and re-establish the tariffs imposed by the Eurasian Economic Union to trade with the EU. Moreover, AA implementation implies large-scale *acquis* approximation - a process, which is difficult to reverse or just stop, once it has been launched.

⁴ Douglass North, John Wallis, and Barry Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*, Cambridge University Press, 2009. The authors developed the conceptual framework of transition from a limited access order to an open access order.

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tract, and launch implementation of the AA, which is mostly about the domestic reform process. Only this transformation or, in other words, profound Europeanisation of Ukraine will bring about the system the Maidan demanded. This will also reduce Russian leverage, which is informal in nature and is based on non-transparent elite networks.

Introduction

Ukraine is an example of a country of the Eastern Partnership where the EU/Russia dichotomy not only is acute, but is in a very open confrontation. Having experienced the refusal of the Ukrainian leadership to sign the AA in November 2013 and the Euromaidan protests, Ukraine finds itself in a state of war with Russia. Although Russia denies its role in the proxy war that is taking place in Donbas, ample evidence points in the direction of Russia's direct involvement and Ukrainians overwhelmingly perceive the situation the same way⁵. Crimea was annexed within less than a month in March 2014, while a part of Ukraine's territory bordering Russia in Lugansk and Donetsk regions remains out of Ukraine's control.

This situation has already had, and will still have, a defining effect on Ukraine-Russia relations for years to come. Ukraine used to balance between the EU and Russia, avoiding a situation where a choice would have to be made. This balancing act was

⁵ According to a public opinion conducted by the Democratic Initiatives Foundation in September 2014, 75% of those polled all over Ukraine agreed that Russia directly supports 'pro-Russian' insurgents in Donbas, while 52% agreed that Russia is responsible for bloodshed in Eastern Ukraine and 70% agreed that the war between Ukraine and Russia is taking place. Public Opinion Poll of the Democratic Initiatives Foundation, September 2014. Available at:

http://dif.org.ua/ua/polls/2014_polls/stavlenne-opitivannja.htm

also reflected in the protracted post-communist transformation and a lack of reforms that would Europeanise Ukraine. The prospect of the AA with the EU on the one hand and pressure on the part of Russia to join the Customs Union (which, as of 2015, has become the Eurasian Economic Union) on the other hand created a situation when a choice in favour of one integration project had to be made. To be precise, Russia created a zero-sum situation, whereby Ukraine, had it joined the Customs Union, would not have been able to have a free trade area with the EU. In September 2014, by having ratified the AA, Ukraine made a choice in favour of the EU. Yet, Russia still retains numerous leverages on Ukraine, creating the potential for this choice to be jeopardised. At the same time, the Russian aggression has accelerated the process of formation of the political nation in Ukraine, whereby most of the Ukrainian population (including the Russian-speaking part) has become unprecedentedly patriotic and proud to be Ukrainian citizens; moreover, support for the EU and NATO has increased dramatically.

The choice between the EU and Russia, importantly, is not only a foreign policy choice or a choice between two integration models. Much more so, it is a choice between two normative orders or two different value systems that are reflected in the social contract between the state and society, that is, a choice between democracy, respect for human rights, free media or a “captured” authoritarian state. If Ukraine succeeds in pursuing the European model, the Russian leverage in Ukraine, which has been based on non-transparent informal networks with the Ukrainian political establishment, will also diminish. Therefore, undertaking this transformation is of crucial, if not existential, importance for Ukraine. The very survival of Ukraine as a state will depend on it.

EU-Ukraine-Russia triangle relations: a short overview

Before looking in more detail at the EU/Russia dichotomy in Ukraine, it makes sense to give a brief overview of how the relations in the Ukraine-Russia-EU triangle developed and how the current situation arose. One can define several phases since the collapse of the Soviet Union.

The first and rather long period lasted well until the European Neighbourhood Policy (ENP) in 2004 and its Eastern pillar – the Eastern Partnership in 2009 - were launched. During this period the EU pursued what was known as a “Russia-first” policy. Different policy tools and arrangements were first offered to Russia and only afterwards to Ukraine. Moreover, the EU was a mere foreign policy actor, meaning that it did not play any significant role in Ukraine’s domestic developments. At the same time Russia attempted to reinvigorate the Soviet Union through offering different integration projects, which Ukraine successfully refused⁶.

It was with the launch of the ENP that the EU appeared as an actor in Ukraine’s domestic reform process. With the ENP and, more specifically, through the signing of the EU-Ukraine Action Plan in February 2005, the EU offered to Ukraine a comprehensive list of reforms. Despite being too long and not properly prioritised, this was the first time that the EU offered Ukraine some sort of “homework”⁷. Although the Action Plan and its successor

⁶ Russia consistently attempted to deepen integration within the Commonwealth of Independent States (CIS), which was created in December 1991 as a part of the collapse of the Soviet Union and in 2000 created the Eurasian Economic Community (EEC). Ukraine refused to become a fully-fledged member of CIS, since it never ratified its Treaty and became an observer of the EEC instead of joining it.

document - the Association Agenda – were largely ignored by political elites, they became important reference documents for civil society and served as guidance for action for mid-level bureaucracy⁸. Moreover, it was due to the ENP that the EU's Ukraine policy was decoupled from that towards Russia, with whom the EU developed a separate policy framework.

The launch of the Eastern Partnership in 2009 marks a third period of the EU-Ukraine-Russia triangle relationship. This was the first time that the Russian leadership objected to an EU initiative within the post-Soviet space⁹. Although EaP did not bring anything new to Ukraine – it simply offered to the other EU's Eastern neighbours the instruments Ukraine had anyway as a part of EU-Ukraine bilateral agenda, the initiative signalled to Russia that the EU has a clear strategic interest in the region. Russia's stance

⁷ Karen E. Smith, "The outsiders: the European neighbourhood policy", *International Affairs*, 81 (4), 2005, pp. 757-773.

⁸ See Kataryna Wolczuk, "Implementation without Coordination: the Impact of EU Conditionality on Ukraine under the European Neighbourhood Policy", *Europe-Asia Studies*, Vol. 61 (2), 2009, pp. 198-207. See also Iryna Solonenko, "European Neighbourhood Policy Implementation in Ukraine. Domestic Context Matters", in: E. Lannon (ed), *The European Neighbourhood Policy's Challenges*, College of Europe, P.I.E. Peter Lang, 2012, pp. 345-379.

⁹ For instance, Russian Foreign Minister Sergey Lavrov said that the EaP initiative meant the EU was trying to establish its sphere of influence in the Eastern Neighbourhood, while other voices from Russia said that the EU should consult Russia when it comes to initiatives that effect Russia's 'traditional interests'. See Arkadi Moshes, "Russia's European Policy under Medvedev: How Sustainable is a New Compromise?", *International Affairs*, Vol. 88, No. 1 2012. See also Susann Stewart, "Russia and the Eastern Partnership. Loud Criticism. Quite Interest in Cooperation", *SWP Comments* 7, May 2009. Available at: http://www.swp-berlin.org/fileadmin/contents/products/comments/2009C07_stw_ks.pdf

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softened over time as Russia saw that the EU's offer was rather vague and of a long-term nature. Yet, one can say that the launch of the EaP provided a strong impetus for a rethink of Russia's strategy in the "near abroad", which developed into the formation of the Eurasian Economic Union (ECU)¹⁰.

The fourth period was marked by Russia's intensive engagement aimed at preventing Ukraine from signing the AA and persuading Ukraine to join the ECU. This began from 2011 when Ukraine and the EU initialled the AA, but intensified in the summer and autumn of 2013 when the prospect of having the AA signed in Vilnius was becoming realistic. During this period the EU promoted reforms in Ukraine that would enable the signing of the AA. In December 2012 it formalised the conditions: end selective justice (this concerned the former opposition leader Yulia Tymoshenko whom Viktor Yanukovich kept in jail), improve conduct of elections, and undertake a number of steps to enhance the rule of law, fight corruption and improve the business climate – all reform areas listed in the Association Agenda. A special EU mission under the leadership of Pat Cox, the former President of the European Parliament, and Alexander Kwasniewski, the former President of Poland, visited Ukraine 27 times within the 18 months preceding the Vilnius Summit. Eventually, Russia undercut the EU by offering an effective combination of sticks (threat of a full-scale trade war in the event that Yanukovich decided to sign the AA) and carrots (the promise of a large loan, \$15 billion of which was delivered soon after the Euromaidan started, and discounted gas prices). Yanukovich refused to sign the AA, despite the fact that on the last day of the Vilnius Summit the EU agreed to lift all the conditions. The Euromaidan protests

¹⁰ Rilka Dragneva and Kataryna Wolczuk, "Russia, the Eurasian Customs Union and the EU: Cooperation, Stagnation or Rivalry?", *Chatham House Briefing Paper REP BP 2012/01*, 6 August 2012.

that lasted from November 2013 until February 2014 eventually changed the scenario Yanukovich opted for.

The new phase, which started with the appearance of the so-called “green men” in Crimea, with the subsequent annexation of Crimea and the conflict in Eastern Ukraine, is still underway. Although Russia continues endeavouring to disrupt Ukraine’s European choice, it so far has not succeeded. It failed to impose revision of the AA, although it succeeded in postponement of DCFTA implementation until 2016. Two of its projects aimed at destabilising Ukraine – federalisation (giving autonomy to regions in Ukraine and in this way, through the control of certain regions, a potential veto of various domestic and foreign policy initiatives of the central authorities in Ukraine) and “Novorossiya” (the historical notion of the Russian-speaking South and Eastern Ukraine, which supposedly would want to break away from Ukraine) failed. Instead Russia succeeded in annexing Crimea and occupying parts of Donetsk and Luhansk regions. Although Russia still possesses a number of levers to destabilise Ukraine and stall its European integration, what it has managed to achieve so far is much less than was expected.

Importantly, for most of the time after Ukraine’s independence, Ukrainian political elites did little to make a clear European choice and subordinate the domestic reform process to this choice. The status quo of partial reforms used to be the preferred option that enabled corruption, poor governance and lack of rule of law. This situation limited the EU’s leverage to influence the reform process and at the same time enabled Russian meddling in domestic developments in Ukraine. It is therefore very important that the Ukrainian political elites and the Ukrainian society in general use the window of opportunity, opened by the Euro-maidan, to carry out the necessary reforms.

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A(n) (un)natural choice?

In many ways, the dilemma for Ukraine of choosing between the EU and Russia is an artificial one. Ukraine shares with both Russia and the EU a lot of common history. It has a common border with Russia, 2295 kilometres long (of which 321 km is a sea border) and with the EU, 1390 kilometres long. The EU and Russia are Ukraine's two biggest trade partners. Moreover, Ukraine is the main transit country for the supply of natural gas to Europe from Russia. The Russian language is widely spoken in Ukraine. Therefore, co-operation with both partners should be natural.

Yet, this would be an ideal world situation. In reality there are three dimensions, which require a choice to be made if Ukraine aspires to become a sovereign and democratic country.

The first dimension has been artificially created by Russia, while the other two follow from the experience of Ukraine's relations with Russia so far. To start with the first dimension, Russia created a situation when Ukraine was supposed to make a very real choice - the choice between the AA with the EU and the Eurasia Economic Union (EEU) driven by Russia. In fact, by having created the Customs Union, which has been transformed into the EEU, as an alternative to European integration, Russia created a zero-sum situation. The countries in the common neighbourhood, if they decide to join the EEU of Russia, Belarus, Kazakhstan and Armenia, will not be able to have a free trade area with the EU independently from the EEU as a whole. These are legally mutually exclusive options. Unlike the Russian approach, what the EU offered was a win-win situation. Signing an AA with its DCFTA provisions does not preclude the EaP countries from

joining free trade arrangements with other countries all over the world. Having free trade areas and friendly neighbourhood relations with both the EU and Russia would be in the interest of any country in the common neighbourhood. However, until recently Russia prevented this positive scenario from happening. Moreover, if the neighbours were not willing to comply, they were threatened with trade embargoes by Russia, which violated the free trade area signed within the CIS.

In purely economic terms, the Russian offer would not benefit Ukraine. A number of studies showed that in many ways the Ukrainian economy would benefit from the DCFTA, while it would lose from joining the Eurasian Economic Union. First, by joining the EEU, Ukraine would have to increase its average import tariffs from the current 2.7% to the Customs Union's level of 9.4%¹¹, which would mean transforming from being a liberal economy into a much more protectionist one. This would lead to sanctions by the WTO, since this would breach the conditions on which Ukraine joined the WTO, not to mention that the prices of imported goods would rise. Second, in the longer run (some 10 years) the DCFTA with the EU would result in Ukraine's GDP increasing by 14.1% and in the case of a full-scale trade embargo by Russia, by 5.9%¹², whereas joining the EEU would lead to a decline in GDP. Third, a DCFTA with the EU will

¹¹ German Advisory Group, *Free trade with "East and West": It can be done after all!*, German Advisory Group Newsletter # 66, April 2014. http://www.beratergruppeukraine.de/download/Newsletter/2014/Newsletter%2066_2014_German%20Advisory%20Group_EN.pdf

¹² Institute for Economic Research and Policy Consulting, *Economic Implications of the Association Agreement between the EU and Ukraine*, Institute for Economic Research and Policy Consulting, Kyiv, 16 September 2014. Available at: http://www.ier.com.ua/files//Public_events/presentation_DCFTA_2014-09-16.pdf

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lead to modernisation of Ukraine's economy, making it more technology- rather than resource-based, which will also increase Ukraine's export potential. These are just a few reasons mentioned by such studies.

The second dimension has to do with the de-facto post-colonial situation of Ukraine in its relations with Russia. Looking back at Ukraine-Russia relations since Ukraine's independence in 1991 shows that although Ukraine existed as a sovereign state, Russia has never been a truly external partner for Ukraine. Russia has continuously meddled in the internal affairs of Ukraine either by clearly favouring certain candidates in the elections or making statements about different aspects of domestic politics. Russia has claimed that it should have been consulted when the negotiations on the AA between the EU and Ukraine were taking place. This approach stems from the perception in Russia, that Ukraine (or parts of it) is still a part of Russia or, at the very least, Russia has a legitimate interest in those parts of Ukraine, which are predominantly Russian-speaking. In March 2015 Vladimir Putin said that "Russians and Ukrainians are one people"¹³. Such policy on the side of Russia would have been less of a problem if Ukrainian political leaders in the past 25 years had pursued state-building objectives and reforms that would make policy-making transparent. This has not been the case. For instance, a Ukrainian-Russian state border has until now not really existed: neither has it been demarcated, nor proper border infrastructure developed. This was an important factor that enabled Russia to insert insurgent militia and weapons into

¹³ Roland Oliphant and Tom Parfitt, „Vladimir Putin praises Russian patriotism and claims: Ukrainians and Russians are one“, *Telegraph*, 18 March 2015. Available at: <http://www.telegraph.co.uk/news/world-news/europe/ukraine/11480864/Vladimir-Putin-praises-Russian-patriotism-and-claims-Ukrainians-and-Russians-are-one.html>

Ukraine that ultimately provoked the conflict in Donbas. According to some sources, Russia even had access to information and decision-making through institutions like the Security Service or the Ministry of Defence of Ukraine during Yanukovich's presidency¹⁴. In sum, Ukraine has so far remained a post-colonial state. Unless Ukraine becomes de-facto a sovereign state and develops its relations with Russia from this standpoint, its statehood and subsequently European integration or any other choice will be jeopardised.

Third, Russia (at least in its current policy) and the EU not only represent two different value systems and types of social contract, but both sides pro-actively promote their model of governance in Ukraine. The EU through AA promotes democracy and rule of law, whereas Russia promotes non-transparent and non-accountable governance. In this respect, the tools through which those values and models are promoted play a very important role. The EU's overall transparent involvement is confronted by Russia's non-transparent involvement backed up by financial resources, which are equally non-transparent. Ukraine has to make a choice between these two models. A choice in favour of an accountable, transparent and equitable European system of governance will by definition limit Russia's leverage in Ukraine.

If one views the choice in the terms outlined above, the narratives that have to do with historical legacies and identity lose their viability. Ukraine's dilemma between the EU and Russia

¹⁴ The Head of Ukraine's Security Service Valentyn Nalyvaichenko claimed this was the case in April 2015. Earlier, in July 2014, the Head of the special committee in the Parliament of Ukraine that investigated the mass murder at Maidan in February 2014. Gennadiy Moskal claimed that violence at Maidan was supervised by Russia.

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is often viewed from the perspective of the latter narrative. It is argued that the regions of Ukraine that have historically belonged to Russia and are predominantly Russian-speaking would suffer from the broken ties with Russia. At the same time, it is argued, the Western regions of Ukraine that before the First World War belonged to the Austrian-Hungarian Empire aspire to closer ties with the EU. Public opinion polls since Ukraine's independence (with the exception of recent months, as will be seen below) confirm this division. The latter, however, has much to do with the fact that the latter narrative has prevailed in domestic politics in Ukraine and was reproduced by the Ukrainian media. Different political parties exploited these regional differences and therefore the pro-Russian versus pro-European narrative was always strong in successive election campaigns. At the same time open discussions about real choice, which is about values and the domestic reform process were rare. Similarly, the Western media has predominantly reproduced the narrative of the choice between co-operation or closer ties with one partner or another, emphasising regional identity and language differences, while ignoring the dimension of values.

The Euromaidan protests and the Russian military intervention have both provoked and revealed the shift of the paradigm or the portrayal of the choice. First, a lot of Russian-speaking citizens of Ukraine joined the protests. Moreover, Crimean Tatar and Jewish communities in Ukraine actively supported the protests. Although the protests initially started as a reaction to the failure of the Ukrainian leadership to sign the AA, by and large the

¹⁵ Public Opinion Poll of the Democratic Initiatives Foundation, Kyiv, December 2014. Available at: http://dif.org.ua/ua/polls/2014_polls/jjor-jojkpkhpkp.htm

protests were against the old system of governance of the “captured state”¹⁵. Apart from that, the protests took place all over Ukraine, including in the Eastern and Southern regions that used to be the electoral base of then-President Viktor Yanukovich. Second, one can clearly see the growth of civic rather than regional identity in Ukraine. According to public opinion polls, civic identity clearly prevails all over Ukraine with the exception of Donbas where regional identity is still rather strong. In the same line, 63% of citizens feel very proud of being citizens of Ukraine (as compared to 48% a year before) and this situation is similar all over Ukraine. Third, growth of support for European integration has dramatically increased in recent months. Whereas support for joining the “Union with Russia and Belarus” prevailed over the support for joining the EU most of the time in the past 10 years, today 57% support joining the EU, while only 16% would favour joining the “Union with Russia and Belarus”. These figures show that despite regional, language and ethnic differences, the Euromaidan protesters were united on the platform of common values. Coupled with the growth of civic identity and patriotic sentiments one can indeed talk about the formation of the political nation in Ukraine with a clear sense of direction towards the EU.

These societal trends have found expression in the political landscape of Ukraine. The Russia versus the EU dilemma was almost absent from the political discourse during the early parliamentary elections of October 2014. Even the Oppositional Block – the new party that was created to mobilise the voters of Yanukovich's Party of Regions and that received a lot of support in the East and

¹⁶The respective voting in the Parliament of Ukraine took place on 27 January 2015. Oppositional Block was the only faction that did not take part in the voting.

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the South of Ukraine, although it refused to recognise Russia as the aggressor, stands for Ukraine's territorial integrity¹⁶. Indeed, given Russian military aggression, being pro-Russian very clearly means supporting the annexation of Crimea and insurgent militia in Donbas. Therefore, current Russian policy has changed popular attitudes in Ukraine and its political scene to the extent that EU-Russia dichotomy ceased to exist in the sense that it did before (as a choice of a favoured integration partner).

In sum, while ideally Ukraine would not have to choose between the EU and Russia, but instead would enjoy the benefits of cooperation and free trade with both partners, the reality requires that Ukraine has to make a choice. This is reinforced by Russia's coercive policies, which attempt to destabilise Ukraine and create a threat to its security.

The EU-Russia dichotomy from the perspective of instruments

Apart from projecting different value systems and offering different integration arrangements, the EU and Russia pursue their objectives through different instruments. While the EU aims at supporting the reform process in Ukraine through conditionality, assistance and increased economic and societal links, Russia seems to be aiming at increasing its influence in the neighbourhood by supporting anti-reform domestic actors in Ukraine and applying a set of coercive policies aimed at preventing countries like Ukraine from pursuing European integration. Importantly, while the EU's instruments are transparent, Russia's tools are largely non-transparent, which complicates providing the evidence.

Assertive policy by Russia

Russian assertiveness has revealed itself on different levels. First, Russia has consistently unilaterally violated the free trade arrangement between Ukraine and Russia within CIS, which was signed in 2001. A number of Ukrainian products, such as cheese, meat, sweets and metal were blocked by the Russian Customs Service. The trade wars particularly intensified in spring-summer ahead of the Vilnius Summit in 2013 and Russia threatened Ukraine with a full-scale trade war in the event that the AA with the EU would be signed. Given that Ukraine's exports to Russia amounted to 24% of Ukraine's total exports, this would damage Ukraine's economy. Some commodities are especially vulnerable. Export of Ukraine's iron and steel (14%); machinery and mechanical equipment, nuclear reactors (14%); railway or tram locomotives, rolling stock (12%); electrical machinery and equipment (7%); and iron or steel products (6%) accounts to 53% of Ukraine's exports to Russia¹⁷. In the event that Russian markets will be lost to Ukraine, Ukraine will have to look for alternatives. Second, Russia has used energy supply and energy transit as a tool for exercising political pressure on Ukraine. Although before 2005 Ukraine also purchased Turkmen gas, as of 2005 Russia gained a monopoly over gas imports by Ukraine. In January 2006 and again in January 2009, Russia unexpectedly cut off its gas supply, which also affected EU member states that depended on Russian gas passing through Ukraine's territory. Russia accused Ukraine of using the gas intended for transit for domestic consumption or of not paying for gas. The accusations might have had some basis, but the truth is difficult to establish given

¹⁷ CEIC, *The Economic Implications of Ukraine-Russia Trade Relations*, CEIC Russia Data Talk, 8 July 2014.

<http://www.ceicdata.com/en/blog/economic-implications-ukraine-russia-trade-relations#sthash.9K2iZ5VE.dpuf>

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that Ukraine-Russia energy relations have always lacked transparency and offered enormous opportunities for corruption on both sides. In June 2014 Russia cut off energy supply to Ukraine completely. The supply was restored only following the trilateral negotiations with the EU, which took months to reach a compromise.

Third, Russia has consistently delayed the delimitation and the demarcation of the Ukrainian-Russian common border, which is the longest border in Europe. It was not until 1997 (when the Ukraine-Russia Treaty of Friendship, Co-operation and Partnership was signed) and 2003 (when the Agreement on Ukraine-Russia State Border was signed) that the land border between the countries was delimited. The full-fledged demarcation of the border and development of proper border infrastructure continues to be a problem until now. Although in 2010 a treaty on the demarcation of the common border was signed and came into force, demarcation never took place. The lack of a proper border, which is visible and protected, has been one of the reasons why Russian intervention in the Donbas has succeeded. It was only in June 2014, already in the midst of the military conflict, that the National Security and Defence Council of Ukraine ordered the government to carry out one-side demarcation of the border “in terms of existing threats to national security“. The Russian side immediately proclaimed that such a unilateral demarcation is illegal.

Fourth, Russia has exercised its leverage over Ukraine through instruments known as “soft power”. Russian TV used to be popular in Ukraine and although it was banned in Ukraine in March 2014 due to propaganda, some TV providers did not really comply. Moreover, Kremlin has funded illiberal “civil society” groups,

some of them working well at the grassroots level. In 2012 Victor Medvedchuk, a former head of Ukraine's presidential administration and a family friend of Putin, started promoting the Ukrainian Choice civic movement, which united more than 150 regional groups¹⁸. This initiative advocated a referendum on joining the Eurasian Economic Union and the federalisation of Ukraine, particularly in the context of the 2012 parliamentary elections and before the Vilnius Summit in 2013. The exact number and scope of activities of such groups funded by Russia is difficult to establish due to lack of transparency.

Finally, Russia has its "agents" or the so-called "fifth column" in Ukraine. These are politicians, regional and local leaders, business actors who promote the Kremlin's objectives in Ukraine. Allegedly, as mentioned earlier, such agents can also be found in the army, security service, prosecutor-general's office and other institutions that play a vital role in promoting Ukraine's national security.

All these leverages on the Russian side constitute a problem as long as reforms that promote accountable and transparent governance, fighting corruption, furthering the independence of the judiciary fail to be carried out. The problem of the "captured" state, whereby certain individuals have privileged access to public resources and decision-making, will also persist unless certain democratic institutional safeguards will be established. In short, the reforms and Europeanisation of Ukraine are the key to solving deficiencies that enable Russian leverage and favour particular interests.

¹⁸ Nicolas Bouchet and Orysia Lutsevych, "Democracy's Tug of War", *The World Today*, October–November 2013.

The EU's 'low politics' approach – support for the long term reform process

As noted before, the EU appeared as an actor in the domestic reform process in Ukraine only as of 2004 when the European Neighbourhood Policy was launched. Not only did the EU start setting the agenda for domestic reforms jointly with Ukrainian partners, it also monitored the process of implementation of the agreed commitments. Apart from that, the EU and its member states offered financial and expert assistance. The offer of the AA including DCFTA along with the visa liberalisation process have made the EU much more present in Ukraine. Implementation of the AA and meeting the conditions for visa-free travel require profound domestic reforms that will Europeanise Ukraine. The scope of reform areas ranges from human rights and non-discrimination to technical standards of products. Successful implementation of those reforms will also require reform of the judiciary, civil service and fighting corruption as indispensable elements of a functioning state. The EU's engagement is rather long-term and technocratic, while the information about funding and projects is available online.

As Russia has intensified its pressure on Ukraine, the EU has managed to partially respond with adequate measures. For instance, it managed to defend the AA, although Russia aimed at revising it. The only concession that was made was the postponement of DCFTA implementation, which is Chapter IV of the AA, for one year. Despite this, Ukraine included the DCFTA implementation in the domestic Action Plan for the implementation of the AA.

The EU was also swift in reacting to cutting off gas supply to Ukraine by Russia in June 2014. The EU offered the trilateral ne-

gotiations, which recently resulted in a solution according to which gas supply was restored. Simultaneously the EU organised the reverse supply of gas to Ukraine through Slovak Republic, Hungary and Poland.

The EU has also launched unilateral Autonomous Trade Measures for Ukrainian goods already in April 2014. This has helped to partially compensate for the loss of the Russian market resulting from the trade war: in 2014 Ukraine's export to Russia decreased by 23%. In May-June Ukraine's export to the EU increased by 25% compared to the same period last year¹⁹. This indicates that compensatory measures do work.

Yet, the EU's role in promoting security and stability in the situation when the conflict erupted has been marginal. Individual member states, such as Germany, have played a much more prominent role. The EU was also quite slow in reacting to Euro-maidan protests, for instance with sanctions against people close to Yanukovych. Such sanctions were decided upon only after the death toll at Maidan reached almost 100 people. Similarly, the EU was slow in lifting the embargo on the supply of non-lethal weapons and military equipment, which was imposed together with sanctions when Yanukovych was still the president.

The EU's technocratic nature and inability to react quickly and flexibly in certain situations, diminishes the EU's potential impact on the developments in Ukraine. In particular, the EU is not able to neutralise Russian leverage, which undermines the objectives the EU sets in its policies towards Ukraine. The EU's

¹⁹ European Union Delegation to Ukraine, *Impact of ATM and Restrictions of Russia on Exports*, Kyiv, 25 September 2014. Available at: http://eeas.europa.eu/delegations/ukraine/documents/eu_ua/impact_atm_en.pdf

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impact has a long-term nature, while Russia has a potential to destabilise the situation and jeopardise pro-European developments in the short run. This aspect makes the EU's involvement with the Eastern Partnership countries different from its experience with the enlargement process in the 1990s- early 2000s, which means that the EU still have to develop certain tools that would take the Russian factor into account.

Conclusion and recommendations

By now Ukraine has made a choice in favour of the AA and Ukraine's membership in the Eurasian Economic Union can be excluded. Nevertheless the unfinished process of state-building and protracted pro-European reforms do not guarantee the sustainability of the pro-European course. Although the pro-European coalition, which has a constitutional majority in the parliament, was formed following the early parliamentary elections of 2014, the war in Donbas, poor economic situation and the lack of political will to undertake some reforms put the chance to use the window of opportunity that opened after the Euromaidan protests, at risk. Russia plays a destabilising role in Ukraine and still possesses many levers to continue doing so. Only certain reforms in Ukraine that disable Russia's non-transparent meddling in domestic developments in Ukraine will be able to diminish the Russian leverage.

In this context, the recommendations that are outlined below are aimed at 1) stopping military actions in Ukraine and containing Russia and 2) promoting reforms in Ukraine that would ensure its transformation from the "captured" state into a democratically governed and efficient state. Such reforms would manifest that Ukraine indeed opted for the European choice and

ensure sustainability of such a choice, simultaneously serving as safeguards against Russian destabilising leverage.

First, the EU should sustain sanctions against Russia and be ready to toughen them as long as Russia continues supplying weapons and militants to Ukraine. Lifting sanctions would only be possible in the event that Russia moves out from the Donbas and Crimea completely. Sanctions are supposed to weaken Putin's power base among the population and political and economic elites in Russia and eventually make him retreat. At the same time diplomatic engagement with Russia should continue in order to follow the plans that might be unfolding in the Kremlin and bring across the message about the red lines Russia has already crossed and which the EU will protect.

Second, the EU should continue providing support in dealing with the internally displaced persons, over a million of which are all over Ukraine. It should also provide assistance in rebuilding the territories that were freed from the occupation.

Third, the EU should toughen its conditionality with respect to Ukraine. Due to the poor economic situation the Ukrainian government depends on external assistance. This is a chance for the EU to push for certain priority reforms that require only political will. Such reforms would include a new election code that would, *inter alia*, provide for the proportional system and open party lists; state funding for political parties; transparency of media ownership; an independent anti-corruption agency with extensive powers; an independent judiciary and effective public administration.

Part I

The Common Neighbourhood: Vying for an Independent Choice

Fourth, the EU should closely follow the reform process in Ukraine, identify reform-minded actors and veto-players in each reform area and support the former, while limiting the space for manoeuvring by the latter. In many cases civil society organisations are those reform-minded actors who exercise control and pressure on the public authorities. They need to be supported on permanent basis.

Fifth, the EU should be more aware of the Russian leverage in Ukraine, which is based on informal networks and is backed up by significant financial resources. Through this leverage Russia has the potential to encourage the already existing veto-players to be more active and broaden the circle of such veto-players. This Russia's involvement can disrupt the reform-process promoted by the EU. Thus, along with the long-term policy of promoting reforms that would limit the options for such actors in the future, the EU should work more closely on the ground with various actors in order to prevent reforms from being blocked.