

УДК 341.223.2(477.75):327.5(470)

THE PROBLEM OF “FULFILMENT OF THE MINSK AGREEMENTS BY UKRAINE”

ДО ПРОБЛЕМИ «ВИКОНАННЯ УКРАЇНОЮ МІНСЬКИХ ДОМОВЛЕНОСТЕЙ»

К ПРОБЛЕМЕ «ВЫПОЛНЕНИЯ УКРАИНОЙ МИНСКИХ ДОГОВОРЕННОСТЕЙ»

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Abstract. *The article is devoted to the issue of the violation of the Minsk agreements achieved in the result of the Minsk process by Russia and latter's interpretation of the agreements as imposing the obligations of fulfilment exclusively on Ukraine. The article dwells on the attempts of the Russian high-rank officials and the representatives of doctrine to accuse Ukraine of non-fulfilling of this document. The author points to specific steps Ukraine has made to implement the provisions of the Minsk agreements (e.g. Ukraine has adopted the Law “On temporarily Order of Local Self-Governance in Particular Districts of Donetsk and Luhansk Oblasts of Ukraine (PDDLO)”) and rebuttals Russia's weak arguments about Ukraine's failure to maintain the truce.*

Generally, the analysis of the Minsk agreements implementation shows that the purpose of Russia is to de jure turn the conflict into an internal Ukrainian problem; influence decisions of Ukraine both in its internal and foreign policy by means of puppet “DPR” and “LPR”, preferably granting the latter the veto power; destabilize political and social situation in Ukraine, undermine its economy and defence capacity with the help of the above formations.

The author arrives at the conclusion that the de-escalation is nominal because of Russia's failure to cease the illegal actions.

Key words: *Minsk process, Minsk agreements, fulfilment, Russia, Ukraine, aggression, violations.*

Анотація. *Стаття присвячена питанню порушення домовленостей, досягнутих в результаті Мінського процесу, з боку Росії та представленню останньою Мінських угод як обов'язкових до виконання виключно Україною. У статті розглядаються спроби російських високопосадовців і представників доктрини звинуватити Україну у невиконанні цього документа. Автора вказує на конкретні кроки України на напрямку реалізації положень Мінських угод (наприклад, Україна прийняла Закон «Про особливий порядок міс-*

цевого самоврядування в окремих районах Донецької та Луганської областей») і аналізує слабкі аргументи Росії про нездатність України підтримувати перемир'я.

В результаті дослідження реалізації Мінської угоди стає очевидним, що мета Росії – юридичними засобами перетворити конфлікт у внутрішню українську проблему; впливати на внутрішню та зовнішньополітичні рішення України за допомогою маріонеткових «ДНР» та «ЛНР», де право вето є пріоритетом; дестабілізувати політичну і соціальну ситуацію в Україні, підірвати її економіку і обороноздатність за допомогою вищевказаних утворень.

Автор приходять до висновку те, що деескалація є номінальною через відмову Росії припинити незаконні дії.

Ключові слова: Мінський процес, Мінські угоди, виконання, Росія, Україна, агресія, порушення.

Аннотація. Стаття посвячена вопросу нарушения договоренностей, достигнутых в результате Минского процесса, со стороны России и представлению последней Минских соглашений в качестве обязательных к исполнению исключительно Украиной. В статье рассматриваются попытки российских чиновников и представителей доктрины обвинить Украину в невыполнении этого документа. Автора указывает на конкретные шаги Украины в направлении реализации положений Минских соглашений (например, Украина приняла Закон «Об особом порядке местного самоуправления в отдельных районах Донецкой и Луганской областей») и анализирует слабые аргументы России о неспособности Украины поддерживать перемирие.

В результате исследования реализации Минских соглашений становится очевидным, что цель России – юридическими средствами превратить конфликт во внутреннюю украинскую проблему; влиять на внутренне и внешнеполитические решения Украины с помощью марионеточных «ДНР» и «ЛНР», где право вето является приоритетом; дестабилизировать политическую и социальную ситуацию в Украине, подорвать ее экономику и обороноспособность с помощью вышеуказанных образований.

Автор приходит к выводу, что деэскалация является номинальной из-за отказа России прекратить незаконные действия.

Ключевые слова: Минский процесс, Минск соглашения, выполнение, Россия, Украина, агрессия, возбуждение.

Current problems. The statements that Ukraine fails to fulfil the agreement reached within the framework of the Minsk process, which prevents the settlement of Ukrainian crises have topped the agenda of Russian public discussions devoted to the ongoing armed conflict in the Donetsk and Luhansk regions. Consequently, the respective messages are voiced by the Russian leadership, transmitted by the mass media and replicated in the studies of Russian legal doctrine. The problem raised in the article and other issues associated with the Russian aggression against Ukraine is studied by the Ukrainian doctrine of international law and, in particular, by Viktor Akulenko, Volodymyr Baryshev, Andrew Beato, Alexander Blankenagel, Michaylo Buromenskyu, Volodymyr Butkevych, Ol'ha Butkevych, Viktor Brekhunencko, Volodymyr Vasylenko, Oleksiy Volovych, Bohdan Halaichuk, Mykola Hnatovskyy, Volodymyr Holovchenko, Volodymyr Horbulin, Pavlo Hrytsak, Yaroslav Dashkevych, Anatolii Dmytriiev, Vjyacheslav Ihrunov, N. Kaminska, Oleksandr Kopylenko, Volodymyr Koretskyu, Tymur Korotkyu and others.

The aim of the article is to analyze the arguments of the Russian side alleging Ukraine undermines the Minsk process and rebut them.

Important research results. President of the Russian Federation Vladimir Putin has repeatedly addressed the problem of “non-fulfilment of the Minsk agreements by Ukraine”; his statements place the emphasis on the same issues. On 6 June 2015, commenting on the results of the second round of the Minsk process, Putin stated that Russia had the following intention: “I believe the document agreed in Minsk with a respective name Minsk-2, is the best possible option to settle the problem today. In particular, the first thing to be done is to carry out the constitutional reform to guarantee the autonomous rights of the respective republics... It is necessary to adopt the law on municipal elections in these territories and the law on amnesty. All these should be done as articulated in the Minsk agreements and agreed with Donetsk People’s Republic and Luhansk People’s Republic, with these territories.”

He elaborated on details of these problems in an interview with German weekly newspaper *Bild* in January 2016: “Everyone talks about the necessity to implement the Minsk agreements and then the sanctions may be reviewed. Believe me; all these things look like the theatre of the absurd because it’s Kyiv authorities who should fulfil the Minsk agreements today. It is impossible to demand from Moscow that what Kyiv has to do in the first place. For instance, the key issue in the settlement process lies in political dimension and the constitutional reform is in the heart of this process. It is envisaged in clause 11 of the Minsk agreements. It directly stipulates that the constitutional reform is to be realized in Ukraine, and Moscow is not the one to take such decisions.

...Clause 9 envisages the Restoration of full control over the state border in the whole zone of the conflict on the part of the Ukrainian government on the basis of Ukraine's law, and constitutional reform by the end of 2015 providing the implementation of clause 11. It means the realization of the constitutional reform and political processes in the first place and then on the basis of these processes when confidence is built, we may talk about the termination of all processes, including the border closure” [34].

On 17 February 2016, Vladimir Putin stated: “Today linking the lifting of sanctions by the EU to bringing the Minsk process to the logical end is meaningless, because the ball is not in the court of Russia, it’s in the court of Ukraine. Let’s hope that the political turbulent processes there would be overcome. And the political forces in Ukraine, which genuinely aim at settling this problem, will be able to find the strength to bring this process to an end” [Смирнов, 2016]. On 30 June 2016, at the meeting of ambassadors and permanent representatives of the Russian Federation, the President of Russia made another attempt to persuade the West in its comprehensive approach to the current situation: “We sincerely wish to settle the Ukrainian crises as soon as possible and we’ll further cooperate with members of Normandy format and the United States; we want to see in the face of Ukraine a good neighbour, predictable and civilized partner living in peace, first of all, with oneself. But Kyiv should finally understand the inevitability of a direct dialog with Donbas, with Donetsk and Luhansk, and the necessity to comprehensively fulfil its obligations under the Minsk Package of measures” [36].

Spokesperson of the Russian president Dmitry Peskov expressed the same position in late January 2016 in such a way: “Certainly, it is necessary to discuss the fulfilment of the Minsk agreements now as we see it. First of all, one needs to speak about steps Kyiv should take because if we turn to the text of the Minsk agreements and simply read the paragraphs, we may see that obligations of Kyiv are clearly stipulated but unfortunately are not executed yet” [38].

The representatives of Russian doctrine repeat the above statements. Pavel Panchenko believes: “Kyiv completely ignored the results of Minsk-1 and Minsk-2, which fixed the respective peace agreements. Kyiv used an officially declared truce to build-up forces for further massive shelling of DPR and LPR territories. Those dangerous developments were taking place

against the backdrop of ‘peaceful’ rhetoric and actions of Kyiv that sharply intensified economic and social crises in Ukraine.

It should be reminded that both Minsk-1 (September 2014) and Minsk-2 (February 2015) like other similar arrangements of the Contact group (Kuchma – on the one part and the representatives of DPR and LPR – on the other, involving the representatives of the OSCE, Russia, Germany and France) ended up being only Kyiv’s pauses in its planning of new attacks on Donbas. The only objective was an omnicide genocide of civilians and further attack on Russia with a purpose to “recapture” our Crimea and seize Rostov-on-Don and other our cities...” [Панченко, 2015].

Mikhailo Shumilov analyzes the Minsk agreements of February 2015 in reasonable details and gives some examples of their non-fulfilment by Ukraine: “From the very beginning the implementation of Minsk agreements faced the demonstrated unwillingness of the Ukrainian party to take into account the legal interests of “DPR” and “LPR”. On 18 February already the National Security and Defence Council of Ukraine decided to address the United Nations and the EU with a request to deploy the peace mission on the line of contact with Donbas fighters and on the part of the uncontrolled border between Russia and Ukraine. Petro Poroshenko called the police mission of the European Union the optimized framework of an international presence in the east of the country and argued against the participation of Russian representatives in such a mission. In March, the President of Ukraine again hustled about sending the peacemakers in the area of conflict and insisted on this issue to be settled exclusively by Ukraine.

On 17 March 2015, the Verkhovna Rada postponed the introduction of the particular procedure of self-governance in Donbas till the elections were held under the laws of Ukraine and approved the list of districts which will be covered by the law on the special status. Besides that, it approved that President’s Poroshenko address to the UN Security Council on the deployment of international peacekeeping mission on its territory and voted in favour of the resolution on the recognition of particular districts of Donetsk and Lugansk regions as temporarily occupied territories. In response, DPR and LPR declared that the adoption of these laws showed the inability of Kyiv to negotiate and reach any compromise until such resolutions are cancelled; thus, Rada “trampled the fragile Minsk peace and brought the situation into a dead end”.

The Russian side qualified the resolutions of the Ukrainian authorities as a gross violation of Minsk agreements and their actual rewriting.

It is troubling that Ukraine continues to evade the obligations it undertook. There are still hostilities in the east of the country and Ukrainian army used heavy artillery, concentrating military forces that can be used for the further aggression against DPR and LPR. The situation of uncertainty is still preserved in many aspects. It causes concern, pessimism and disturbing comments of the witnesses and direct participants of the events”.

In March 2015, the editor-in-chief of magazine “National defence” and a member of Public Council under the Ministry of Defence of Russia Ihor Korotchenko, famous in Russia due to his permanent participation in propaganda talk shows, criticized the actions of Petro Poroshenko: “Today Poroshenko does practically everything to destroy the Minsk agreement and to replace its key provisions with faked initiatives he proposes. For instance, I am referring to the invitation of the UN peacekeepers and his proposal to control the border between Russia and Ukraine. However, the question is that control and transfer of border between Russia and Ukraine from DPR and LPR to Ukraine should be prescribed in the final paragraph of the Minsk agreements and before that Ukraine has to fulfil a number of other conditions. Thus, Poroshenko has no intention to fulfil any obligation and he is wearing a mask of a peace-loving person. But he actually does everything to undermine and withdraw that signature he affixed the agreement in Minsk” [Саргун, 2015].

Providing comments on the course of Minsk process, Korotchenko even voiced serious threats to Ukraine “If the hostilities resume, the next trap for Ukrainian army shall be in Kharkov; Mariupol shall be taken immediately. That is why if Ukraine again falls back on military provocation, the next trap will be in Kharkov, then, perhaps, in Kiev, and then, perhaps, in Lviv” [Савченко, 2015]. Apparently, the “military expert” is not aware that Russia and Russia-controlled fighters controlled by it in the Donbas have not stopped attacks for a single day.

Daniil Alekseev, Tatiana Vasilieva and Yekaterina Nechay believe that “Minsk process gave hope to peace settlement but the parties will have to make significant compromises. The polycentrism of the Ukrainian state and heterogeneity of its different parts rooted in the history require giving more autonomy to the regions and Ukraine should take into account their identity at the national policy-making” [Алексеев, 2015: 43].

Yuliya Reyzner points out that the Package of measures to implement Minsk agreements approved during the meeting in Minsk on 15 February 2015 between the leaders of such states as Russia, Ukraine, Germany and France is regarded as the way of settlement of long-lasting war crises. She draws attention to some provisions of the ceasefire deal and other rules: “Clause 5 of this agreement contains the following provisions: “Ensure pardon and amnesty by putting into force a law that would ban persecution and punishment of individuals in connection with the events that took place in some areas of the Donetsk and Luhansk regions of Ukraine”. Paragraph 6 (partly): “Ensure the release and exchange of all the hostages and illegally held individuals on the basis of the “all for all” principle. We can say that a solution has been found, however, the implementation of the Package is the main task that should be accomplished. The necessary methods to be taken to finally weaken the excessive pressure on the civilians and assist them in restoration of the lost peace and security of their own land include the active monitoring of actions of the opposing parties, fulfilment of both provisions of this Package and Conventions, may be the development of new and improvement of existing rules, enhance the responsibility for certain wrongful acts” [Рейзнер, 2015].

The assessment of accusations of the Russian representatives against Ukraine requires, first, addressing the process of conclusion, content, problems of adherence to the Minsk agreements and ancillary events in 2014-2016.

The purpose of the first Minsk accords was to solve the armed conflict on the territory of Donetsk and Luhansk regions, which was achieved on 5 September 2014 by the Trilateral Contact Group – the representative of Ukraine (Leonid Kuchma), the Russian Federation (Mikhail Zurabov) and the OSCE (Heidi Tagliavini). They signed Protocol on the results of consultations of the Trilateral Contact Group, which stipulated the following:

1. Ensure the immediate bilateral cessation of the use of weapons.
2. Ensure monitoring and verification by the OSCE of the regime of non-use of weapons.
3. Implement decentralization of power, including by means of enacting the Law of Ukraine “With respect to the temporary status of local self-government in certain areas of the Donetsk and the Lugansk regions” (Law on Special Status).
4. Ensure permanent monitoring on the Ukrainian-Russian state border and verification by the OSCE, together with the creation of a security area in the border regions of Ukraine and the Russian Federation.
5. Immediately release all hostages and unlawfully detained persons.
6. Enact a law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and the Lugansk regions of Ukraine.
7. Conduct an inclusive national dialogue.
8. Adopt measures aimed at improving the humanitarian situation in Donbass.

9. Ensure the holding of early local elections in accordance with the Law of Ukraine “With respect to the temporary status of local self-government in certain areas of the Donetsk and the Luhansk regions” (Law on Special Status).

10. Remove unlawful military formations, military hardware, as well as militants and mercenaries from the territory of Ukraine.

11. Adopt a program for the economic revival of Donbass and the recovery of economic activity in the region.

12. Provide personal security guarantees for the participants of the consultations [5].

Ukraine immediately demonstrated intention to implement the agreements: on 16 September 2014, the laws “On the special order of local self-government in separate regions of Donetsk and Luhansk Oblasts” and on “On preventing persecution and punishment of participants of events on the territories of Donetsk and Luhansk regions” were adopted [2].

The first of the mentioned laws provide for the extension of the special status to particular areas for a 3-year period, in particular it includes the competence of authorities, which are to be formed in accordance with the results of early elections of deputies of district, city, and districts in cities, town and village councils, and village, town and city mayors [3].

The Law “On preventing prosecution...”, in its turn, envisaged in particular the release from liability of members of armed forces, members of self-proclaimed bodies of Donetsk and Luhansk regions and the persons who opposed the conducting of ATO. It suggested closing all criminal records against them, exempting them from payment of administrative penalties already assigned. The fighters shall be exempt from criminal responsibility if they released and do not hold the hostages, voluntarily surrendered their arms and explosives, do not take administrative and other buildings, do not block the public authorities and organizations [2].

The contents of laws reveal the significant problems of Ukraine as a state, rights, freedoms and security of its population. The main risks connected with the Law “On temporarily Order of Local Self-governance...” are the legalization of persons who committed crimes, by their election to local self- government bodies (it is possible under article 10 of the Law), because the leaders of DPR and LPR do not seem to be actually ready to lay down arms and facilitate the democratic election process.

It provided that even separatism and other illegal activities can't be the ground to derivate the powers of deputies of local councils and officials (Article 5). A special procedure for the appointment of heads of prosecutors and courts with the participation of local governments, envisaged by provisions of Article 5 means that the respective state bodies shall have the authority that contravenes the Constitution and a number of laws of Ukraine. The perspective that these bodies may adopt separatist resolutions is more dangerous. The contents of laws reveal the significant problems of Ukraine as a state, rights, freedoms and security of its population. The main risks connected with the Law “On the special order of local self-government in separate regions of Donetsk and Luhansk Oblasts” is the legalization of persons who committed crimes, by their election to local self- government bodies (it is possible under article 10 of the Law), because the leaders of DPR and LPR do not seem to be actually ready to lay down arms and facilitate the democratic election process.

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Provisions of Article 9 (1) (“In particular districts of Donetsk and Luhansk regions the troops of people’s militia shall be formed subject to resolution of city, town and village councils who are assigned to implement the task of maintaining public order in localities in these districts”) provides the legalization of armed groups.

The main problem of the Law “On prevention of prosecution...” is the lack of mechanisms of state control over its execution. The judges and prosecutors under control of Russia and fighters are entrusted to implement the law including establishing whether a person has committed a crime. Practically, it may bring about criminals walking away from responsibility [*Задорожний*, 2014].

In the context of our research, however, it is no less important to draw attention to the following: by adopting these acts, Ukrainian authorities demonstrated its complete readiness to yield even at the expense of its popularity rate because Ukrainian society perceived the laws very controversially.

The fighters, in their turn, almost immediately upon the adoption of the laws stated that they would not fulfil them. The representative of DPR Andrey Purgin reported on the existence of their “own parliament” which “resolves legal questions”, and explained that they qualify the laws as “acts of a neighbour state” serving as a touch point for further negotiations [*Лелич*, 2014].

However, the same may apply to the Protocol of 5 September 2014: Russia and its puppet LPR/DPR did not fulfil any clause of this document, even the first one. There has been no cessation of the use of weapons and, accordingly, there has been no due monitoring and verification by the OSCE the regime of non-use of weapons; no permanent monitoring on the border the Ukrainian-Russian state border and verification by the OSCE and creation of a security area in the border regions of Ukraine and the Russian Federation; no release of all hostages and unlawfully detained persons; no steps to ensure the holding of early local elections in accordance with the Law of Ukraine “With respect to the temporary status of local self-government in certain areas of the Donetsk and the Lugansk regions”; no removal unlawful military formations, military hardware, as well as militants and mercenaries from the territory of Ukraine.

A new attempt to settle the conflict was made on 19 September 2014, when during the negotiations in Minsk the participants, who signed the Protocol of 5 September 2014, adopted a new document - the Memorandum on the implementation of the on the results of consultations of the Trilateral Contact Group with respect to the joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, Petro Poroshenko, and the initiatives of the President of Russia, Vladimir Putin. The following provisions are stipulated in the Memorandum:

1. The cessation of the use of weapons shall be considered to be common [for both parties].
2. The stopping of the units and military formations of the sides at the line of their contact as of September 19, 2014.
3. The prohibition on the use of all types of weapons and the conduct of offensive operations.
4. the withdrawal of the means of destruction of caliber above 100 mm.
5. Under the monitoring of the OSCE, the prohibition on the placement of heavy weaponry and military hardware in the area limited by the settlements of Komsomolskoye, Kumachevo, Novoazovsk, Sakhanka.
6. The prohibition on the placement of new landmine-explosive engineering barriers within the boundaries of the security area. The obligation to remove the previously placed landmine-explosive barriers within the security area.

7. The prohibition of the flights of combat aircraft and foreign unmanned aerial vehicles (“UAV”) along the entire line of contact between the sides in the area of the cessation of the use of weapons, to the width of not less than 30 km.

8. The deployment of a monitoring (observer) mission of the OSCE [4].

However, Russia and its proxies failed to adhere to the Minsk agreements after the signing of Memorandum. On 24 September 2014, “DPR/LPR” announced their own “elections” to their “authorities” on 2 November 2014 [41]. On 28 October 2014, Serhei Lavrov expressed the position of the Russian side according to which “the elections held in the territory of self-proclaimed Luhansk and Donetsk People’s Republics will be important in terms of legitimizing power” [27]. On 3 November 2014, immediately after the “elections”, which grossly violated the Minsk arrangements and primarily clause 9 of the Protocol of 5 September 2014, the Ministry of Foreign Affairs of Russia stated: “We respect the expression of will of citizens of the south-east. The representatives obtained the mandate to set the practical tasks to recover the normal life in Regions” [Ермолаева, 2014].

It is impossible to speak about the fulfilment of Minsk agreements by the Russian Federation and separatists in connection with the further events. The total number of violations of temporary ceasefire in the period from signing of Minsk arrangements until the end of October 2014 only exceeded 2000 [25], by early November there already had been almost 2400 violations [49]. As of 18 November 2014, the number of shooting attacks exceeded 3000 [48], and as of 24 November 2014 it was 3412 [31].

According to the investigation data of the Russian periodical *Kommersant* published in February 2015 [Барабанов, 2015], also confirmed by another source [6], Russia uses its military troops in Donetsk and Luhansk Oblasts: “The logic of military actions is quite simple: those, who really know how to fight (the investigation refers to the armed forces of Russia) perform combat missions by and on behalf of “self-proclaimed republics”. They solve the task and move away, and in their locations, in the commandant’s office and checkpoints, local fighters meet journalists, ready to talk about their past as miners” [Барабанов, 2015].

The Russian side demonstrated an enhanced action in January 2015: the Donetsk airport that had been almost destroyed (the total losses of Ukrainian militaries amounted to couple hundreds of persons killed) was taken by 22 January 2015; [29]; on 13 January 2015, at checkpoint in Volnovakha district of Donetsk Regionst the Russian military forces shot 13 and wounded 18 civilians who were bus passengers of route “Zlatoustovka – Donetsk” and were passing the passport control [24]; on 22 January 2015, they attacked the transport stop in Donetsk (8 persons died and 13 persons were wounded) [43]; on 22 January 2015, a series of artillery bombardment of Mariupol controlled by Ukraine and block posts of the armed forces of Ukraine took place; as a result 30 citizens of this city and one military died and 117 persons were wounded (Aleksandr Zakharchenko took over responsibility for this crime) [8; 47].

Simultaneously the armed forces of Russia attacked Debaltsevo [Барабанов, 2015; 9; 19; 6; 32]. It became completely clear that Russia openly ignored the provisions of the Minsk agreements and it is possible that the number of victims will increase. On 4 February 2015, the High Representative of the European Union for Foreign Affairs and Security Policy Federica Mogherini demanded the establishment of a local three-day truce, to be in effect immediately, to ensure evacuation of the civilian population from the conflict zone [7].

By that time, not only the United States, Canada, Australia and other states, but also the EU despite unnecessary economic consequences arising from the restriction of trade with Russia, realized and recognized the key role of Russian militaries in the armed conflict in Donetsk and Luhansk Regions. It should be mentioned that on 9 February 2015, the European Council introduced sanctions against Anatoliy Antonov and Arkadiy Bakhin, the deputy ministers of de-

fence of Russia, “for sending Russian armed forces to Ukraine”, Andrey Kartapolov, Director-General of the Main operations department of the General Staff of the Armed Forces of the Russian Federation and Chief Deputy of the General Staff of the Armed Forces of the Russian Federation for “planning and carrying out the military campaign of the Russian army in Ukraine” [15].

The further aggressor’s attacks were fraught with not only new victims, but also could transform the war to the new level. In such a critical situation the leaders of Germany, France and Ukraine held extremely tough negotiations with Putin in Minsk [17]. On 12 February 2015, subject to their results, the Package of measures to fulfil the Minsk agreements was adopted. The same participants of the Trilateral Contact Group who adopted the previous documents signed it; these were Leonid Kuchma (Ukraine), Mikhail Zurabov (Russian Federation), Heidi Tagliavini (the OSCE). The Package of measures has the name Minsk-2. Having the same purpose as Minsk-1, it however, takes into account the development of the situation. The provisions of the Package include the following:

1. Immediate and comprehensive ceasefire in certain areas of the Donetsk and Luhansk regions of Ukraine and its strict implementation as of 15 February 2015, 12am local time.

2. Withdrawal of all heavy weapons by both sides by equal distances in order to create a security zone of at least 50 km wide from each other for the artillery systems of caliber of 100 and more, a security zone of 70 km wide for MLRS and 140 km wide for MLRS 'Tornado-S', Uragan, Smerch and Tactical Missile Systems (Tochka, Tochka U):

for the Ukrainian troops: from the de facto line of contact;

for the armed formations from certain areas of the Donetsk and Luhansk regions of Ukraine: from the line of contact according to the Minsk Memorandum of Sept. 19th, 2014;

The withdrawal of the heavy weapons as specified above is to start on day 2 of the ceasefire at the latest and be completed within 14 days.

The process shall be facilitated by the OSCE and supported by the Trilateral Contact Group.

3. Ensure effective monitoring and verification of the ceasefire regime and the withdrawal of heavy weapons by the OSCE from day 1 of the withdrawal, using all technical equipment necessary, including satellites, drones, radar equipment, etc.

4. Launch a dialogue, on day 1 of the withdrawal, on modalities of local elections in accordance with Ukrainian legislation and the Law of Ukraine 'On interim local self-government order in certain areas of the Donetsk and Luhansk regions' as well as on the future regime of these areas based on this law.

Adopt promptly, by no later than 30 days after the date of signing of this document a Resolution of the Parliament of Ukraine specifying the area enjoying a special regime, under the Law of Ukraine 'On interim self-government order in certain areas of the Donetsk and Luhansk regions', based on the line of the Minsk Memorandum of September 19, 2014.

5. Ensure pardon and amnesty by enacting the law prohibiting the prosecution and punishment of persons in connection with the events that took place in certain areas of the Donetsk and Luhansk regions of Ukraine.

6. Ensure release and exchange of all hostages and unlawfully detained persons, based on the principle 'all for all'. This process is to be finished on the day 5 after the withdrawal at the latest.

7. Ensure safe access, delivery, storage, and distribution of humanitarian assistance to those in need, on the basis of an international mechanism.

8. Definition of modalities of full resumption of socio-economic ties, including social transfers such as pension payments and other payments (incomes and revenues, timely payments of all utility bills, reinstating taxation within the legal framework of Ukraine).

To this end, Ukraine shall reinstate control of the segment of its banking system in the conflict-affected areas and possibly an international mechanism to facilitate such transfers shall be established.

9. Reinstatement of full control of the state border by the government of Ukraine throughout the conflict area, starting on day 1 after the local elections and ending after the comprehensive political settlement (local elections in certain areas of the Donetsk and Luhansk regions on the basis of the Law of Ukraine and constitutional reform) to be finalized by the end of 2015, provided that paragraph 11 has been implemented in consultation with and upon agreement by representatives of certain areas of the Donetsk and Luhansk regions in the framework of the Trilateral Contact Group.

10. Withdrawal of all foreign armed formations, military equipment, as well as mercenaries from the territory of Ukraine under monitoring of the OSCE. Disarmament of all illegal groups.

11. Carrying out constitutional reform in Ukraine with a new constitution entering into force by the end of 2015 providing for decentralization as a key element (including a reference to the specificities of certain areas in the Donetsk and Luhansk regions, agreed with the representatives of these areas), as well as adopting permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions in line with measures as set out in the footnote until the end of 2015.1.

12. Based on the Law of Ukraine 'On interim local self-government order in certain areas of the Donetsk and Luhansk regions', questions related to local elections will be discussed and agreed upon with representatives of certain areas of the Donetsk and Luhansk regions in the framework of the Trilateral Contact Group. Elections will be held in accordance with relevant OSCE standards and monitored by OSCE/ODIHR.

13. Intensify the work of the Trilateral Contact Group including through the establishment of working groups on the implementation of relevant aspects of the Minsk agreements. They will reflect the composition of the Trilateral Contact Group [35].

Ukraine followed the same pattern as with the previous September 2014 accords: it commenced the execution of the Package of measures of 12 February 2015. It refers to the cease-fire, cooperation with the OSCE, withdrawal of heavy equipment, introduction of amendments in legislation, execution of humanitarian purposes; guarantee the activity of humanitarian missions [30]. Ukraine took steps to fulfil all clauses of the Package of measures [11].

Unfortunately, the same cannot be said about the Russian Federation and fighters it controls [10]. clause on the cessation of fire of the Package of measures entered into force on 15 February 2015, they continued attacks to Debaltsevo and by 19 February 2015, they occupied this city, which was completely destroyed in the result of the hostilities [22]. In accordance with the data of representatives of Ministry of defence of Ukraine during the battles in Debaltsevo base of operations from 18 January 2015 till 18 February 2015, 179 Ukrainian militaries died, and 110 were captured, and 81 were missing [46]. Subject to other data, casualties were more than 300 persons died clause on the cessation of fire [39].

In the following months, the Russian side gave up further attacks, reduced the intensity of the bombarding of the Ukrainian militaries and the civilians in the region, as well as other forms of fighting. Russia, however, has failed to substantially implement any of the of the Minsk agreements clauses [16].

Nevertheless, the de-escalation is also nominal: only during three months in the summer 2015, the aggressor made seven thousand attacks [11]. The opposite tendencies indicating the intensification of hostilities have been recently observed. For instance, only during 18 July 2016, according to the official data, 7 Ukrainian militaries died, 14 were wounded in the Donbas [51];

such number of victims both from among militaries and civilians is not extreme for the period of 2015-2016. On 19 July 2016, the OSCE once again reported on the continuous flows of weapons and ammunition from the Russian Federation to the separatists [50]. Accordingly, the accusations that Ukraine responds to attacks are not confirmed.

It should be reminded that there is the aggressive war of Russia against Ukraine on the table. Any accusations in the ongoing military operation in Ukraine's territory are at odds with the fundamental principles of international law, provided for primarily in the UN Charter. The victim of aggression has the right to resist the aggressor.

The current events beyond a reasonable doubt demonstrate that the actual fulfilment of the Minsk agreements and termination of the aggressive war of Russia against Ukraine is hardly on the agenda. The war continues, partly moving to another sphere that, however, does not exclude new attacks and a significant increase in the number of victims at any time.

Generally, the analysis of the Minsk agreements implementation shows that the purpose of Russia is to turn the conflict *de jure* into an internal Ukrainian problem; influence by means of puppet "DPR" and "LPR" on decisions of Ukraine both in its internal and foreign policy, preferably with a veto power; to destabilize political and social situation in Ukraine, undermine its economy and defence capacity with the help of the above formations.

In relation to other states, the intention of Russia to simulate the transformation of the situation in the political arena should be mentioned; to convince the international community that there is no intention to escalate the aggression; provide their foreign "friends" with arguments to lift sanctions. However, it is important to underline that Russia's actions prove that the sanctions effect the Russian economy less than it is often portrayed, which can be explained by their rather mild nature of restrictive measures.

The conclusions of representatives of the Russian Federation that this state is not a party to the Minsk agreements are groundless. The Trilateral Contact Group consisting of representatives of Ukraine, Russia and the OSCE is referred to. The OSCE is a mediator; the Russian Federation cannot act as a mediator. It is self-evident because in a conflict there is always more than one party who undertake commitments. The clauses of the Minsk accords, of course, directly provide for the existing of two parties: clause 1 of Protocol of 5 September 2014 "to ensure the immediate bilateral cessation of the use of weapons" [5], clause 2 of Package of measures of 12 February 2015 on "Withdrawal of all heavy weapons by both sides by equal distances in order to create a security zone" [35].

The above-mentioned provisions are confirmed by the content of agreement as a whole and by many of its paragraphs. For instance, clauses 1, 4, 5, 8, 10 of Protocol, clauses 1, 2, 6, 9, 10, 13 of Package of measures cannot be interpreted otherwise than with the Russian Federation on the authors' mind. As the present study already showed "DPR/LPR" are the formations controlled by Russia and it is Russia who is responsible for their actions under both international law doctrines of overall control and effective control [12; 13; 14; 18].

The world leaders understand it. Angela Merkel, Francois Holland and Petro Poroshenko with Vladimir Putin agreed to the Package of measures of 12 February 2015, produced after the negotiations of 12 February 2015 to end the bloodshed [17]. The leaders of "DPR" and "LPR" Aleksandr Zakharchenko and Ihor Plotnitskyi did not participate in negotiations, they attend the Minsk negotiations personally and sign the resulting armistice implementation document but they did not identify their posts; on 13 September 2014, their representatives informed that these persons are only observers and "confirmed that they took the Minsk protocol into consideration" [42]. Given the fact that "DPR" and "LPR" are not the subjects of international law and are not recognized by other states, they cannot be the party to agreements, undertake and be responsible for the execution of any obligations.

That is why one cannot agree with the considerations of Mikhail Shumilov and other Russian authors, who refer the representative of Russia Mikhail Zurabov to a mediator in the Minsk process and repeatedly cite Zakharchenko, Plotnitskyi and other fighters as allegedly “authorized representatives of DPR and LPR”.

The construction of the Minsk agreements by Vladimir Putin as agreements providing that the respective actions should be taken “as agreed with Donetsk People’s Republic and Luhansk People’s Republic, with these territories” is knowingly false. “DPR”, “LPR” and “Novorossiya” and other similar formations are not mentioned in Minsk agreements at all. Accordingly, there is no sense to accuse of “demonstrated unwillingness of Ukrainian party to take into account the legal interests of “DPR”, “LPR” and other similar formations because unlawful formations cannot have any “legal interests”.

The Russian Federation should fulfil those clauses of the Minsk agreements that refer thereto. First of all, the first two provisions of the Package of measures of 12 February 2015 “immediate and comprehensive ceasefire in certain areas of the Donetsk and Luhansk regions of Ukraine and its strict implementation as of 15 February 2015, 12am local time” and “withdrawal of all heavy weapons by both sides by equal distances in order to create a security zone” should be specifically mentioned. These clauses may be deemed as key ones because it is impossible to fulfil the rest of the clauses without first implementing the two above.

For example, the representatives of the Russian Federation often pay attention to the fact that Ukraine failed to hold elections in certain areas of the Donetsk and Luhansk regions of Ukraine. But they cannot be held in accordance with the OSCE standards (as envisaged in clause 12 of the Package of measures) without security guarantees for population, election bodies, Ukrainian and foreign observers. Russia and its proxies continue daily attacks on the Ukrainian Armed Forces positions and civilian population of Donetsk and Luhansk regions. It is clear it is impossible to send foreign observers and observers from international organizations or prepare for the elections in times of hostilities.

It is important that the world leaders and representatives of states and international organizations involved in the Minsk process uphold this view. Thus, on 9 July 2016, Angela Merkel stated: “As before we have no cease-fire in Ukraine. However, it is a precondition to hold the local elections and revive the political process” [40]. Thus, the cease-fire is connected not only with elections but also with political process in respect of certain areas of the Donetsk and Luhansk regions of Ukraine. This approach is completely in line with the rules of international law, international practice of the resolution of armed conflicts and finally with the logics of the respective processes.

Ukrainian authorities also demonstrated the adequate understanding of these problems. On 17 March 2015, the Verkhovna Rada of Ukraine passed the law amending Article 10 of Ukraine’s law granting special “self-rule” status to certain districts of the Donetsk and Luhansk regions. The document says that, Point 4 says that Articles 2-9 of the aforementioned law will come into force when local self-governance bodies to be elected at the snap polls in certain districts of the Donetsk and Luhansk regions are vested with power. The document also demands that the upcoming elections must abide by the constitution of Ukraine and other Ukrainian laws, must be general, equal, free and transparent and must meet all international democratic standards, according to the report.

The election campaign in these districts ought to obey the electoral standards of the OSCE; Unbiased international observers, including from the OSCE Office for Democratic Institutions and Human Rights, the Council of Europe Congress of Local and Regional Authorities and other international organizations and foreign states, as well as other official observers should be allowed to monitor these elections. A safe environment should be created for them and their work;

the withdrawal of all illegal armed units, military hardware, as well as 'militants and mercenaries' from the territory of Ukraine in order to prevent their illegal interference in the electoral process [1].

It is worth mentioning that the law of treaties provides that the provisions of the treaty shall be construed in accordance with its object and purpose. Article 31 (1) of Vienna Convention on the Law of Treaties of 1969 provides that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose. The purpose of Minsk agreements is to re-establish peace and security that is impossible without a cease-fire, regardless of any other provisions. The compliance with the Package of measures on the control of the border which Russia constantly tries to present as the less significant and the last on the list of the clauses to implement, as a result of actual circumstances is not an obligatory but the main condition of the cease-fire. The point is that the supply of weapons by Russia and sending its troops to Ukraine undermine the above purpose. In fact, these actions are the direct cause of war in general.

The representatives of Russia, for instance, Vladimir Putin, stating that “the key issue in the settlement process is a political issue with a constitutional reform is at the heart of it” [34], cannot but understand that and are just cunning intending, on the one hand, continue hostilities damaging Ukraine a lot, and on the other hand, shift the responsibility for things that happen to the Ukrainian side. From this point of view, the position of the Russian Federation is quite logical: instead of the execution of the Minsk agreements Russia prefers interpreting agreements as imposing obligations exclusively on Ukraine. With this approach in mind, the accusations against Ukraine are quite self-evident; however, any speculations by Russia do not make these accusations reasonable.

The same applies to the statements that “today linking the lifting of sanctions by the EU to bringing the Minsk process to the logical end is meaningless, because the ball is not in the court of Russia, it’s in the court of Ukraine”; “Ukraine fails to fulfill the agreement reached within the framework of the Minsk process”, “Russian side qualified the resolutions of the Ukrainian authorities as a gross violation of Minsk agreements and their actual rewriting...”; “Kyiv does not realize it is the one to implement the Minsk Package of measures, in addition to the whole body of rules”; “Ukrainian authorities practically do everything possible to undermine the Minsk process”.

Conclusions. The analysis of the 2014–2016 events in Donetsk and Luhansk regions of Ukraine, the Minsk process and the respective accords, and rules of international law shows that Russia’s claims that Ukraine fails to perform the agreements adopted within the framework of Minsk process are groundless. The refusal of the Russian Federation to cease the aggressive war against Ukraine, with clear, gross and systematic violations of the Minsk agreements prevents the settlement of the crises.

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