

Ukraine and the Minsk II agreement

On a frozen path to peace?

SUMMARY

While Kyiv took an important step towards Europe with the entry into force of the Deep and Comprehensive Free Trade Area on 1 January 2016, Ukraine's path to peace with neighbouring Russia remains complicated. The implementation of the fragile Minsk II ceasefire agreement — negotiated by the leaders of France, Germany, Ukraine and Russia in February 2015 — has been extended into 2016.

Several unresolved issues will continue to pose challenges to the fulfilment of Minsk II in 2016. The death toll has now surpassed 9 000, and Russia continues to supply the rebels with ammunition, weaponry and fighters. In addition, Ukrainian pilot Nadiya Savchenko is still imprisoned in Russia over murder charges. At the same time, the practical consequences of the conflict are tangible in the rebel-held areas, where a humanitarian crisis is unfolding.

While the self-proclaimed republics in Donetsk and Luhansk had agreed to postpone local elections until February 2016 — a move that was welcomed by Kyiv, Moscow and Brussels — the next developments hinge on a political settlement. However, some analysts hope that recent Russian high-level appointments could give new impetus to negotiations.

This briefing brings up to date that of 16 July 2015, ['Ukraine: Follow-up of Minsk II – A fragile ceasefire'](#).



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Minsk II – a ceasefire in limbo

The leaders of France, Germany, Russia and Ukraine in a conference call on 30 December 2015 agreed to extend the implementation of the Minsk II peace agreement beyond the 31 December 2015 deadline into 2016. In a [statement](#) issued by the French presidential palace, the leaders of the 'Normandy Four' reaffirmed their commitment to the truce in eastern Ukraine and the 'concerted withdrawal of heavy weapons without delay'. The four countries' Foreign Ministers are expected to assess progress in February 2016.

Background: How the current crisis started

At the Eastern Partnership summit in Vilnius on 28-29 November 2013, Ukraine's then President Viktor Yanukovich decided against signing the Association Agreement ([AA](#)) with the EU, including the Deep and Comprehensive Free Trade Agreement ([DCFTA](#)). Instead, President Yanukovich [received](#) a US\$15 billion loan and a beneficial gas deal from Moscow. The decision triggered major pro-European popular protests in Ukraine. In February 2014, the Ukrainian parliament, the Verkhovna Rada, voted to impeach President Yanukovich, who then fled Kyiv.

Russia perceived the power shift as a coup d'état and responded by annexing the Crimean peninsula in March 2014 in [violation](#) of international law, and by launching an undeclared '[hybrid war](#)' – involving strong economic pressure and targeted [disinformation](#) measures – against Ukraine. The EU, the US and a number of other countries imposed sanctions against Russia, which retaliated with [counter-sanctions](#).

On 5 September 2014, a peace plan for eastern Ukraine – the [Minsk Protocol](#) – was signed. Following immediate violations, a follow-up agreement was negotiated and signed on 19 September 2014. However, fighting continued and escalated in January 2015. On 12 February 2015 leaders from France, Germany, Ukraine and Russia [agreed](#) to a new ceasefire, the Package of Measures for the Implementation of the Minsk Agreements (the 'Minsk II' agreement), which entered into force on 15 February.

The Minsk II agreement, summarised

1. Immediate, full bilateral ceasefire as of 15 February 00:00.
2. Withdrawal of all heavy weapons by both sides, to be completed within 14 days.
3. Effective monitoring regime for the ceasefire and withdrawal of heavy weapons by the OSCE.
4. Launch of dialogue on modalities of local elections in accordance with Ukrainian legislation.
5. Pardon and amnesty of figures involved in the conflict.
6. Release of all hostages and other illegally detained people, based on the 'all for all' principle.
7. Safe delivery of humanitarian aid to those in need, based on an international mechanism.
8. Restoration of full social and economic links with affected areas.
9. Full Ukrainian control over its border with Russia throughout the conflict zone.
10. Withdrawal of all foreign armed groups, weapons and mercenaries from Ukrainian territory.
11. Constitutional reform in Ukraine with decentralisation as a key element; a new constitution by the end of 2015.
12. Local elections in Donetsk and Luhansk regions to be held according to OSCE standards.
13. Intensifying of the work of the Trilateral Contact Group.

The [Package of Measures](#) for the Implementation of the Minsk Agreements was published by the Elysée.

Minsk II: Renewed ceasefire violations underline chronic lack of progress

Point 1 in the Minsk II agreement — full bilateral ceasefire as of 15 February 2015 00:00 — was breached almost immediately, as separatists celebrated their victory in the strategic transport hub of Debaltsevo on 18 February following heavy fighting. While the truce did reduce the number of casualties and hotspots, there have been recurrent waves of increased violence. Amid [surging](#) fighting in June-August 2015, a new 'ceasefire within the ceasefire' was [agreed](#) on 26 August 2015. Conditions improved temporarily, but [worsened](#) again in November.

Figure 1 – Ukraine and the conflict area

Source: Giulio Sabbati, EPRS. Click [here](#) to see updated maps by Ukraine's National Security and Defence Council.

Despite continued violations, the conflict is unlikely to considerably escalate

Although Ukraine and pro-Russian rebels on 22 December 2015 agreed on a new '[ceasefire](#)' within the ceasefire' over Christmas and New Year, violations by both sides in late December sparked [concern](#) that the situation could unravel. On 13 January, the Trilateral Contact Group (TCG), which is responsible for negotiations to settle the conflict, [agreed](#) on yet another ceasefire. Again, this was [violated](#) in the following days. Despite the repeated setbacks, global risk consultancy company 'Control Risks' deems that the conflict is 'unlikely to considerably escalate'.¹

The death toll since the conflict broke out in April 2014 had reached more than [9 000](#) in November 2015, according to the United Nations Human Rights Monitoring Mission in Ukraine (UN OHCHR). However, the total number of casualties remains unknown. Russian President Vladimir Putin — who has [denied](#) the presence of Russian troops in eastern Ukraine, but [conceded](#) in December 2015 that there were 'people' there handling 'certain' military tasks — [declared](#) in May 2015 that deaths of Russian soldiers during special operations in peacetime shall be classified as a state secret.²

Russia continues to supply the rebels with ammunition, weaponry and fighters

According to a December 2015 [report](#) by the Office of the High Commissioner for Human Rights (OHCHR) ammunition, weaponry and fighters were still pouring in from the Russian Federation to the rebel-held areas of eastern Ukraine. NATO Supreme Allied Commander Philip Breedlove [warned](#) on 2 December 2015 that 'Russia still supports its proxies in eastern Ukraine'. He added that 'multiple convoys' into Donbas had been 'labelled as humanitarian support. We all know that is not correct,' he explained. Breedlove concluded that 'Russia is completely in control of what is happening on the line of contact and they will use that in the future'.

Ukraine receives modified equipment and financial military aid from the United States

In November 2015, the US [delivered](#) two new anti-artillery radar systems to Ukraine, worth US\$10 million each. The systems had been [modified](#) to ensure that Ukrainian forces do not 'escalate the current conflict by using the new systems to counter fire ... from Russian territory', US officials said. The US National Defense Authorization Act for the Fiscal Year 2015 [foresees](#) US\$300 million for Ukraine's military.

Ukraine reports Russian 'attempt' to aggravate the conflict to the UN Security Council

On 18 January 2016, Ukraine — which [assumed](#) its seat as a non-permanent member of the UN Security Council on 1 January — [informed](#) the chair of the UN Security Council of 'another attempt' by Russia and its proxies to aggravate the security situation in Donbas. According to a press [statement](#) issued by Ukraine's Ministry of Foreign Affairs, recent armed provocations along the contact line 'derail all efforts undertaken by Ukraine and international community aimed at restoring peace and stability'. In the statement, Ukraine urges international partners 'not to fall for [Russia's] deceptive manoeuvres' that demonstrate 'mismatches between its rhetoric and real actions'.

EU [sanctions against Russia](#)

The EU views the 'full implementation of the Minsk agreements' as the foundation for a solution to the conflict. Since spring 2014, the EU has been increasing its restrictive measures in [response](#) to the 'illegal annexation of Crimea and deliberate destabilisation of Ukraine'.

On 14 September 2014, the Council [extended](#) the EU's sanctions over Russian action against Ukraine's territorial integrity until 15 March 2016. 149 persons and 37 entities are subject to asset freeze and travel bans under these sanctions.

Most recently, EU Member States on 18 December [decided](#) to extend economic sanctions against Russia for six more months, despite visible [divisions](#) between individual Member States.

Prisoners: Nadiya Savchenko case continues in 2016

Point 6 in the Minsk II agreement stipulates the 'release and exchange of all hostages and unlawfully detained persons, based on the principle "all for all"'.³ Following the February 2015 talks, Ukrainian President Petro Poroshenko announced that the Ukrainian military pilot Nadiya Savchenko — held in Moscow on charges of involvement in the death of two Russian journalists in eastern Ukraine in 2014 — would be released as part of the agreed prisoner exchange. In February 2015, however, a Moscow court [refused](#) to release Savchenko. She was elected to Ukraine's parliament *in absentia* in 2014 and was awarded a 'Hero of Ukraine' award by Poroshenko in March 2015.

Further extension of Savchenko's detention; verdict expected early in 2016

In June 2015, a Moscow court [extended](#) Savchenko's detention until 30 September 2015. The European External Action Service (EEAS) [stated](#) on 17 June 2015 that the EU 'firmly' calls for Savchenko's release in accordance with Minsk II. Since then, however, her detention has been extended several times and will be [upheld](#) until April 2016. In protest, she started a dry hunger strike (refusing both food and water) on 18 December. A verdict is [expected](#) early in 2016. Savchenko could face up to 25 years in prison if she is found guilty of murder.

Behind the front lines, an unfolding humanitarian crisis**Suspension of humanitarian assistance triggers UN protest**

While the strategic aspects of the conflict are being analysed far away from the scene, the practical consequences for people in the affected region are tangible. In July 2015, the de facto authorities of Luhansk and Donetsk instructed the UN and international NGOs to register for accreditation. Their applications were rejected in September, their work suspended and the majority of humanitarian actors [expelled](#).

Dramatically increased risk of the spread of drug-resistant tuberculosis

This development violates point 7 in Minsk II, which commits the parties to ensure safe distribution of humanitarian assistance to those in need on the basis of an international mechanism. In December 2015, the UN Office for the Coordination of Humanitarian Affairs [protested](#) this development 'in the strongest possible terms', warning that the discontinuation of a Médecins Sans Frontières tuberculosis treatment programme 'dramatically increases' the risk of the spread of drug-resistant tuberculosis in the areas.

Polio outbreak sparks further concern

At the same time, Ukraine is facing other severe medical challenges. On 1 September 2015, the World Health Organization (WHO) [confirmed](#) two cases of polio in Ukraine, the first in Europe since 2010.⁴ Kyiv launched a campaign with the aim of vaccinating 90% of children aged five and younger, but less than 65% of children were vaccinated in the first of the planned three rounds, leaving more than 1 million children [exposed](#) to infection. WHO assessed the risk of further spread in Ukraine to be high.

Lack of clean drinking water increases concerns over other infectious diseases

In the conflict zone, water supply has been targeted intentionally, or [suffered](#) collateral damage, and drinking water supply in many areas no longer meets health standards. At the same time, damaged wastewater pumps cause running water to mix with sewage, posing a severe health hazard. The lack of disinfection capacities results in the [spread](#) of waterborne diseases such as hepatitis A. The lack of access to piped water forces many residents to travel through fighting zones to collect water from private wells. In some areas, landmines hinder access to water or hamper the reparation of damaged pipes.

Internally displaced persons face difficult winter

Ukrainian authorities had [registered](#) over 1 620 000 internally displaced persons (IDPs) in the country by 27 November 2015. The [majority](#) of these IDPs had fled eastern Ukraine while some 20 000 had fled Crimea. There were an estimated 17 000 IDPs in Crimea as of October 2014. However, these IDPs have not been registered by Ukrainian authorities as the area is not under Kyiv's control. There are no updated, reliable figures available regarding Crimea. Livelihood opportunities for IDPs are [limited](#) due to Ukraine's difficult economic situation.

EU support for crucial constitutional reform

While the situation on the ground looks gloomy, there is some progress in other areas. In October 2015, the Council of Europe's Venice Commission, an advisory body on constitutional issues, [endorsed](#) amendments to Ukraine's constitution, paving the way for decentralisation in line with point 11 in the Minsk II agreement. The European Commission [announced](#) over €100 million for Ukraine's decentralisation reform on 7 December. Ukraine's Parliament (Rada) must pass a key vote (second reading) on constitutional amendments to allow the transfer of power from Kyiv to local governments. The Rada [passed](#) the bill at first reading in August 2015. The second reading requires 300 out of 450 votes in the Rada. Ukrainian Prime Minister Arseniy Yatseniuk has [called](#) for a public referendum on the constitutional changes.

Local elections in rebel-held regions planned for February 2016

In October 2015, the pro-Russian leaders of the rebel-held regions of Donetsk and Luhansk announced their [decision](#) to postpone local elections until 21 February 2016. The move was welcomed in Kyiv, Moscow and internationally as a key step towards fulfilling Minsk II, whose point 12 stipulates that local elections in Donetsk and Luhansk regions be held according to OSCE standards. The EEAS [welcomed](#) the move as a 'fundamental step' towards full implementation of the Minsk agreements, adding that it 'offers renewed hope for a sustainable political settlement' based on 'full respect of international law and Ukraine's independence, sovereignty and territorial integrity'.

Ukraine's key vote on decentralisation is uncertain

However, a key vote in the Verkhovna Rada on constitutional amendments to pave the way for a transfer of power from Kyiv to local governments, including Donetsk and Luhansk, may be postponed. The Rada [passed](#) the bill on its first reading in August 2015, and the second reading was planned before the end of the legislature on 2 February 2016. On 23 January, Poroshenko [said](#) that Russia must first fulfil a number of conditions, including withdrawal of Russian troops. On 24 January, Parliament Speaker Vladimir Groisman [said](#) that the Rada would not discuss the decentralisation amendments to the Constitution in January 2016. Meanwhile, Prime Minister Arseniy Yatseniuk has [called](#) for a public referendum on constitutional changes as a 'new social contract'.

Do recent Russian appointments signify readiness to negotiate Donbas?

Despite the continued difficulties listed above, some observers seem cautiously optimistic regarding the situation in Donbas. Anders Åslund, a renowned [expert](#) on Russia and Ukraine, even [assesses](#) that Russia 'might actually return the occupied Donbas to Ukraine'. He bases his optimism on recent Donbas-related appointments in Moscow. For example, Åslund views the nomination of Boris Gryzlov as Russia's chief negotiator at the TCG as a sign that the Kremlin has taken '[direct control](#)'. Gryzlov is seen as a 'heavyweight in Putin's inner circle', who can negotiate 'with the authority of the Kremlin' as opposed to his 'lightweight' predecessor Azamat Kul'mukhametov, whose appointment allegedly signified the wish to downplay Russia's role.

Åslund also sees it as a positive development that Russian Deputy Prime Minister Dmitri Kozak has replaced presidential aide Vladislav Surkov with responsibility for Donbas in the Kremlin. Kozak is a 'manager of frozen conflicts', while Surkov (who was in charge of the *Novorossiia* project; a now [reportedly](#) abandoned plan to reunite the former Russian empire) is seen as 'a notorious troublemaker'. Åslund concludes that Putin 'may

be ready to negotiate', a view shared by other analysts⁵. It remains to be seen if the actual work of the TCG will indeed intensify, as stipulated in point 13 in Minsk II.

The role of the European Parliament

President of the European Parliament Martin Schulz, in his speech at the European Council on 17 December 2015, stressed that the sanctions against Russia can only be reviewed 'if substantial progress is made and the Minsk agreements are fulfilled'.

The EP and the Verkhovna Rada signed a [Memorandum of Understanding](#) on 3 July 2015 to establish a joint framework for parliamentary support and capacity-building of the Rada.

Relevant EP resolutions

In its [resolution](#) on AAs/DCFTAs with Georgia, Moldova and Ukraine (20 January 2016), the EP called on Russia to end 'all direct or indirect involvement' in the conflict in Ukraine. The EP also supported deploying an EU-led Common Security and Defence Policy mission in the conflict 'once the situation permits and as part of the full implementation of the Minsk Agreement'.

On [the case of Nadiya Savchenko](#) (30 April 2015): the EP called for the immediate release of Nadiya Savchenko' and demanded that Moscow 'respect their international commitment', including the Complex of measures for the implementation of the Minsk Agreements.

[On the situation in Ukraine](#) (15 January 2015): the EP calls on Russia to 'allow international monitoring of the Russian-Ukrainian border, to use its influence over the separatists to ensure they abide by the ceasefire' and to work constructively to implement the Minsk arrangements.

Endnotes

¹ Control Risks Country Risk Forecast, Ukraine, 14 January 2016.

² The move followed the 12 May [publication](#) of a controversial report by former opposition leader Boris Nemtsov (who was murdered in Moscow in February 2015) claiming that 220 Russian soldiers had lost their lives in eastern Ukraine since the crisis started in 2014.

³ The exact number of prisoners of war on both sides is unknown. According to June 2015 estimates by the Ukrainian Security Service, [quoted](#) by Carnegie Endowment for International Peace, there were 250-400 Ukrainian soldiers in captivity, while more than 2 500 Ukrainian prisoners had already been released by the separatists.

⁴ Ukraine's level of immunisation fell below 50% in 2014. Distrust in vaccines in general in Ukraine is high, and the information level regarding polio has been low for years. According to a 2014 UNICEF/WHO [survey](#), only 18% of Ukrainian mothers perceived polio as a dangerous disease, and only 27% know that it bears the risks of paralysis.

⁵ Control Risks Country Risk Forecast, Ukraine, 14 January 2016.

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eprs@ep.europa.eu

<http://www.eprs.ep.parl.union.eu> (intranet)

<http://www.europarl.europa.eu/thinktank> (internet)

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