Local versus regional approaches to peace in Donbas

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INTRODUCTION

Following the Euromaidan protests and the annexation of Crimea in 2014, Ukraine has witnessed continued violence in the east of the country, with approximately 13,000 people killed, including more than 3,300 civilians, and as many as 30,000 wounded. After a period of stalled negotiations, 2019 brought new momentum to the peace process: Ukraine's new president, Volodymyr Zelensky, and his political party 'Servant of the People' won an unprecedented majority in the 2019 elections, gaining full control over the executive and legislative branches of power with more than 70% of all votes cast across the country.

One of the instrumental factors for President Zelensky's victory was his promise to end the war in Donbas. To this end, he agreed to revive negotiations in the Normandy Format (between France, Germany, Russia and Ukraine) and reactivated direct communication channels with the Kremlin. The president's message regarding reconciliation with the separatist, Russia-backed 'People's Republics' of Donetsk and Luhansk appears to resonate with the majority of

Summary

› After his landslide victory in 2019, Ukraine’s President Volodymyr Zelensky is trying to accelerate the peace process to end the conflict in the east, reactivating the Normandy Format talks and engaging in dialogue with Russia, which supports the separatist authorities in Donbas.

› Attempts to achieve quick results and the lack of a consistent peacebuilding strategy means Kyiv is in a weaker position vis-à-vis Russia as the latter insists on constitutional changes which would create a federal Ukraine and grant the breakaway territories special status.

› Successful conflict settlement is possible if Ukraine proceeds with a decentralisation process that shifts power from a regional to a community level, thereby increasing the degree of civil engagement and helping to prevent separatism.

› To contribute to the peace process, the EU can support Ukraine to ensure the continuity of local governance reform. This is crucial for improving the lives of people living in Donbas and hindering Russia in its attempts to weaken the country by imposing a federal model.
Ukrainians: more than 50% of citizens believe that Kyiv should negotiate a peace deal with separatist leaders and more than 70% support the Ukrainian president’s engagement in direct dialogue with Russia.3

However, much disagreement remains over the direction of the peace plan in general and the extent of power sharing between the central government in Kyiv and the different layers of subnational authorities, in particular in the conflict territories.4 Moreover, despite the revival of the Normandy Format negotiations, the Kremlin has shown little intention to relinquish control over the occupied territories and continues to insist on its interpretation of the Donbas deal, which foresees high levels of autonomy for the breakaway regions within a federalised Ukraine. This federal interpretation of the provisions envisaged in the Minsk II agreement deal stands in contrast to Ukraine’s own vision and ongoing decentralisation process, which seeks to foster a unitary state with strong local administrative structures.

This Conflict Series Brief analyses the peace efforts in Ukraine and argues that it would be in the country’s interest to continue decentralising and strengthening local governance structures, including in the east. The devolution of authority to the local level is crucial not only because it can help to address socio-economic problems but also because it can deter secessionist claims in the future. Specifically, creating the conditions for synergies between local governance and civil society actors to emerge would bolster broader local resilience and peacebuilding efforts in Donbas. The Brief will first outline both the decentralisation framework in place since 2014 and the latest political developments concerning the conflict in Ukraine. It will then explore the challenges facing the current peace plan in bringing about a sustainable peace and how they endanger the decentralisation process. Finally, it will examine how the EU can further contribute to strengthening inclusive local governance in Ukraine in order to support the peace process.

DECENTRALISATION AS A GAME CHANGER

Decentralisation refers to the ‘process of dispersing political, administrative, and/or fiscal powers from the central state to subnational agencies or authorities’.5 In practice, decentralisation takes multiple forms, ranging from federalisation (e.g. the US, Nigeria, Belgium) to devolving the aforementioned powers to the subnational sphere within a unitary state (e.g. Finland, France, Kenya); and often includes aspects of both (Germany, for instance, has a highly differentiated, decentralised administrative system with its federal states).6

In Ukraine, the decentralisation reforms build upon a unitary state with the aim of ensuring the effective organisation of authority and local government to create and provide high quality public services, strengthen direct rule by the people and align the interests of the central government with those of territorial communities.7 The approach envisages the creation of three tiers of local self-government: the region (oblast), the district (rayon) and the community (hromada). As enshrined in the law ‘On voluntary amalgamation of territorial communities’ adopted in 2015, executive powers are delegated from regional administrations to executive committees of local councils elected by hromadas, while prefects substitute the heads of oblast state administrations in accordance with the European Charter of Local Self-Government.8

The reforms have already brought about tangible changes across the country: 1,000 amalgamated territorial communities had been established as of October 2019,9 accounting for more than 40% of Ukraine’s total area and 32% of its population.10 Furthermore, the shift away from concentrating power in the capital towards giving more responsibility to new, local self-government institutions is well underway: territorial communities have already been granted financial autonomy, which means they can impose their own taxes and spend revenues on the renovation of local infrastructure. Now, 60% of personal income tax and 100% of state duties and fees for administrative services are paid into the hromada budget, while local communities can apply for the state funding directly and obtain funds for development projects on a competitive basis. Territorial communities are also pioneering the implementation of key reforms in the areas of primary education and healthcare, and the establishment of modern service centres (already available to 6 million people) is improving access to administrative services.11

The decentralisation process has attracted key international actors who wish to contribute to the promotion of accountable and transparent local governance. In 2015, a major set of measures was adopted to support local governance after the EU prioritised support to Ukraine’s public administration and decentralisation efforts through a €97 million programme jointly funded by the Union and its member states. In addition, €10 million was allocated for the restoration of governance, reconciliation and peacebuilding in eastern Ukraine, the area most affected by war and displacement.12 EU member states are contributing to the enhancement of local stakeholders’ capacities to deliver high quality administrative services to the citizens through creating an up to date administrative service centres across territorial communities.13
Ukrainian decentralisation

Localisation as an antidote to territorial fragmentation?

Decentralisation in progress

By October 2019, 1,000 amalgamated territorial communities had been established as part of the decentralisation process. These areas cover more than 40% of the territory and 32% of the population in Ukraine.

Two competing governance models

A localised Ukraine?

In a localised system, currently being implemented by Kyiv, the lowest level of subnational governments wield significant powers that are devolved to them by the central government.

A regionalised Ukraine?

A system, advocated by Moscow, with strong regional autonomy would imply federalisation, in which sovereignty would be divided between the central government and subnational state governments.

A disputed Ukraine

Non-government controlled areas in eastern Ukraine and the territory annexed by Russia (Crimea) are not subject to decentralisation reforms.

Ukrainian in major or minor?

According to the 2011 census, Ukrainians made up less than 75 percent of the population in 5 out of a total of 24 oblasts, as well as the capital, Kyiv. In the Autonomous Republic of Crimea and Sepastopol, Ukrainians accounted for less than 25 percent.

Data: Natural Earth, 2019; GADM, 2019; State Statistics Service of Ukraine, 2019; decentralization.gov.ua, 2019; UN OCHA, 2020
Notwithstanding the ongoing conflict, both of the Donetsk and Luhansk oblasts have been actively engaged in the decentralisation process, with more than 40 amalgamated communities established since 2015. Indeed, the decentralisation reforms have had a clear peace-building dimension from the start. Decentralisation is often seen as beneficial for building and preserving peace through its contribution to improved governance effectiveness (better public amenities and service provision, local economic development, etc.) and through strengthening the chain of accountability between locally elected authorities and constituents. That said, the ongoing geopolitical conflict and the lack of clarity over the status of the conflict territories still threaten to hinder the further implementation of local governance reform in eastern Ukraine. Moreover, though difficult to achieve, a failure to complete the reform ahead of the local elections in October 2020 may disrupt the establishing of new centre-periphery relations by causing conflict in other regions of the country.

**THE RISK OF HASTY CONFLICT SETTLEMENT**

In order to understand the challenge posed by the new dynamics in the Donbas peace process on Ukraine’s domestic political environment, the Minsk II agreement and the so-called ‘Steinmeier formula’ must be examined: both paved the way towards conflict settlement and power sharing between the separatist regions and the central government in Kyiv.

The Minsk II agreement dates back to 2015, when intensified fighting in eastern Ukraine raised significant international concern. Then French President François Hollande and German Chancellor Angela Merkel presented a peace plan aimed at stopping the violence, which was agreed to at a summit in Minsk on 12 February 2015. Referred to as Minsk II (the previous Minsk protocol was signed in September 2014 as a first step towards conflict de-escalation), it provided a specific time frame for the implementation of the actions needed to achieve peace. One of its provisions included a commitment by Ukraine to carry out a constitutional reform by the end of 2015 which would lead to decentralisation and include the granting of ‘special status’ to the Donetsk and Luhansk oblasts. The proposed status was expected to allow for self-governing elements such as linguistic self-determination, the appointing of heads of prosecutorial bodies and judges, the establishment of local militias and the power to enter into economic cooperation agreements with the bordering regions of the Russian Federation.

In order to clarify a number of ambiguities in the signed deal, then German Foreign Minister Frank-Walter Steinmeier proposed a complex formula: free and fair local elections under Ukrainian law should be held in the uncontrolled territories, which in exchange would receive special self-governing status. The modalities for organising the elections included access for Ukraine’s Central Election Commission, a free media and the participation of internally displaced persons and Ukrainian parties in the process. Another key requirement was to hold the elections in accordance with the principles of the Organisation for Security and Co-operation in Europe (OSCE).

After almost three years of failing to implement the plan and continued low-level fighting, Steinmeier’s formula was brought back to life after a meeting of advisors of the heads of states of the Normandy Four in 12 July 2019. The formula was subsequently put to paper and signed in Minsk by the representatives from Ukraine, Russia, the separatist territories of Donetsk and Luhansk and the OSCE. Accordingly, and following a prisoner exchange between Russia and Ukraine on 7 September 2019, Kyiv initiated a gradual withdrawal of its troops from three areas along the 400km contact line and announced its intention to implement the next phase of the Minsk agreements, in particular the holding of local elections in non-government controlled areas (NGCA) – using Ukrainian legislation and under the supervision of the OSCE.

The main problem is that Kyiv and Moscow have considerably different interpretations of the Steinmeier formula. Specifically, the two countries disagree over the conditions under which elections in the conflict territories can be held and the broader framework and specificities related to the ‘special status’ of these areas. The Ukrainian government claims that any implementation requires all armed groups to lay down their weapons and that its territorial control, including along the border with Russia, must be re-established. Another issue for the Ukrainian authorities is how to adapt the current election laws to enable the holding of elections under the ambiguously named ‘special status’ and to ensure that internally displaced persons will be given a chance to vote.

Indeed, the organising of the envisaged local elections in the NGCA in the immediate future seems unlikely. The issue is not only the lack of security guarantees or the inability of the Ukrainian authorities to control their side of the state border in the east, but also the absence of relevant provisions regulating the election process in the uncontrolled territories of Donetsk and Luhansk oblasts – the current legal status of those territories prohibits the holding of elections. Thus, elections will remain absent from the reconciliation agenda until the Ukrainian parliament adopts a new law. Importantly, Kyiv maintains that its constitution will not be changed to accommodate separatist demands concerning the autonomy of the conflict territories.

In contrast, Moscow insists that elections in the NGCA should be organised using the current arrangements in...
place, meaning that Ukraine would not regain control over the territories. Thus, the Russian interpretation leaves no room for the further demilitarisation of the region. In Russia’s view, the occupied territories should gain a ‘special status’ and local militant groups should be legalised. By adopting this stance, Russia is pushing for federalisation by claiming that constitutional amendments should be introduced to grant Ukraine’s regions authority over their own economic, finance, linguistic, as well as cultural ties with neighbouring countries. In addition, in June 2019 Moscow initiated a fast-track Russian citizenship procedure for the residents of the Donetsk and Luhansk oblasts; by the end of that year, Russian passports had been granted to 125,000 applicants.

There is nothing unique in this approach: since the dissolution of the Soviet Union, Moscow has fuelled territorial conflicts in Georgia (South Ossetia and Abkhazia) and Moldova (Transnistria) that resulted in the emergence of pro-Russian breakaway territories. These areas have been used to continue exerting influence in these countries and in both cases Russia attempted to advance a peace plan that envisaged a federal division of powers and special status for the uncontrolled areas.

The Kremlin argues that federalism is the best solution for Ukraine because it takes each region’s particular identity into account and enables them to coexist within the framework of a single country. However, it is hard to overlook the Russian geopolitical interests in achieving such an outcome in the southeast regions of Ukraine, an area previously referred to by President Vladimir Putin as Novorossiya or ‘New Russia’ (territories to the north of the Black Sea which were formerly controlled by the Russian Empire).

While Moscow argues that a federal system for Ukraine is necessary to protect minority ethnic groups and Russian speakers, it is certainly guilty of double standards: since the illegal annexation of Crimea, for instance, the Russian authorities have cancelled all school classes taught in Ukrainian.

**REGIONALISATION VS LOCALISATION**

It is important to distinguish the decentralisation reforms underway in Ukraine from the more federalist approach inherent in Russia’s interpretation of the peace plan. The Ukrainian approach can be explained by the notion of localisation, which delegates decision-making authority related to planning, administration and allocation of resources to the local community level and elected local councillors. Unlike in a federal structure, the localisation of power initiated by Kyiv does not aim to satisfy calls for regional autonomy but focuses on the effectiveness of local communities within a unitary state. In contrast, in a federal system all powers are constitutionally divided between respective territories and cannot be easily withdrawn or overruled. According to Russia’s broad interpretation, federal states can even determine their own foreign and language policies.

The Russian interpretation of the Minsk protocol may have far-reaching negative consequences for Ukraine’s territorial integrity and undermine the credibility of local governance reform. First, further significant concessions by the Ukrainian authorities, particularly constitutional amendments, would likely instigate civil unrest. The Ukrainian central government is already facing challenges as a result of increased disillusionment among the general population over the slow pace of change under the previous government, the weak economy and growing unemployment rates. Attempts to achieve peace through a series of unpopular decisions, such as withdrawal of troops from the contact line and introduction of ‘special status’ for the NGCA, have already provoked the first large-scale street protests faced by President Zelensky’s administration since his electoral victory: in October 2019, tens of thousands of war veterans and activists took to the streets across Ukraine to voice their dissatisfaction with new state policies towards conflict settlement in Donbas.

In contrast to this approach, the localised orientation of Ukraine’s decentralisation efforts empowers local
rather than regional self-government, offering an antidote to Russian-fuelled autonomism and secessionism. It provides ways to accommodate the conflicting interests of different communities through increased public engagement in an inclusive and transparent decision-making process. In this context, decentralisation is an important process that can enhance a sense of ownership on the part of the citizens.

Local governance reform is also instrumental for combating Russian narratives promoted about Ukraine as a dysfunctional state. In 2014, Moscow’s messaging about corruption among regional elites fuelled distrust towards local authorities, successfully sowing the seeds of separatism in the eastern regions. A month after the appointment of the Donetsk oblast governor in March 2014 by the post-Euromaidan regime, separatists stormed the regional administration building and proclaimed a ‘Donetsk People’s Republic’. Local law-enforcement bodies chose not to intervene and several thousand personnel defected to the side of the separatists when anti-Kyiv rallies erupted. Had there been locally elected authorities, the narrative concerning alleged corrupt regional authorities might have been less powerful.

From a peace-building perspective, decentralisation can help eliminate future conflicts and contribute to the emergence of an integrated society in which all parties are involved in state-building activities and have their needs and interests taken into account. It provides local governments with the incentive, the mandate and the capacities to be a strong actor in support of peace and unity of a country. The opportunity to delegate the decision-making process to the local level also means that there is less risk of secession as smaller groups of people can be more effective as part of a unified state.

A commitment to continue local governance reform therefore remains the best option for Ukraine. A well-reasoned approach should include a carefully calculated step-by-step strategy that envisages the strengthening of local self-government institutions and civil society actors in the Donbas region.

**BUILDING SUSTAINABLE LOCAL GOVERNANCE AND PEACE**

In order to achieve stability and security, Donbas requires continued humanitarian aid alongside development support from the Ukrainian government and international donors. Both should continue working together to develop a holistic approach which tackles existing problems by bringing comprehensive peace to the region. This is best done by investing in the implementation of the ongoing decentralisation process and ensuring its inclusive nature.

The government of Ukraine has to eliminate all threats of revanchism and demonstrate that it can successfully implement the local governance reform that has already begun to transform the country. Moreover, the constitutional changes needed to proceed with decentralisation should be separated from any requirement regarding the ‘special status’ for Donbas. On the one hand, Ukraine has agreed to fulfil the elements outlined in the Steinmeier formula, which means granting some form of special status to the NGCA. On the other hand, Ukrainian officials recognise the threat of falling into Russia’s federalism trap and continue to insist that constitutional amendments are removed from the reconciliation agenda. Kyiv believes that the reintegration of breakaway territories should pave the way for local communities to benefit from the decentralisation process that is happening in other regions of Ukraine.

Yet, the capacity to continue the implementation of reforms largely depends on degree of trust that citizens place in elected local officials and administrations. Local residents often perceive positive changes through improved access to public services, quality roads, better primary healthcare and new schools. As one of the major donors supporting these efforts, the EU can contribute to the improvement of local services in the newly established territorial hromadas by delivering hands-on support to local self-government bodies.

With an increasing number of powers being delegated to local communities, an emphasis could be placed on enhancing the competences of community leaders. Specifically, local administrations still require more training on budget management, tender procedures, effective service provision and drafting competitive project proposals to obtain state or donor funding to implement local initiatives.

Interregional partnerships are important to advance the decentralisation process in eastern Ukraine. The EU may expand its ‘peer-to-peer’ initiative within the framework of the Committee of the Regions’ Ukraine Task Force by engaging the communities of the Donetsk and Luhansk oblasts in developing partnerships with regional authorities in EU member states. Such an initiative would be instrumental for providing an exchange of experience which promotes local development.

These activities could be conducted in parallel with the continued efforts aimed at raising public awareness of decentralisation: polls show while that 80% of Ukrainians are aware of the amalgamation of territorial communities, only 17% are well informed and
understand what it aims to achieve. Separate outreach campaigns would do well to specifically target the people living in the NGCA to deliver messages about positive change in order to demonstrate the advantages of keeping ties with Ukraine. The EU is well placed to help the government with communicating the aims and benefits of local governance reform to target audiences in the east more effectively. Since regional authorities lack the relevant capacities to conduct comprehensive information campaigns, such activities could be supported through already existing EU-funded programmes, such as U-LEAD with Europe.

Along with capacity building for local government institutions and civil society sector, long-term donor engagement is also required to restore or expand public infrastructure. The energy sector, water supply systems and healthcare and educational facilities are all in a poor state as a result of years of under-investment and damage due to conflict. The Donetsk and Luhansk oblasts are home to most of the projects in Ukraine with loan support from the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB). Since 2015, for instance, the EIB has provided financing for the Early Recovery Programme (ERP), a multi-sector framework loan of €200 million targeting early recovery investments in critical municipal infrastructure and accommodation in order to ensure decent living conditions for internally displaced people and their host communities.

With so many international agencies and projects active in the region, ensuring effective donor coordination remains crucial. The majority of donors are now interested in responding to the needs of local administrations or improving service delivery, with the United Nations Development Programme (UNDP) and USAID the most visible actors. Maintaining regular interagency coordination within the EU is therefore extremely important to complement the various activities and prevent a duplication of efforts on the ground.

THE ROLE OF CIVIL SOCIETY

Local governance reform will not be sustainable without the consolidation of a local civil society. Since the eruption of conflict, civic engagement in and around Donbas has become more dynamic. Local activists have been the main guardians of a Ukrainian identity and allied with the government to support humanitarian efforts and mitigate the effects of war.

Decentralisation immediately opened up more opportunities for participatory governance and civic activities. It has enabled local governments and active citizens to constructively engage in a dialogue and find solutions to locally relevant issues. One positive example from the region is the successful cooperation between the municipality of Sloviansk and community groups who joined forces in 2016 to renovate a long-neglected central park. This approach proved to be particularly effective as it enabled the partners to attract additional donor funding.

Civil society organisations (CSOs) in smaller communities are now urging local administrations to address the most pressing long-standing problems. A non-governmental organisation (NGO) in the town of Druzhkovka recently engaged with local authorities to make local infrastructure more accessible for people with disabilities, for instance. The NGO obtained donor support to conduct an accessibility audit of public spaces, and based on the audit results the municipal council adopted a programme aimed at improving access for people with special needs. Locally-driven initiatives enable CSOs to apply relevant expertise in cases where local government lacks resources or capacities. For example, Donbas-based activists (with support from their peers in other regions of Ukraine) help municipalities to create inclusive spaces or implement projects that help find new ways to overcome the effects of war. For example, local residents have established small businesses providing various types of services or developed tourism infrastructure in a region previously dominated by heavy industry.

The contribution of local CSOs is crucial for conflict resolution and peace. Local community groups may play a positive role in the reconciliation efforts of the Ukrainian authorities by establishing informal contacts with communities on the other side of the contact line to promote confidence building measures and dialogue. Such initiatives seek to improve communication channels between people with a view to reintegrating the NGCA into Ukraine in the future.

Apart from performing their traditional watchdog functions, such as monitoring local budget expenditure, CSOs in eastern Ukraine should expand their remit. Here the EU could be instrumental in sharing best practices to train active citizens on how to engage with local governments. Cooperation between these two actors would bolster the sense of agency in a region where people were traditionally reliant on the state for employment and lack the relevant skills to tackle their economic and social problems. Finally, the EU can support platforms or coalitions to establish linkages between local administrations and civil society groups in Donbas. In situations where divergent groups lack effective communication skills and regard each other with suspicion, EU engagement may provide support mechanisms that could be positively received by local stakeholders.
The delegation of power to the community level instead of concentrating all resources in the hands of regional elites may eliminate the threat of further secession. This is especially the case in the event that the territorial integrity of Ukraine is again challenged from abroad. Therefore, Kyiv’s firm commitment to completing the decentralisation reform is vital to both create accountable governance and safeguard the state.

Accepting a peace deal with a ‘special status’ for uncontrollable areas as advocated by Moscow will make the future of decentralisation uncertain. Allowing a separate mode of governance will help legitimise the Russia-backed separatist groups and exclude any prospects for reintegration in the future. This is why it is crucial for Ukraine to negotiate a future arrangement that does not jeopardise the decentralisation process.

The success of local governance reform will strengthen Ukraine as a unitary state by placing power in the hands of local communities instead of creating another Soviet-like federal model with autonomous regions. Indeed, if properly implemented, it could serve as a model for other countries which face similar territorial dilemmas and separatist threats.

References

* The views expressed in this publication are solely those of the author and do not necessarily reflect the views of the EUISI or the European Union.


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