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## UKRAINE – THE EUROPEAN UNION



### KEY THEME ANALYSIS

#### ***UKRAINE'S DIPLOMATIC VICTORY IN PACE***

The Parliamentary Assembly of the Council of Europe, at a plenary session on October 12, adopted two resolutions that are directly connected with the issue of Russian aggression in Ukraine.

The first resolution is titled 'Political consequences of the Russian aggression in Ukraine'; the second is 'Legal remedies for human rights violations in the Ukrainian territories outside the control of the Ukrainian authorities'.

These documents are so important that it seems necessary to analyze their contents in detail. The report 'Political consequences of the Russian aggression in Ukraine' is the first international document that records the fact of the Russian aggression against Ukraine. The document states that the sovereignty and territorial integrity of Ukraine were violated in Crimea and Donbas (paragraph 2)<sup>1</sup>; the Assembly condemned the recent elections in Crimea and recognized its results as null and void, as well as expressing concerns about human rights violations and harassment of the media in Crimea.

PACE calls on the Russian authorities to reverse the illegal annexation of Crimea and allow Ukraine to regain control of the peninsula (paragraph 4); stresses that the elections in Donbas must be in line with the Ukrainian legislation and international standards on free and fair elections. This means that the following requirements must be met: full access for the OSCE Special Monitoring Mission throughout the entire territory of Donbas, with the border sealed and controlled by the Special Monitoring Mission following the complete withdrawal of Russian troops, mercenaries and weapons, and safe storage of weapons under international supervision; the possibility for all Ukrainian parties to participate in the elections and for Ukrainian media to broadcast in Donbas during the campaign (paragraph 8); Perpetrators of grave crimes, such as unlawful killings, enforced disappearances and torture, on both sides of the contact line, must be brought to account (paragraph 10). PACE noted the negative impact of sanctions against Russia on the unity of European countries, but stressed the need to continue the pressure on Russia, including through sanctions, until the sovereignty and territorial integrity of Ukraine in internationally recognized borders is restored (paragraph 13). The Assembly reiterates its call on the Russian authorities to implement the demands of the Assembly, formulated in Resolutions 1990, 2034 and 2063 to form the basis for restoration of a fully-fledged, mutually respectful dialogue with the Assembly (paragraph 15).

<sup>1</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23166&lang=en>

The resolution 'Legal remedies for human rights violations in the Ukrainian territories outside the control of the Ukrainian authorities' includes the following statements: the annexation of Crimea and the military intervention by Russian forces in Eastern Ukraine violates international law and the principles upheld by the Council of Europe (paragraph 2)<sup>2</sup>; the 'DPR' and 'LPR', established, supported and effectively controlled by the Russian Federation, do not enjoy any legitimacy under Ukrainian or international law (paragraph 3); the Russian Federation, which exercises de facto control over these territories, is responsible for the protection of their population (paragraph 4); the Assembly acknowledged cooperation with the Ukrainian side to prosecute alleged perpetrators of war crimes and other human rights violations on the side of pro-government forces (paragraph 12); the Assembly recalls that under international law, amnesty clauses cannot justify impunity for the perpetrators of serious human rights violations (paragraph 13); as long as the present situation in the 'DPR' and 'LPR', characterized by a climate of insecurity, intimidation and impunity and a lack of freedom of expression and information, prevails, free and fair elections are not possible in these regions (paragraph 14); the Assembly takes note of the JIT's findings that flight MH17 was shot down from territory controlled by Russian-backed militants by a BUK missile system which had been brought in from the territory of the Russian Federation and which was returned to Russian Federation territory after launch (paragraph 16).

Paragraph 17 item 5 of the mentioned resolution states that 'the Assembly urges the international community to ... refrain from placing demands on Ukraine, the fulfilment of which would cement the unlawful status quo'. In our opinion, this position can be interpreted as the Assembly's disagreement with the policy of pressure on Ukraine aimed at accelerating the implementation of the Minsk agreement at any price which has been conducted by the French and German foreign ministers in recent months.

Prior to the discussion of the text of the resolutions there were attempts to change the rules of procedure for termination of powers of national delegations. The proposal of President of the Parliamentary Assembly Pedro Agramunt was not supported as it would have worked for Russia and enabled its delegation to return next year<sup>3</sup>.

However, some members of the Assembly actively supported the position that 'the suspension of dialogue with Russia and its further isolation is not in the interests of either Russia itself or the rest of Europe, including Ukraine'<sup>4</sup>. Condemning the recent elections only within Crimea has become the manifestation of this argument. In fact, the Assembly does not deny the possibility of reconciliation and rebuilding trust with Russia, but this should be preceded by Moscow's compliance with the previously articulated requirements. This is the best situation for Ukraine, as Ukraine does not have to spend its resources on constantly persuading Western partners in order to prevent the 'rolling back' of their position. Now the situation in Donbas and in Crimea has been officially interpreted as **military aggression by Russia**.

On the other hand, the rather amicable position of PACE provides an opportunity to make the negotiations beneficial for Russia. As the eastern regions of Ukraine would be the first to feel the effects of any potential escalation with the Russian Federation, this development is automatically beneficial for Ukraine. Also, Ukraine is interested in limiting the Russian Federation within the framework of any negotiating process.

These two resolutions are expanding the room for maneuver for Ukrainian diplomacy as they connected the issue of elections in Donbas not only to Russia's fulfilment of the political commitments, but also to observance of human rights in the occupied territories. On the other hand, **the mentioned resolutions postulate that the 'DPR' and 'LPR'**

<sup>2</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23167&lang=en>

<sup>3</sup> <http://dw.com/p/2RCXt>

<sup>4</sup> <http://dw.com/p/2RAOF>

**are effectively controlled by Russia. This statement significantly limits the negotiating capacity of Russia, which has always argued its nonparticipation in the conflict.**

*In general, **the adoption of these resolutions can surely be considered as an intermediate victory of Ukrainian diplomacy.** These documents legally secure a number of important points on which the Ukrainian position is grounded. One cannot predict how the resolution will affect Russia's position. However, these resolutions proved that the interpretation of the conflict in eastern Ukraine by the European community is ultimately close to the Ukrainian version.*



## UKRAINE – NATO

KEY THEME ANALYSIS**CURRENT GOVERNMENT'S GAME OF STATUSES**

On October 10 Defense Minister Stepan Poltorak said that Ukraine has a good chance to get the status of **Major non-NATO ally**<sup>5</sup>. The same day, Foreign Minister of Ukraine Pavlo Klimkin stated that ***Ukraine is calculating potential withdrawal from the CIS***. In the context of this year's Warsaw Summit, where President Poroshenko said that Ukraine's membership of NATO is not currently on the agenda, there is a risk **that the government does not possess an integral vision on Ukraine's future participation in systems of collective security**.

Ukraine's current military doctrine establishes the course for NATO membership. The government reports on enhancing reforms in the defense sector in order to harmonize it with NATO standards. At the same time, the President tactically avoids discussing any terms and actually freed NATO from its obligation to accept Ukraine into its ranks, which had been given during the Bucharest Summit (2008). In the meantime, ***one can observe active efforts on all fronts in order to get any high-level partner status with NATO without having to undergo the process of accession***. During the Warsaw Summit, Petro Poroshenko said that he agreed 'to launch a process that will allow Ukraine to get the status of ***partnership with 'advanced capabilities'***', referring to the 'Enhanced Opportunities Program'. Since 2014 Australia, Finland, Sweden, Jordan and Georgia have been cooperating with NATO under this program<sup>6</sup>. The only **problem of this strategy** resides in the fact that ***this partnership does not provide any security guarantees***. NATO membership is qualitatively different from any partnership as Article 5 of the Washington Treaty states that an **armed attack against one of the NATO member states is an attack against all the other states**.

Let's see what opportunities can be provided by these two statuses. **Major non-NATO ally** is the definition used by the United States government, aimed at describing close military relations with a country which is not a member of NATO. The introduction of such a legal status allows participation in common defense initiatives, exporting certain weapons and technologies, conducting joint military research, etc. The US **does not undertake any defense commitments with regard to major non-NATO allies**. In our opinion, if Ukraine obtains the status of Major non-NATO ally, it will be a marker of positive dynamics of reforms in the defense sector, but this status cannot be considered as the basis for national security. In addition, exports of military technologies within these bilateral relations can take places only when the US government is confident that the

<sup>5</sup> [http://news.liga.net/news/politics/13089914-](http://news.liga.net/news/politics/13089914-poltorak_ukraina_mozhet_stat_osnovnym_soyuznikom_ssha_vne_nato.htm)

[poltorak\\_ukraina\\_mozhet\\_stat\\_osnovnym\\_soyuznikom\\_ssha\\_vne\\_nato.htm](http://news.liga.net/news/politics/13089914-poltorak_ukraina_mozhet_stat_osnovnym_soyuznikom_ssha_vne_nato.htm)

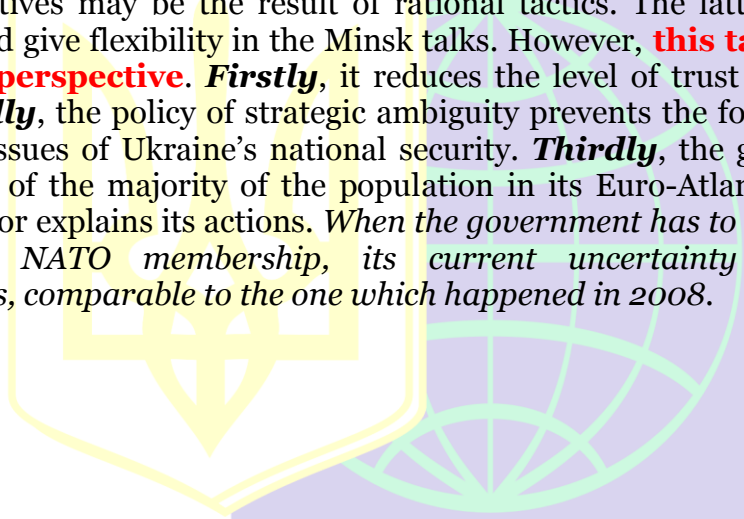
<sup>6</sup> <http://www.dw.com/uk/столтенберг-україна-не-порушує-питання-про-членство-в-нато/a-19390454>



leakage risk is minimal. The low technological level of non-lethal military equipment provided to Ukraine by the United States indicates that American colleagues have little confidence in Ukraine's defense institutions. In this case, no status beyond NATO membership, regardless of how we call it, will provide us with security guarantees.

The **status of NATO partner with advanced capabilities** cannot be regarded as a mechanism to resolve the security situation in Ukraine either. This status implies cooperation between NATO and a partner state in the areas that are important for the security of both sides. The 'Enhanced Opportunities Program' is an extended version of the Partnership Interoperability Initiative. The objectives of the latter is to involve the partners in NATO operations, to become interoperable (to able to operate together with NATO forces according to NATO standards, rules, procedures and using similar equipment), to share lessons learned, and so on. The status of NATO partner with advanced capabilities enables the parties to form a political platform to coordinate joint activities (usually through political consultations at ministerial level). For example, Finland and NATO cooperate in the sphere of regional security in the Baltic Sea. Australia and NATO are interested in the security of maritime communications in the Pacific region. Again, **this status provides no security guarantees.**

**President Poroshenko's course on integration into NATO lacks clarity, integrity and consistency.** Propagation of uncertainty regarding Ukraine's strategic foreign policy objectives may be the result of rational tactics. The latter can pay off in domestic politics and give flexibility in the Minsk talks. However, **this tactic is harmful from a strategic perspective.** *Firstly*, it reduces the level of trust between Ukraine and NATO. *Secondly*, the policy of strategic ambiguity prevents the formation of public debate on the key issues of Ukraine's national security. *Thirdly*, the government could rely on the support of the majority of the population in its Euro-Atlantic course, but it neither articulates nor explains its actions. *When the government has to make substantive progress towards NATO membership, its current uncertainty may cause a parliamentary crisis, comparable to the one which happened in 2008.*



## FOREIGN POLICY OF UKRAINE



### KEY THEME ANALYSIS

#### **REVISION OF UKRAINIAN-RUSSIAN RELATIONS**

On September 28, the Institute of World Policy held a meeting, aimed at discussing the coexistence of Ukraine and Russia, the scenarios of the relations between the two states and the situation in Russia<sup>7</sup>. *Firstly*, the event stood out as being extremely important because Russia's military aggression in Ukraine is the greatest threat to national security. *Secondly*, the Ukrainian authorities have not demonstrated the existence of a comprehensive vision of future relations with Russia. *Thirdly*, a chosen paradigm of relations directly affects both the intensity of Russian-Ukrainian conflict in eastern Ukraine, and the effectiveness of any diplomatic mechanisms.

The discussion was attended by the expert of the Institute of World Politics Olesya Yakhno, head of the Centre for Russian Studies, former Minister of Foreign Affairs of Ukraine (2007 - 2009) Volodymyr Ohryzko, former Minister of Foreign Affairs of Ukraine (2010 - 2012) Kostyantyn Gryshchenko, and former Chief Editor of Forbes Ukraine Volodymyr Fedorin.

The experts voiced a number of positions that differed mainly on the scale of stiffness of a potential course towards Russia. Their arguments were influenced by their assessments of Russia's threat (whether it is predominantly military, political, economic, etc.). Most of the criteria did not include a number of factors that require attention. First of all, the speakers discussed the future of bilateral relations between Ukraine and Russia apart from the conflict in Donbas.

The panelists often referred to the internal situation in Russia, mainly in the context of the aggressive course designed to ideologically demonize Ukraine. In this regard, various actions which could reduce this ideological bias were suggested. The expert suggested establishing exchanges for Russian students or to adopt a formal democracy support policy towards the Russian Federation. The first idea has some justification, but such an action does not significantly change the attitude of Russia towards Ukraine. The second can be interpreted by Russia as an act of interference in its own affairs and could lead to escalation of the conflict. In our view, any argument that appeals to the internal situation in Russia is ineffective for Ukraine. Firstly, Ukraine does not have sufficient resources to conduct any ideological activities in Russia. Secondly, the Russian regime has more experience in exerting ideological influence on its own population, so we cannot compete

<sup>7</sup> <http://iwpp.org.ua/ukr/public/2122.html>

with it. Thirdly, this step can be regarded as hostile not only by Russia, but also by our Western partners.

*We believe that understanding Ukrainian-Russian relations should be based on answering the following questions. Is Ukraine ready for the full implementation of Minsk? What concessions is the Ukrainian government ready to make in the course of negotiations? Does Ukraine have an alternative to Minsk and the Normandy formats? Can the measures aimed at isolating Russia (restriction on trade, visa regime, etc.) be called effective? Let us assume that the Donbas conflict has been resolved - what mechanisms allow Ukraine to isolate itself from the influence of an ideologically hostile regime? In the broader context, different answers to these questions can be reduced to two options, the 'finlandization' of Ukraine or accession to NATO membership.*

