
The Ukraine crisis and the demise of the European security order

Paul Ivan

With public attention having moved to Russia's intervention in Syria, the refugee crisis and Islamist terrorist threats, Moscow's other foreign military intervention lingers on, continuing to threaten security in Europe. The annexation of Crimea and the war in the Donbas have delivered a severe blow to the European security order, increasing tensions to a level unprecedented since the end of the Cold War. Given the continuous low-intensity fighting, the big gap between the positions of Russia and Ukraine, and the degree of enmity between them, the most likely scenario for Crimea and the Donbas is that of two new protracted conflicts. As the Minsk Agreements have not been implemented and the EU sanctions on Russia are linked to their full implementation, it is clear that the pressure of the sanctions should be maintained.

Given the current tensions between Russia and the West, it would be difficult to start negotiating a new commitment to the principles of the European security order. In this situation, talks to decrease tensions over Ukraine and other difficult dossiers should continue and sets of rules to decrease the risk of military confrontation, whether in Syria, the Baltic, the Mediterranean or the Black sea, need to be negotiated. The recent shooting down of a Russian jet by Turkish forces makes clear the need to prevent such incidents with potential rapid escalatory dynamics.

BACKGROUND

The complex web of agreements built after the end of the Second World War setting the rules for Europe's security order had already started to show signs of wear in the past two decades. The Conventional Armed Forces in Europe framework collapsed after the last major attempt to revise it at the 1999 Istanbul summit of the Organization for Security and Co-operation in Europe (OSCE), while other conventional arms control regimes are underperforming (Vienna Document, Open Skies Treaty). The OSCE itself, after a more active period in the 1990s, had seen its role declining considerably since then, with the organisation failing to resolve any of the protracted conflicts in the former Soviet space.

That said, the main underpinnings of the continent's security order, such as the UN Charter and the Helsinki Final Act, remained in force and so did their principles, including the inviolability of borders and the territorial integrity of states, the peaceful settlements of disputes, and refraining from the threat or use of force. Moreover, the 1994 Budapest Memorandum on Security Assurances gave Ukraine additional guarantees, including with respect to its territorial integrity. The USSR had been one of the initiators of the Helsinki Conference and after 1991 Russia was a strong supporter of the principle of non-intervention. Yet these commitments were ignored by the Kremlin when, in late February 2014, its forces took control of the Crimean peninsula. Similar to the USSR's behaviour during the first years of its war in Afghanistan, Russia denied the deployment of its troops in Ukraine. Although President Vladimir Putin later admitted the presence of Russian troops in Crimea, he has continued to deny their presence in the Donbas despite ample proof to the contrary. By opportunistically seizing and annexing Crimea and then intervening in the Donbas, Russia has violated the basic principles of the above mentioned documents, as well as the 1997 basic treaty between Russia and Ukraine. Even the Belavezha Accords, the December 1991 agreement that declared the Soviet Union dissolved and proclaimed the inviolability of existing borders within the newly-established Commonwealth of Independent States, have been breached. The termination of the Anti-Ballistic Missile (ABM) Treaty, the development of NATO's missile defence system and Russia's opposition to it, and more recently, concerns about possible Russian violations of the Intermediate-Range Nuclear Forces Treaty, the simulation of nuclear attacks by the Russian air force and the 'nuclear rhetoric' coming from Moscow have even added a nuclear dimension to the tensions between the West and Russia.

These developments took many people in the West by surprise but they are not entirely unexpected. Though the end of the Cold War brought a profound change in international relations, it did not change everything. Parts of the Russian political and security establishment continued to view the West in adversarial terms, and many in the West still looked at Russia with suspicion. Moreover, despite the end of the Cold War, the nuclear equilibrium between the US and Russia, with its mutually assured destruction (MAD) logic, remained in place.

In the post-Cold War era, NATO assumed the leading role in European security, as exemplified by its involvement in the Yugoslav wars and enlargement to Central and Eastern Europe. These developments were not to Moscow's liking. Russia's decision makers tend to favour geopolitical interpretations of international affairs, maintaining a zero-sum mentality. Through this lens, the enlargement of the Western alliance symbolised NATO's victory in the Cold War and was seen by many in Russia as a threat to their security and interests. Though EU enlargement was generally not perceived as a threat, this started to change after the launch of the EU's Eastern Partnership in 2009 and Putin's return to the presidency in 2012. The idea that the West is trying to deny Russia its rightful place on the global stage also started to garner more support among the Russian political and foreign policy establishment. The conflict over Ukraine, whose independence is for many Russian officials an abnormality, has only increased the influence of the nationalist constituency within the administration.

It is clear that the conflict over Ukraine is not the only cause of the serious deterioration of the security order in Europe, but its settlement will remain one of the main stumbling blocks towards a reaffirmation of the international rules of behaviour. In that sense, the current state of play does not offer great hopes.

STATE OF PLAY

Ironically, the conflict over Ukraine has raised the profile of the OSCE, bringing it back into the limelight, but it also revealed some of its major deficiencies. Following difficult negotiations requiring consensus, Russia accepted the OSCE to observe and mediate the conflict. The OSCE was able to rapidly put in place its Special Monitoring Mission to Ukraine (SMM), though not without difficulty. One of the main formats for managing the conflict, the Trilateral Contact Group (Ukraine, Russia and the OSCE) and its working groups, also takes place under the OSCE framework. However, the Ukraine conflict also illustrated the OSCE's weaknesses. The organisation's conflict prevention mechanisms failed to prevent the crisis and the OSCE has limited resources to deal with it. Moreover, one of its main structural weaknesses, its decision-making system, led to lengthy negotiations and a restrictive mandate for the monitoring mission. Furthermore, the OSCE observers still do not have free access to the whole territory they are mandated to observe and its observation unmanned aerial vehicles (UAVs) are frequently fired at and jammed by the (pro-)Russian side.

On 2 October 2015 the leaders of the Normandy Four countries (Russia, Germany, France and Ukraine) met in Paris to discuss and assess the implementation of the Minsk Agreements, including the withdrawal of weapons by both sides. But perhaps the most important decision reached in Paris was that the two separatist regimes in Eastern Ukraine would postpone the 'local elections' they were planning to organise on 18 October (Donetsk People's Republic) and 1 November (Luhansk People's Republic). As the date of Ukraine's local elections (October 25) was approaching, it was clear that the elections in the separatist Donbas would not be organised according to the Minsk Agreements requirements and would put the deal in jeopardy. Thus, the agreement in Paris allowed for a postponement of the Donbas elections and also a postponement for the deadline of the Minsk Agreement, which was initially set for the end of this year.

This delay has consequences for the EU sanctions regime against Russia, as EU leaders decided in March 2015 to link their lifting to the full implementation of the Minsk Agreements, which is now postponed without a clear deadline. Since then, the moderator of the Minsk working group on political affairs, French diplomat Pierre Morel, has made a set of proposals regarding the organisation of elections in the Donbas. The Morel Plan is moving the onus to take action to Ukraine and this has not been well received by Kyiv, which on 27 October presented its own set of proposals to serve as a basis for the "law on local elections in the temporarily occupied areas", the legal foundation for the organisation of said elections.

At the same time, in late 2015, the tensions between the two countries further increased. Russia has warned that the provisional application, starting on 1 January 2016, of the EU-Ukraine Deep and Comprehensive Free Trade Area (DCFTA) will lead to a food embargo against Ukraine, similar to the one applied to EU countries. While maintaining the military pressure in the Donbas, the Kremlin seems to push and wait for the current Kyiv government to fail and be replaced by a more amenable leadership. Ukraine and Russia also closed their airspace to each other's airlines, while Russia stopped exports of gas and coal to Ukraine and Ukrainian activists cut electricity supplies to Crimea.

PROSPECTS

The agreement reached at the beginning of October in Paris and the subsequent proposals do not represent a breakthrough. Given the continuous low-intensity fighting in the Donbas, the big gap between the positions of the two parties and the degree of enmity between them, it seems very unlikely that future elections will be organised according to Ukrainian laws, which would imply, among other things, respect for OSCE election standards, a return of internally displaced persons before the vote and the restoration of Ukrainian political parties organisations and political competition. It is clear that there is strong disagreement over several points of the Minsk agreement, with the two sides holding widely different positions regarding constitutional reform in Ukraine and the level of autonomy Donbas should be given. If Russia sees the Donbas as a sort of buffer zone that should be given extensive powers by Kyiv, including a right of veto over Ukraine's foreign policy decisions, a plan which Ukraine has managed to resist, the Kyiv government sees autonomy as a way to regain control over the region. Russia and the separatists have already rejected the decentralisation legislation under consideration by the Ukrainian parliament and Ukraine is likely to reject future elections in the Donbas.

Under these conditions it is clear that the conflict will continue. This situation is not surprising given the close temporal proximity to the violent phase of the conflict and the fact that the Minsk Agreements look more like a ceasefire agreement than a real peace plan. Thus, the most important points in the Minsk Agreements, and probably the only ones that have a realistic chance of being respected, concern the ceasefire between the two sides and the withdrawal of weapons. It took almost seven months for most of the heavy fighting to stop and exchanges of fire still take place, though generally at a more reduced rate.

If the two sides manage to improve the current shaky ceasefire, the scenario of another protracted conflict will become increasingly likely and might actually be perceived as an acceptable solution by both sides. While Ukraine does not want to re-integrate the Donbas on Russia's terms, it also does not have the military strength to defeat the Russian and pro-Russian forces in and around the Donbas. At the same time, though the Kremlin seems to have abandoned the Novorossiia project and is apparently not keen to finance the rebuilding of the Donbas, Russia also does not seem ready to significantly militarily escalate an already costly conflict and incur further losses from the subsequent new Western sanctions. The conflict also has its own dynamic and a retreat from the Donbas will be difficult to promote and defend in Russia. Therefore, although costly, the Donbas is slowly being integrated into the Russian economy and President Putin might have to accept that 'if you break it, you own it'. Holding the Donbas, in addition to Crimea, would also ensure Russia that Ukraine will not become a NATO member and that any European integration process will be severely handicapped. Thus, even if the Kremlin's goal remains to control the whole of Ukraine, if it is unable to achieve that, it will seek to ensure Kyiv's neutral status and preserve the country as a quasi-buffer state.

As the EU sanctions are linked to the full implementation of the Minsk Agreements, which includes Ukraine regaining control over its border with Russia, it is expected that the main EU sanctions will be prolonged in January 2016. However, even though the situation in Eastern Ukraine has not significantly changed, pressure to lift the sanctions is building up. While some EU member states want a prolongation of the sanctions regime for one year, other will ask for a six-month time frame, or even a small easing of the regime, to reward Russia for the decrease in fighting. Given the gravity of the situation, the delay in the implementation of the Minsk Agreements, the political commitment already taken in the European Council and the deterrent effect of the sanctions, EU leaders should remain steadfast by sticking to the position agreed of not lifting sanctions until the Minsk Agreements are implemented. Maintaining a common position on this issue will be essential for the credibility of the EU's foreign policy.

The position of the EU will not be the only one that matters. Given the limitations of the UN Security Council, it is clear that the coordinated sanctions regimes imposed by the EU, the US and other allies are among the very few tools which can be used to keep Russia's geopolitical ambitions in check. A split should be avoided. The EU and the US have already discussed new possible sanctions in case of a significant military escalation in Ukraine. This coordination work should continue, especially as in Europe the pressure to lift sanctions is increasing. Continuing to coordinate positions matters not only for the constraining component of the sanctions but also for upholding the political message. The US position matters in the Kremlin. Despite the rise of other powers, throughout the post-Cold War period Russian leaders have maintained an America-centric view of the world. Through this distorted lens, Europe is seen as being manipulated by the US and not really capable of taking its own decisions. Some of the Kremlin's messengers call for a more independent European foreign policy, i.e. less coordination with the US. EU leaders should ignore these calls and continue to coordinate with their allies.

What does the Ukraine crisis mean for the EU and the future of the security order in Europe?

President Putin showed that he is a high risk player. But while his short-term tactical imperatives seem clearer, his

long term strategic vision is not. The Kremlin seems to want to create a *cordon sanitaire* to separate Russia from the EU and especially NATO. From Moscow's perspective the countries of the former Soviet Union (minus the Baltic countries) are seen as a 'sphere of influence' in which Russia has the right to play a leading role in a sort of Russian Monroe doctrine. Moreover, Russia seems to reject concepts such as sovereign equality and prefers to act in a way reminiscent of the 19th century Concert of Europe.

In these conditions, and given the level of tension between Russia and the West, it will be difficult to start negotiations over a new commitment to the principles of the European security order. It's clear that an agreement like the Helsinki Final Act would not be possible today. In this situation, talks to decrease tensions over Ukraine and other difficult dossiers should continue and sets of rules to decrease the risk of military escalations would need to be negotiated. While the latter could be done through negotiations between NATO and Russia, for the former, the OSCE could also offer a helpful framework for debate. The German chairmanship of the organisation in 2016 should increase the OSCE's political role while its Panel of Eminent Persons on European Security as a Common Project is expected to deliver its final report, which is expected to put forward proposals to re-build trust on the basis of the Helsinki Final Act and the Charter of Paris.

The Kremlin, for whom image and prestige are very important, highly values its participation in major international organisations and formats, especially those with limited membership such as the G8. Thus, its exclusion from said format has been a painful one. Even the tensions around the development of NATO's missile defence system seem to have less to do with its capabilities and effect on the Russian nuclear capabilities and more with its geopolitical meaning. What seems to irritate the Kremlin is the fact that the US and NATO are advancing without negotiating with Russia, without showing the necessary respect. The Russian intervention in Syria can also be partially seen as an attempt to regain a seat at the table that matters. This expectation for respect should be used by the EU and the US to send a clear message to the Kremlin that the old cooperation formats can be reinstated if Russia starts respecting its international commitments.

At the same time, the security challenge posed by Russia and the new wars and crises on its doorstep should lead the EU to take security more seriously. The EU is not a military alliance but some of the most important measures taken, such as the decisions on sanctions, have been done through the EU framework. As it faces an increasing number of geopolitical challenges and tries to develop a Global Strategy for its external action, the EU should understand and better utilise its geopolitical actorness, especially as the US is starting to be less present on the continent. The EU should also push to deepen its cooperation with NATO, a process that would be helped by a potential settlement of the Cyprus conflict and the subsequent lessening of Turkey's opposition to stronger EU-NATO cooperation.

In Ukraine, Russia's leadership has realised the value of taking decisive military action, which allowed it to achieve military victories and to make significant territorial gains. Emboldened by these successes, Russia got involved militarily in Syria, with some success to date. For the Kremlin, geopolitics seems to have trumped economics and interdependence but, alas, the latter still constrains its actions and will expose the limits of this gung-ho attitude. As the crisis in relations with Russia will not pass in a matter of months, the EU will need to maintain a long-term focus and continue to defend the principles of international law and of the European security order. Although this new stage in relations with Russia is different from the Cold War, it can still be very damaging. The risk of a significant escalation in Ukraine remains a very real one. Moreover, if the Russian economy fails to grow, the Kremlin may be tempted to continue to use the conflict and nationalism to reinforce the regime's legitimacy, counterbalancing the failures in domestic and external policies. The West should try to contain this conflict by making better use of deterrence and making clear what its red lines are. At the same time, there is a need to carefully engage with Russia and to try to develop mechanisms to contain risks and reduce tensions, especially in the military field. The EU should not allow engagement with Russia over Syria to change its principled position on Ukraine. Such a scenario would go against the values of the Union and severely affect the EU's credibility in the world. In time, a decrease in tensions might lead to better conditions to start negotiating a new commitment to the principles of the European security order.

Paul Ivan is Senior Policy Analyst at the European Policy Centre (EPC).

European Policy Centre ■ 14-16 rue du Trône, 1000 Brussels, Belgium
Tel: +32 (0)2 231 03 40 ■ Fax: +32 (0)2 231 07 04 ■ Email: info@epc.eu ■ Twitter: [@epc_eu](https://twitter.com/epc_eu) ■ Website: www.epc.eu



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