



## RUSSIA-UKRAINE

■ ANALYSIS		
A New Momentum for Settling the Donbas Conflict?		2
By André Härtel, National University of “Kyiv-Mohyla Academy”		
■ OPINION POLL		
Ukrainian and Russian Popular Opinion on the Conflict in the Donbas		5
■ MAP		
Disengagement of Troops in the Donbas		12
■ ANALYSIS		
The Negotiations between Ukraine and Russia on Gas Transit: A Progress Report		12
By Julia Kusznir, Jacobs University Bremen		
■ STATISTICS		
Imports and Consumption of Natural Gas in Ukraine		16

## A New Momentum for Settling the Donbas Conflict?

By André Härtel, National University of “Kyiv-Mohyla Academy”

DOI: [10.3929/ethz-b-000382152](https://doi.org/10.3929/ethz-b-000382152)

### Abstract:

Despite some early signs of movement in resolving the Donbas conflict between Ukraine and Russia, there is no clear path forward yet. Ukraine’s young President Volodymyr Zelensky is still working to construct a set of policies that will be acceptable to his divided population. The Russians seem to benefit from the status quo. Similarly, numerous questions remain about how to implement Minsk 2 at a time when the West seems to be tiring of sanctions and more focused on other issues.

### Zelensky’s Surprise Election Brings New Hope

The war in Donbass is in its sixth year and has so far left approximately 13,000 people dead. The fighting in both the occupied territories consisting of the so-called “Donetsk People’s Republic (DNR)” and the “Luhansk People’s Republic (LNR)” and the Ukrainian-held parts of the respective oblasts has taken a serious toll and dire humanitarian and economic conditions prevail, especially at the contact line. The Minsk Agreements of February 2015 (Minsk II) have so far ensured a fragile ceasefire, but were never fully implemented by either the Ukrainian or Russian sides as would be necessary to end this conflict. With the unexpected rise of Volodymyr Zelensky to the Ukrainian presidency in Spring 2019, and the absolute majority he won in parliamentary elections shortly afterwards, the overall atmosphere has changed. Zelensky’s election platform, promising to speed up negotiations in the Normandy Format and end the war, a high-level prisoner exchange in early September, and the general agreement of the Ukrainian side to the so-called “Steinmeier Formula” at the beginning of October, have brought hope for new momentum and the beginning of a genuine settlement process. This article analyses the current situation and asks if we can really expect significant progress in the near future.

### 2015–2019: Poroshenko—the “War President”?

In order to assess what has changed recently it makes sense to take a brief look first at the conflict’s dynamics and the related policies of the Ukrainians, Russians and other participants in recent years. After the Minsk Agreements of February 2015 were able to stop large-scale hostilities and establish a more or less stable contact line between the occupied territories and the rest of Ukraine, it soon became clear that the framework agreed to in the Belarusian capital was a challenge first of all to the Ukrainian side. The country’s sovereignty had been compromised by annexation and intervention

and the public mood then was that any further losses or concessions would upend the Ukrainian state. Already in late summer 2015 Ukrainian legislation on decentralization and more autonomy for the occupied territories (to say nothing of a Minsk-style “special status”) was accompanied by violent and deadly clashes between nationalist protestors and the police. As a result, President Poroshenko began to understand both his lack of negotiating leverage due to a growing patriotic-nationalist sentiment in his country (one of the main results of the Revolution of Dignity and the war) and the domestic political calculations that he would need to make.

That the Ukrainian president made the war with Russian and separatist forces the main theme of his term was, however, as much his choice as a consequence of Russia’s behavior. The Kremlin from 2015 onwards never showed much interest in conflict resolution and despite Western sanctions applied a consistent tactic of confrontation vis-à-vis Ukraine. Moscow continued to fortify the so-called “DNR” and “LNR” militarily and instructed them to demonstrate as much bellicosity and intransigence possible under a working cease-fire agreement. At the same time, Russian Donbas-policy was curated mostly by the infamous Vladislav Surkov, who engineered a more Kremlin-convenient elite set-up in both entities and drew them ever closer into a Moscow-dominated security, economic, and media space. The Russian portrayal of Poroshenko as a “war president” and his political allies in Kyiv as the “party of war” therefore first of all served Russian interests in a perpetuation of the post-Minsk II status quo in Donbas.

The international community, and especially the Normandy format participants Germany and France, for various reasons seemed to have exhausted their political will to invest much into conflict regulation after the Minsk Agreements. Especially the Germans, who took the lead in the management of the EU sanctions regime against Moscow and in negotiating the ceasefire in Minsk, were unable from late 2015 onwards to exert much leadership. With anti-Russian sanctions still

unpopular among the German public and the migration crisis both constraining foreign policy resources and significantly hurting Angela Merkel's standing, Berlin slowly lost its earlier courage. At the same time, calls for a more progressive engagement of the United States in the Normandy Format fell on deaf ears in Washington, where conflict resolution in Donbas is still perceived as a European matter.

### The Minsk Agreements—Still the Way to Go?

Over the years the Minsk Agreements have come under heavy criticism especially from the Ukrainian side and neutral observers. Indeed, the technical flaws, such as the uncertainty about the sequencing of the steps towards regulation and the lack of detail regarding even the most crucial points (elections, border management, special status), are more than obvious.

Yet, any peace agreement first of all reflects the de-facto situation on the ground at the time of its signing. In early 2015 Ukrainian regular and volunteer forces had been badly hit and driven out of Debaltsevo by the combined thrust of regular Russian and separatist fighters, who threatened to advance even further into Ukrainian territory and take a then fragile post-revolutionary state and economy to the brink. In many ways therefore the Minsk Agreements, with their insistence on changing the Ukrainian constitution in favor of foreign-backed insurgents, bore an anti-Ukrainian bias and could be interpreted as a confirmation of Russian strategic success.

The Minsk-ensured “low-key” cease fire, on the other hand, also provided the foundation of Ukraine's slow restoration as a functioning state and economy ever since. Although it is understandable that Ukrainians, with their now reformed and modernized army, and a stable contact line in place, are more than uncomfortable with the spirit and letter of Minsk, their critique is somehow ahistorical. Arguably, the visible success of the Agreements in securing at least a “negative peace” and Ukraine's Western partners' continuous reference to them as the sole basis for further progress make any alternative to them unlikely.

### Zelensky: A Peacemaker on Shaky Grounds

The landslide election of former comedian Volodymyr Zelensky to Ukrainian president took many by surprise. One of the main reasons for his success in both the 2019 presidential and parliamentary elections was his more conciliatory attitude towards the Donbas conflict and his determination to make peace. Indeed, the incumbent Poroshenko in many ways misinterpreted the public mood with his insistence on the campaign slogan “Army, Church, Language!”—the majority of Ukrainians were

tired of both the war and the former president's rigid Ukrainization campaign. Still, even many Ukrainian observers were irritated by how much Zelensky prioritized conflict regulation from his first day in office and how soon he implemented, at first unilaterally, moves such as the withdrawal of Ukraine's armed forces near Stanytsia Luhanska already in June this year. Zelensky's reasoning, aside from the population's war fatigue, is however easily explained: the ongoing confrontation is an unbearable burden to Ukraine's economic recovery (the government's “anti-terrorist operation”/“operation united forces” comes at a cost of approximately 4 million Euros a day) and a significant distraction from the new president's ambitious reform agenda.

However understandable in general, Zelensky's policy approach is not without risks and might ultimately be ill-fated. First, one of the main concerns is that the hasty approach applied now might come at the cost of quality decisions. Zelensky, as demonstrated by his now public telephone call with U.S. President Donald Trump, is a foreign policy novice and so far lacks the support of a professional foreign policy machinery. Many Ukrainian experts see his actions as guided by intuition rather than strategy, which seems to be confirmed by a presidential administration and foreign ministry who seem to be in competition with each other to issue superficial statements announcing different “plans” for peace in the Donbas. Second, Ukrainian public opinion on the Donbas conflict is much more contradictory than commonly assumed, which might develop into a source of domestic contention that Zelensky will still need to address and manage. While indeed a large majority of Ukrainians wanted the new president to prioritize peace in the Donbas (in summer 2019, almost 70% opted for a negotiated peace, 20.1% “without any conditions”), and even to negotiate directly with the DNR/LNR-authorities (41.5%), and re-integrate Donbas into Ukraine (56%), only a minority of 26% are willing to accept a “special status” for the so called “DNR” and “LNR” entities in Ukraine's constitution or to changes in Ukraine's now clearly Western-oriented foreign policy (24.7%). The number of Ukrainians perceiving Russia as an “aggressor state” also equals the number of Ukrainians who want a fast end to the war. Additionally, the Ukrainian president faces the problem that his support base, while consisting of more than two-thirds of Ukrainians, is a mostly “silent majority” and much harder to mobilize than his opponents (the famous “25%”), very visible at the “No Capitulation” rallies in mid-October. Therefore, Zelensky has in no way overcome Poroshenko's problem of a lack of domestic negotiation leverage and he might face serious opposition if his plans and likely concessions towards Ukraine's enemies become clearer.

Finally, the current public debate in Ukraine over “red lines,” such as Ukraine’s chosen foreign policy direction or the details according to which the occupied territories are finally re-integrated, is in reality a discussion about Ukraine’s possible different futures as a state and society. Despite the current fatigue with Poroshenko’s non-conciliatory approach towards the conflict and his Ukrainization campaign, one cannot argue with the fact that the former president had a convincing vision for his country’s future. In his plans, the re-integration of Donbas would happen exclusively on Kyiv’s terms or not at all, ensuring the functional nexus between the country’s domestic transformation, a foreign policy aimed at Western integration, and a clear patriotic or pro-Ukrainian political elite structure. Zelensky, however, still has to demonstrate how he wants to reconcile obviously contradictory aims, such as re-integration based on negotiation with Russia (and the separatists) and a subsequently more diverse political elite structure on the one hand, and non-intervention in the country’s domestic reforms and an unchanged pro-Western foreign policy course on the other. If no feasible and convincing strategy is worked out by the new president, Ukraine might easily fall back to its pre-2013 “amorphous” definition of both state and society.

### Is Russia Really Moving?

The Russian position on the conflict and its dynamic are much harder to assess. Especially on the Ukraine portfolio, but not only here, the Kremlin from the very beginning not only used hybrid war techniques, but also engaged a form of hybrid communication and diplomacy. Careful not to portray his country as a direct party to what the Russians portray as an internal Ukrainian matter or “civil war,” President Putin likes to keep his counterparts in the dark about Russia’s preferred final scenario while at the same time applying all means possible to be in full control of the proceedings. According to diplomats this form of communication extends to the level of the Trilateral Contact Group, where Russian representatives often first seem to commit themselves to some understanding, only to backpaddle shortly afterward, trying to put the ball back in Ukraine’s court, and thereby leaving everyone puzzled. Accordingly, there is a worrying level of distrust in the credibility and constructiveness of Russian decision-makers.

What has changed over the years is the general perspective through which Russia looks at the conflict in Donbas. Whereas, at the beginning, the conflict was regarded as a regional or “zone of influence” affair between EU aspirations and Russian great power interests, the whole Ukraine portfolio has long become part of the Kremlin’s worldwide strategy aiming at the mani-

festation and formalization of a new, multipolar order. The latter seems to imply that conciliatory steps by the Ukrainian side are not enough for the Kremlin or that the Russians expect at least an additional bargain with the West on other portfolios.

From this perspective it is unlikely that the ouster of Petro Poroshenko from office and the rise of the seemingly more conciliatory Volodymyr Zelensky have had an impact on the Kremlin. Nevertheless, there are a few observations indicating that the Kremlin, at least incrementally, might have adopted a more forthcoming position in terms of conflict resolution in Donbas. First, and most important, is the clear impression that the “re-integration” of occupied Donbas into Ukraine (however unclear under which terms precisely) has for quite some time already become the consensus position in Moscow. Second, Vladimir Putin lately seems to have enlarged his circle of advisors on the conflict, where the hardliners Vladislav Surkov and Viktor Medvedchuk are increasingly balanced out by the more moderate Dmitri Kozak (who apparently looks at the two de-facto entities as a liability). Third, at the end of October the Russians indeed began with the agreed “disengagement” of their forces from Zolote and promised to do so in Petrivke, thereby positively answering Ukrainian steps towards peace.

Still, the question remains why the Russians should be interested in the quick solution Zelensky is seeking. Looking at the situation on the ground, where the so-called “DNR” and “LNR” have already developed into a huge burden for Ukraine’s development and foreign policy aspirations, and at the West’s increasing fatigue with the portfolio and anti-Russian sanctions, sitting things out looks like the best Kremlin tactic for now. The only reasonable explanation for Russia moving towards regulation sooner rather than later might be Russian awareness that the ongoing integration of both de-facto entities, especially into Russia’s economic orbit, has gone too far already and that the time for a re-integration at the sole expense of Ukraine is running out. In the end, the Kremlin might also just be testing the waters with Zelensky and the West. Will the young and inexperienced Ukrainian president make more concessions than one might rationally expect? Will the sanctions-fatigued West overestimate the first positive signs and begin to remove sanctions without much strategic cost for Russia?

### Conclusion—Who Rules?

The current signs of a rapprochement between Ukraine and Russia are without doubt a positive and deeply necessary development. Too many people have lost their lives and homes in Donbas, especially on the Ukrainian side, in a conflict which was deemed an impossibility

before the year 2014. That both sides have begun with concrete steps, such as the disengagement of forces in three localities at the contact line, speaks for the interpretation that a serious interest in progress and eventual conflict resolution exists. However, it is too early for any euphoria. In a situation where soldiers still die nearly every day, peace can hardly be expected tomorrow. Aside from the grievances originating after more than five years of war, both Ukraine and Russia do not yet seem to have made all preparations for a “positive” peace. In Ukraine, a young president needs to figure out his country’s national interest and how to deal with a well-organized patriotic-nationalist opposition to any concessions. For Russia, especially with the international environment developing in its favor, sticking to the status quo for some time might still be seen as more beneficial.

After all, we have to remind ourselves what this conflict is about. Until roughly the Euromaidan protests

began in 2013 Russia had managed to convert Ukraine into a clientelist state, tightly bound to Moscow by a shady transnational “membrane” manifesting itself by the Russia-loyal network of the former Party of Regions and its stronghold in the country’s Southeast. The Revolution of Dignity upended this instrument of Russian domination over Ukraine and gave the latter a chance to re-calibrate its future. With the war in Donbas, Russian foreign policy wanted to correct this “mistake” and revive the former “membrane” via two “Trojan Horses” (the special status-granted “DNR” and “LNR”) eventually acting like political “cancer cells” inside Ukraine. The most important, and so far unanswered, question therefore is how the Minsk Agreement’s implementation can succeed without forcing Ukraine back to 2013 while satisfying Russian great power status in its neighborhood.

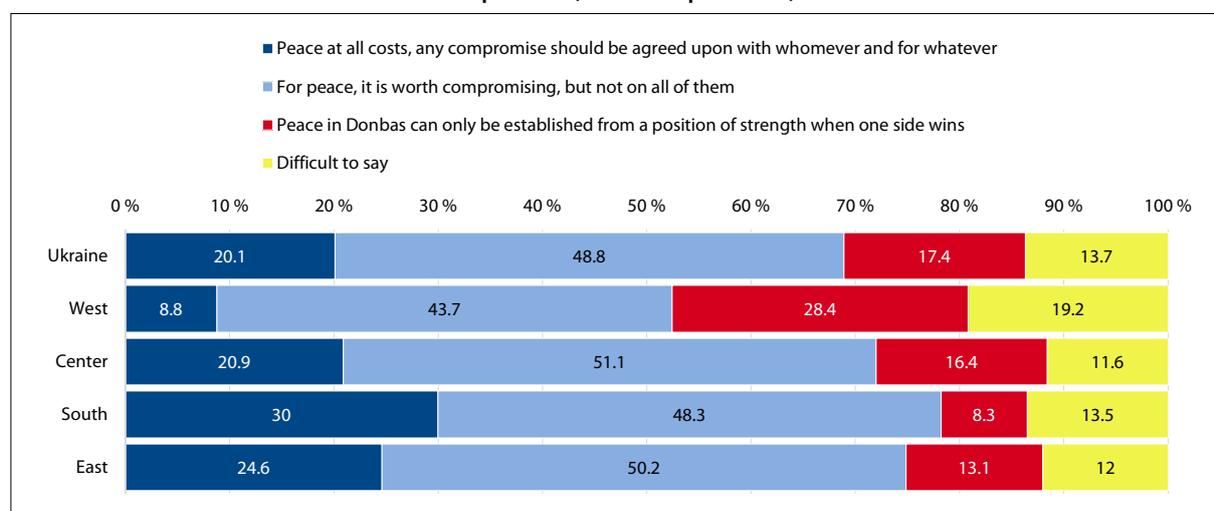
#### *About the Author*

André Härtel is DAAD Associate Professor in the “German and European Studies” Programme (DES) of the National University of “Kyiv-Mohyla Academy” in Kyiv, Ukraine.

## OPINION POLL

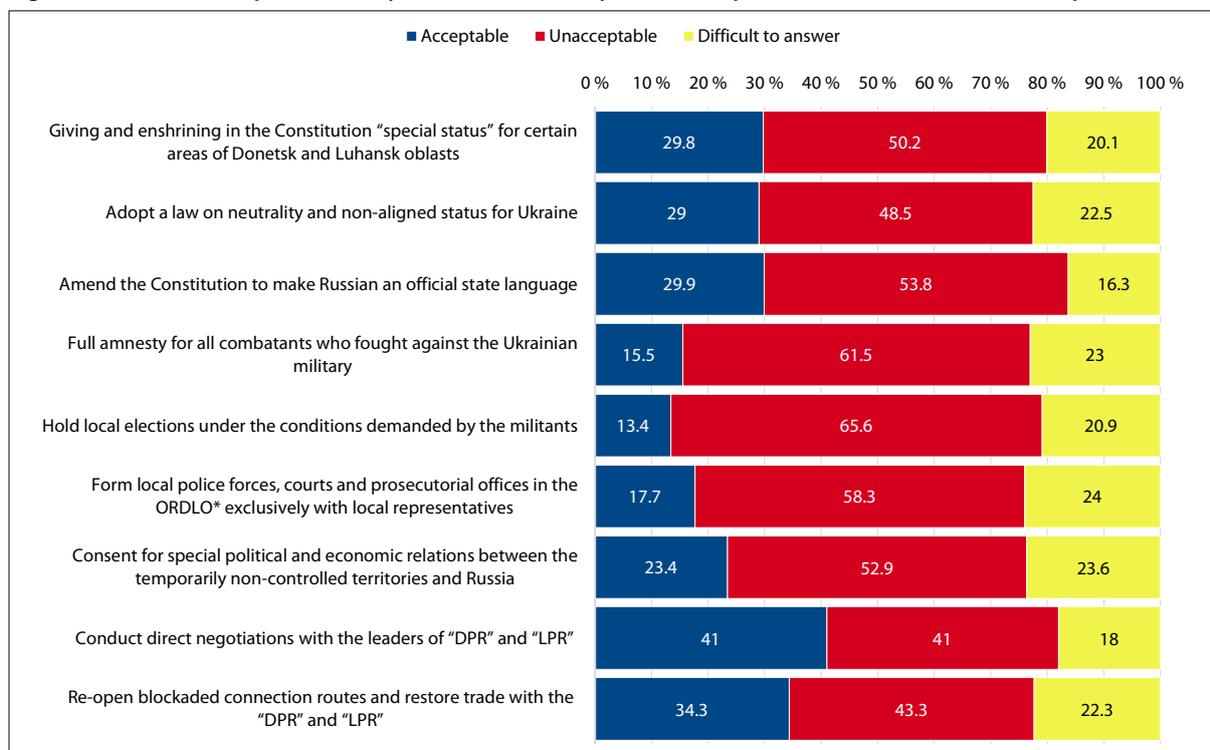
### Ukrainian and Russian Popular Opinion on the Conflict in the Donbas

**Figure 1:** Currently, there are constant negotiations on the ways to quell the armed conflict in Donbas. In your opinion, to achieve peace, should there be compromises with Russia and the leaders of the self-proclaimed Donetsk and Luhansk republics? (in % of respondents)



Source: study conducted jointly by the Ilko Kucheriv Democratic Initiatives Foundation and the Razumkov Center sociological service on June 13–20, 2019 in every Ukrainian region except for Crimea and occupied territories of Donetsk and Luhansk oblasts. 2,017 respondents were polled aged 18 and above, <https://dif.org.ua/en/article/the-search-for-ways-to-restore-ukraines-sovereignty-over-the-occupied-donbas-public-opinion-on-the-eve-of-the-parliamentary-elections>

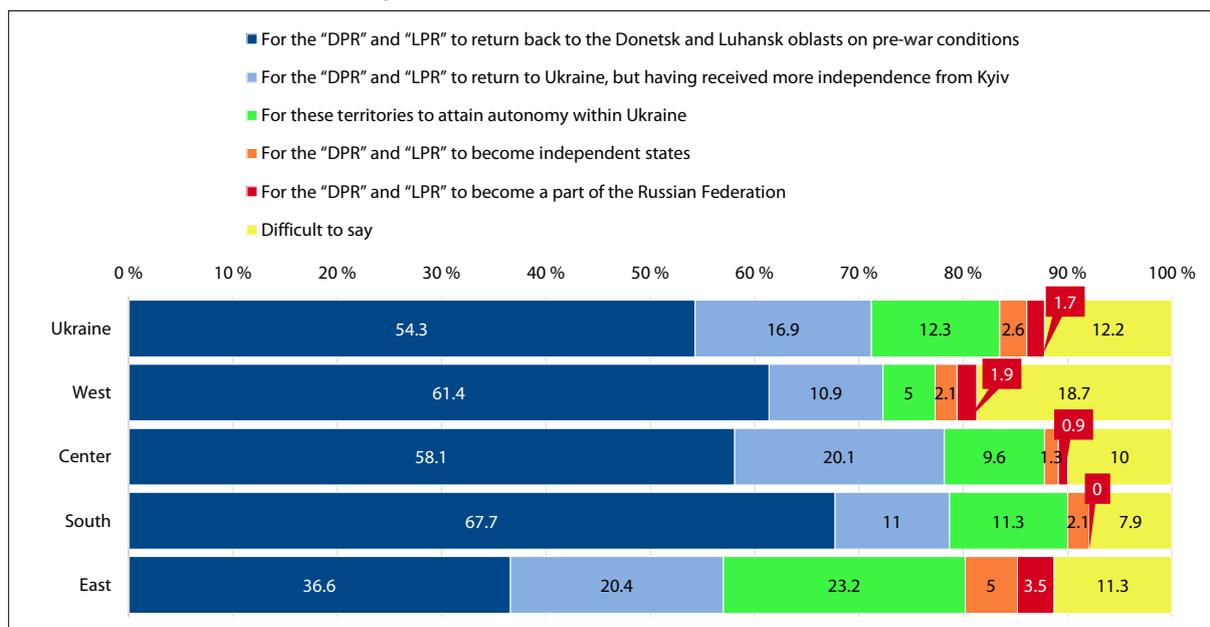
**Figure 2: Which compromises do you believe are acceptable to stop the war in Donbas? (in % of respondents)**



\* Okremi rayony Donetskoyi ta Luhanskoyi oblastey = (ukr.) certain areas of the Donetsk and Luhansk regions

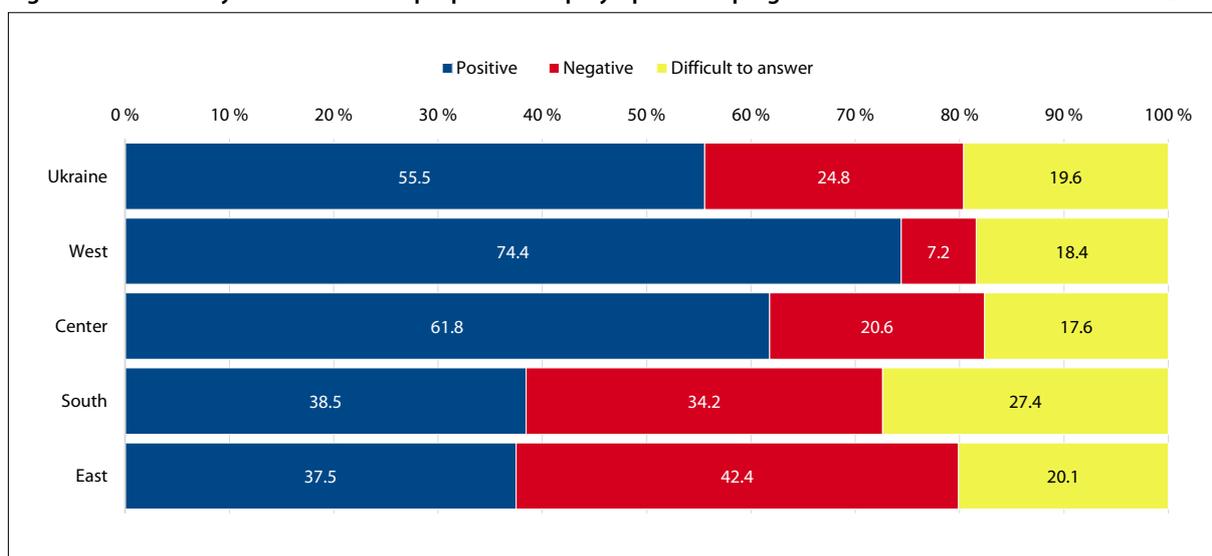
Source: study conducted jointly by the Ilko Kucheriv Democratic Initiatives Foundation and the Razumkov Center sociological service on June 13–20, 2019 in every Ukrainian region except for Crimea and occupied territories of Donetsk and Luhansk oblasts. 2,017 respondents were polled aged 18 and above, <https://dif.org.ua/en/article/the-search-for-ways-to-restore-ukraines-sovereignty-over-the-occupied-donbas-public-opinion-on-the-eve-of-the-parliamentary-elections>

**Figure 3: Regarding the political future of the "DPR" and "LPR" territories, which version do you prefer? (one answer, in % of respondents)**



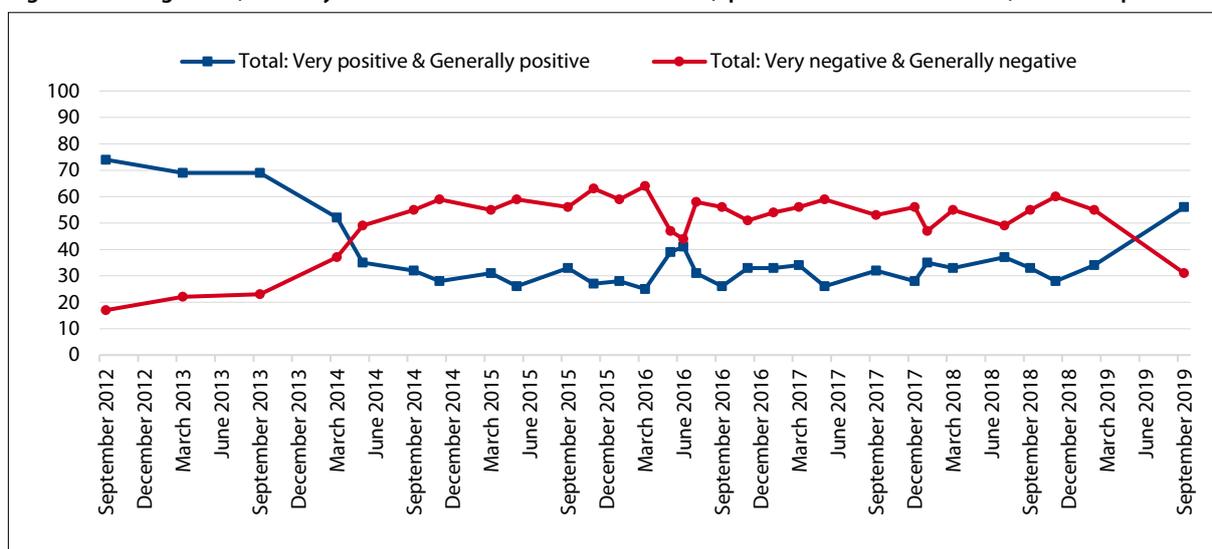
Source: study conducted jointly by the Ilko Kucheriv Democratic Initiatives Foundation and the Razumkov Center sociological service on June 13–20, 2019 in every Ukrainian region except for Crimea and occupied territories of Donetsk and Luhansk oblasts. 2,017 respondents were polled aged 18 and above, <https://dif.org.ua/en/article/the-search-for-ways-to-restore-ukraines-sovereignty-over-the-occupied-donbas-public-opinion-on-the-eve-of-the-parliamentary-elections>

**Figure 4: How do you feel about the proposal to deploy a peacekeeping force to the territories of “DPR” and “LPR”?**



Source: study conducted jointly by the Ilko Kucheriv Democratic Initiatives Foundation and the Razumkov Center sociological service on June 13–20, 2019 in every Ukrainian region except for Crimea and occupied territories of Donetsk and Luhansk oblasts. 2,017 respondents were polled aged 18 and above, <https://dif.org.ua/en/article/the-search-for-ways-to-restore-ukraines-sovereignty-over-the-occupied-donbas-public-opinion-on-the-eve-of-the-parliamentary-elections>

**Figure 5: In general, what is your current attitude toward Ukraine? (opinions of Russian residents, in % of respondents)**



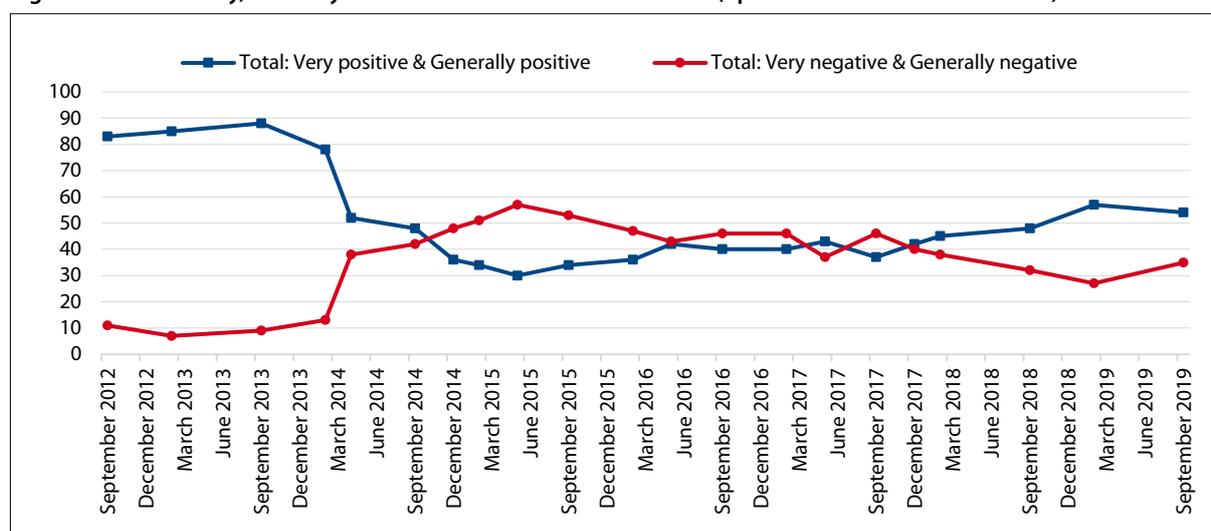
Source: representative opinion poll conducted by Levada Center, September 26 – October 2, 2019. The sample comprised 1,601 respondents from 137 localities in 50 regions of the Russian Federation, <https://www.levada.ru/en/2019/11/11/russia-ukraine-relations-5/>

**Table 1: In general, what is your current attitude toward Ukraine? (opinions of Russian residents, in % of respondents)**

	Very positive	Generally positive	Generally negative	Very negative	It is difficult to say
September 2012	8	66	14	3	10
March 2013	8	61	19	3	9
September 2013	7	62	20	3	8
March 2014	6	46	28	9	11
May 2014	5	30	33	16	17
September 2014	3	29	39	16	13
November 2014	3	25	40	19	12
March 2015	3	28	34	21	13
May 2015	3	23	36	23	14
September 2015	4	29	36	20	11
November 2015	2	25	42	21	10
January 2016	2	26	37	22	14
March 2016	2	23	42	22	11
May 2016	4	35	37	10	13
June 2016	4	37	33	11	16
July 2016	2	29	36	22	11
September 2016	2	24	38	18	17
November 2016	3	30	35	16	16
January 2017	2	31	39	15	13
March 2017	3	31	36	20	11
May 2017	2	24	39	20	15
September 2017	3	29	33	20	15
December 2017	2	26	39	17	17
January 2018	3	32	34	13	18
March 2018	2	31	35	20	12
July 2018	4	33	29	20	15
September 2018	3	30	32	23	12
November 2018	3	25	31	29	11
February 2019	4	30	30	25	10
September 2019	9	47	19	12	13

Source: representative opinion poll conducted by Levada Center, September 26 – October 2, 2019. The sample comprised 1,601 respondents from 137 localities in 50 regions of the Russian Federation, <https://www.levada.ru/en/2019/11/11/russia-ukraine-relations-5/>

**Figure 6: Generally, what is your current attitude toward Russia? (opinions of Ukrainian residents)**

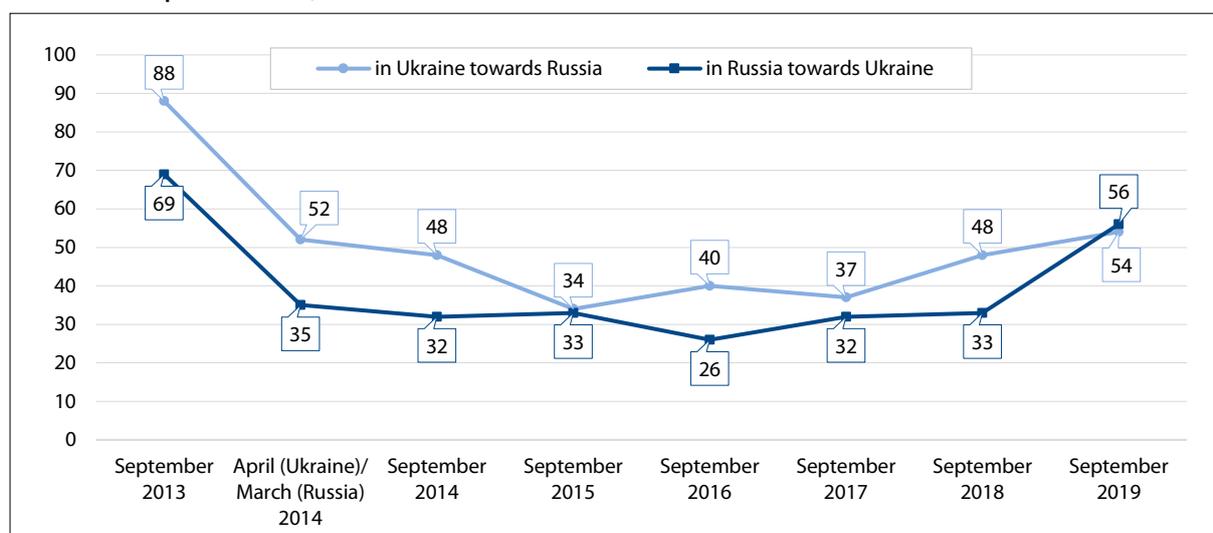


Source: representative opinion poll conducted by Kyiv International Institute of Sociology (KIIS), September 6–16, 2019. The sample comprised 2,035 respondents living in 110 settlements (PSU) in all oblasts of Ukraine (except for the AR of Crimea), <http://www.kiis.com.ua/?lang=eng&cat=reports&id=899&page=1>

**Table 2: Generally, what is your current attitude toward Russia? (opinions of Ukrainian residents, September 2012 – September 2019)**

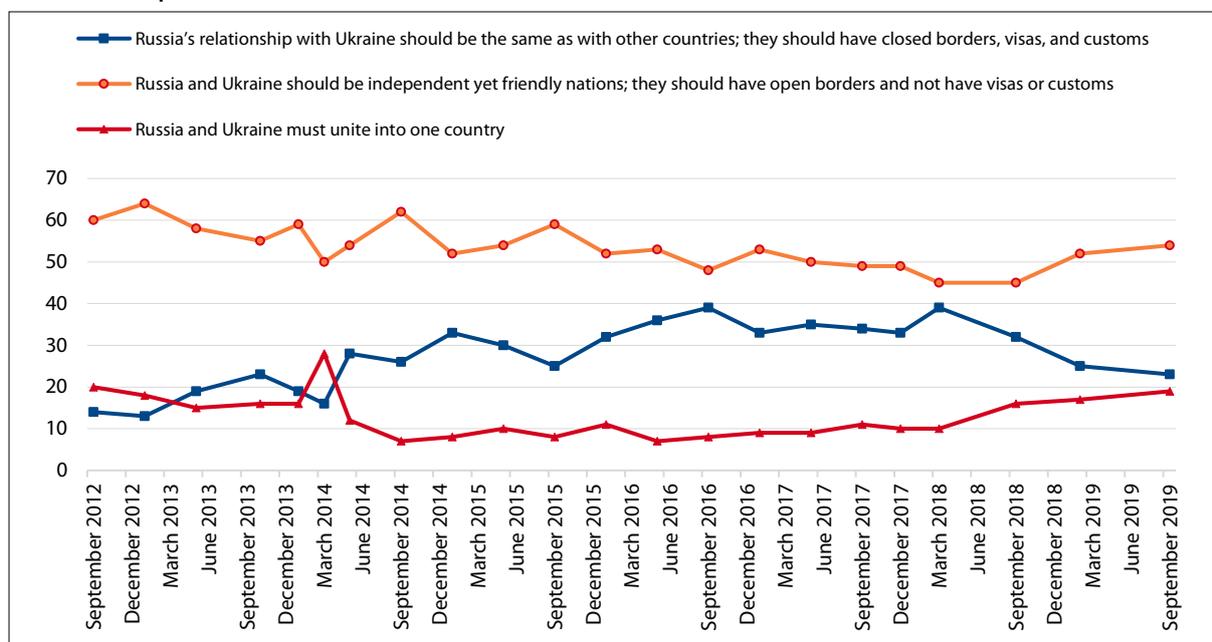
	Very positive	Generally positive	Generally negative	Very negative	It is difficult to say
September 2012	34	49	8	3	6
February 2013	32	53	6	1	6
September 2013	34	54	7	2	4
February 2014	27	51	11	2	9
April 2014	17	35	19	19	10
September 2014	14	34	23	19	11
December 2014	7	29	26	22	16
February 2015	7	27	24	27	15
May 2015	5	25	25	32	14
September 2015	9	25	22	31	13
February 2016	9	27	28	19	16
May 2016	9	33	29	14	15
September 2016	7	33	26	20	15
February 2017	8	32	25	21	15
May 2017	5	38	22	15	19
September 2017	7	30	24	22	17
December 2017	6	36	24	16	19
February 2018	6	39	24	14	18
September 2018	10	38	19	13	19
February 2019	15	42	15	12	17
September 2019	16	38	19	16	12

Source: representative opinion poll conducted by Kyiv International Institute of Sociology (KIIS), September 6–16, 2019. The sample comprised 2,035 respondents living in 110 settlements (PSU) in all oblasts of Ukraine (except for the AR of Crimea), <http://www.kiis.com.ua/?lang=eng&cat=reports&id=899&page=1>

**Figure 7: Dynamics of the positive attitude of the population of Ukraine to Russia and of the population of Russia to Ukraine (% of those who feel positively or very positively about the other country, September 2013 – September 2019)**

Sources: in Russia: representative opinion poll conducted by Levada Center, September 26 – October 2, 2019. The sample comprised 1,601 respondents from 137 localities in 50 regions of the Russian Federation, <https://www.levada.ru/en/2019/11/11/russia-ukraine-relations-5/>; in Ukraine: representative opinion poll conducted by Kyiv International Institute of Sociology (KIIS), September 6–16, 2019. The sample comprised 2,035 respondents living in 110 settlements (PSU) in all oblasts of Ukraine (except for the AR of Crimea), <http://www.kiis.com.ua/?lang=eng&cat=reports&id=899&page=1>

**Figure 8: Which of the following opinions concerning Russia’s relationship with Ukraine do you agree with most? (opinions of Russian residents)**



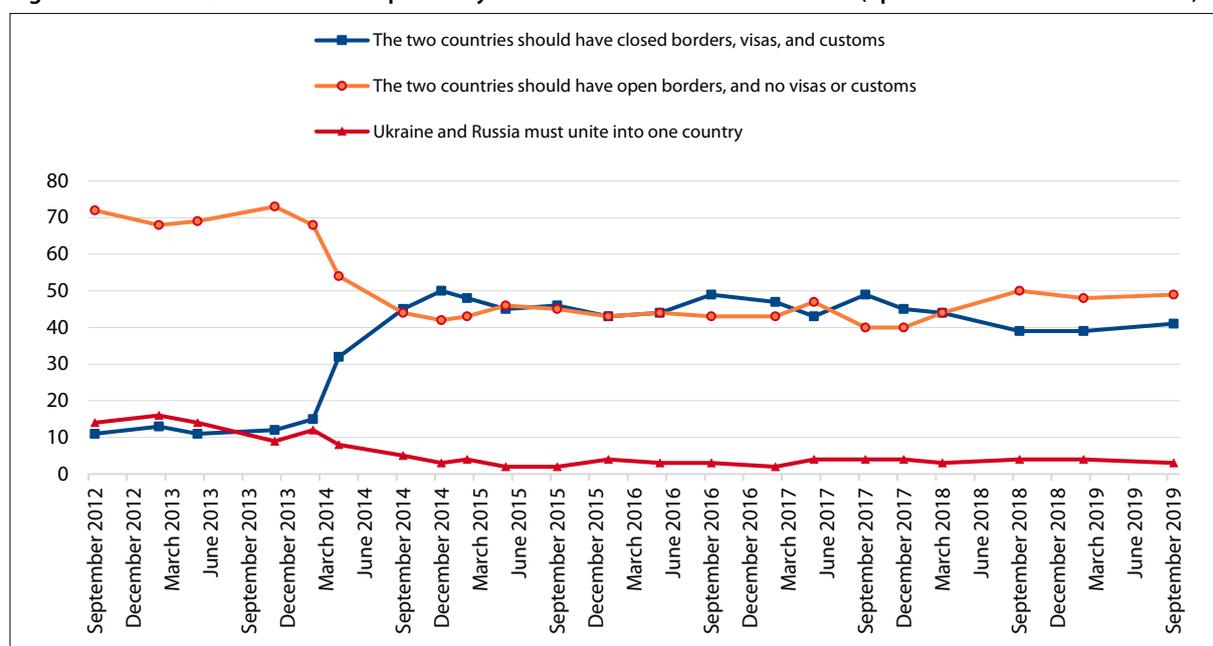
Source: representative opinion poll conducted by Levada Center, September 26 – October 2, 2019. The sample comprised 1,601 respondents from 137 localities in 50 regions of the Russian Federation, <https://www.levada.ru/en/2019/11/11/russia-ukraine-relations-5/>

**Table 3: Which of the following opinions concerning Russia’s relationship with Ukraine do you agree with most? (opinions of Russian residents)**

	Russia’s relationship with Ukraine should be the same as with other countries; they should have closed borders, visas, and customs	Russia and Ukraine should be independent yet friendly nations; they should have open borders and not have visas or customs	Russia and Ukraine must unite into one country	It is difficult to say
September 2012	14	60	20	6
January 2013	13	64	18	6
May 2013	19	58	15	8
October 2013	23	55	16	6
January 2014	19	59	16	6
March 2014	16	50	28	7
May 2014	28	54	12	6
September 2014	26	62	7	5
January 2015	33	52	8	8
May 2015	30	54	10	6
September 2015	25	59	8	7
January 2016	32	52	11	5
May 2016	36	53	7	4
September 2016	39	48	8	6
January 2017	33	53	9	5
May 2017	35	50	9	5
September 2017	34	49	11	6
December 2017	33	49	10	8
March 2018	39	45	10	5
September 2018	32	45	16	6
February 2019	25	52	17	6
September 2019	23	54	19	4

Source: representative opinion poll conducted by Levada Center, September 26 – October 2, 2019. The sample comprised 1,601 respondents from 137 localities in 50 regions of the Russian Federation, <https://www.levada.ru/en/2019/11/11/russia-ukraine-relations-5/>

**Figure 9: What kind of relationship would you like Ukraine to have with Russia? (opinions of Ukrainian residents)**



Source: representative opinion poll conducted by Kyiv International Institute of Sociology (KIIS), September 6–16, 2019. The sample comprised 2,035 respondents living in 110 settlements (PSU) in all oblasts of Ukraine (except for the AR of Crimea), <http://www.kiis.com.ua/?lang=eng&cat=reports&id=899&page=1>

**Table 4: What kind of relationship would you like Ukraine to have with Russia? (opinions of Ukrainian residents)**

	The two countries should have closed borders, visas, and customs	The two countries should have open borders, and no visas or customs	Ukraine and Russia must unite into one country	It is difficult to say
September 2012	11	72	14	3
February 2013	13	68	16	3
May 2013	11	69	14	5
November 2013	12	73	9	6
February 2014	15	68	12	5
April 2014	32	54	8	5
September 2014	45	44	5	6
December 2014	50	42	3	5
February 2015	48	43	4	6
May 2015	45	46	2	7
September 2015	46	45	2	7
January 2016	43	43	4	11
May 2016	44	44	3	9
September 2016	49	43	3	6
February 2017	47	43	2	7
May 2017	43	47	4	6
September 2017	49	40	4	8
December 2017	45	40	4	11
March 2018	44	44	3	9
September 2018	39	50	4	8
February 2019	39	48	4	9
September 2019	41	49	3	7

Source: representative opinion poll conducted by Kyiv International Institute of Sociology (KIIS), September 6–16, 2019. The sample comprised 2,035 respondents living in 110 settlements (PSU) in all oblasts of Ukraine (except for the AR of Crimea), <http://www.kiis.com.ua/?lang=eng&cat=reports&id=899&page=1>

## MAP

## Disengagement of Troops in the Donbas



## ANALYSIS

## The Negotiations between Ukraine and Russia on Gas Transit: A Progress Report

By Julia Kuszniir, Jacobs University Bremen

DOI: [10.3929/ethz-b-000382152](https://doi.org/10.3929/ethz-b-000382152)

### Abstract

The contract between Ukraine and Russia concerning gas transit expires at the end of 2019. Negotiations for a new contract have been going on for quite some time. Despite the European Union's mediation, different interests, viewpoints and hurdles have so far prevented the signing of a new treaty. This article analyses the progress of the ongoing negotiations, their goals and results, and discusses possible further developments in Ukrainian–Russian gas relations.

### End of an Era

At the end of 2019, the ten-year contract for the transit of Russian gas through Ukraine to Western Europe will expire. Both countries have shown a willingness to negotiate a new treaty. However, Western media are increasingly concerned that the ongoing negotiations could lead

to a renewed escalation of conflict between Russia and Ukraine and the interruption of gas deliveries to Europe as in 2009. That year, Russia stopped gas supplies through Ukraine for almost two weeks because of the absence of gas transit and supply contracts. The cutoff created considerable energy supply problems in several European countries.

In January 2009, Ukraine and Russia agreed with the help of the European Union to ten-year contracts on gas supply and transit. However, the terms of the contracts were repeatedly ignored because of disagreements over the price for gas imports, transit charges and delivery volumes. These conflicts resulted in regular supply stoppages of Russian gas to Ukraine. Moreover, since November 2015, Ukraine has no longer purchased gas directly from Russia.

Negotiations between Ukraine, Russia and the EU Commission on new gas transit agreements have been going on for several months. Despite the mediation efforts of Western diplomats, the talks have so far made little progress because of deep differences in the goals, views and expectations of the two countries. This article presents briefly the main points of contention between Russia and Ukraine in the negotiations on gas transit and explains the starting positions of both countries. It then analyses the progress of the negotiations so far, their goals and results, and concludes by discussing possible future developments in Ukrainian–Russian gas relations.

### **Bilateral Gas Relations after 2009**

According to the ten-year gas supply contract signed in January 2009 by Ukrainian Prime Minister Yulia Tymoshenko and Russian Prime Minister Vladimir Putin, the Ukrainian state-owned energy company Naftohas undertook to purchase annually 52 billion cubic meters of gas from the state-owned Russian Gazprom. Of this, 41.6 billion cubic meters of gas were covered by a take-or-pay provision. This means that Naftohas must pay for this quantity of gas supplied by Gazprom, regardless of whether the Ukrainian company purchased that volume or not. Gazprom was also given the right to demand high fines from Naftohas if there was a reduction in the volume of Russian gas. Both sides agreed on a price of 450 US dollars per 1,000 cubic meters for gas deliveries, to which a discount of 20 percent was then applied. Gazprom in turn undertook to pump at least 110 billion cubic meters of gas through Ukraine to Europe annually. Each party agreed to compensate the other if it failed to comply with the contract.

In 2011, Ukraine started continuously reducing its gas demand; its gas imports from Russia went from 40 billion cubic meters in 2011 to 28 billion cubic meters in 2013. Russia reacted by tightening the contractual conditions, albeit with little success. Bilateral energy relations continued to deteriorate with the Russian annexation of Crimea in 2014 and the war in the Donbas. Gazprom abolished the discounts on gas supplies and increased the price of its gas exports to Ukraine significantly. The Ukrainian government responded by stopping gas supplies to Crimea and Donbas and fur-

ther reducing Russian gas imports to 14.5 billion cubic meters in 2014. In November 2015, Naftohas completely stopped importing Russian gas. Instead, the company has relied on reverse flow, purchasing Russian gas intended for the European market, mainly from Slovakia, without buying directly from Gazprom.

With the commissioning of the Nord Stream pipeline from Russia to Germany via the Baltic Sea in 2011, Gazprom began gradually decreasing its gas supplies to Europe through Ukraine. This caused major protests from Ukraine and contravened the contractual agreements on gas transit.

As a result, both sides accused the other of violating their contractual undertaking. Both turned to an arbitration court in Stockholm. In 2017, Gazprom's claims against Naftohas in the Stockholm tribunal amounted to \$37 billion, while those of Naftohas' against Gazprom were \$27 billion. In December 2017, the Stockholm Arbitration Court announced its first decision regarding Russian gas supplies to Ukraine. It ordered Naftohas to pay around two billion US dollars to Gazprom and to buy gas directly from Russia again. Moreover, the arbitration tribunal ordered a reduction in the mandatory take-or-pay gas volume from 41.6 billion cubic meters to four billion cubic meters per year. In addition, Gazprom's financial claims for damages were reduced from 37 to two billion US dollars. The Arbitration Court also ordered Gazprom to revise the supply price formula and align the price for gas exports to Ukraine with the European market price.

In February 2018, the Stockholm Arbitration Court announced its second decision concerning the transit of Russian gas to Europe via Ukrainian territory. The court ordered Gazprom to pay 4.6 billion US dollars (2.6 billion US dollars net) to Naftohas for unfulfilled gas transit deliveries. In response, Gazprom filed a counterclaim with the Stockholm Arbitration Court in summer 2019. However, the court rejected Gazprom's counterclaim on 27<sup>th</sup> October.

In addition, the representatives of the Russian gas monopolist stated that they would terminate the expiring contracts with Naftohas if Russia's interests were not taken into consideration. The deputy head of Naftohas in turn announced in early November that his company had responded to Gazprom's lawsuit with a counterclaim for 12 billion US dollars, arguing that this would be compensation for the possible termination of Russian gas transit. As for now, it is not possible to say what consequences this latest development will have for the further development of the bilateral negotiations on the new transit treaty.

### **The Issues of Contention in the Current Transit Negotiations**

Currently, various options for gas transit from 2020 are under discussion. All the Russian proposals have three preconditions:

1. Russia would be ready to sign a new transit treaty if Naftohas ends all lawsuits, including its claim for 4.6 billion US dollars (2.6 billion US dollars net).
2. Ukraine should buy gas directly from Gazprom again (instead of purchasing it via reverse flow, as is currently the case) and sign a supply agreement with Gazprom. In return, the Russians would be ready to supply gas at a price that is 20 percent below that which Ukraine is currently paying via reverse flow, including for gas from Slovakia etc.
3. Ukraine should fully implement the EU's Third Energy Package on liberalizing energy markets by the end of 2019.

The last precondition is also in the Ukraine's own interest, as Kyiv desires intensive cooperation with the EU on energy issues. As a Contracting Party of the Energy Community, which the EU founded with several Eastern European states to establish a single energy market, Ukraine has committed itself to dividing Naftohas into three independent companies responsible respectively for production, transport and distribution in accordance with EU law. The Ukrainian Parliament approved the first reading of a draft law to this effect in September 2019. The draft envisages the establishment of a new pipeline operator, "Mahistralni Hazoprovody Ukrayiny" (MHU), under the supervision of the Ministry of Finance. The national gas transport system, including underground storage facilities, will be transferred to the new company. According to European rules, the new line operator must offer its capacity via auction. Gazprom is currently considering reserving the required capacities for gas transit on the auction platform without signing a new long-term transit contract. However, the auction-based option is not very attractive to the Ukrainian government because it is associated with less planning certainty for gas supplies. To be able to fulfil its tasks, MHU must first undergo a European certification process. According to expert estimates, this certification process will probably take at least six months. The European Commission has agreed to support Ukraine.

At the same time, Moscow is insisting on conducting its own report and bringing its own legal findings to bear on the European certification process. If this were to happen, it further delays the process. Consequently, there are concerns that the Ukrainian pipeline operator would not be able to start its work as planned on 1 January 2020. Moscow has already announced that if this happened, Russia would be prepared to extend the expiring transit agreement for a short period. On November 18, Gazprom submitted an official proposal to Naftohas that includes all three preconditions mentioned above and suggests the extension of the existing contract or signing of a new contract for a period of one year.

However, the EU Commission and Ukraine reject this option. They argue that an extension would not be legally possible because the new pipeline operator MHU, not Naftohas, would be responsible for transit. Instead, they propose a ten-year or longer transit agreement with a volume of 40 to 60 billion cubic meters of gas per year with a "ship-or-pay" provision. Gazprom would pump the agreed volume of gas through the Ukrainian pipeline system and pay the corresponding transit charges, even if it reduced the amount delivered. In addition, Russia should guarantee the supply of additional flexible gas volumes annually. Moreover, the transit tariffs would no longer be determined bilaterally, but according to European rules. Moreover, the EU Commission acknowledges that Gazprom could initially reserve the capacity of the Ukrainian transit system for the first six months of 2020, but a longer-term transit contract should be concluded thereafter. In addition, Ukraine and the EU Commission categorically reject Moscow's request to cancel debt payments.

A long-term transit contract based on European rules is of great importance for Kyiv, as it is seen as an important safeguard for the revenue for the state budget from transit fees. On the other hand, Kyiv is hoping that this will provide additional protection for national security as a means of applying pressure to counter Moscow's aggressive policy towards Ukraine.

Yet, this is not in line with Russian interests. Gazprom expects that its two new pipelines—the Nord Stream 2 (NS 2) pipeline, which runs parallel to Nord Stream 1 (NS1) and has a capacity of 55 billion cubic meters of gas annually, and the Turk Stream pipeline, which runs through the Black Sea and has a capacity of 31.5 billion cubic meters of gas—will replace the Ukrainian transit network as early as the beginning of next year. However, current expert forecasts assume that NS2 will only operate at half capacity until at least 2020.

In addition, Gazprom began in 2016 to phase out the gas transport infrastructure that supplies gas to the Ukrainian border. Pipelines with a total length of more than 10,000 kilometers are to be taken out of operation, so that practically no more gas transport from Russia to Ukraine will be possible.

### Further Possible Developments

The next round of negotiations between Ukraine, Russia and the EU Commission will take place at the end of November. However, Gazprom's position has become weaker, despite Copenhagen recently granting it permission to lay the NS2 pipeline off the Danish island of Bornholm. Following a ruling by the General Court of the European Union (EGC) in September, Gazprom lost the opportunity to use part of the capacity of the

OPAL gas pipeline. This pipeline is an extension of the NS1 pipeline and transports Russian gas from Lubmin via Brandenburg and Saxony to the Czech Republic.

The EGC ruling forced Gazprom to halve its gas supplies to Central Europe via the OPAL pipeline. The loss of transit capacity is currently being offset by transit via Ukrainian pipelines. The fact that neither Nord Stream 2 nor Turk Stream will be fully operational by the end of the year, when the transit agreement with Ukraine expires, weakens Russia's negotiating position. Without these two pipelines, in the light of the EGC ruling on OPAL, Gazprom will have to pump up to 80 billion cubic meters of gas through Ukraine next year. Only after the two new pipelines are fully operational will the transit volume via Ukraine fall to 20–30 billion cubic meters of gas annually.

In addition, according to the EU's "Third Energy Package", especially the Gas Directive amended in April 2019, Gazprom must fundamentally change how it acts on the European gas market. This new behavior mainly concerns the NS2 pipeline. The most important EU requirements include ownership unbundling and access to the pipeline for third parties. At present, the NS2 pipeline does not meet either of these requirements. To achieve this, Gazprom would first have to create an independent operator. The German regulatory authority (Federal Network Agency) would then have to decide whether this operator functions autonomously of Gazprom. The EU Commission would then need to approve their decision. Gazprom, which has complete ownership of NS2, opposes the unbundling procedure because it would significantly reduce the profitability of the project worth billions of euros.

According to media reports, Gazprom has taken protective steps by setting up a company to control the last twelve sea miles of the NS2 pipeline. In this way, Gazprom hopes to fulfill the EU obligation on unbundling. This has the support of the German government, which is currently trying to soften the EU regulations on NS2 in the process of adopting them as national law.

On 13 November 2019, the Bundestag decided to adopt the EU Gas Directive as national law, but at the same time made exceptions possible, to be examined on a case-by-case basis, that could exempt companies from certain provisions of the Directive.

Experts do not rule out a legal dispute with the EU Commission on this matter. Opponents of the pipeline, including the Baltic States and Poland, could also have their say, making the process complicated and difficult to predict. The USA is taking an active part in the debate, too, by trying to prevent the completion of NS2 with the threat of sanctions. As the recent EGC ruling on gas transport through the OPAL pipeline

shows, opponents of NS2 can effectively thwart Gazprom's strategy.

A similar legal dispute also threatens the EUGAL pipeline currently under construction. It runs largely parallel to OPAL with the goal of carrying NS2 gas to the Czech Republic. If bilateral negotiations on gas transit continue beyond this year, the gas delivery from Russia could, in the worst-case scenario, be interrupted. Ukraine is preparing for these possibilities. Naftohas has increased its gas storage stocks to 21.6 billion cubic meters and expects Ukraine to survive the coming winter, even without Russian gas.

It is important to note here that Kyiv has already succeeded in breaking the Russian gas monopoly on the Ukrainian market through its diversification strategy. In 2017, Ukraine imported 8.6 billion cubic meters of gas from Slovakia. In the coming years, the export capacity of gas from Poland to Ukraine is expected to increase from the current level of two billion cubic meters to more than six billion cubic meters. The implementation of EU projects on expanding gas pipeline connections and LNG import terminals is intended to push forward the necessary diversification and integrate Ukraine into the European gas network.

Ukraine will also soon receive liquid gas supplies from the USA. The Americans will offer competitive prices and more flexibility through short-term spot market prices. These developments will improve the country's energy security and significantly strengthen Kyiv's position in its negotiations with Russia.

## Conclusion

In summary, Ukraine will remain important for Gazprom since the Ukrainian transit system offers flexibility and reliability when there are acute increases or decreases in European gas demand. The closure of gas fields in the Netherlands, the planned decarbonization and the expansion of renewable energies will make European demand difficult to predict in the medium term. Such uncertainty will require a more flexible strategy. The new NS2 and Turk Stream gas pipelines cannot guarantee the needed adaptability.

In addition, Ukraine has enormous storage capacities, which are important for Gazprom, as the company is not able to exploit the full potential of the new pipelines because of the current EU restrictions on use.

The European framework conditions demand radical restructuring. Gazprom does not currently seem prepared for this: ownership unbundling and third-party access to the pipelines will not materialize in the medium to long term.

Therefore, new legal disputes with the EU and further restrictions on Gazprom's gas exports to Europe are

entirely possible. If there is no new transit agreement with Ukraine by the end of the year, Gazprom should also have to be prepared for a wave of complaints from European consumers, which could carry considerable financial costs. Consequently, possible disruptions of gas supplies would mean large losses in transit fees not only for Ukraine, but also for Gazprom.

At the same time, Ukraine is continuing to reduce massively its dependence on Gazprom through a diversification strategy. For Gazprom, this means not only a loss of market share, but also the loss of an important source of revenue. In addition, Gazprom will find it difficult to compete with rising LNG supplies on the

European market. The Russian gas monopolist therefore needs Ukraine to maintain its share in the European market.

It can therefore be assumed that a new transit contract between both countries will be signed in the foreseeable future. The duration of the contract and the precise conditions will depend on whether Ukraine manages to implement the EU rules in time, whether the parties agree on direct gas supplies and whether a mutually acceptable solution can be found on the issue of fines. Political developments in both countries and the willingness of their political elites to compromise will also play a major role.

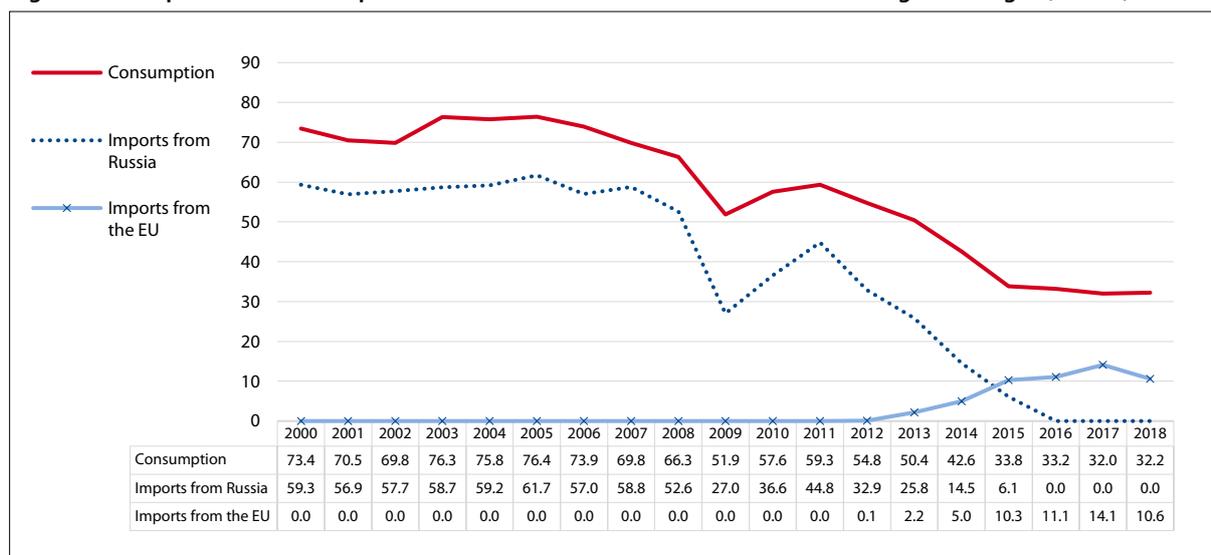
#### *About the Author*

Dr Julia Kusznir is a post-doctoral research fellow at Bremen Energy Research at Jacobs University Bremen. Her research focuses on (a) national and EU energy policy in the field of gas, renewables and electricity, including governance structures and market design; and (b) energy supply security and its impact on the politics of the European countries, among other topics.

## STATISTICS

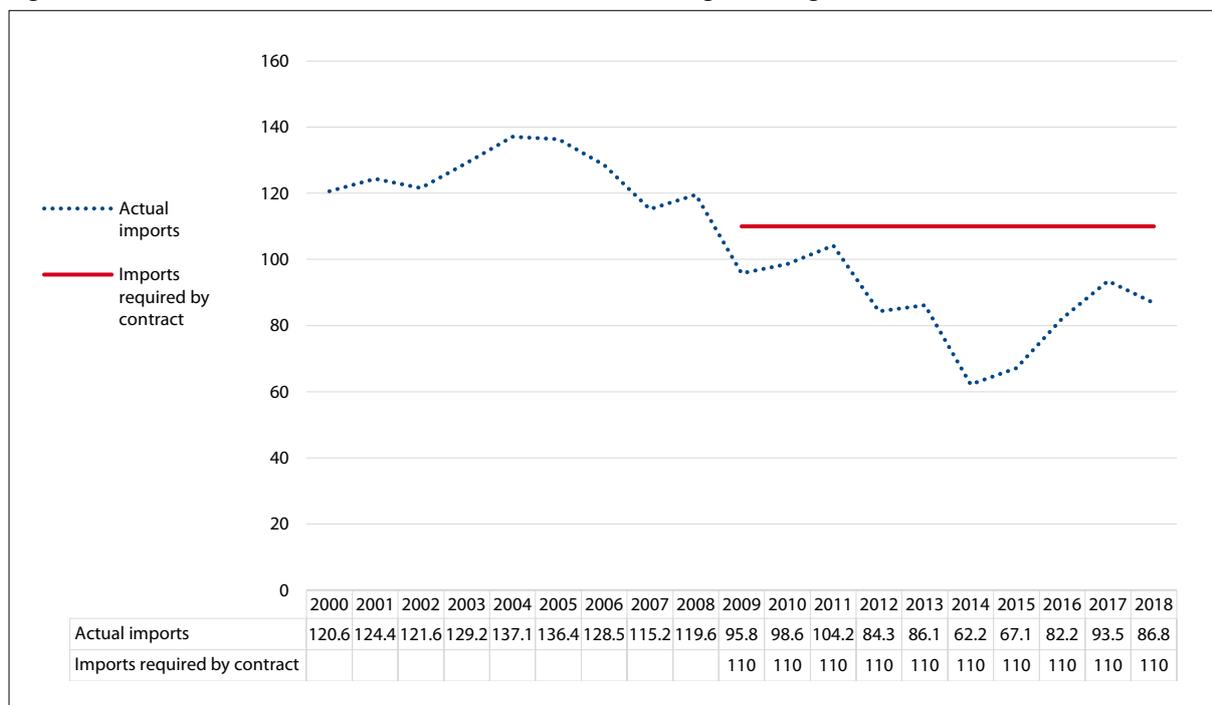
### Imports and Consumption of Natural Gas in Ukraine

Figure 1: Imports and Consumption of Natural Gas in Ukraine 2000–2018 according to Naftogaz (in bcm)



Source: Naftogaz Ukrainy, <http://www.naftogaz-europe.com/>

**Figure 2: Transit of Natural Gas via Ukraine 2000–2018 according to Naftogaz (in bcm)**



Source: Naftogaz Ukrainy, <http://www.naftogaz-europe.com/>

**ABOUT THE RUSSIAN ANALYTICAL DIGEST**

Editors: Stephen Aris, Matthias Neumann, Robert Orttung, Jeronim Perović, Heiko Pleines, Hans-Henning Schröder, Aglaya Snetkov

The Russian Analytical Digest is a bi-weekly internet publication jointly produced by the Research Centre for East European Studies [Forschungsstelle Osteuropa] at the University of Bremen ([www.forschungsstelle.uni-bremen.de](http://www.forschungsstelle.uni-bremen.de)), the Center for Security Studies (CSS) at the Swiss Federal Institute of Technology Zurich (ETH Zurich), the Resource Security Institute, the Center for Eastern European Studies at the University of Zurich (<http://www.cees.uzh.ch>), the Institute for European, Russian and Eurasian Studies at The George Washington University (<https://ieres.elliott.gwu.edu>), and the German Association for East European Studies (DGO). The Digest draws on contributions to the German-language *Russland-Analysen* ([www.laender-analysen.de/russland](http://www.laender-analysen.de/russland)), and the CSS analytical network on Russia and Eurasia ([www.css.ethz.ch/en/publications/rad.html](http://www.css.ethz.ch/en/publications/rad.html)). The Russian Analytical Digest covers political, economic, and social developments in Russia and its regions, and looks at Russia's role in international relations.

To subscribe or unsubscribe to the Russian Analytical Digest, please visit our web page at <http://www.css.ethz.ch/en/publications/rad.html>

**Research Centre for East European Studies at the University of Bremen**

Founded in 1982, the Research Centre for East European Studies (Forschungsstelle Osteuropa) at the University of Bremen is dedicated to the interdisciplinary analysis of socialist and post-socialist developments in the countries of Central and Eastern Europe. The major focus is on the role of dissent, opposition and civil society in their historic, political, sociological and cultural dimensions.

With a unique archive on dissident culture under socialism and with an extensive collection of publications on Central and Eastern Europe, the Research Centre regularly hosts visiting scholars from all over the world.

One of the core missions of the institute is the dissemination of academic knowledge to the interested public. This includes regular e-mail newsletters covering current developments in Central and Eastern Europe.

**The Center for Security Studies (CSS) at ETH Zurich**

The Center for Security Studies (CSS) at ETH Zurich is a center of competence for Swiss and international security policy. It offers security policy expertise in research, teaching, and consultancy. The CSS promotes understanding of security policy challenges as a contribution to a more peaceful world. Its work is independent, practice-relevant, and based on a sound academic footing.

The CSS combines research and policy consultancy and, as such, functions as a bridge between academia and practice. It trains highly qualified junior researchers and serves as a point of contact and information for the interested public.

**The Institute for European, Russian and Eurasian Studies, The Elliott School of International Affairs, The George Washington University**

The Institute for European, Russian and Eurasian Studies is home to a Master's program in European and Eurasian Studies, faculty members from political science, history, economics, sociology, anthropology, language and literature, and other fields, visiting scholars from around the world, research associates, graduate student fellows, and a rich assortment of brown bag lunches, seminars, public lectures, and conferences.

**The Center for Eastern European Studies (CEES) at the University of Zurich**

The Center for Eastern European Studies (CEES) at the University of Zurich is a center of excellence for Russian, Eastern European and Eurasian studies. It offers expertise in research, teaching and consultancy. The CEES is the University's hub for interdisciplinary and contemporary studies of a vast region, comprising the former socialist states of Eastern Europe and the countries of the post-Soviet space. As an independent academic institution, the CEES provides expertise for decision makers in politics and in the field of the economy. It serves as a link between academia and practitioners and as a point of contact and reference for the media and the wider public.

**Resource Security Institute**

The Resource Security Institute (RSI) is a non-profit organization devoted to improving understanding about global energy security, particularly as it relates to Eurasia. We do this through collaborating on the publication of electronic newsletters, articles, books and public presentations.

Any opinions expressed in the Russian Analytical Digest are exclusively those of the authors.

Reprint possible with permission by the editors.

Editors: Stephen Aris, Matthias Neumann, Robert Orttung, Jeronim Perović, Heiko Pleines, Hans-Henning Schröder, Aglaya Snetkov

Layout: Cengiz Kibaroglu, Matthias Neumann, Michael Clemens

ISSN 1863-0421 © 2019 by Forschungsstelle Osteuropa an der Universität Bremen, Bremen and Center for Security Studies, Zürich

Research Centre for East European Studies at the University of Bremen • Country Analytical Digests • Klagenfurter Str. 8 • 28359 Bremen • Germany

Phone: +49 421-218-69600 • Telefax: +49 421-218-69607 • e-mail: [laender-analysen@uni-bremen.de](mailto:laender-analysen@uni-bremen.de) • Internet: [www.css.ethz.ch/en/publications/rad.html](http://www.css.ethz.ch/en/publications/rad.html)