

# **Leaked Kremlin emails show Minsk protocol designed as path to Ukraine's capitulation**

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Alya Shandra, Euromaidan Press

The RUSI report “The Surkov Leaks: The Inner Workings of Russia’s Hybrid War against Ukraine” ([bit.ly/SurkovLeaks](http://bit.ly/SurkovLeaks)) shed a light on the overall strategy and tactics of Russia’s covert war. But the potential of the Surkov Leaks does not end there: they also provide unique insight into Russia’s goals for Ukraine in the Minsk process, something more than relevant in 2019, as discussions about a “fast peace” in Donbas, implementation of the Minsk Protocol, and “Steinmeier’s Formula” heat up thanks to the moves of the Zelenskyy administration. Hence comes this special report about the possibility of the Minsk protocol to stop the war in eastern Ukraine.

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Kyiv, October 2019

## Steinmeier's Formula

"Steinmeier's Formula" has since October 2019 become the number one political controversy in Ukraine. This detailing of the way that the political part of the Minsk Protocol should be implemented has sparked a holy war between those claiming it is harmless and those insisting it will lead to the capitulation of Ukraine's state interests. The former say it is merely a part of the Minsk process, seen as the only way to resolve the war in Donbas dragging on between Russian-backed militants and the Ukrainian government for the fifth year. The latter claim that the formula, signed by Ukraine on 1 October, carries the risk of Ukraine going for the Russian scenario of implementing the Minsk Protocol, in which the political regulation of the conflict takes place before Ukraine physically controls the territory. This is believed to be a gateway to the legitimization of Russia's puppet political entities in Ukraine's political system, with Ukraine picking up the bill - and it is protested accordingly<sup>1</sup>.

President Volodymyr Zelenskyy has paid lip service to the "security first, then political regulation" Minsk strategy of ex-President Poroshenko by promising that Ukrainian state interests will not suffer in his peace initiatives, as "red lines" on Donbas will not be crossed. The main such red line is that local elections in the Russian-backed Luhansk and Donetsk "People's Republics" ("LNR," "DNR," or "LDNR," also called ORDLO in Ukraine, or "separate regions of Donetsk and Luhansk oblasts") will not take place before Ukraine gains control of the Russian-Ukrainian border, most of which is currently off-limits even for OSCE monitors, allowing for a steady influx of Russian troops and equipment. Technically, the "formula," by which a law on the "special status" of the "LNR" and "DNR" comes into force after local elections are held in them, adds little to the Minsk Protocol, although it has other drawbacks.<sup>2</sup>

However, the "formula" itself and the controversy surrounding it is insignificant compared with the real problem of the war resolution efforts - the Minsk Protocol itself. Presented by the previous administration of Poroshenko as the only way to resolve the Donbas war (probably because western sanctions against Russia were tied to the implementation of this protocol), if implemented verbatim, it actually will be a ticking time bomb for Ukraine's statehood. And Russia will agree to nothing less.

In this paper, we will analyze, the hacked emails of Putin's advisor Vladislav Surkov to understand the Kremlin's true intentions for Ukraine within the Minsk process - and prove that Russia will resist any real attempts at peace in the Donbas if it gets anything less than Ukraine's capitulation in return.

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<sup>1</sup> Alya Shandra, "Protests against Zelenskyy's peace plan for Donbas continue as 12,000 march in Kyiv" Euromaidan Press 15.10.2019 <http://euromaidan-press.com/2019/10/15/steinmeier-formula-protest-continue-as-12000-march-in-kyiv-ukraine/>

<sup>2</sup> Alya Shandra, "The real problem with "Steinmeier's formula" and the Russo-Ukrainian war" Euromaidan Press 8.10.2019 <http://euromaidan-press.com/2019/10/08/the-real-problem-with-steinmeiers-formula-and-the-russo-ukrainian-war/>

## Surkov's secrets

Surkov's secrets have been examined in detail a RUSI report co-authored by the author of this article<sup>3</sup>. Speaking briefly, three tranches of correspondence from the office of the top Kremlin aide Surkov were obtained by Ukrainian hackers. Widely believed to be authentic by digital specialists, they give us an insider's view of Russia's hybrid war against Ukraine, which employs an arsenal of reinvented active measures based on reflexive control. As well, they support the claim that Surkov, called "Putin's Rasputin," was (and probably remains) political commander-in-chief of Russia's hybrid war against Ukraine.

What makes them particularly valuable for discussions about Steinmeier's formula is the fact that they document what was happening in Surkov's office when the second Minsk protocol was adopted in 2015 - and the ways that Russia tried to intervene in Ukraine's political field to secure its Minsk wishes in Ukraine's Constitution. Zelenskyy's idealistic pre-election goal to end the war and end it fast send us back to the birth of the Minsk process in 2014-2015, when Poroshenko, as well, came to power promising to end the war fast. In fairness, in 2014, before the massive Russian military intervention, this goal seemed much more realistic.

So, what do the Surkov Leaks say about Russia's goals in Donbas?

## The evolution of the Minsk protocol

The second Minsk protocol, non-binding documentation of the results of negotiations in the Normandy Format, i.e. between the presidents of Ukraine, Russia, Germany, and France is seen today by many as being the only solution for the war in Donbas.

However, the protocol of 2014 itself (Minsk-1) and the "Complex of measures to implement the Minsk Protocol" of 2015 (second Minsk protocol, or Minsk-2) contain a mutually contradictory clause. As well, Minsk-2, compared to Minsk-1, if implemented verbatim, lays out the preconditions for a prolongation of the conflict, not its resolution with the reintegration of the uncontrolled territories into Ukraine.

This explains why Ukrainian officials both back in the presidency of Petro Poroshenko and currently under Volodymyr Zelenskyy - insist on a Ukrainian

version of implementing of the protocol which supposedly doesn't jettison Ukrainian state interests. This, as it always has been, is met by Russian indignation.<sup>4</sup>

Minsk-2 has been unsuccessful in resolving the conflict in Donbas, precisely for the fact that Russia under the present circumstances will not accept any other arrangement than one allowing it to achieve its goal in the war against Ukraine - the legitimization of its puppet republics in Ukrainian political life, giving Russia endless opportunities to torpedo Ukraine's sovereignty from within, with Ukraine footing the bill. This becomes clear from analyzing how the ideas for regulating the conflict changed over time, as well as the Russian proposals for Ukraine's legislature going through the emails of Surkov.

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<sup>3</sup> Alya Shandra, Robert Seely "The Surkov Leaks: The Inner Workings of Russia's Hybrid War in Ukraine" RUSI Occasional Papers,, 16 July 2019 <https://rusi.org/publication/occasional-papers/surkov-leaks-inner-workings-russias-hybrid-war-ukraine>

<sup>4</sup> Kremlin comments on Kyiv's demand to dissolve "LPR/DPR" UNIAN, 16.10.2019 <https://www.unian.info/politics/10721028-kremlin-comments-on-kyiv-s-demand-to-dissolve-lpr-dpr.html>

## How Minsk-1 came about

It was June 2014 and, seemingly, the anti-terrorist operation Ukraine declared against a Russian-backed insurgency in eastern Ukraine, could soon draw to an end - Ukrainian troops and volunteer battalions were successfully advancing on non-government-controlled areas.

## How the Donbas front changed

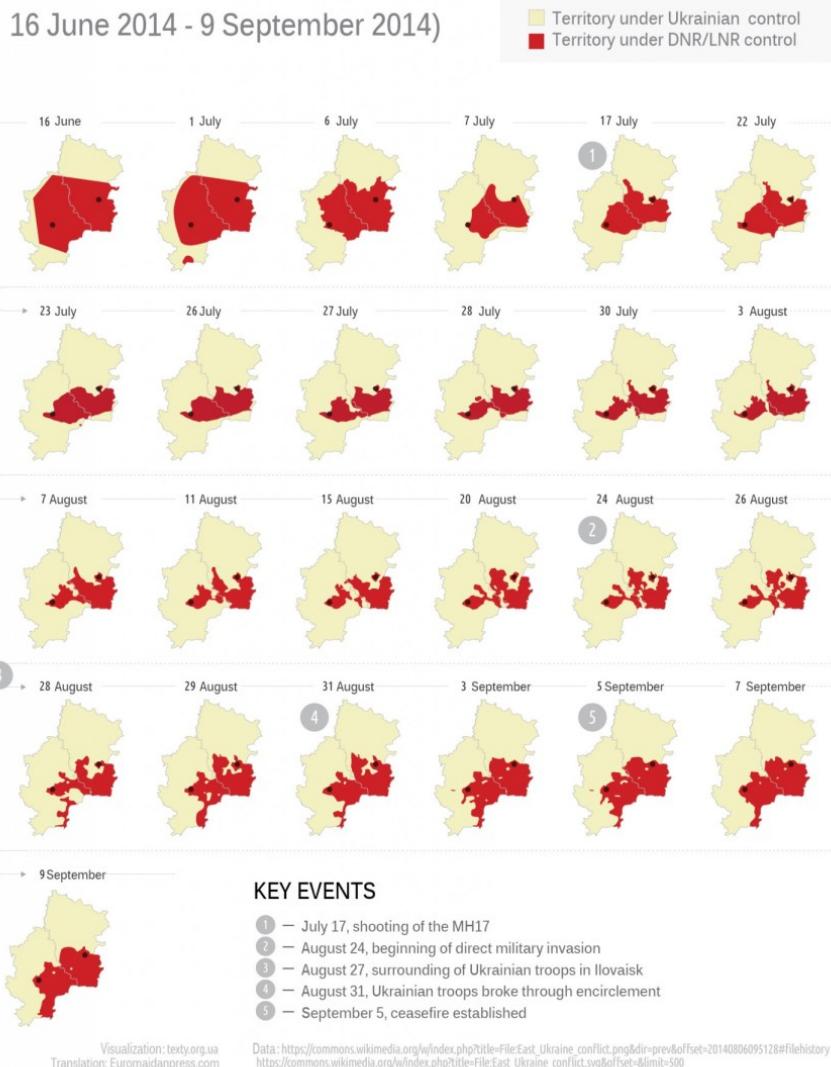


Fig. 1. How the Donbas front changed in 2014. Graphic: [texty.org.ua](#), translated by Euromaidan Press

This all changed with the start of Russian cross-border shellings followed by a large-scale invasion, which led to a massive defeat of the Ukrainian army at Ilovaisk<sup>5</sup>, where hundreds of Ukrainian troops were massacred in a "green corridor" despite Russian guarantees of allowing an evacuation.

It was from this position of military defeat that Ukraine entered into the Minsk peace process. On 5 September 2014, representatives of Ukraine, Russia, and the OSCE signed the so-called **Minsk protocol (Minsk-1)** in the Belarusian capital. Its 12 clauses consisted of a number of security and political measures.

The document was in many ways a reiteration of a **peace plan** [Ukrainian President Poroshenko](#) made<sup>6</sup> on 20 June 2014. The proposal contained a number of security steps and urgent measures to restore law and order that never made their way to the Minsk-1 protocol. Among these are such items as the resumption of powers of local authorities, freeing of administrative buildings occupied by Russian-backed militants, resumption of broadcasting of Ukrainian channels into the occupied territories, a guaranteed corridor for the withdrawal of mercenaries.

5 Olena Makarenko "Commemorating Ilovaisk, bloody August battle that changed world's view of war in Ukraine" Euromaidan Press 30.08.2019 <http://euromaidanpress.com/2019/08/30/commemorating-ilovaisk-bloody-august-battle-that-changed-worlds-view-of-war-in-donbas131681/>

6 "In Donbas, Petro Poroshenko presented the peaceful plan on the settlement of the situation in the east of Ukraine" President of Ukraine, official website (archived version), 20.06.2014 <https://web.archive.org/web/20180625133442/http://www.president.gov.ua/en/news/petro-poroshenko-predstaviv-v-donbasi-mirnij-plan-z-vregulyu-33044>

EVOLUTION OF PLANS TO SOLVE THE WAR IN DONBAS				
	Poroshenko's peace plan	Poroshenko's synchronization plan from Surkov Leaks	Minsk Protocol (Minsk-1)	Complex of measures to implement the Minsk protocol (Minsk-2)
Author, date	Petro Poroshenko 20 June 2014, Sviatohirsk	Sent to Surkov from the Ukrainian MFA 25 August 2014, Kyiv	Result of a meeting of the Trilateral Contact Group (representatives from Ukraine, Russia, OSCE) 5 September 2014, Minsk	Result of a meeting in the Normandy format, signed by representatives from Ukraine, Russia, OSCE 12 February 2015, Minsk
SAFETY BLOC	<i>Creating a 10-km buffer zone on the Ukrainian-Russian state border (#4)</i>	<i>Creating a buffer zone in the bordering areas of Ukraine and Russia (#1)</i>	<i>Permanent monitoring of the Ukrainian-Russian border and creation of security zones there with verification by the OSCE (#4)</i>	
		Immediate bilateral ceasefire (#5)	An immediate bilateral ceasefire (#1) Monitoring and verification of the ceasefire by the OSCE (#2)	Immediate and full ceasefire in ORDLO (#1) Pull-out of all heavy weapons by both sides to equal distance: *for Ukrainian troops, from actual line of contact; *for armed formations of ORDLO, from the contact line defined in Minsk-1 (#2) Monitoring and verification of ceasefire regime and pullout of heavy weapons by OSCE (#3)
	Withdrawal of illegal armed groups (#4) <i>Guaranteed corridor for the exit of Russian and Ukrainian mercenaries (#5)</i> <i>Disarmament (#6)</i> <i>Creating structures in the Internal Ministry for joint patrolling (#7)</i>	To withdraw illegal armed groups, military equipment, as well as fighters and mercenaries from Ukraine (#6)	To withdraw illegal armed groups and military equipment as well as fighters and mercenaries from Ukraine (#10)	Pullout of all foreign armed formations, military equipment, and also mercenaries from the territory of Ukraine under OSCE supervision. Disarmament of all illegal groups (#10)
POLITICAL BLOC	<i>Agreement of governors with representatives of Donbas before elections (if a single candidate will be agreed upon, if not - the President makes the decision (#12)</i>			
	Early local elections (#12)	Early local elections (#12)	Early local elections in accordance with the Ukrainian law "On temporary Order of Local Self-Governance in ORDLO" (Law on Special Status) (#9)	<b>On the first day after the pullout a dialogue is to start on local elections</b> in accordance with the Ukrainian legislation and the Law of special status, and also about the <b>future of these districts</b> Approve a resolution indicating the territory falling under the special status law based on the line set up in Minsk-1 (#4) <b>Questions related to local elections will be agreed upon with ORDLO representatives.</b> Elections will be held in accordance with relevant OSCE standards and monitored by OSCE/ODIHR (#12)
	Decentralization of power (through electing executive committees, protecting Russian; projected changes to the Constitution) (#11)	Decentralization of power (#13)	Decentralisation of power, including through the adoption of the Law on special status (#13)	Constitutional reform in Ukraine, the key element of which is decentralisation (taking into account peculiarities of ORDLO agreed with representatives of these districts), and also approval of permanent legislation on the special status of ORDLO (#11)
	Exemption from criminal liability of those who put down their weapons and had not committed heavy crimes (#2)	Exemption from criminal liability (#7)	A law preventing the prosecution and punishment of persons in connection with events that took place in ORDLO (#6)	Provide pardon and amnesty by enacting a law that forbids persecution and punishment of persons in relation to events that took place in ORDLO (#5)
SOCIO-HUMANITARIAN BLOC	Freeing hostages (#2)	Immediate release of all hostages and illegally detained persons (#2)	Immediate release of all hostages and illegally detained persons (#5)	Release and exchange of all hostages and illegally held persons, based on the principle of "all for all" (#6)
		Improve the humanitarian situation (#11)	To take measures to improve the humanitarian situation (#8)	Provide safe access, delivery, storage and distribution of humanitarian aid to the needy (#7)
	<i>Resuming the activities of local organs of power (#9)</i> <i>Freeing illegally captured administrative buildings in the Donetsk and Luhansk oblasts (#8)</i> <i>Resuming the central TV and radio broadcasting in Donetsk and Luhansk oblasts (#10)</i>	Restoring the vital activity of the region (#9)		
	Creating new jobs in the region (#14)			
	Restoring industrial and social infrastructure objects (#15)	Economic recovery (#14)	To adopt a programme of economic recovery and reconstruction for the Donbas region (#11)	Full restoration of social and economic connections, including <b>social transfers, such as payments of pensions and other payments</b> (income and revenue, timely payment of communal bills, restoration of tax payments within the framework of Ukrainian legal field) (#8)
		Launch an inclusive national dialogue (#10)	To continue the inclusive national dialogue (#7)	
OTHER	Security guarantees for all participants of the negotiations (#1)	Personal security guarantees (#4)	Personal security guarantees for participants of consultations (#12)	
				Intensify the work of the Trilateral Contact Group through establishing working groups (#13)

*Italics: Proposals which would lead to a quick resolution of the conflict which were rejected; Bold: Proposals leading to freezing and prolongation of the conflict which were added*

Research & visualization by Euromaidan Press

Table 1. The evolution of plans to solve the conflict in Donbas. Source: Euromaidan Press. PDF available here:

<http://euromaidanpress.com/wp-content/uploads/2019/10/MinskEN2.pdf>

***But the most important step among these is, arguably, the creation of a 10-km buffer zone on the Ukrainian-Russian border. The creation of such a buffer zone implied Ukraine would gain control of all its territory and ensure that no troops and weapons would leak through to support the local militants. It is through the border between the “republics” with Russia today, inaccessible for not only Ukrainian border guards but (with small exceptions) the OSCE, that the “LNR” and “DNR” receive the Russian military support without which they would have ceased existing years ago.***

Among the political steps of Poroshenko's plan are early local elections, decentralization of power through changes in the Constitution, and amnesty for militants who had not committed heavy war crimes.

The next hints of the development of the peace plan for Donbas come on 25 August 2014, when, amid a direct Russian invasion at Ilovaisk which culminated with a massacre of Ukrainian troops, Surkov received a document called "**Plan of synchronization of measures to implement the peace plan of the president of Ukraine**"<sup>7</sup>, presumably, from Andriy Plakhotniuk, director of the Ukrainian MFA department of counteracting threats from the Russian Federation.

The nature of the document and steps outlined in it testify to the fact that Kyiv was still hopeful for reaching an agreement with Moscow to solve the conflict and was still in a state of disbelief regarding the alarms coming in from commanders at the front in Donbas. The "Plan of synchronization" basically details the timeline for the implementation of all of Petro Poroshenko's plan (sans one clause about the governors). Establishing a buffer zone on the Russian-Ukrainian border was to be finished by 5 September,

followed by the freeing of hostages, establishment of OSCE monitoring, bilateral ceasefire, withdrawal of foreign troops and mercenaries from Ukrainian territory (for this, Russia was expected to ensure the self-termination of "LNR" and "DNR" by 14 September 2014, a step which has now been suggested<sup>8</sup> by Leonid Kuchma, causing a fury in the Kremlin). Snap local elections and Constitutional amendments envisioning the decentralization of power were to be adopted by the end of 2014, followed by the economic recovery of Donbas.

Such a detailed timeline outlining the concrete steps to be made by Russia and Ukraine suggests that Poroshenko's peace plan was being seriously regarded as a solution to the conflict at the time.

***But then came the invasion of Ukraine and massacre of Ukrainian battalions by the Russian army at Ilovaisk in what was supposed to be a “green corridor” for their escape, timed to coincide with Ukraine's Independence Day. The country was devastated. Ukraine was in a position of military defeat. Poroshenko was pressed to make rapid steps to stop the bloodshed. It is from this position that Ukraine signed Minsk-1.***



A meeting of the Trilateral Contact Group in Minsk on 18.11.2015. From left to right: "DNR" representative Aleksandr Zakharchenko, "LNR" representative Leonid Plotnitsky, Russia's ambassador to Ukraine Mikhail Zurabov, ex-Ukrainian President Leonid Kuchma, OSCE special representative Heidi Tagliavini. Photo: rbc.ua

<sup>7</sup> "SurkovLeaks: 1GB mail cache retrieved by Ukrainian hacktivists" InformNapalm, 10.25.2016 <https://informnapalm.org/en/surkovleaks>, email from a.m.plakhotniuk@gmail.com to prm\_surkova@gov.ru <prm\_Surkova@gov.ru, 25.08.2014 <http://euromaidanpress.com/wp-content/uploads/2019/10/План-синхронизации-шагов-по-выполнению-Мирного-плана-Президента-Украины-25.08.14-г.pdf>

<sup>8</sup> Kremlin comments on Kyiv's demand to dissolve "LPR/DPR" UNIAN, 16.10.2019 <https://www.unian.info/politics/10721028-kremlin-comments-on-kyiv-s-demand-to-dissolve-lpr-dpr.html>

Minsk-1 largely follows the steps of Poroshenko's peace plan. It followed consultations of the Trilateral Contact Group consisting of senior representatives from Ukraine, Russia, the OSCE, and informal observers from the "LNR" and "DNR," who convened on 31 July, 26 August, 1 September, and, finally, on 5 September 2014. This provides more evidence to the notion that Poroshenko's peace plan was seen as the basis for a resolution of the conflict.

Some steps allowing a rapid resolution of the conflict were jettisoned from Minsk-1 (resuming the activities of local organs of power and broadcasting of Ukrainian TV and radio, freeing illegally captured administrative buildings in the Donetsk and Luhansk oblasts, joint patrolling of ORDLO territory). One very important one stayed - the permanent monitoring of the Russian-Ukrainian border and the creation of security zones there which would be monitored by the OSCE.

## Enter Minsk-2

### Non-civilian casualties in the field due to Russia's invasion of Ukraine

Deaths per day and per month from 18 March, 2014 till 14 September, 2015

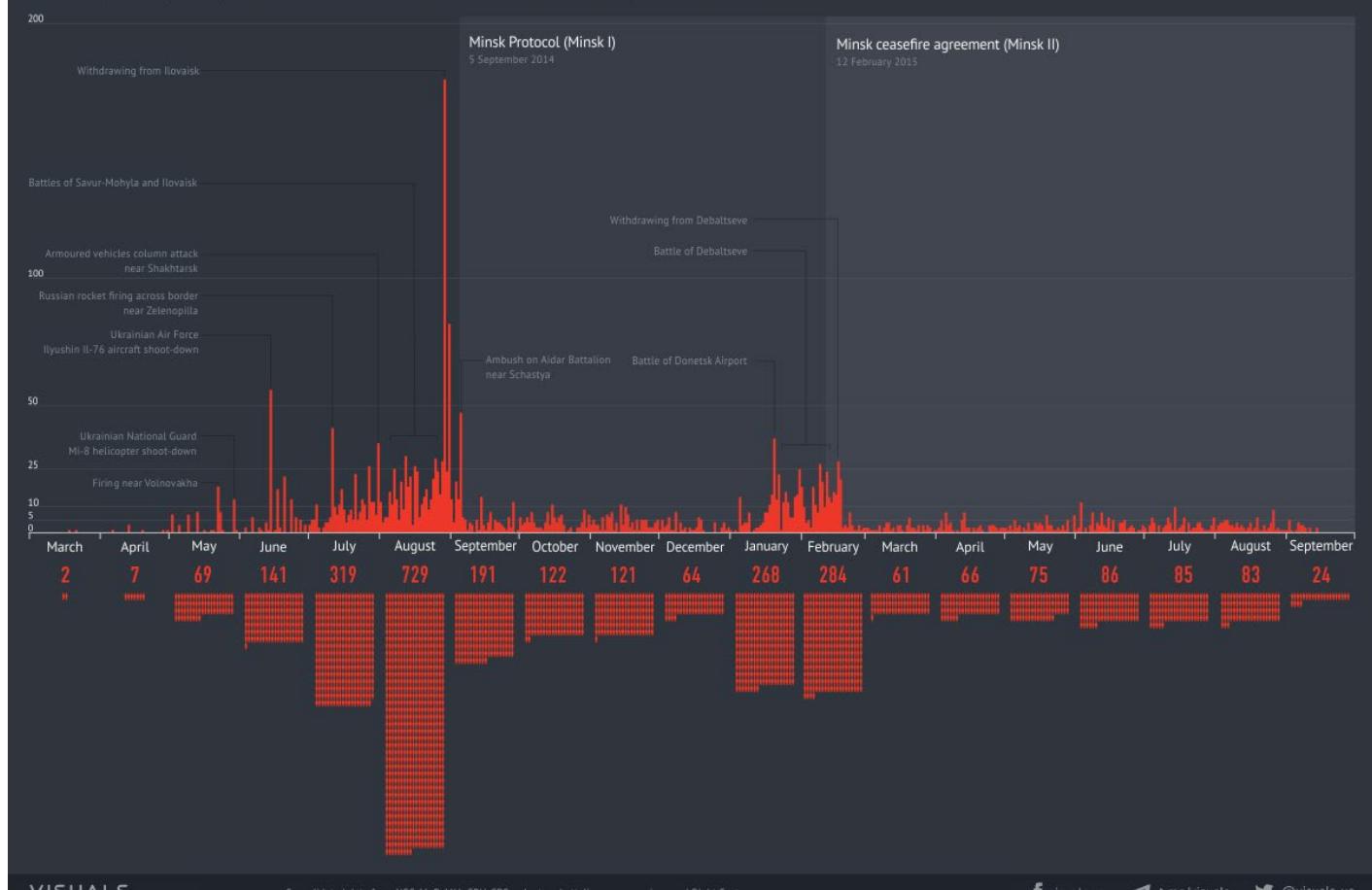


Fig. 2. Ukrainian military casualties in Donbas in 2014-2015. Infographic by Visuals.

*But perhaps most important is the entrance of the words "special status" into Minsk-1. Ukraine had undertaken obligations to adopt the law "On temporary Order of Local Self-Governance in ORDLO" (Law on Special Status). The political clauses of Poroshenko's peace plan envisioned that the abnormal situation in Donbas be rapidly brought back to normal. Minsk-1 provided that the existing abnormal situation be regulated and prolonged, albeit temporarily. Minsk-1 contains no references to the Ukrainian Constitution.*

Was the Russian invasion of Ukraine leading to the devastation of Ilovaisk the reason for Ukraine agreeing to this "special status" deal? This looks pretty likely, considering the story of Minsk-2.

What happened after Minsk-1 is well documented. Ukraine swiftly adopted the “Law on Special Status” and a law on amnesty on 16 September 2014. Despite this, the “LDNR” held local elections on 2 November contrary to the democratic procedures outlined in the Ukrainian “Law on Special Status,” and Russia insisted Ukraine must amnesty the separatist leaders of the “LDNR.”

The announced ceasefire, although it was never honored fully, managed to cut down military casualties. President Poroshenko’s unilateral enforcement of the ceasefire was very unpopular at the front, and finally, the Ukrainian servicemen at the contact line in Donbas were allowed to fire back.

But by January 2015, the ceasefire had collapsed. Russian-separatist troops won the battle for the Donetsk airport and proceeded with an offensive against the railroad hub of Debaltseve. The increased fighting alarmed France and Germany, and a new deal called “Package of Measures for the



Minsk-2 was signed on 11 February 2015, but it hasn't brought peace to Ukraine. Pictured: Belarusian President Alyaksandr Lukashenka, Russian President Vladimir Putin, German Chancellor Angela Merkel, French President Francois Hollande, Ukrainian President Petro Poroshenko, after the signing of Minsk-2. Photo: Wikipedia

So what is the deal that Russia desired - and continues to desire? An analysis of the Special Status and Amnesty laws Surkov received on 19 September 2014 from the Center of CIS countries studies headed by Konstantin Zatulin gives some first clues<sup>9</sup>.

Implementation of the Minsk Agreements" was drawn up by French President Hollande and German Chancellor Merkel at a summit in Minsk on 11 February 2015 after 16-hour negotiations with Ukrainian President Poroshenko and Russian President Putin.

According to the Canadian study “Russian reflexive control,” the adoption of Minsk-1 and Minsk-2 are prominent example of Russia’s successful use of reflexive control to achieve its objectives. Here, reflexive control - a Soviet warfare concept in which the adversary is tricked into making self-defeating decisions - is seen as being exercised over Merkel and Hollande. Russia’s armed offensive of January 2015 and Putin’s threat of further escalation of the conflict if his demands were not met hit a trigger point: the European leaders’, and particularly Angela Merkel’s, abhorrence of conventional war, let alone nuclear war, in Europe. Facts of Putin’s “escalation blackmail” regarding Merkel, although not available in the public domain, were confirmed by the personal research of the co-author of the study James Sherr and were never rebuked by German Foreign Ministry representatives. Other successes of this reflexive control operation include the connection of western sanctions against Russia to Minsk-2, which does not stipulate the return of Donbas, but only mentions a “special status,” and the Normandy process, which has unsuccessfully dragged on to this day.

***Why did Minsk-1 fail to stop the fighting? On a meta-level, it appears that Russia did not get the political outcome it wanted, i.e. one allowing to legalize its puppet entities in the political fabric of Ukraine, and so the fighting continued until Ukraine was hard-pressed to make greater concessions through a military defeat.***

<sup>9</sup> “SurkovLeaks: 1GB mail cache retrieved by Ukrainian hacktivists” *InformNapalm*, 10.25.2016 <https://informnapalm.org/en/surkovleaks>, email from alla@materik.ru to prm\_surkova@gov.ru <prm\_Surkova@gov.ru>, 25.08.2014 <http://euromaidanpress.com/wp-content/uploads/2018/02/Законы-для-Донбасса.pdf>

The Special Status Law, Zatulin's analysts stressed, used the term "special regime" and said nothing about a "special status." Moreover, only the territories controlled by the "LDNR" fall under this "special regime," not the total area of the Donetsk and Luhansk oblasts as the "LDNR" leaders demand, and the law is temporary - only for three years. This means, the Center wrote, that Ukraine is not going to recognize the "LDNR" and aims to freeze the situation in Donbas to restore its combat capability and economy, but will not federalize the country, although it may accept "LDNR" (Russian-appointed) leaders into its political field, if the latter will play by the rules.

Moscow is fine with such a frozen conflict situation, as it allows preserving levers of influence over Ukraine's foreign policy movements such as NATO accession by unfreezing the conflict and will allow Moscow to continue insisting on Ukraine's federalization, the Center concluded.

*This latter goal of Ukraine's federalization was voiced by Russian officials at the time of Euromaidan and consistently repeated throughout all the years of the conflict. Moscow's insistence on Ukraine's federalization has a clear motive - a less unified Ukraine gives Russia more opportunities to intervene in its affairs and block Ukraine's rapprochement with the West.*

With Minsk-2, Russia moved closer to this goal.

**The goal of establishing an OSCE-monitored buffer zone on the Russian-Ukrainian border from Minsk-1 was gone.** Instead, the OSCE would monitor both side's pullout of heavy weapons from the contact line (a condition actually established by a follow-up memorandum to Minsk-1 on 19 September 2014). Local elections were no more seen as the pinnacle of conflict resolution - a dialogue on holding them was to start on the first day after a weapon-free zone was to be established on the contact line between government-controlled territory and the "LDNR," and **Ukraine's control of the Russian-Ukrainian border would resume only**

**after the elections were already held.** Instead of a program to spur economic recovery once the "LDNR" was reintegrated into Ukraine, Kyiv was to resume social payments to citizens living in "LDNR" - a step which would lessen the financial burden on Russia while allowing the "LDNR" to indefinitely stay as Russian puppet republics.

*Most importantly, Minsk-2 obliged Ukraine to conduct a decentralization-based Constitutional reform which would take into account peculiarities of the "LDNR" agreed with their representatives, as well as adopt permanent legislation on the special status of the "LDNR." In Minsk-2, Poroshenko's plan envisioning a swift reintegration of the uncontrolled regions was replaced by measures to grant them a permanent "special status" and fixate this in Ukraine's Constitution.*

As well, it contained a number of requirements for this legislation (see first column in Table 2): the possibility for local councils to set up people's militia units, enhanced possibilities for the use of Russian language and cross-border cooperation with Russia, rights of self-government bodies in ORDLO to vet the appointment of Heads of Prosecutor's Offices and Courts and enter into contract relations with the central government.

Poroshenko's **Special status law** adopted in September 2014 already followed most of these provisions of Minsk-2, indicating that these items were already on the table during Minsk-1 negotiations. But as we have seen above in the analysis Surkov received, Russia's main interest was in having ORDLO receive a permanent special status. And if the "LDNR" could get a special status, what prevented other Ukrainian regions from demanding the same? Actually, nothing - as the Surkov Leaks revealed, in 2015, the Kremlin coordinated an ambitious campaign to get a Constitutionally-enshrined special status for various Ukrainian regions. It is described in detail in the RUSI report on Surkov Leaks. In parallel, Russia led a game to push through a very special "special status" for its puppet republics.

# Russia's attempts to enshrine Donbas' "special status" in Ukraine's Constitution

## RUSSIAN AND UKRAINIAN VERSIONS OF THE "SPECIAL STATUS" FOR DONBAS

Title	Requirements for special status of ORDLO (separate regions of Donetsk & Luhansk oblasts) according to Minsk-2	Ukrainian law on the special regime of ORDLO (1); law on amnesty (2)	Russian proposals for amendments to the Constitution of Ukraine sent to Surkov (1); LNR&DNR amendments to Constitution of Ukraine (2)	Russian proposals for amendments to the Constitution of Ukraine sent to Surkov	Boiko's letter to Verkhovna Rada Head Groysman
Author	Approved by leaders of the Normandy Four and signed by Trilateral Contact Group	Petro Poroshenko	Sent to Surkov from the address to_rf@bk.ru (SurkovLeaks2) (1); Published by Donetsk News Agency (2)	Sent to Surkov from the kino2015dom@gmail.com (SurkovLeaks2), with the note "from V.V."	Yuri Boiko, leader of pro-Russian Opposition Bloc
Date	12.02.2015	Adopted on 16.09.2014 (amended on 17.03.2015; <b>amendments in bold</b> ). <i>Clauses of (2) are in italics</i>	Sent on 11.03.2015 (1); published 13.05.2015 (2). <b>Note: amendments contained in (2) but not in (1) are in bold</b>	Sent on 21.05.2015	RU translation of letter forwarded to Surkov on 29.06.2015
Duration	Permanent	(1) temporary, 3 years; valid until 31.12.2019. <i>(2) - permanent</i>	The law on a special status of ORDLO is made permanent - a clause for that is enshrined in the Constitution	10 years - enshrined in the Constitution	-
Valid from	Changes to the Constitution taking into account the peculiarities of ORDLO agreed with their representatives and a permanent law on the special status of ORDLO have to be adopted by end of 2015	(1) After the local self-government bodies (SGB) of ORDLO assume power following snap elections held in accordance with Ukrainian law and OSCE standards; <i>(2) from the publication date</i>	-	After amendments to the Constitution of Ukraine come into power	-
ORDLO administrative structures	No details	Local self-governance is held according to the Constitution and laws of Ukraine by the corresponding territorial communities directly and through local self-government bodies (SGB)	Local self-government bodies (SGB) of ORDLO have their own charters. Unlike the rest of Ukraine, the president cannot make a decision on the resignation of heads of oblast or rayon administrations who have been distrusted - this is done by the SGBs. The procedure for exercising local self-government, the activity of courts and the prosecutor's office in the ORDLO is determined by separate laws.	Areas with a special order of management - territorial entities - are created in ORDLO (TE). They have Representative Assemblies (RAs, representative authorities of ORDLO consisting of MPs elected for 5 years, make decisions and resolutions that are binding in ORDLO, cannot be prematurely dissolved) and Executive Committees (ECs, executive authorities of ORDLO, their heads are elected by the RAs, they act through departments).	Creation of territorial associations of ORDLO, creation of a representative (Representative Assembly), executive (Executive Committee) bodies of power
Economics	The state supports the socio-economic development of ORDLO	Special economic regime for stimulating investment and rebuilding industry and infrastructure	State ensures financial autonomy of ORDLO: ensures funding sources, provides state support for its socio-economic development, provides financial assistance, concludes agreements with SGBs of ORDLO on socio-economic and cultural development, introduces a special economic regime, promotes the development of cross-border cooperation. SGBs of ORDLO develop and approve the ORDLO budget, participate in the development of the Ukrainian state budget to ensure the financial independence of ORDLO, determine the size of local taxes and payments	RA approve the budgets of TE of ORDLO, develop and implements programs of socio-economic and other development of ORDLO, create free economic zones, determine local taxes and payments. EC of TE of ORDLO represent TE of ORDLO in foreign economic relations, determine and fill the budgets of TE of ORDLO	-
Militia	Local councils can set up militia units	People's militia units can be set up by decisions of city, settlement, village councils out of Ukrainian citizens permanently residing in the settlements	SGB of ORDLO can create people's militia units and appoint their leaders	ECs give proposals to the RA regarding the structure, number of units of the people's militia. The RAs approve and coordinate these units	SGBs decide on establishment, structure, # of units of people's militia & coordinate their activities.

	Requirements for special status of ORDLO (separate regions of Donetsk & Luhansk oblasts) according to Minsk-2	Ukrainian law on the special regime of ORDLO (1); law on amnesty (2)	Russian proposals for amendments to the Constitution of Ukraine sent to Surkov (1); LNR&DNR amendments to Constitution of Ukraine (2)	Russian proposals for amendments to the Constitution of Ukraine sent to Surkov	Boiko's letter to Verkhovna Rada Head Groysman
Amnesty	Amnesty and prohibition of discrimination for "persons related to events occurring in the ORDLO" through a separate law	(1) Amnesty and prohibition of discrimination against "participants of events in Donetsk, Luhansk oblasts" (2) <i>Amnesty for those who voluntarily laid down their weapons, except those who committed serious crimes or are involved in crash of MH17</i>	-	-	-
Status of Russian	Right to linguistic self-determination	Promoting the use of Russian in all spheres of life	SGBs of ORDLO legally regulate the use of Russian, ensure rights to its use	TEs of ORDLO have the right to decide on language issues. RAs grant special statuses to the Russian and other languages	-
Relations with Russia	Central government facilitates cross-border cooperation between the ORDLO and Russian regions	Central government promotes cross-border cooperation via agreements between territorial communities, SGBs, local Ukrainian executive authorities & territorial communities	SGBs of ORDLO legally regulate cross-border activity; ORDLO may conclude agreements with foreign states or their territories, the Ukrainian central government should promote cross-border activities	RAs of ORDLO make decisions on cross-border cooperation between ORDLO and Russia or other states. ECs of ORDLO conclude agreements on cross-border cooperation with the subjects of Russia and other states	-
Relations with Kyiv	Participation of SGBs in appointing Heads of Prosecutor's Offices and Courts in ORDLO. The central government may conclude agreements with SGBs of ORDLO	SGBs participate in appointing the heads of Prosecutor's Offices and courts in ORDLO. SGBs can conclude agreements with the central government regarding economic, social and cultural development of ORDLO regions	Appointment of judges, heads of prosecutors' offices takes place in coordination with SGBs of ORDLO. ORDLO concludes agreements on its development of these areas with the Cabinet of Ministers of Ukraine. <b>The Cabinet facilitates the conclusion of agreements between ORDLO and ministries, cross-border cooperation of ORDLO</b>	The President appoints President's Representatives to ORDLO. The Cabinet of Ministers concludes agreements with the ECs of TEs of ORDLO on their socio-economic and cultural development. The RAs give their consent to the appointment of heads of Prosecutor's Offices, internal affairs bodies and courts at the ORDLO. ECs of TEs of ORDLO represent TEs of ORDLO in relations with Ukrainian state authorities.	ORDLO consents to the appointment of the heads of the security services, prosecutors and courts
Other powers of the SGBs of ORDLO	Within the framework of agreements concluded with the central government	Within framework of agreements concluded with the central government; conclude agreements on cross-border cooperation, establishment of units of people's militia; promote the use of Russian. <b>The special regime is implemented exclusively by SGBs elected in snap elections.</b>	SGBs of ORDLO legally regulate natural resources, cultural, socio-economic, transport and other activities, executive power, courts and prosecutor's offices, develop and implement programs on linguistic, cultural, socio-economic and other policies, impose a state of emergency, conclude agreements with foreign states.	RAs appoint the ECs, regulate the industrial, agrarian, transport, etc. sectors, manage ORDLO property. RAs can appeal to the Constitutional Court of Ukraine regarding the constitutionality of Ukrainian laws. ECs of TEs of ORDLO ensure the observance of rights and freedoms in ORDLO, prepare and execute programs of socio-economic and cultural development in ORDLO, manage ORDLO property.	Special order of local self-government.
Elections	Local election issues are agreed with ORDLO representatives. Elections are conducted in compliance with OSCE standards, monitored by the OSCE ODIHR. Powers of deputies of local councils and officials elected in snap elections cannot be prematurely terminated	Early elections on December 7, 2014 according to the laws of Ukraine and OSCE standards. Powers of deputies of local councils and officials elected in early elections cannot be prematurely terminated	SGBs of ORDLO convene and hold local elections, form election commissions in the territories of these regions, determine the procedure for elections, appoint and hold local referendums	RAs of ORDLO organize and conduct local elections and referendums. The procedure for holding elections, the formation of SGBs and the governing bodies of the ORDLO is determined by a separate law. The term of office of the deputies elected to the RA is 5 years	-
Other	Ukraine gains control of Russian-Ukrainian border after snap elections & Constitution Reform	-	Requirement of a neutral status in the Constitution	-	-

Research and visualization by Euromaidan Press

Table 2. How the "Special Status" for Donbas was foisted on Ukraine. Source: Euromaidan Press.

PDF here: <http://euromaidanpress.com/wp-content/uploads/2019/10/SpecialStatusEN-1.pdf>

Where did this strong Russian push for changes to Ukraine's Constitution come from in the first place? An email Surkov sent out two days before the Minsk summit, on 9 February 2019, offers some clues<sup>10</sup>. It contains a document titled "Referendum (Portnov) 9.02.2015," suggesting that it was drafted by the lawyer Andriy Portnov, who is in Ukraine suspected of treason and complicity in Russia's occupation of Crimea. Having been closely linked to runaway President Viktor Yanukovych, Portnov left Ukraine after the Euromaidan revolution, but after Volodymyr Zelenskyy's presidential victory, returned and opened 11 criminal proceedings against former President Poroshenko.

***The document by Portnov claims that in Ukraine's legal system, Ukrainian regions can receive an autonomous status without the need to convene a referendum. All that is needed is to enter changes in a few articles of Ukraine's Constitution, granting them the status of autonomous entities, and describe the procedure for the formation of their bodies and their powers. Portnov's analysis explains Russia's subsequent pushing through of changes to Ukraine's Constitution - they were the preferred way to legalize its puppet "LDNR" as a Ukrainian autonomy.***

After Minsk-2 and its mention of changes to Ukraine's Constitution taking into account the "peculiarities of ORDLO agreed with representatives of these districts," Russia opened up a front to secure the changes that it wanted.

From February 2015 onward, the Surkov leaks reveal, Surkov's office appeared to be focused on changing Ukraine's Constitution, starting from the mechanism by which Constitutional amendments

could made in the first place. Surkov received the first such letter<sup>11</sup> on this issue on 10 February 2015. Just days later, DNR leader Denis Pushilin suggested<sup>12</sup> in the media that the "people's republics" were ready to suggest changes to Ukraine's Constitution to the Trilateral Contact Group.

Specific Russian proposals<sup>13</sup> for amendments to Ukraine's Constitution came through Surkov's mail on 11 March 2015 and were published<sup>14</sup> by the "LNR" and "DNR" on 13 May 2015 with one minor change, once again pointing to Russia's control over the "republics." Their content is laid out in column 3 of Table 2. In brief, these proposals differ from Poroshenko's Special status law thus:

- Instead of a 3-year validity period, the Special status law gains a permanent status in the Constitution;
- Local self-governing bodies (SGBs) have their own charters, heads of local administrations cannot be dismissed by the president. These SGBs get wide powers;
- Instead of the central government establishing merely a special economic regime for the development of ORDLO, SGBs develop a separate budget for ORDLO and ensure that Kyiv provides enough funds for the "financial autonomy of ORDLO." As well, the SGBs get rights to legally regulate (i.e. adopt laws on) the use of Russian, cross-border activity, the use of natural resources, cultural, transport and other activities, develop and implement programs, impose a state of emergency, conclude agreements with foreign states or their territories, convene and hold local elections and referendums;
- There is a requirement for a neutral status to be enshrined in Ukraine's Constitution.

<sup>10</sup> "SurkovLeaks (part 2): hacktivists publish new email dump" *InformNapalm*, 11.03.2016, <https://informnapalm.org/en/surkovleaks-part2/>, letter from letter from [pochta\\_mg@mail.ru](mailto:pochta_mg@mail.ru) to [to\\_rf@bk.ru](mailto:to_rf@bk.ru), 9.02.2019, <http://euromaidanpress.com/wp-content/uploads/2019/10/Референдум-Портнов-09.02.15.pdf>

<sup>11</sup> "SurkovLeaks (part 2): hacktivists publish new email dump" *InformNapalm*, 11.03.2016, <https://informnapalm.org/en/surkovleaks-part2/>, letter from letter from [to\\_rf@bk.ru](mailto:to_rf@bk.ru) to [pochta\\_mg@mail.ru](mailto:pochta_mg@mail.ru), 10.02.2019, <http://euromaidanpress.com/wp-content/uploads/2019/10/Референдум-Портнов-09.02.15.pdf> <http://euromaidanpress.com/wp-content/uploads/2016/11/Порядок-внесения-изменений-в-Конституцию-Украины.pdf>

<sup>12</sup> "V DNR i LNR uzhe podgotovili popravki v Konstituciju Ukrayny" ("DNR and LNR have already prepared amendments to the Ukrainian Constitution" (in Russian)) NBnews 14.02.2015 (archived page) [https://nbnews.com.ua/ru/news/143365/](https://web.archive.org/web/20170821053249/https://nbnews.com.ua/ru/news/143365/)

<sup>13</sup><sup>14</sup> "SurkovLeaks (part 2): hacktivists publish new email dump" *InformNapalm*, 11.03.2016, <https://informnapalm.org/en/surkovleaks-part2/>, letter from letter from [to\\_rf@bk.ru](mailto:to_rf@bk.ru) to [pochta\\_mg@mail.ru](mailto:pochta_mg@mail.ru), 13.05.2015, <http://euromaidanpress.com/wp-content/uploads/2016/11/Текст.pdf>

<sup>14</sup> English translation: "LNR and DNR Published Their Proposed Amendments to the Constitution of the Ukraine" Voices from Russia 13.05.2015 <https://02varvara.wordpress.com/2015/05/13/lnr-and-dnr-published-their-proposed-amendments-to-the-constitution-of-the-ukraine/>

***Essentially, the Russian amendments to Ukraine's Constitution would allow ORDLO to act as a separate state within Ukraine, with the central government footing the bill. Importantly, the requirement of a neutral status would halt Ukraine's movement towards NATO, which could be seen as another Russian goal for Ukraine.***

It is no surprise that these proposals, written in the Kremlin and voiced aloud by the “LNR” and “DNR,” were rejected by Ukraine. What is surprising, however, is that the next Russian Constitutional changes attempt scaled the demands up, not down. Surkov received an alternative draft of changes to Ukraine’s Constitution<sup>15</sup> on 21 May 2015 containing proposals from an unnamed individual with the initials “V.V.” They gave the ORDLO even more qualities of a separate state (column 4, Table 2):

- ORDLO territories received a resemblance of their separate parliaments (Representative Assemblies) and governments (Executive Committees);
- The Representative Assemblies were provided the right to approve the budgets of ORDLO, develop and implement all sorts of programs for the territories, as well as regulate virtually all sectors, determine local taxes and payments, grant the Russian language a special status, make decisions on cross-border cooperation. As well, they can appeal to the Constitutional Court of Ukraine on recognizing Ukrainian laws unconstitutional, organize local elections and referendums, create free economic zones, determine local taxes and payments;
- The Executive Committees got to represent ORDLO in foreign economic relations and in relations with Kyiv, prepare and execute programs of socio-economic development.

So, compared to the previous Kremlin-designed proposals voiced by the “LDNR,” ORDLO would get its own mini-parliament and government.

It is unclear how Russia promoted these ideas within the Ukrainian political process, but a **letter of Yuriy Boiko**, the leader of the pro-Russian Opposition Bloc party, sent to then-Verkhovna Rada Chairman Volodymyr Groysman implored that these very ideas of the ORDLO getting its own parliament and government were the key to solving the conflict in Donbas (column 5, Table 2). Surkov was sent a translation of this letter<sup>16</sup>, which is unavailable in the public domain, on 29 June 2015.

All these Russian attempts amounted to nothing. After being (apparently) coerced into signing Minsk-2, President Poroshenko attempted to make the best of the situation, adopting laws that did their best to spare Ukraine’s sovereignty. The Special status law remained temporary. Although initially, Poroshenko resisted referring to the special status of Donbas in any way in the required Constitutional amendments on decentralization, he later inserted this brief reference to the law in their transitional provisions:

*“The peculiarities of local self-government in particular areas of Donetsk and Luhansk oblasts are determined by a separate law.”*

Reportedly, he made this decision after a meeting with Viktoriia Nuland, then-Assistant Secretary of State for European and Eurasian Affairs at the United States Department of State. Nuland was also present at the vote for these amendments on 31 August 2015, when mass protests erupted outside the Ukrainian parliament, leading to the death of four guardsmen from the National Guard. The amendments were passed in the first reading; prospects of a second vote for them remained dubious during Poroshenko’s presidency. On 29 August 2019, the project was withdrawn<sup>17</sup>.

<sup>15</sup> "SurkovLeaks (part 2): hacktivists publish new email dump" *InformNapalm*, 11.03.2016, <https://informnapalm.org/en/surkovleaks-part2/>, letter from letter from kino2015dom@gmail.com to pochta\_mg@mail.ru, 21.05.2015 <http://euromaidanpress.com/wp-content/uploads/2016/11/21.05.15-Проект-изменений-в-КУ-21.05.15-20.30.pdf>

<sup>16</sup> "SurkovLeaks (part 2): hacktivists publish new email dump" *InformNapalm*, 11.03.2016, <https://informnapalm.org/en/surkovleaks-part2/>, letter from letter from to\_rf@bk.ru to pochta\_mg@mail.ru, 29.06.2015 <http://euromaidanpress.com/wp-content/uploads/2016/11/Верховная-Рада-2.pdf>

<sup>17</sup> [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=55812](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55812)

Thus, Poroshenko's bill on Constitutional Amendments contained only a fleeting reference to the Law on Special Status. And the adoption of this law

caused great resistance in Ukrainian society, leading to bloody confrontation.

## What Russia wants (and without getting which it will not stop the war)

Apart from regular statements by Russian officials like Foreign Minister Lavrov who regularly urges<sup>18</sup> Ukraine to become a federation, Russia's intentions for Ukraine can be studied in the articles written by Russian politologists at, apparently, Surkov's urging. Starting from July 2015, when it became clear that Ukraine would not accept Russia's proposals for its Constitution, every one-two months or so, Surkov received lists of politologists to be present at meetings and weekly digests of the articles they wrote in Russian outlets. The articles followed similar narratives, making them a useful source to analyze Russia's ultimate goal for the Minsk process.

*"Only a special status; Donbas doesn't need Poroshenko's 'special self-government regime,'"* wrote<sup>19</sup> Pavel Dulman on 16 July 2015, slamming Ukraine for "manipulating the text of the Minsk agreements" and citing "DNR" representative Denis Pushilin, who promised to pursue the enshrinement of the "special rights" of Donbas in Ukraine's Constitution *"on the right of equal contractual relations with the Kyiv authorities."*

For Ukrainian patriots, *"all Poroshenko did in Minsk is a direct betrayal. And they're not that far off. Kyiv can't implement the Minsk agreements, because then it will basically create a confederative Ukraine with an independent Donbas, which recognizes the sovereignty of the powers in Kyiv only formally,"* wrote<sup>20</sup> Rostislav Ishchenko on 16 July 2015. *"It's clear that the other regions will demand similar rights,"* he continued. *"Implementing the*

*Minsk agreements means destroying the Ukrainian state [...], turning it into a conglomerate of weakly connected autonomous lands..."*

Whatever the goal of these statements, addressed to Russian audiences, they do appear to be a rather blunt revelation of Russia's goals for the Minsk process, back in 2015. Now, in 2019, it appears that President Zelenskyy is either oblivious to those goals or hopes that they can be changed after he personally talks to Putin at a meeting in the Normandy format, which last took place in 2016. However, the chronology of initiatives to resolve the Russian-Ukrainian war we have studied here leave little room for doubt that Minsk-2 is a trap for Ukraine, and Russia's only goal is to destroy Ukraine from within using its ticking time bomb, the puppet "LDNR" which it aims to legalize as an autonomy.

Today, Poroshenko's relatively innocuous amendments to the Constitution are off the table. As well, Zelenskyy has announced that a new law on the Special Status of Donbas will be drafted. This means Ukraine enters a zone of turbulence equal to that of 2015. It would be prudent for Zelenskyy's administration to draw conclusions from the previous efforts to establish peace, and the hidden goals of the Kremlin revealed in Surkov's emails, as well as to abandon illusions that a quick peace with Russia and the "LDNR" are possible without a Ukrainian capitulation.

<sup>18</sup> "Ukraine should not fear federalization — Lavrov" Tass 26.09.2019 <https://tass.com/world/1079904>

<sup>19</sup> Pavel Dulman, "Tol'ko osobyj status. Donbassu ne nuzhen "osobyj porjadok mestnogo samoupravlenija" ot Poroshenko" (in Russian; "Only a special status; Donbas doesn't need a "special self-governance regime" from Poroshenko") *Rossiyskaya Gazeta*, 16.07.2015, <https://rg.ru/2015/07/16/donbass-poln.html>

<sup>20</sup> Rostislav Ishchenko "Shpagat Poroshenko" (in Russian; "Poroshenko's split") *Kont* 16.07.2015 <https://cont.ws/@ishchenko/101695>