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## **'Paramilitary motivation in Ukraine: beyond integration and abolition'**

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### **Abstract**

A common theme in historical and contemporary warfare is the role of militias. Militias, both pro-government and rebel, act beyond their sponsors or else they would be understood as part of the armies that go to war. We think of militias as being paramilitaries, para- meaning approximate but not collocated with the military. Paramilitaries are ordinarily recruited and resourced differently. They are also ordinarily tactically different, playing a role in front line warfare where the intensity may be high, but were the position is fast changing or distributed in local areas. As the conflict literature will show, militias, or paramilitaries, are a common feature of any conflict and thus it is no surprise that we see their use in Ukraine. For the conflict in Ukraine, we use the term paramilitaries to indicate those forces that are fighting at the front line for both the Kyiv government and rebels in Donetsk and Luhansk, with these being considered 'pro-Russian' and even include Russian citizens. Relying on the pro-government militias literature, we show how militias on both sides play an important role in the conflict but also pose the biggest threat to a sustainable peace.

Keywords: Ukraine, paramilitaries, pro-government militias, Donetsk, Lugansk

### **Introduction**

Ukraine fell into war in 2014 with a crisis in Kyiv over an agreement between the government and the European Union (EU), which prompted the Ukrainian President, Victor Yanukovich, to leave (for Russia), leaving a transition government to deal with the Russian seizure, occupation and eventual annexation of the Crimean Peninsula into the Russian Federation. While Crimea remained largely peaceful, events in the Donbas region deteriorated into open warfare, preceded by anti-Russian counter-terrorism policing in Donetsk and Luhansk. The resulting war, still ongoing though slowed at the time of writing, has witnessed a surge in paramilitary activity as both the Ukrainians and the pro-Russian forces use irregular forces to compete for territory in Eastern Ukraine.

The growth of paramilitaries in Ukraine is in itself alarming. Within this context, we ask two research questions. Firstly, 'what are the determinants of paramilitary tactical operations?' Secondly, 'how do these determinants shape the prospect for the resolution of conflict?' There is a rich field of literature that looks at the role of paramilitaries, militias and guerrilla movements. We seek to understand how the paramilitaries see the conflict as an extension of their own personal circumstances rather than a war between Kyiv and Moscow. This is to say that we are primarily looking at paramilitaries on both sides that are not representative of the large Ukrainian or Russian armies. Both armies have a large conscript basis which make up the majority of their soldiery. We sit aside conscripts because we argue that ordinary command and control (C2) functions will prevent them being veto players to resolution initiatives.

This paper explores the role of paramilitaries ('battalions', both pro-Russian and pro-Ukrainian, both voluntary and professional mercenaries; in a broad comparative

perspective) in the Ukrainian conflict. We argue that paramilitary troops have replaced regular armies and instead are performing the traditional operational functions from the beginning of the conflict escalation for reasons we will explore. We note that pro-government paramilitaries in Ukraine were employed without the capacity in the Ukrainian regular army, while pro-Russian troops were employed despite Russian operational capacity. However, later paramilitary troops (on both sides) have become an obstacle for the effective and efficient military operation, while preventing efforts to get rid of them, either to integrate them into regular armed forces or disband them. This article will consider individual and group motivation through examining organizational dynamics, tactics operations, and civilian-military relations. We use principal-agent theory to unpack the relationship between actors and point towards the command and control problems faced on both sides of the conflict.

We look at paramilitaries in Ukraine from a conceptual and then empirical perspective. In the first section, we look at the literature on paramilitaries, which is more recently dominated by research on pro-government militias. We examine here approaches to understand motivation, operation and C2. This section also reviews the literature on the relationship between paramilitaries and conflict resolution. Secondly, we turn to the conflict in Ukraine with two sub-sections on paramilitaries on both side of the conflict. Here, we apply our conceptual framework to the study of paramilitaries operating in Ukraine. Finally, we conclude that paramilitaries on both sides pose the largest obstacle. Altogether, we seek to highlight the role of paramilitaries in contributing to the evolving conflict in Ukraine.

### **Understanding paramilitaries in conflict**

This paper first focuses on the unit of analysis. The notion of militias or paramilitaries leaves a lot of room in terms of being able to identify them from other violent groups in conflict, especially given their relationship with the state or external forces. Understanding what they are, where they start and where they stop, is an important element of the militias literature. In their state of the art article, Jentzsch, Kalyvas and Schubiger (2015) examine the characteristics of what they refer to as 'militias in civil wars'. They note in their introduction that there are numerous ways to speak of these groups: 'militias', 'civil defence forces' and 'paramilitaries'. We use paramilitaries because they are the terms that have been used in relation to the irregular forces in Ukraine in the media and academic literature. Jentzsch et al state suggest that these groups 'operate alongside state security forces or independently of the state, aiming to shield local populations from rebel demands or depredations and seeking to acquire its loyalty or collaboration.' In the Ukrainian case, there are two governments, Kyiv and Moscow, two states Ukraine and Russia as well as two broad sides of pro-Russian and rebel, sometimes referred to as pro-Russian. In relying on the militias in civil war literature, there is the accepted notion that while there may be a relationship between governments and paramilitaries, the latter operate separately even if alongside or independent their sponsors. This has been referred to as the principal-agent theory.

As we state in our introduction, paramilitaries are a regular feature of conflicts and often outlive the conflicts themselves. Relying on the Pro-Government Militias Database (Carey, Mitchell, and Lowe 2013), Jentzsch et al (2015: 757) suggest that paramilitaries come about

in all types of conflicts and come in all sizes. Furthermore, their relations with the principal government and communities they operate in can be variable, from protective to predatory. So, there are little guidelines in terms of frequency, size, and relationship. However, it is in their relationship to the principal unit that brings this literature into our own examination.

Why do paramilitaries arise? They can arise through state-orchestrated or be community-driven. In other words, paramilitaries may be instrumentally established by governments for the reasons we discuss or they can be sponsored following their establishment in a community. What concerns us here is when paramilitaries are aligned along side governments but are not a part of the formal security services. Yet this begs the question of why do governments either establish or align with paramilitary groups. The literature suggests three explanations: resources, combat tactics and issues of accountability.

The first is that paramilitaries can be a feasible and more effective alternative to the regular army, especially in cases of low morale, poor knowledge or substandard training or equipment. In his book, *The Logic of Violence in Civil Wars*, Stathis N. Kalyvas (2006) argues that irregular warfare, that is guerrilla warfare, as opposed to conventional warfare, relies heavily on being able to control a group on the back of community support and local knowledge. In irregular warfare, the territory is used differently than in conventional warfare. The ability to being able to cease and hold land becomes paramount to extending control. Paramilitaries can plan an important role through either their use of specialized violence and/or local knowledge to mobilise support. Such paramilitaries are especially useful in ethnic conflicts or in the face of foreign invaders.

Secondly, paramilitaries can act as force multipliers, allowing for militaries to cover more space and engage more often. The role of the paramilitaries here is to 'increase force numbers, to lower deployment costs with likely information advantages in insurgencies' (Carey, Colaresi, and Mitchell 2015, 851). Christina Eck (2015) refers to this as 'repression by proxy' whereby paramilitaries have the ability to provide irregular warfare with specialized violence while the larger conflict appears to be settling or foreign intervention has made governments wary of further open conflict. The goal here is to use paramilitaries where regular forces would be either unable to operate through a limit in operational capabilities or political opportunities.

The notion of political opportunities and constraints leads to the final approach. Sabine Carey and her colleagues (Carey, Colaresi, and Mitchell 2015) find that paramilitaries are useful when states are either unable to take control or allow a lack of accountability for the sake of perpetrating violence against the international norms of warfare. They argue,

'that governments seek to lower accountability for violence using the militia's organizational separation from regular security forces. This separation increases the problems of delegation. It worsens the information asymmetries concerning the implementation of repression, enabling the government (as principal) to claim it cannot control the militias (as agent)' (2015, 852).

They suggest that governments will often try to use moral authority to sway popular opinion domestically or international support by distancing themselves away from paramilitary

groups. This is not to say that there can be no connection between the government and paramilitary group, but just that there is a generally reasonable explanation why the principal is unable to control the agent. In the Ukrainian context, David J. Galbreath (2015) refers to this as the 'command and control dilemma', whereby there exists a tension between the lack of control to achieve clandestine objectives with the loss of control when paramilitary groups threaten the authority of their principals.

All of these explanations are useful in approaching the Ukrainian case. We can return to them as the resource, tactical and accountability approaches to paramilitaries. The relationship with the principal is variable, whereby state orchestrated paramilitaries can come to fight the government where other groups that have been set up to protect communities against the government can become allied with state security services. The Ukrainian conflict represents this variability between paramilitaries and the principals. For instance, the term 'pro-government' is ill-judged for even those paramilitary groups that are fighting alongside or instead of the Ukrainian regular army. Take for instance the Azov Battalion which has been fighting rebels in the East. They fight 'alongside' (or often in place of) the Ukrainian National Army and are loyal to the cause of keeping Ukraine whole. In as far as their larger relationship with Kyiv is concerned, there is little evidence to indicate that they are pro-regime. They are pro-Ukrainian rather than pro-government which perhaps says more about the use of 'pro-government' as a label in the literature rather than Ukraine being a distinct and different use of paramilitaries or militias.

Finally, in considering the second research question, there has been considerable research on how paramilitary groups affect the duration and termination of the conflict. For instance, Barbara F. Walter (2002) argues that paramilitary groups can prevent reaching a settlement. We can see this for several reasons. The first is that paramilitary groups are rarely part of the peace talks. Seen as agents of the states involved in the conflict, they are often ignored as inconsequential, despite the fact that from Rwanda to Columbia to Pakistan, militias or paramilitaries have shown themselves to be quite violent veto players to any conflict resolution bargaining. Secondly, paramilitary groups are able to use their position as along side but not apart of the government military to gain private rather than common goods. This can mean controlling trade, prospering in illegal trade, organized crime and numerous other activities that thrive in the chaos and confusion of conflict. Thus, an end to conflict means an end to such activities. Finally, there is a possibility that the paramilitaries think that the government has sought to settle in a losing advantage. We can see this in the actions of the remaining Provisional Irish Republican Army (IRA) as well as the Unionist paramilitaries whom have sought to reignite the conflict in Northern Ireland. In this paper, we do not have the ability to foresee how the conflict could be settled given that at the time of writing, there seems to be no active peace process in Ukraine. However, by looking at the distinctions between the paramilitaries and the official government positions, we are able to project the possibilities of disruption paramilitaries may cause to the peace process when it does arrive.

## **Paramilitaries in Ukraine**

The following section looks at the paramilitaries of the Ukraine conflict on both the pro-Ukrainian and the rebel or pro-Russian sides. We rely on the analytical framework that has been synthesized from the pro-government militia literature. This includes looking at the drivers of paramilitary activities from the three explanatory approaches identified in the pro-government militias literature. We first look at the pro-Ukrainian paramilitary battalions, where groups such as the Azov battalion have been fighting a bloody war in Eastern Ukraine with considerable concerns expressed by groups such as Human Rights Watch and the Organisation for the Security and Cooperation in Europe (OSCE) for allegedly violating the international laws of war for the treatment of civilians and prisoners of war. Following this, we look at the rebel or pro-Russian paramilitary battalions such as the Vostok battalion which has been perhaps the most tactically effective force against Ukrainian National Army positions. These sections will allow us to address our two research questions: what are the determinants of paramilitary tactical operations and how do these conditions shape the prospect for the resolution of conflict?

### Ukraine and paramilitary forces

The pro-Ukrainian paramilitary battalions and their role in the armed conflict in Donbas remain the most sensitive and politicized issue in discussion around the Ukrainian crisis. To date, academic publications on this subject are absent due to the lack of reliable information available from open sources and field-research<sup>i</sup>. In several op-eds published, pro-Ukrainian paramilitaries are portrayed as elitist, patriotic, passionate and romantic members of Ukrainian society who are fighting for freedom, democratic values and Ukraine's territorial integrity. However, as further information about paramilitaries became more available through documented events, reports of international human rights organizations, and coverage in European media, Ukrainian public attitudes to irregulars has become increasingly more critical. At the same time, despite the obvious significance of the use of paramilitaries in Ukraine, there is still a lack of a comprehensive comparative study of pro-Russian and pro-Ukrainian fighters which would explain individual motivation and mobilization, in-group dynamics, relations with other actors and the role they play in conflict escalation, not to mention its eventual cessation.

We explore, explain and compare the goals and motivations of pro-Ukrainian and pro-Russian paramilitaries in the framework of their establishment as well as the relations of paramilitaries with (a) regular armed forces; (b) authorities; and (c) local civilian populations. Since volunteer paramilitary battalions have become one of the most influential actors in Ukraine's defence policy, a thorough study of their activity is required to predict the perspectives of conflict escalation/de-escalation as well as to map the future disposition of Ukraine's political landscape.

### *State of the Ukrainian Armed Forces*

In March 2014, the Ukrainian military command lacked a comprehensive strategy of how to oppose the separatist movements and/or to prevent Russia from supporting pro-Russian protests in eastern Ukraine. Russia's rapid annexation of Crimea resulted in Ukrainian authorities in Kyiv becoming completely shocked and demoralized. Perhaps understandably, the newly appointed Ukrainian government preferred to avoid open military confrontation with

Russia, instead appealing to international organizations and countries, which signed the Budapest Memorandum on Security Assurances in 1994, namely the United States and United Kingdom along with a request to influence Russia's return to the rules of international law and facilitate Russia's further respect of the territorial integrity of Ukraine. All along, the foundations of Ukraine's strategy vis-à-vis Russia and pro-Russian rebels in eastern Ukraine rested upon three assumptions:

1. Russia would not intervene into a conflict in eastern Ukraine with its regular armed forces and thus, Kyiv could deal with the pro-Russian separatists alone;
2. The war, defined in terms of the Ukrainian legislation as an 'anti-terror operation', would be short and losses would be minimal;
3. NATO or the USA specifically would intervene to protect Ukraine from any Russian aggression. Likewise, the threat of NATO involvement would deter Russia from a full-scale invasion.

In April 2014, Kyiv accepted the status quo. It evacuated several Ukrainian National Army (UNA) battalions from the annexed Crimea to other parts of Ukraine and sent troops belonging to the Ministry of Internal Affairs to suppress pro-Russian protests in Eastern Ukraine (*Decree of the President of Ukraine, 14 April 2014*). When the Russian 'vacationers'<sup>ii</sup> entered Ukraine in mid-August 2014, Kyiv shifted gear in its reaction. Kyiv's current politico-military strategy is built on realistic assumptions about the impossibility of winning a war against regular Russian troops, but also it excludes any compromise on the status of occupied territories and the federalization of Ukraine (which has been at the core of the rebel claims). Kyiv has separated war-affected territories from those controlled by the Ukrainian state through economic and transport blockades (*Decree of the President of Ukraine, 14 November 2014*) and also by building fortifications along the Russia-Ukraine border and administrative borders of Donetsk and Luhansk (*Press-service of the Ministry of Defence of Ukraine, 2015*). At the time of writing, Kyiv's main task has been to minimise Russia's influence throughout Ukraine.

In fact, the Minsk-I and Minsk-2 agreements manifested the capitulation of Ukraine before Russia after a number of crushing military defeats, the first in the Izvarino and Ilovaysk pockets in August 2014 and the seizure of the Donetsk airport by pro-Russian troops in January 2015. Ukraine's low military potential and efficiency led to a dramatic defeat of the UNA on the battlefield.

At the beginning of the armed conflict in Donbas, the Ukrainian army found itself disintegrated, demoralized and unskilled to wage a war with Russian backed rebels. The main reason for the paralysis of the military command at the very point where and when they were most needed was the neglect of successive Ukrainian governments whom have ignored the military. The paralysis was predictable. Firstly, the focus and priorities of military doctrine and the concept of national security of Ukraine, adopted in 2004 and developed by the decision of the Council of National Security and Defence of Ukraine clarifying challenges and threats to national security of Ukraine in 2010, shifted from threats of inter-state armed conflict to intra-state armed conflict (*Decision of the Council of National Security and Defence of Ukraine, 2010*). On the other hand, Ukrainian military doctrines have gradually emphasized the risk of possible civil war rising from tension between different ethnic groups or pro-Western and pro-Russian interests. The increased probability

of an intra-state clash over Ukraine's involvement in an inter-state war justified the allocation of funds in the Ukrainian state budget towards branches responsible for domestic security and policy on the one hand (for example, Ministry of Internal Affairs, the Security Service of Ukraine and the prosecutor's office) as opposed to the army on the other hand (*Tyzhden, 2012*). The structure of branches responsible for domestic security expanded, becoming ever more resourced. The Ministry of Internal Affairs has had under its command a small army of about 30,000 troops (the so-called Internal Army; in March 2014 it was re-named as the National Guard of Ukraine) and several specialised forces, including the 'Berkut' anti-riot police of 4,000 troops. Compared to spending for the Ukrainian army, public spending for the so-called internal army and specialised troops was generous (*Tyzhden, 2012*). Internal forces were sufficiently equipped, trained and paid. The Strategy of National Security for Ukraine and the Military Doctrine adopted in 2012 (*Decree of the President of Ukraine, 08 June 2012*) cemented the neutral status of Ukraine, declared its defence policy as 'self-restrained' and 'moderate' and confirmed cooperation with Russia in the areas of military intelligence, exchange of secret information, military transportation and production.

In the same context, for many years, the Ukrainian armed forces remained unreformed. The troops and sub-units were frequently dismissed from the top and the bottom due to budget cuts, low salaries and the lack of career progression. As a result, the degraded Ukrainian armed forces could not attract highly educated and active individuals. In addition to the loss of personnel, the Ukrainian command spoiled the rich technological heritage of the Soviet armed forces (a broad range of weapons, military equipment and technologies). For instance, funding for military research and development (R&D) was either miserable and increasingly absent altogether.

One can assess the state of affairs in the Ukrainian army before the conflict in eastern Ukraine by looking at the data in the official '2012 White Book' and '2013 White Book' published by the Ukrainian Ministry of Defence where only 15% of 150,000 troops were deemed battle-worthy (*Ministry of Defence of Ukraine, White Book, 2012, 2013*).<sup>iii</sup> In the 2010-2013 defence budget, the spending remained about 1-1.1% of GDP (18,8 billion hryvnia or 2.35 billion USD). By 2013, the structure of defence spending in 2013 was as follows: 1.52 billion USD was spent for wages and social benefits for soldiers and officers while 0.1 billion USD was spent for training and 0.22 billion USD spent for the supply and modernization of weapons. In 2015, the defence spending increased approximately 1 billion USD and constituted about 4.6% of GDP, taking into account the narrowing incomes of the Ukrainian budget. In the 2015 defence budget, military spending was approximately 86 billion hryvnia or 3.44 billion USD. Insufficient defence expenditures and the high level of corruption did not encourage a battle-worthy Ukrainian armed forces. According to SIPRI, almost half of the actual defence expenditures was used for military pensions and lost as a result of corruption. Perhaps unsurprisingly, corruption in the UNA has increased in the course of the armed conflict. Practices of corruption include the procurement of substandard equipment at inflated prices in return for kickbacks, the selling-off at reduced prices of equipment and land to benefit individual senior officers, and a lack of funding reaching front-line troops, such that conscripts are frequently forced to purchase their own equipment (*SIPRI, 2015*).



Besides corruption, the asset and logistical support of the Ukrainian armed forces remains the most problematic issue. According to the 2012 White Book, 53.3% of weapons of the Ukrainian army have been used for more than 25 years, 38.7% - between 20 and 25 years, 5% - between 15 and 20 years, 1.8% - between 10 and 15 years, 1.2% - less than 10 years. The Ukrainian armed forces were dramatically underequipped before the armed conflict, since more than 92% of all weapons were out-of-date and had questionable functionality with such weapons that were designed in the 1960s, produced in the 1970s and 1980s (*Ministry of Defence of Ukraine, '2012 White Book'*). There have been many well documented cases when equipment has not functioned in the course of fighting that have led to losses in battle. A significant number of weapons were destroyed in Ilovaysk and Debaltsevo or left on the battlefield. According to an official report of the parliamentary commission, in the so-called Ilovaysk 'pocket', the UNA lost its most battle-hardened brigades and about 30% of all tanks, 74% of all troop carriers, 93% of all howitzers, 60% of all self-propelled artillery vehicles and 67% of multiple rocket systems (*Report of Parliamentary Investigative Commission on Ilovaysk, 2014*).

During the military campaign of 2014-2015, the failure of the Ukrainian armed forces manifested itself at all levels of command and operations. At the higher level of command, the Ukrainian senior officers have shown pessimism regarding Ukraine's potential in waging a full-fledged war against Russia. The activity of the Ministry of Defence and Headquarters is subject to political speculation and competition between major political parties. In the end, commanding officers are frequently rotated, blamed for corruption, and even espionage and cooperation with the Russian Federation. At the level of middle and younger officers, there were reported many cases of cowardice and betrayal during the campaign of 2014- and 2015 (*The Independent, 2015*).<sup>iv</sup> Yet, in the course of the war, senior officers have been shaping the critical core of the future UNA. The level of sergeants – vital for effective military operations – appeared to have been degraded due to a mass removal of sergeant troops from the army under previous governments. According to the 2012 White Book, in 2010-2012 about 4-6,000 sergeants left the service. However, in the course of the war, the demand of the UNA for sergeants along with its demand for middle and junior officers was fulfilled by mobilizing individual combat soldiers. Finally, the bottom level – the soldiery – is the weakest chain in the structure of the Ukrainian army, since this level consists of civilian men on the principle of general obligatory conscription for a one-year term. According to this principle, the soldiery is subject to permanent rotation. Although the necessity of the creation of the professional Ukrainian armed forces has been emphasized in every military doctrine of Ukraine, the lack of political will and funding postponed such reforms. The low professionalism of the Ukrainian army, insufficient knowledge and experience, particularly for waging contemporary hybrid war<sup>v</sup>, was the most convincing argument in favour of the establishment of paramilitary troops.

#### *Ukrainian paramilitary groups*

The Ukrainian joint command accounts for 37 paramilitary battalions subordinated either to the Ukrainian Ministry of Defence or Ministry of Internal Affairs<sup>vi</sup>. In fact, only nine of 37 battalions identified as the paramilitary troops were recruited on a voluntary basis. The principle of compulsory conscription was employed for the formation of the other 28 battalions. According to the Ukrainian legislation, if the state of war is formally declared,

local civilians should be mobilised into ‘battalions of territorial self-defence’ located in their own cities in order to assist local police in protecting strategic infrastructure from ‘terrorist attacks’. However, although the Kyiv government has not formally declared a state of war, individuals from different parts of Ukraine have been mobilised for service in ‘battalions of territorial self-defence’ in their home cities and have been sent to the eastern front. The mobilisation of the other nine volunteer battalions was conducted either from the bottom (as a collective initiative of the Euromaidan – a number of so-called ‘*Euromaidan sotnia*’ were transformed into a volunteer battalion) or from the top such as the battalions who were established under the patronage of individual representatives of the new ruling elite (so-called oligarchs).

From the very beginning the pro-Ukrainian paramilitary troops appeared as a patch-work map with each battalion having their own history, approach to recruitment, sources of funding and relations with the Ukrainian central command. We rely on the criteria of social status, individual and group motivation and their particular approach to mobilisation to distinguish between different groups of the pro-Ukrainian paramilitaries in the eastern Ukrainian front.

The first group is composed of regular police troops or retired policemen. Similar to the same category of pro-Russian paramilitaries, the representatives of police forces are the most professional in waging military operations or implementing police functions, given that Yanukovich’s government was generous with funding the Ukrainian police and specialized troops expecting a future breakdown in social order. The different approaches to the mobilisation of policemen and ex-policemen to paramilitary battalions have determined the forms of their engagement in the conflict. For instance, the troops organized from policemen-cum-volunteers are subordinate to the Ministry of Internal Affairs and thus have a clear legal framework for their activity. These battalions are mostly involved in police missions on and around borders and blockades. On the other hand, volunteer battalions formed by ex-policemen funded by oligarchs perform as private armies. These battalions rarely participate in the military operations or if they participate, they refuse to follow the general command order, subordinated only to the battalion’s commander.<sup>vii</sup>

Volunteer battalions recruited from the Euromaidan activists compose the second group of paramilitaries<sup>viii</sup>. Paramilitaries belonging to this group declare themselves as pro-Ukrainian nationalists. They usually use ideologically driven rhetoric in explanation of their motivation and mobilisation. The activities of pro-Ukrainian nationalistic battalions (for example, ‘Azov’, ‘Aydar’ and ‘Right Sector’) are well covered by the mass-media mostly due to their use of neo-Nazi rhetoric and as a part of discussion whether Ukrainian forces employ ethnic cleansing toward Russians and Russian-speaking Ukrainians. Leaving aside obviously neo-Nazi slogans and symbolism, their real activity on the eastern front as well as their relations with the Ukrainian government, civilians and sponsors does not stand out from the activity of other pro-Ukrainian battalions. Finally, guerrilla troops (e.g. ‘*Ravliki*’) engaged in diversionary activities on the occupied territory of Donbas.<sup>ix</sup> Policemen and ex-policemen compose the core of almost all voluntary paramilitary battalions whose activities have been sustainable over a long period of time. We explore two important aspects related to the participation of pro-Ukrainian paramilitaries in the armed conflict in eastern Ukraine: (a) legislation regulating the armed conflict in general and activity of paramilitaries in

particular, (b) sources and mechanisms for funding and supplies of weapons and ammunition for paramilitary battalions.

#### *Government-Paramilitary relations*

As soon as the Ukrainian government started the military operation in Donbas, it was critically required to establish adequate legislation to support the decisions and actions of the main units (the regular army, police, special troops and paramilitaries) as well as to guarantee the rights of the civilian population and to avoid potential war crimes. However, the resulting Ukrainian legislation on the subject of the armed conflict in eastern Ukraine is rather confusing. On 14 April 2014 the acting president of Ukraine Oleksandr Turchynov signed a decree authorising the commencement of anti-terror operations (ATO) in eastern Ukraine (*Decree of the President of Ukraine, 14 April 2014*), still in force at the time of writing)<sup>x</sup>. According to Ukrainian law the ATO is carried out by Ministry of Internal Affairs and the Security Service of Ukraine. Technically, the armed forces cannot be involved.

Yet, after the conflict escalated in mid-August 2014 and with the failure of the first Minsk agreement, signed in September 2015, the president of Ukraine Petro Poroshenko isolated the territories defined as 'temporarily outside of the Ukrainian state's control' from other parts of Ukraine and banned any economic relations with the breakaway regions (*Decree of the President of Ukraine, 14 November 2014*). Later, in its resolution the Ukrainian parliament appealed to the United Nations (UN), European Parliament, Council of Europe, North Atlantic Treaty Organisation (NATO), the OSCE and all national parliaments declaring that Ukraine recognizes Russia as a state committed to the military aggression in Ukraine and demanding that all above international organisations and parliaments label Russia a state that committed a military aggression against Ukraine, as well as supports terrorism and terrorist organizations in Ukraine (*Verkhovna Rada, Resolution 129-19, 2015*). However, controversy of this situation consists in the differences between a 'resolution' and a 'law' where a 'resolution' exclusively concerns internal procedures of *Verkhovna Rada* and its communications with the executive branch of government. Therefore, there currently stands no Ukrainian law which declares Russia as a state committed to the military aggression against Ukraine. Moreover, Kyiv still has not ratified the Rome statute of the International Criminal Court which would allow the Court to employ international mechanisms to investigate war crimes in Donbas<sup>xi</sup>. Finally, on 17 March 2015, parliament issued a resolution on the 'temporarily occupied territories' (*Verkhovna Rada, Resolution 254-19, 2015*). This resolution, nevertheless, did not identify any state as a military occupier and does not clarify relations between Kyiv and the 'occupied territories'.

How to explain the legal uncertainty? Firstly, the Ukrainian state is acting from a weak position. Unable to openly go to war with Russia and unable to encourage the EU and NATO to do more to protect its territorial integrity. Secondly, and paradoxically, the Ukrainian government does not want to disrupt economic relations with Russia due to its high dependence on Russian markets and energy supply. Thirdly, hybrid warfare would require innovative changes in the law on armed conflict for which the Ukrainian military community has not been prepared<sup>xii</sup>. Finally, Ukrainian elites, seen by some as undemocratic and corrupt, may seek 'to find fish in troubled waters' in the conflict since war has increased the share of the shadow economy and increased corruption around both military supplies and trade with the 'occupied territories'.

Until Minsk-2 and to a certain extent after, the Ukrainian state (the only such recognized in the conflict) has been waging war beyond the rule of law, with systemic and massive violations of the Ukrainian Constitution, international humanitarian law and human rights law. The most significant violations concern the activity of paramilitary battalions<sup>xiii</sup>. We can find explanations of the disregard to the legal aspects of war with the involvement of paramilitaries in a set of motives. On the first stage of the escalating conflict (before the invasion of Russian ‘vacationers’) the dominating motive was aspiration to end the war quickly combined with a wide-spread belief about the impossibility to win the war against Russia if restricted by law. This aspiration to win the war quickly (the Ukrainian government planned to end the campaign against separatists by the end of September 2014) with minimal reputational losses justified informal support for pro-Ukrainian paramilitaries. The formal involvement of the armed forces and identification of the conflict as civil war would undermine fragile legitimacy of the new government, because the rotation of the ruling elites as a result of Euromaidan was very questionable from the perspective of Ukrainian law. The role of suppressing pro-Russian and anti-Maidan protests in eastern Ukraine was delegated to paramilitary troops.

The Ukrainian government supported the paramilitary battalions informally, but remained distanced from their activity formally. With such a policy the government has created a space for manoeuvre in relation to paramilitaries: the state could encourage the battalions, but it could also punish them for war crimes. For a long time, pro-Ukrainian paramilitary troops did not have the official status of combatants. On the other hand, the bureaucratic organisations of the Ministry of Defence and Military Headquarters requested the appropriate development of a legal framework for any operation or action, creating the way for obstacles to conduct operations as at war. Perhaps most importantly, we argue that the legal uncertainty and contradiction between formal and informal policy toward paramilitaries has created foundations for the future conflict between the Ukrainian government and battalions.

There are four major sources for funding of pro-Ukrainian paramilitary battalions: the state budget of Ukraine, non-governmental organizations, private donations and funding from oligarchs. Oligarch Igor Kolomoysky is the most generous in funding of the paramilitaries.<sup>xiv</sup> Paramilitary battalions with stable sources of funding (such as Kolomoysky) demonstrate higher sustainability in recruitment and retainment as well as operational effectiveness. However, their readiness to fight is equal to their support for his business interests. The popularity of some paramilitary brands leads to copy-cats groups. For instance, many armed groups in the different parts of Ukraine operate with the name of ‘Right Sector’ or ‘Donbas’, though not being associated with the leadership of the battalions in any way.

As it was mentioned earlier, the direct involvement of paramilitary battalions into any kind of armed conflict is forbidden according to Ukrainian legislation. Yet, the functions of paramilitaries have grown to patrolling and protection of the civilian and military infrastructure, passport control, goods and transport control as well as control of the transfer of civilians in the zone of anti-terror operation. Initially, the Ukrainian command considered pro-Ukrainian paramilitaries (battalions of territorial self-defence) as units, assisting the UNA. For instance, paramilitaries would have to execute the police functions

and conduct special operations against small groups of pro-Russian rebels in cities of Donbas. However, the battalions of territorial self-defence were directly involved in the military operations side by side with the UNA. During the active military campaigns from June to August 2014, pro-Ukrainian paramilitary battalions were frequently attacked by pro-Russian paramilitaries. Poorly equipped and trained pro-Ukrainian paramilitaries suffered significant losses particularly in the Ilovaysk pocket in the end of August 2014. In September 2014, upon their request, paramilitary battalions received more substantial military equipment, such as tanks and heavy artillery. Then, the battalions were subordinated to the Ukrainian command formally, but the majority of them still rely on their own sources of funding and with it, commanders. Undoubtedly, the arming of the paramilitary battalions with tanks and artillery without strong subordination to the Ukrainian command contributed to strengthening the battalions' position in competition for political power and resources with Ukrainian civic-military administrations in Donbas and the central government in Kyiv. Pro-Ukrainian paramilitary battalions have been constantly involved in local fighting with troops of the regular UNA<sup>xv</sup>. The relatively calm situation on the eastern front after Minsk-I and Minsk-2 re-focused attention of the paramilitaries and regular army from fighting against an external enemy to competition for power and resources with each other.

The conflict between pro-Ukrainian paramilitary troops and the government is preconditioned by the decreasing capacity of the Ukrainian state where predatory groups with the participation of both government officials and paramilitaries compete for political power and economic resources. Despite the sporadic clashes between government forces and paramilitaries that occur across Ukraine, the most violent conflicts take place in the zone of anti-terror operations where the concentration of UNA is higher, but state institutions are weaker.

The conflict between the Kyiv government on the Ukraine-controlled territories of Donbas and pro-Ukrainian paramilitary troops located in the zone of anti-terror operation turned into open phase after the establishment of Ukrainian civic-military administrations (*Law of Ukraine 'On civic-military administrations, 2015*) as a part of a new approach to anti-terror operations under the command of the Security Service of Ukraine and the appointment of influential Ukrainian politicians in the positions of local governors in Donetsk and Luhansk *oblasts*. In mid-March 2015, the president of Ukraine Petro Poroshenko called to all pro-Ukrainian paramilitary troops waging war in Eastern Ukraine to disarm and subordinate either to the Ministry of Defence of Ukraine or to the Ministry of Internal Affairs. In May 2015 Poroshenko signed Decree 341/2015 which was directed towards overcoming and preventing the criminal activity of the Ukrainian armed forces and pro-Ukrainian paramilitaries (*Decree of the President of Ukraine No. 341.2015*)<sup>xvi</sup>. At the same time, the heads of civic-military administrations of Donetsk and Luhansk oblasts submitted reports to the President of Ukraine about criminal activities in which pro-Ukrainian militaries were engaged in the zone of anti-terror operations.<sup>xvii</sup> International human rights organizations (in particular, Human Rights Watch and Amnesty International) emphasized the wide-spread crimes conducted by pro-Ukrainian militia against civilians and their property in Eastern Ukraine. The heads of civic-military administrations in their reports considered about 20% of their troops to be involved in criminal activity in the zone of anti-terror operations and other parts of Ukraine. Since March 2015 the military prosecutor of Ukraine has opened a number

of criminal cases against members of the paramilitary battalions, such as 'Aydar', 'Dnipro-1', 'Tornado', 'Right Sector' and guerrilla troops 'Ravliki'.<sup>xviii</sup> In response, the paramilitary battalions conducted a wide range of action against the government starting from peaceful protests, leading to violent action, to eventually open local fighting with UNA forces and assassinations of Ukrainian politicians, such as the murder of Oleg Kalashnikov in April, 2015, which was claimed by a Ukrainian ultra-nationalist group.

As far as visible the reasons for clashes can be found in the competition between battalions and public officials for access to the markets of illegal trade and smuggling, the root causes of conflict are grounded in the weak and criminalized Ukrainian state. Against decreasing public trust to major political leaders and parties in Ukraine, public trust in paramilitaries remains high. Confrontation between the ruling elites and paramilitaries supported by public opinion makes the weak Ukrainian state seem even weaker in the course of the absence of democratic reforms and the ongoing conflict in Eastern Ukraine.

While the war in Ukraine continues at the time of writing, the UNA and paramilitaries are actively engaged in combat operations in Eastern Ukraine. The principal-agent relationship is already troubled by the lack of command and control in the battle space in the zone of anti-terror operations. At the same time, the war on the ground continues to rage between pro-Ukrainian and pro-Russian forces.

### **Pro-Russian paramilitary battalions**

The aim of Russia's involvement in the current Ukrainian crisis is traditional for its geopolitics on the post-soviet area - it is the export of a political regime which could guarantee a predictable and managed Ukraine. The means used to realise this aim are similarly traditional: Russia employs a set of different tools in order to destabilise the socio-economic and political situation within Ukraine in order to weaken the current pro-Western government and eventually substitute the current elite with a more pro-Russian one. Russia uses destabilisation instrumentally in order to avoid what it sees as unfriendly stability (a stable pro-Western political regime) and to achieve friendly stability (a stable pro-Russian regime). The core element of Russia's tactics of destabilization is the encouragement of the Eastern Ukrainian elites and population to resist the new government appointed in Kyiv after the victory of the Euromaidan. As the conflict escalated, the means have evolved from support of peaceful pro-Russian protests in Donetsk, Lugansk, Kharkov and Odessa through to support for violent protests and low-intensity conflict to full-scale war with the employment of tanks and heavy artillery.

In this article, we argue that failure of the implementation of three agreements ((a) the agreement issued on 21 February 2014 between then Ukrainian president, Viktor Yanukovich and three leaders of the parliamentary opposition – Vitaliy Klichko, Oleh Tyahnybok, and Arsenij Yatseniuk – witnessed by the foreign ministers of France, Poland and Germany; (b) the Geneva statement issued on 17 April 2014; (c) the Minsk-1 agreement issued on 5 September 2014) mark each change in Russia's tactics of destabilisation. What is clear is that each failed implementation went hand-in-hand with an escalation of destabilisation efforts. Within Russia's tactics of destabilisation, we can see the employment of agents (paramilitaries) to play a key role.

In February-March 2014, after the victory of the Euromaidan revolution and the flight of Viktor Yanukovych and his government from Ukraine, the socio-political situation in Donetsk and Luhansk oblasts favoured the appearance of new political actors, such as the volunteer militia or paramilitary troops acting against the newly appointed government in Kyiv which the majority of local residents considered as illegitimate<sup>xix</sup>.

One can find different groups of anti-Kyiv and/or pro-Russian paramilitaries that have been engaging in armed conflict in Donbas. Their role and leadership in the management of conflict escalation have evolved as well. The first stage of conflict escalation refers to spontaneous or organized mass protests in Donetsk, Odessa, Kharkiv, Dnipropetrovsk, Kherson and Lugansk in the framework of the 'anti-Maidan' campaign. In different parts of Ukraine local clashes and conflicts between Kyiv and local elites were settled in varying ways. In some cases, powerful local oligarchs immediately supported the new government and suppressed the mass protests (Dnipropetrovsk). In other cases, the local and Kyiv elites came to a local political agreement. Two eastern Ukrainian regions (Lugansk and Donetsk – the Donbas) constituted an exception to the rule.

In order to get more resource and power from Kyiv, the local elites amplified fears of ethnic Russians and Russian-speaking Ukrainians for blackmailing the new ruling elite in Kyiv by the possible separation of Eastern Ukrainian provinces<sup>xx</sup>. In Donetsk, the wealthiest city of Ukraine after Kyiv, competition for the business heritage of Yanukovych's clan involved private armies of major Ukrainian oligarchs. In turn, Yanukovych mobilized his own private armies (battalions) for the protection of his property. The first local paramilitary battalions, namely 'Vostok' and 'Oplot' which later constituted the base for the armed forces of the proclaimed Donetsk People's Republic, engaged members and ex-members of the special troops from the Security Service of Ukraine ('Vostok') and policemen ('Oplot') as well as veterans of the Soviet-Afghan War. From the end of February 2014 and until the entrance of Strelkov's troops in Donetsk on July 5, 2014, 'Vostok' and 'Oplot' together with representatives of the local Ukrainian authorities kept order in the Donetsk oblast, but they also guarded property of local oligarchs from attacks of competing oligarchs and organised criminal groups<sup>xxi</sup>. Moreover, representatives of the former anti-riot police 'Berkut', local militia, and special anti-terror forces (integrated in some way into Yanukovych's business family) aided and stimulated the anti-Kyiv and pro-Russian protesters. The second stage of the conflict refers to the invasion by Russian mercenaries in April and May 2014. A group of Russian mercenaries under command of Igor Girkin (aka Strelkov) and Russian paramilitaries ('Cossacks') crossed the Russia-Ukraine border and seized power in Lugansk and cities of the North-Eastern part of Donetsk oblast (Slavyansk, Kramatorsk and others)<sup>xxii</sup>. Strelkov implemented the tactics of destabilisation through 'nomadic' occupation, repeatedly occupying spaces for short periods of time. Having been based in Slavyansk, Strelkov committed assaults on Ukrainian battalions. His troops destroyed the military and civilian infrastructure in nearby cities. They killed a number of local pro-Ukrainian activists and authorities and brought disorder to the surrounding territories. The tactics of 'creeping' occupation (gradually occupying new territories) was implemented since June 2014 when joint rebel and mercenary troops aimed to get control over the Russia-Ukraine border. 'Nomadic' and 'creeping' occupation punished Kyiv for the failed agreements and left open the possibility of a quick de-escalation towards a more favourable overall settlement.

Finally, the third stage of the conflict was the 'consolidating' occupation with the purpose to shape territories before negotiation about their future status. This consolidating started with Russia's invasion by 'vacationers' in mid-August 2014. The Russian 'vacationers' crossed the Russia-Ukraine border and defeated the Ukrainian forces in several pockets that sought to compel Kyiv to negotiate with representatives of Donetsk People's Republic and Lugansk People's Republic (Minsk-1). Due to the change in Russia's tactics for destabilisation in Ukraine from 'nomadic' and 'creeping' to a 'consolidating' occupation of Donbas, the uncoordinated troops of paramilitaries as a means of destabilisation lost their value to rebel and Russian command. Moreover, pro-Russian paramilitaries have become an obstacle to the consolidating of power in rebel held areas.

### *Pro-Russian paramilitaries*

Field-research we carried out in the zone of armed conflict in Donbas<sup>xxiii</sup> identifies first, two types of directions of the protest attitudes: anti-government or anti-Maidan protests (support for Viktor Yanukovich and his government and refusal to accept the Euromaidan revolution) and pro-Russian protests (support for 'Crimean scenario' of the annexation to Russia). In some cases these intentions coincide and opposed in other cases. In most cases the majority of battalions were established as anti-Maidan movements or private armies (with exception of Cossacks which from the very beginning were integrated with the Cossacks militia located on the territory of Russia), but due to the course of conflict escalation, they have evolved into pro-Russian battalions and later, into 'regular' armed forces of Donetsk and Lugansk People's Republics<sup>xxiv</sup>. Two main factors supported such evolution. First, in Donbas neither side wanted to compromise, producing an underlying stalemate to the conflict. As a result, paramilitaries were gradually involved in violent actions against pro-Ukrainian paramilitaries or armed forces that made backward movement difficult if impossible. Second, both traditional and social medias have contributed to the mythologizing of war as personal victories, losses and trauma.

In an interview with Pavel Gubarev, the so-called People's Governor of Donetsk, who was the key leader of rebels in Donetsk in the spring and fall of 2014 clearly illustrates this shift. Gubarev claims that he and his fellow activists initially wanted to negotiate with Kyiv: 'We wanted the new government to ensure the rights of the Russian-speaking population and to consider an autonomous status for the Donbas area. However, we never saw any desire of the Ukrainian authorities to find a compromise'. And later he saw no room for any negotiation or compromise: 'How will I explain to the families who have lost loved ones in the fighting what they died for if we negotiate with Kyiv? For fiscal federalism and the return of the oligarchs?' Alongside increasing support from Russia, including the transfer of weapons to the rebel-controlled territory, all paramilitary battalions were gradually engaged in war against pro-Ukrainian forces and they declared their pro-Russian status and goals to achieve independence of the People's Republics from Ukraine.

There is an illustration of the evolution of local elite support for pro-Russian paramilitaries in the changes of the composition and qualification of the 'governments' of the self-declared republics. In Donetsk, the very first government established in May 2014 employed representatives of the local Ukrainian elites and qualified professionals who joined the local 'government' with the intention to negotiate an autonomy status for Donbas with Kyiv. This



group of ministers was motivated by the possibility to affect the reforms for future prosperity of Donbas and remove oligarchs from the political agenda. Along with Russia's involvement into the conflict in Donbas, 'ministers' oriented towards a consensus with Kyiv. The next generation of 'ministers' of the self-declared republics were mostly representatives of the marginalised groups, heavily involved in criminal activity on the occupied territories. For instance, the first 'minister of education' of the Donetsk People's Republic (later arrested by the 'Ministry of State Security of Donetsk People's Republic') in his interview explained his motivation and attitude to both Russia and Ukraine:

'As a rule, none of us wanted separation from Ukraine when we started protesting and decided to join the government. We did not believe that the newly appointed government in Kyiv was able to conduct reforms and protect the interests of Donbas. That is why we wanted to distance from their destructive policy through autonomy. However, our wish to cooperate with the government in Kyiv was decreasing together with increasing intensity of the shelling...The saddest part that neither side (neither Russia, nor Kyiv) is interested in Donbas. Everyone uses us as leverage to achieve interests of higher priority. We are a victim that every side may sacrifice'.

In Donbas, local economic and political elites, the middle class, and intelligentsia left Donetsk and Lugansk directly after the invasion of Strelkov's troops and evident changes in the leadership (some local elites leaving for Russia) and character of conflict with Kyiv. In order to compensate the flight of the elite and professionals from Donbas, Russia increased its presence in all institutions of the self-declared republics: Russian advisors coordinate/control all local authorities and functions from police to social security. As a result, the political regime in Donbas lost its indigenous capacity and legitimacy. In order to keep its rule on the occupied territories, the government of self-proclaimed republics limited rights and freedoms of the local population. Fears increased with the establishment of the Ministry of State Security (analogy to KGB) as well as the death penalty for crimes without the establishment of fair judicial system.

According to their socio-demographic characteristics, motivation, ways of mobilization and behaviour in the war we can distinguish three different groups of pro-Russian paramilitaries. The first group consists of former members of the Ukrainian police forces, special troops belonging to the Security Service of Ukraine as well as parts of the UNA which refused to accept the victory of the Euromaidan revolution and to swear to the new government. According to declarations of the Minister of Internal Affairs of Ukraine Arsen Avakov, this group may potentially account for about 4,000 members of the former anti-riot police 'Berkut' which was disbanded by a government decree and about 17,000 former police troops, fired for their 'breach of oath to the Ukrainian state' by the newly appointed Minister of Internal Affairs in the spring 2014 (Khvylya, 2014). In addition, retired officers, veterans of the Soviet and Ukrainian armed forces and police joined battalions in Donetsk and Lugansk. Undoubtedly, this group of paramilitaries is the most numerous, professional and experienced. The second group consists of military mercenaries (as a rule, Russian citizens) who hold a contract for military services and have experience of fighting in the Northern Caucasus. Paramilitaries whom we refer to in this group ordinarily have signed

contracts for both short-term or long-term special operations and for service in the army of Donetsk and Lugansk People's Republics. Local civilian residents of Donetsk and Lugansk from different ages and professions who joined pro-Russian armed battalions were motivated for socio-economic reasons, such as the lack of alternative possibilities for employment due to the profound economic crisis and decrease in production of the main industries located in Donbas. This group composes the third group of paramilitaries. The majority of representatives of this group are employed for support and police operations.

Socio-economic factors play a significant role in the motives of the pro-Russian paramilitaries. Ex-policemen were motivated by fear of losing their somewhat profitable (in many cases illegal) business in Donetsk and Lugansk due to changes in the political elite in Kyiv after the Euromaidan revolution. Russian mercenaries were motivated by the salaries and other related benefits, which in many cases resulted from their criminal activity in the zone of armed conflict. Local civilian residents were motivated by the lack of alternative opportunities due to the specific socio-demographic characteristics of this group, in particular, poor education, poverty, and unemployment. The expectation of 'the Crimean scenario' (i.e. the annexation of the Donbas by Russia) that would secure the position of pro-Russian fighters was common for all groups. Importantly and not to be discounted is a further motive for participation in the paramilitaries. Namely, the Euromaidan revolution and the resulting pro-Russian protests in eastern Ukraine and flight of elites created new opportunities for social mobility, including formerly socially excluded groups. The empowerment of representatives of such groups to government under the conditions of anarchy contains the risk of both further radicalising paramilitaries. Socially excluded groups whom have little to lose support the most radical ideas and employ the most radical methods. They represent the paramilitary groups most at odds with the pro-Russian rebel central command.

The different groups of pro-Russian paramilitaries employ different approaches to mobilising battalions. For instance, the group of ex-policemen is relatively closed to outsiders. Most often, the process of mobilisation is through personal connections and informal professional networks. The mobilisation of representatives of the third group (civilians) is through open calls and advertising in the mass media and public space in Donetsk and Lugansk. And, finally, there are several ways through which Russian mercenaries have arrived in Donbas: patriotic organizations in Russia, associations of veterans of the militia, and Afghan and Chechen wars. Potential paramilitary soldiers are trained in special camps on the territory of the Rostov-on-Don region of Russia or Donetsk oblast of Ukraine. As a rule, 'elitist' troops - veterans of the Russian special forces ('spetsnaz') - are sent to Donetsk whereas other mercenaries are sent to Lugansk. One of the Russian mercenaries describes his way to Donbas:

'There is high demand for qualified soldiers – gun layers, spotters, signallers. Others are sent to shooting subunits. There is a consistent shaping of units and military training. The border between Russia and Ukraine looks like a sieve. You may go any direction – nobody asks. Everything is clear. The columns with the military equipment are crossing the border during all the day without any camouflage' (Rosbalt 2014).

Igor Strelkov writes about the motivation and ideology of the pro-Russian irregulars:

‘The irregular army gathers individuals of different opinions, united by a common Russian language and hatred against Ukraine. It is injurious for our common deal to create any common ideology for them’ (Kotich ‘Voennie svodki s Yugo-Zapadnogo Fronta’. Forum-antikvariat.ru. Posted on 1 June 2014).

The invasion of Russian ‘vacationers’ in Donbas in mid-August 2014 demonstrated an important threshold for conflict escalation indicating the changes in Russia’s military tactics from ‘nomadic’ occupation to ‘consolidating’ occupation. Whereas Minsk - I briefly outlined the future status of ‘separate territories of Donetsk and Lugansk oblasts where the Ukrainian state temporarily does not execute its power’, thus, confirming Ukraine’s obligation for their economic, social and political reintegration, Minsk-2 contains more concrete and detailed steps towards reintegration, including a decision about future status of the pro-Russian paramilitary battalions as a local militia subordinated to the government of Donetsk and Lugansk. Therefore, if the first stage of the armed conflict in Donbas ended with Minsk-1, possible attacks and criminal activity of the pro-Russian paramilitaries would be in keeping in line with Russia’s tactics of destabilization by ‘nomadic occupation’. Yet after Minsk-I, the unregulated activities of the pro-Russian paramilitaries became an obstacle for Russia’s efforts to consolidate power on the occupied territories before negotiations about their future status in Minsk in February 2015.

Since the reintegration of post-war Donbas with Ukraine became the core element of Russia’s new tactics, Russia’s intention towards pro-Russian paramilitaries, their role in the war and functions in the self-declared republics has changed accordingly. After Minsk-I, Russian-backed republican governments in Donetsk and Lugansk started the reorganization of uncoordinated paramilitary battalions and smaller troops into regular armed forces and police under a centralized command. Since the Ukrainian side started the integration of pro-Ukrainian paramilitaries into the UNA and police forces, the aim of republican governments was the creation of full-fledged armed forces capable to stand against the Ukrainian army and republican police capable to keep order in Donetsk and Lugansk. Pro-Russian paramilitary battalions were formed predominantly by mercenaries, both Russian and Ukrainian nationals. The republican armed forces have employed predominantly local civilian residents of Donetsk and Luhansk. However, although the processes of reorganization and the integration of pro-Ukrainian and pro-Russian paramilitary battalions into the regular armies have taken place almost simultaneously, one can find a significant difference: the recruitment to the Ukrainian armed forces remains according to the principle of common conscription of civilian men for one year service term. At the same time, the breakaway republican army has been forming as a professional army. Thus, we have a prospective mass army and a prospective professional army. The, martial-political and resource implications are significant.

The reorganization of the pro-Russian paramilitaries into a regular professional army proceeds on three main directions. The first direction is departmentalization – the creation of sub-units under centralized command, professional selection, adaptation and training of soldiers. The second direction is the disbandment and disarmament of paramilitary battalions which refused to be subordinated to the republican government. The

implementation of the previously mentioned objective faced resistance from influential pro-Russian separatists that brought about clashes between Russian 'vacationers' and local warlords in Donetsk and Lugansk. Later, several famous rebel leaders were killed or pushed out from the occupied territories to Russia.<sup>xxv</sup> The third direction covers measures on the legitimization of the political power of self-declared republics through institution building and the encouragement of the local population's tolerant attitudes to rebel leaders. And finally, both Russia and Ukraine employ different measures for the minimization and prevention of the possible destructive impact of paramilitaries on their own territories, including building fortifications along the border with the self-declared republics and severe passport and border control.

The creation of a new professional army on the de-facto border with Ukraine will have important implications both for security of Ukraine and regional security. Joint republican armed forces consist of about 40,000 troops. This army together with police and special Russian troops may be employed as an effective tool for the further destabilization of Ukraine via irregular attacks, a 'creeping' occupation, the export of insurgency and humanitarian problems.

Notably, the principal-agent relations in the Donbas is slightly different to the pro-Ukrainian case. The relationship between the Russian government and the rebels are further apart and the interest of Moscow in terms of disruption and agitation rather than the close political and martial relationship that is apparent in the Kyiv government case. Yet, still there is tension in the principal-agent relationship in the East. Perhaps the biggest challenge for the seemingly more professional paramilitary groups in Donbas is the prospective for disarming or entering under the command of the UNA at a later date.

## **Conclusion**

The two different principal-agent relations in the Ukraine conflict speak to the pro-government militias literature in terms of utility, mobilization and friction. As we illustrated in the first section, the literature indicates that there are three main explanations of the paramilitary role in civil wars. The first is that paramilitaries have local knowledge on which to build a relationship with the local community. The second explanation was the role of paramilitaries as force multipliers. The paramilitaries in our case dominate around the lines of control. For the pro-Ukrainian side, the different types of paramilitaries play varying roles in the conflict in and around UNA units. The pro-Russian paramilitaries, outside of the 'vacationers' make up the bulk of the rebel army with significant military and security force professional expertise.

Finally, the Ukrainian and Russian sides are able to use the paramilitaries to absolve themselves of responsibility for many of the actions carried out in their name, such as the killing of civilians, forced removal and the mistreatment of prisoners of war, all covered under the Geneva Conventions. Furthermore, Russia has sought to use paramilitaries, including the deployment of its own troops on the both sides of the border as a way to provide disinformation into what has been referred to as hybrid warfare. The relationship between Russian government and the rebel paramilitaries is clear and well documented by both Ukrainian and international observers. However, the lack of clarity between the control and command of rebel forces leads to a level of uncertainty about how to deal with

the rebel forces or what to expect from Russia itself going forward. For the pro-Ukrainian paramilitaries, they may prove to both Ukraine's saving grace in the war and its greatest threat to national security in the subsequent peace.

This paper examined paramilitary forces in Ukraine in the context of the pro-government militias literature. The contribution of the paper lies in the analysis of the Ukrainian conflict rather than as lending further validation for a specific explanation of pro-government militias. Our contribution comes in examining how the paramilitaries in Ukraine impact on the war and the prospect for peace. While both Kyiv, Moscow and much of Europe and the surrounding region have a stake in war, paramilitaries are an overlooked unit of analysis for civil wars and their resolution. We argue that being able to understand the contribution of the paramilitaries on both sides of the war in Ukraine is key to understanding the war as a whole.

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<sup>1</sup> Publications about the pro-Ukrainian battalion 'Azov' constitute an exception, but to date, publications mostly focus on discussions about the ideology of the members of this battalion.

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<sup>ii</sup> The term ‘Russian vacationers’ (in Russian – ‘*otpuskniki*’) appeared and became popular after Putin’s explanation of Russian troops on the territory of Ukraine as troops who spend their vacations there.

<sup>iii</sup> In 2012 the Ukrainian armed forces consisted of about 150,000 troops, including about 40,000 civilian employees working for the army and cadets.

<sup>iv</sup> The so-called Ilovaysk pocket is a clear example. Both Russian unofficial and Ukrainian official sources portray the battle over Ilovaysk in very similar way: the main reason for defeat of the Ukrainian joint armed forces was the betrayal of pro-Ukrainian paramilitary battalions who defended the flanks of the Ukrainian joint armed forces (*Sputnik I Pogrom*, 2014; *Zerkalo Nedeli*, 10.10.2014; *Zerkalo Nedeli*, 10.10.2015).

<sup>v</sup> The concept of ‘hybrid’ war re-appeared on the academic and policy agendas after Russia’s annexation of the Crimea. According to one definition, hybrid warfare is: ‘a conflict involving a combination of conventional military forces and irregular (guerrillas, insurgents, and terrorists) which could include both state and non-state actors, aimed at achieving a common political purpose. Irregular forces need not be centrally directed, although in many cases they form part of a coherent strategy used to oppose an invader or occupation force. Hybrid warfare also plays out at all levels of war, from the tactical, to the operational, to the strategic’ (Murray and Mansoor: 3).

<sup>vi</sup> In the first months of the armed conflict, the legal framework for activity of volunteer paramilitary battalions was weak. As a result, the mechanisms of cooperation between the paramilitaries and the regular army were unclear. In September 2014 as a part of the changing governmental policy toward volunteers almost all paramilitary battalions were formally subordinated to the Ministry of Internal Affairs or Ministry of Defence of Ukraine. Together, all paramilitaries compose four different types of battalions, which are fully engaged in the military operations together with the regular army: battalions of territorial self-defence, battalions of special forces, reserve battalions of the National Guard of Ukraine and voluntary corpus ‘The Right Sector’ which has special status and subordinated directly to Headquarter of ‘anti-terror operation’ (*Zerkalo Nedeli*, 29.08.2014). However, most battalions deny any subordination and the command hierarchy informally.

<sup>vii</sup> The Ukrainian command has frequently blamed paramilitary battalions for leaving the battlefield without its permission that led to defeat of the Ukrainian joined forces (the regular army and battalions). For example, battalions of territorial self-defence ‘*Krivbas*’ and ‘*Prikarpatie*’ participated in the battles over Ilovaysk, but they left the battlefield without permission after slashing attacks of the pro-Russian troops. Tens of pro-Ukrainian combatants were killed or taken as prisoners. The Ukrainian command has blamed battalions for desertion. For its turn, battalions reported the Command’s failure to coordinate sub-units, lack of supply of weapons, ammunition, and personnel to the battalion during the fighting (*Zerkalo Nedeli*, 10.10.2015)

<sup>viii</sup> For example, battalions ‘*Aydar*’, ‘*Azov*’, ‘*Volunteer Ukrainian Corp*’, ‘*Volunteer battalion OUN*’, and ‘*Right Sector*’.

<sup>ix</sup> Guerrilla troops ‘*Ravliki*’ is a small group of pro-Ukrainian volunteers, who operate on both rebel and Ukraine controlled territory of Donbas. ‘*Ravliki*’ attacked pro-Russian paramilitaries, arrested civilians whom they suspected in separatism or collaboration with Russia, and captured property on both rebel- and Ukraine-controlled territory of Donbas. In June 2015 the Ukrainian authority accused ‘*Ravliki*’ of attacks on the agricultural firm located on Ukraine-controlled territory. Nine members of ‘*Ravliki*’ were arrested. This case (like the case of Vita Zavyryukha – a female pro-Ukrainian guerrilla fighter, arrested for the murder of a Ukrainian policeman whom she accused of sympathy for Russia) is a manifestation of the gap in the Ukrainian legislation regarding the legal definition of the Ukrainian conflict, including the participation of irregulars and the state of anarchy (*Daily Mail*, 2015), (*Inforesist*, 2015), (*Obozrevatel*, 2015).

<sup>x</sup> Security community discusses three major definitions of the Ukrainian conflict: civil war, Russian military occupation and terrorism. The position of officials in Kyiv on this subject is very confusing. Kyiv has always denied civil war in Donbas, claiming instead for Russian military occupation. At the same time, the adopted Ukrainian legislation defines the conflict as the act of terrorism conducted by self-proclaimed ‘Donetsk People’s Republic’ and ‘Lugansk People’s Republic’. In the Ukrainian legislation ‘anti-terror operation’ presupposes particular set of measures of public policy (for example, precluding the deployment of armed forces). This confusion and unclearness has led to massive violations of international law of armed conflict and human rights both regarding civilians, paramilitaries and soldiers of the regular army.

<sup>xi</sup> In his proposals to the change of the Ukrainian constitution, the president of Ukraine Petro Poroshenko proposes to postpone the ratification of Rome statute for 3 years, in fact to the end of his presidential term (Draft of Law of Ukraine ‘On changes of the Constitution of Ukraine (regarding justice), n 3524 from 25.11.2015)

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<sup>xii</sup> For example, problems of the legal definition of military occupation, in particular, when the occupying state has not announced or confirmed its military occupation directly, are broadly discussed. The international character of occupation and direct rule of the occupying country via military or civilian administrations are set in the norms and laws around territorial integrity and national sovereignty. The legal definitions of territories occupied are problematic, for example, if the occupying state exercises its authority indirectly via proxies. It is even more difficult if the territory is captured by a non-state actor such as paramilitary group or mercenaries.

<sup>xiii</sup> Amnesty International and Human Rights Watch reported a number of war crimes conducted by paramilitaries in the course of the 2014 campaign; for example, 'Ukraine must stop ongoing abuses and war crimes by pro-Ukrainian volunteer forces' (Amnesty International, 2014). In the meantime, the Ukrainian government itself discloses information about criminal activity of pro-Ukrainian paramilitaries.

<sup>xiv</sup> Official statements, confirming sources of funding for pro-Ukrainian paramilitary battalions appeared after the arrest of Gennadiy Korban, head of 'Fund for Defence of Ukraine', affiliated with the oligarch Igor Kolomoysky and current mayor of Dnipropetrovsk Boris Filatov. The Service of Security of Ukraine accused the 'Fund for the Defence of Ukraine' of funding private armies, kidnapping and theft. (*TSN*, 31.10.2015). Further declarations of commanders and ex-commanders of pro-Ukrainian paramilitaries confirmed this information (*Gordon*, 23 March 2015), (*Manko*, 2015). In his interview for 'Gordon', the ex-commander of pro-Ukrainian battalion 'Aydar' Sergiy Melnichuk affirms that all of the battalions that are mobilised from policemen or ex-policemen receive funding from Igor Kolomoysky. In his press-conference, the ex-commander of pro-Ukrainian battalion 'Dnipro-1' Valentin Manko affirms that the 'Fund for the Defence of Ukraine' was an umbrella for criminal activity where patriotism was a cover for crimes in the zone of armed conflict.

<sup>xv</sup> For example, the base of pro-Ukrainian battalion 'Right Sector' near Dnipropetrovsk was surrounded by the UNA on in April 2015 (*Lb.ua*, 2015), the base of pro-Ukrainian battalion 'Tornado' near Lysychansk was surrounded by the UNA in June 2015 (*Podrobnosti*, 2015), and troops of 'Right Sector' in Mukachevo were surrounded by the UNA in July 2015. All of the claims of the Ukrainian government concerned organized criminal activity of the armed paramilitaries. Ukrainian command demanded paramilitaries to disarm and to be surrendered to the Ukrainian military prosecutor office. Events in Mukachevo led to casualties among soldiers and paramilitaries (*Korrespondent*, 2015).

<sup>xvi</sup> This Decree contains points on 'prevention of gangsterism, activity of illegal armed groups, illegal circulation of weapon, ammunition...the disclosure of channels for smuggling of weapon, ammunition throughout the territory of Ukraine'

<sup>xvii</sup> Soldiers of the regular Ukrainian army are also engaged in criminal activity in the zone of anti-terror operation. For example, in September 2015 military prosecutor of Ukraine arrested a number of senior officers of 28th armoured brigade for organization of illegal trade with and smuggling to/from the occupied territories. The military prosecutor contended that almost all brigade from its commander to soldiers were engaged in criminal activity. That is why before arresting, the brigade was called off from the ATO zone to 'continental' Ukraine and disarmed (*TSN*, 22 September 2015).

<sup>xviii</sup> To date, almost every volunteer paramilitary battalion is accused of participation in criminal activity. Based on open sources of data, such as reports of international human rights organizations, the military prosecutor of Ukraine and parliamentary commissions, we can give the following (incomplete) list of examples: battalion 'Dnipro' was accused of raiding; battalion 'Tornado' was accused of sexual crimes, torture, kidnapping, contract murders and marauding; battalion 'Right Sector' was accused of the organization of a number of armed hold-ups; battalion 'Aydar' was accused of war crimes, kidnapping, marauding, contract murders; battalion 'Azov' was accused of a number of armed hold-ups; and finally battalion 'Slobozhanshina' was accused of contract murders of the Minister of Internal Affairs of Ukraine Arsen Avakov and members of parliament. In total, according to declarations of the pro-Ukrainian paramilitaries, more than 1500 of the ex-members of the pro-Ukrainian paramilitary battalions are in detention for their criminal and/or political activity (*Politnavigator*, 2015)

<sup>xix</sup> 70.5 per cent of residents of Donbas considered 'the Euromaidan revolution' as a coup d'etat (*Zerkalo nedeli, Proekt Voyna*, 2014).

<sup>xx</sup> According to the census results of 2001, the ethnic structure in the Donetsk oblast was as follows: Ukrainians constituted about 56 per cent and Russians were 38.2 per cent. Ukrainians formed 58 per cent of Lugansk oblast population with Russians at 39 per cent. The overwhelming majority of the population of both oblasts is Russian-speaking (*All-Ukraine population census*, 2001). This unique ethnic structure and common history led to the creation of a special regional (so-called 'Donetsk') identity. The regional identity dominated above national Ukrainian identity with 56 per cent of residents in Donetsk and Lugansk who identify

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themselves primarily as residents of home-town and his/her region against 32 per cent identifying themselves primarily as residents of Ukraine (Public opinion polls, 2011). Polls from the same organization between 31 May and 18 June 2007 also indicated that some 24.2 per cent of people considered regional differences in Ukraine as a serious ground for separation of the country compared to 26.1 per cent in the southern Ukraine, 14.3 per cent in the central Ukraine and 10.9 per cent in the western regions. A different poll carried out between 8 and 18 February 2014, finds 33 per cent in Donetsk and 24 per cent in Luhansk in favour of unification of Ukraine with Russia compared to 41 per cent in Crimea, 24 per cent in Odessa, 6 per cent in Kyiv and virtually no support in the western regions (Paniotto, 2014).

<sup>xxi</sup> Igor Girkin (Strelkov) for many times confirmed cooperation of battalions 'Vostok' and 'Oplot' with Ukrainian authorities and local oligarchs. For example, he wrote: 'They have prepared to capitulate in Donetsk. Life in Donetsk was luxurious, everyone was drinking coffee in the café, swimming, sporting. Nobody wanted fighting' (*Kotich 'Voennie svodki s Yugo-Zapadnogo Fronta'*). Forum-antikvariat.ru. Posted in 20 June 2014). Before Igor Strelkov entered Donetsk, all institutions of the Ukrainian state functioned in their ordinary regime, including local councils, the national bank, postal services, railways and tax administrations: 'When we entered Donetsk, the Ukrainian side was completely embarrassed. They had already prescribed a scenario of capitulation. When we entered Donetsk, everything was fine – there was a mayor of the city and other authorities subordinated to Kyiv. We were defending Donetsk for almost 40 days before the Russian *vacationers* came' (*Kotich 'Voennie svodki s Yugo-Zapadnogo Fronta'*). Forum-antikvariat.ru. Posted in 6 July, 2014).

<sup>xxiii</sup> Russian mercenary Colonel Igor Girkin (aka Strelkov) admitted his crucial role in the escalation of the conflict: 'I was a trigger of war in Donbas. If my troops did not cross the Russia-Ukraine border, protest in Donbas would come to its end alike it was in Kharkov or Odessa...From the very beginning we have been fighting seriously...We were the first troops, who started killing Ukrainian diversion groups' (BBC, November 20, 2014).

<sup>xxiii</sup> Field research included in-depth semi-structured interviews with both pro-Ukrainian and pro-Russian paramilitaries, Ukrainian military officers and key leaders of pro-Russian rebels, which were conducted in Ukraine- and rebel-controlled Donbas in the period between June and September 2014 (interviews with key leaders) and between June and September 2015 (interviews with ordinary paramilitaries and volunteers). Subjects for interview included questions on socio-economic status of combatants, individual and group motivation to join para-military battalions, individual explanation of causes for conflict and conflict escalation, vision of their future in Ukraine or People's Republics, experience of conducting violent actions and others. Field-research also included process-tracing, case studies and deep embedded observation.

<sup>xxiv</sup> For example, Aleksandr Khodakovsky, commander of battalion 'Vostok', which enrolled ex-members of Ukrainian anti-terror troops 'Alfa' claimed the political solution of the conflict with Kyiv in June 2014 (autonomy for the Donbas). Khodakovsky was in conflict with Russian mercenary Strelkov in July 2014. Khodakovsky insisted on negotiations with Kyiv whereas Strelkov insisted on the escalation of war against Ukraine. As a result, 'Vostok' left Donetsk. In October 2015, 'Vostok' was disarmed and joined 'regular' armed forces of Donetsk People's Republic. (*Ria*, 2014), (*DNR-news*, 2015)

<sup>xxv</sup> After Minsk-I, a number of famous and influential pro-Russian warlords were killed by republican forces on the territory of self-declared Lugansk People's Republic and Donetsk People's Republic (Aleksandr Bednov, aka-Betman was killed on 1 January 2015, Evgeniy Ishenko, the 'people's mayor' of Pervomaysk city, Lugansk People's Republic was killed on 23 January 2015, Aleksey Mozgovoy, commander of 'Prizrak' battalion was killed on 23 May 2015). Many influential leaders of the Donetsk People's Republic and the Lugansk People's Republic were formally or informally deported from the republics (Igor Girkin, aka Strelkov, Aleksandr Boroday, Pavel Gubarev, Nikolay Kozitsin and others).