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**INTERNATIONAL EXPERIENCE IN COMBATING SEPARATISM:
CONCLUSIONS FOR UKRAINE**

Analytical Report

Resume

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Authors:

O.Reznikova, Candidate of Economic Sciences, Senior Research Officer,

A.Misiura,

S.Dryomov, Candidate of Juridical Sciences,

K. Voitovskiy.

Under general editorship of Candidate of Economic Sciences, Senior Research Officer O.Reznikova

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According to the Law of Ukraine "On Fundamentals of National Security of Ukraine" manifestations of separatism threaten the national security of Ukraine. A deep understanding of the causes of this phenomenon is required to determine the effective state strategy for combating separatism.

Nature of separatism is complex and influenced by many factors. There are different approaches to the definition of "separatism," but all of them single out its main feature - the desire to separate a part of the state from the whole.

Currently, nearly half of the world countries experience movements that can be defined as separatist.

Separatism hotbeds have some differences, based on which we can roughly distinguish its regional varieties: - Western European (UK, Spain, France, Belgium, Italy, Germany);

- Eastern European (former Soviet countries, Kosovo, Republika Srpska in Bosnia and Herzegovina);

- Middle Eastern (Algeria, Iraq, Pakistan, Afghanistan);

- Asian (Sri Lanka, southern Philippines, India, China, Turkey);

- African (Southern Sudan, Ethiopia, Somalia, Angola, South Africa and others);

- American (ethnic conflicts in Quebec, Canada, Chiapas, Mexico and others).

Obviously, phenomenon of separatism requires a number of conditions that create the appropriate background for its emergence. Among them are:

- Heterogeneity of the population (ethnic, religious and other);

- Uneven economic, social, cultural, demographic development of certain regions;

- Historical factors;

- Ill-considered policy of the central government against ethnic minorities and religious communities, which worsens their situation or is perceived as aimed

at deprivation (violation) of their rights and freedoms. The role of this factor can be artificially exaggerated and used by the interested parties for propaganda purposes or to justify the need to take drastic measures;

- The external influence of the states concerned; the presence of foreign allies, who provide military, political and informational support to the separatists, etc.

The problem of separatism is one of the most complicated because it is directly related to the existence of states, change of borders and creation of new nations. International law complicates the task of preserving the territorial integrity of the state, because there is a contradiction between the principles of the inviolability of borders and respect for territorial integrity - on the one hand, and the right of all peoples to self-determination - on the other.

The choice of methods and ways of combating separatism is largely dependent on the nature of the conflict and its stage of development. In general, the determination of a solution to the problem of territorial integrity should take into account the historical, cultural, ethnic, religious and other characteristics of the regions. Herewith experience of each country is unique in its own way.

An important element in ensuring the peaceful development of Ukraine is the settlement of the conflict in the Donbas, return of temporarily uncontrolled territories into the legal framework of Ukraine. Understanding of the essence of the problem is important for the formation and implementation of effective state policy in this area. The identification of the most effective settlement mechanisms depends upon it.

Thus, the formation of quasi-state structures "DNR" and "LNR", which puppet regimes are totally controlled and supported by Russia - the aggressor state, is one of the elements of the "hybrid war", unleashed against Ukraine. Essentially activity of so called "DNR" and "LNR" and their organizers is criminal and has signs of separatism, since it is aimed at change of the territorial boundaries or national borders of Ukraine in violation of the order stipulated by the Constitution of Ukraine. It also includes financing of such actions, public appeals or distribution

of materials calling for the commission of such acts. To achieve these goals separatists commit acts of terrorism and sabotage on the territory of Ukraine, especially against its vital infrastructure.

However separatism in the Donbas has a number of distinctions.

First, it is not the result of internal conflict on interethnic, interfaith or other grounds. No systematic organized separatist movements with recognized leaders and broad popular support were observed in this area throughout the history of independent Ukraine. And there are no areas of compact residence of representatives of individual nations, ethnic or religious group.

Secondly, the ideological bases of this particular separatism were developed outside of Ukraine in the form of the so called "Russian World" project. Organizational and financial support of the quasi-state entities "DNR" and "LNR" is also provided mainly from Russian territory under permanent control of the curators from the Russian government and the Federal Security Service of the Russian Federation (FSB). Regular units of the Russian Armed Forces are directly involved in the fighting on the territory of the Donbas, which under international law is regarded as unprovoked armed aggression of Russia against Ukraine.

Note. Russia has concentrated a contingent of about 9,000 of its soldiers in certain areas of the Donetsk and Luhansk regions. In addition, it has concentrated a large group of troops on the border with Ukraine. Its military instructors organize combat training of insurgents' units. There is a recent trend in appointment of the Russian Armed Forces career officers to command positions in these units.

The insurgents have formed the 1st and 2nd Army Corps. Their command at the corps and brigade level is staffed mainly by the Russian Armed Forces career and reserve officers. The proportion of the local population in these formations does not exceed 35%.

Thirdly, at the early stages of "hybrid" aggression against Ukraine the self-proclaimed republics' leaders called for secession from Ukraine, but their recent rhetoric has changed. However, declaring inalienability of "DNR" and "LNR" from

Ukraine (by confirming the intention to hold local elections in the territories under Ukrainian law), they continue to practice active "statehood building", use Russian currency and introduce Russian standards in various fields. Promotion of the disintegration process by the quasi-state entities "DNR" and "LNR" and their "leaders" has nothing to do with the search of peaceful solution within the Minsk process framework. It can be expected that the most radical extremist elements of "DNR" and "LNR" will resort to continuation of the fight by guerrilla methods with the covert and overt support and assistance from the Russian Federation after the end of the active phase of the armed conflict.

And the most important - destabilization of socio-political situation, undermining of civil peace foundations in Ukraine, constant negative influence on domestic and foreign policy of Ukraine through puppet regimes in Donbas, controlled from Moscow – are parts of a geopolitical strategy of Russia for Ukraine.

In fact, in Donbas Ukraine is dealing with "hybrid" separatism, which is a part of the "hybrid" Russian Federation War against our country. Its basis is political separatism, inspired and supported from outside. Since political separatism usually has low support from the population Russian ideologists actively employed special propaganda measures like spread of distorted information about events in the rest of Ukraine and its history, created myths of a better life in the self-proclaimed republics.

Although such type of separatism manifestations is rather rare in the world international experience of countering these processes was studied in order to identify effective methods and techniques that can be applied in Ukraine to combat this phenomenon and overcome its consequences. Negative international experience in this field was also analysed in order to prevent its recurrence and replication in Ukraine.

International experience of nonviolent methods of separatist conflicts settlement of the UK (Northern Ireland), Spain (Catalonia and the Basque

Country), Belgium (Flanders, Wallonia), Canada (Quebec), Latvia, Estonia and Lithuania (Russian-speaking population) was explored.

The experience of Croatia (the Republic of Serbian Krajina), Sri Lanka (conflict between Sinhalese and Tamils) and Turkey (Kurds) in the use of force for the armed separatist conflict settlement was examined as well.

The use of international formats for the settlement of the armed secessionist conflicts in Bosnia-Herzegovina and Kosovo was also reviewed.

The following **conclusions** were the results of the analysis:

1. Separatism is a phenomenon that contains a threat to national security. It is influenced by various factors, including those related to the process of society transformation.

2. Conflicts often erupt when the overall socio-economic situation in the country changed dramatically for the worse and (or) in case of political instability.

3. Experience of separatism combating has evolved for over two centuries. During this time the use of force gave way to the method of political compromise for conflicts settlement. This approach allows to control disintegration processes and to prevent violent acts.

4. There is no single approach, concept or a minimum set of methods and tactics that will be effective in all cases and will inevitably lead to termination of separatist activities.

5. All conflicts of this nature are long-term ones. That obviously takes a lot of resources and sustained efforts to address them. International experience shows that the average conflict of the kind lasts for ten years, and it is still needed at least six years after the end of the armed phase of the conflict for the final settlement of the post-crisis situation.

6. No state precludes the use of force to preserve its territorial integrity. It should be taken into account that although such method can take the edge off the problem but at the same time it can lay the foundations for future conflicts.

7. Efficient security services and combat-ready armed forces are essential factors in combating separatism.

8. Restoration of the public authorities control over the borders is an obligatory condition of combating separatism successfully, especially in the context of armed conflict. Among other things, it allows you to block channels of material and financial support as well as recruitment of militants and to disrupt their command and control systems.

9. Political and other non-violent methods of conflict resolution are applicable to the full only at the end of the active phase of the armed conflict and the establishment of a sustainable truce (ceasefire).

During the active phase of the armed conflict, the most effective non-violent means and methods of struggle are those that ensure the winning of hearts and minds of the local population in the conflict zone, take into account their needs and the necessary reforms, particularly those which prove social, economic and political benefits of the peaceful way of life in a single indivisible state, etc.

10. The political settlement of the separatist conflict should be based on national interests and values. The solutions found within international peace process, though, tend to stop the bloodshed, but do not fix all existing contradictions that caused the conflict. But responsibility for the consequences of such solutions is born be the national leadership.

11. An important factor for the conflict settlement is an agreement between the immediate parties to the conflict. This indicates the importance of determining the type of the conflict and its parties which is very complicated under "hybrid" warfare circumstances. A third party usually acts as an intermediary or a guarantor. An important condition for the peace process is to achieve and implement practical agreements on non-use of force by both sides.

12. Amnesty to the conflict participants that laid down their weapons and stopped fighting, is widely used in the world practice as a method of settlement of the armed conflict in its active or final phase. The effectiveness of such amnesty programs is usually higher when pro-government forces are winning (or close to winning) in an armed confrontation.

13. The state preventive measures to preclude the escalation of separatist movements into armed conflict are equally important. This may include, in particular, appropriate public policy adjustments, revitalization of state special services' activities, etc.

14. In order to prevent people, whose behavior seriously hinders the vital interests of the state, from participation in public affairs, some democratic countries use mechanisms of such persons' citizenship deprivation or restriction of certain of their rights (including the right to stand for elected public authorities or the right to enter into the civil or military service).

Recommendations for the **settlement of the conflict in Eastern Ukraine** were prepared based on the study.

The above mentioned conclusions from international experience of the separatist conflicts settlement and the complex "hybrid" nature of events in Eastern Ukraine should be taken into account when determining the ways of this separatist conflict solution.

1. According to the Criminal Code of Ukraine, activities of so called "DNR" and "LNR" and their leaders are criminal and have signs of separatism. In addition, they promote disintegration processes by use of force and terrorism.

At the same time, application and enforcement of the relevant Ukrainian legislation is hampered by the absence of a legislative definition of "separatism". Given this, it is advisable that the Verkhovna Rada of Ukraine fixes the definition of the term by adopting a special law.

2. Separatism in Donbas has a "hybrid" nature. Political separatism is in its basis, inspired and supported by Russia - the state, which commits aggression against Ukraine.

3. The settlement of this conflict, which is currently in the acute phase of armed confrontation, is not possible beyond international format. At the moment those are the Minsk and the Normandy processes.

The ultimate goals of the Minsk agreements – peace and return of the entire territory of the Donetsk and Luhansk regions into a single legal and political

framework of Ukraine. This process should take place in accordance with a specified algorithm that would take into account the interests of all parties to the conflict.

But now it is difficult to predict whether this format is quite successful, considering that the signing of any international agreements on Ukraine by Russia does not mean that they will be met by the Kremlin, as it was with the Budapest Memorandum and a number of other international treaties including the Minsk agreements.

4. The current "leaders" of the self-proclaimed republics do not represent the entire population of the Donbas. They are mere "puppets" of the Kremlin on the temporarily occupied territories of the Donbas. They do not take independent decisions, and thus it does not make sense to have direct negotiations with them within the Minsk format, as it is urged by representatives of Russia.

Representation of self-proclaimed republics' "managers" in the Minsk negotiation process should be questioned, since neither the Minsk agreement nor any other document stipulated the existence of such entities as "DNR / LNR".

5. Interests of a large section of the Donbas population, which was forced to leave the zone of conflict, are not currently represented in negotiations within the Minsk format. In this regard, representatives from Ukraine in the Trilateral Contact Group have grounds to demand the introduction of internally displaced persons representatives to the negotiations.

6. Influence of the Russian Federation is the main driver of the separatist manifestations in Ukraine. In particular, the conflict in the Donbas is not the result of internal conflict on interethnic, interfaith or other grounds, but is a part of the "hybrid" Russian aggression against Ukraine, which relies on Russian Armed forces and special services.

At the same time, difficult socio-economic situation in Ukraine, incomplete reform on decentralization of power, propagation of social injustice manifestations (as a result of high level corruption in the country and abuse of power by

individual officials) provide fertile ground for the formation and spread of separatist movements in Ukraine.

7. Currently, the so-called DNR and LNR puppet regimes continue active consolidation of "statehood building". Their statements and actions do not correspond to intentions declared in the Minsk process: to reintegrate into political and legal space of Ukraine. This gives grounds to assert that Russia is using the Minsk talks to legitimize its de-facto occupation regime, discredit Ukraine and increase pressure on its leadership.

8. Maintaining a constant source of tension in the Donbas, Russia seeks to implement the strategy of attrition in Ukraine. At the same time, amid the slow weakening of Russian potential as a result of the economic crisis, increased international sanctions and low prices for resources, Russia is interested in quick conflict reformatting on its own terms. The Kremlin aggressively promotes the idea of integration of the separate regions (areas) of Donetsk and Luhansk Oblasts (regions) - ORDLO in Ukraine with the establishment of "special status" for so-called DNR and LNR in order to preserve its own control over the Donbas and use them as a tool of Russia's influence in Ukraine.

9. Implementation of the Minsk agreements security conditions (cease-fire, withdrawal of weapons, the proper control over these processes by the OSCE) - is the foundation without which it is impossible to make progress in the implementation of other components of the peace process, namely: solution of political, economic and social issues, full reintegration of the Donbas into Ukraine and its further development.

A clear interdependence of the Minsk agreements events sequence is fundamentally important in the peace process: all the steps taken by Ukraine must be clearly dependent on and met by the relevant steps both from the Russian Federation and the Western partners.

Consequently, the definitive cease-fire, withdrawal of all weapons from the agreed areas confirmed by the OSCE, withdrawal of Russian military units and mercenaries from Ukraine (including the disbandment of the 1st and 2nd Army

Corps of the so-called DNR and LNR as illegal armed formations), termination of weapons and ammunition supply to militants are to become prerequisites for further resolution of political issues.

10. The establishment of control over the state border of Ukraine in the conflict zone is of particular importance for resolving the conflict in the Donbas. Solution of this particular issue and disruption of the militants' financial resources supply channels will help to curb the militants' outside support and accelerate the peace process in the Donbas significantly.

It should be noted that the provision of the Minsk agreements on the restoration of full control over the state border by Ukrainian authorities throughout the conflict zone, starting on the first day after the local elections (paragraph 9), creates a significant threat to the possibility of ensuring the conduct of elections within the legal framework of Ukraine.

Provision of control over the state border of Ukraine in the conflict zone must be a prerequisite for a decision to hold local elections in Donbas. Control of the section of the border by international peacekeeping (or police) mission is an acceptable option for Ukraine under the circumstances.

11. There are persistent human rights violations in the areas of Donbas controlled by the armed separatists. Due to the forced temporary suspension of the Ukrainian governmental bodies activities in the Donbas and the inability of the government to meet its obligations under the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms the Verkhovna Rada of Ukraine made a relevant statement "On derogation from certain obligations ..." approved by the Resolution № 462-VIII on May 21, 2015.

Registration of the human rights violations, war crimes and crimes against humanity on the temporarily occupied territories remains an urgent task for Ukrainian law enforcement agencies, national and international human rights organizations. The investigation of such facts within established practice must precede possible amnesty measures concerning the Donbas events participants.

12. The militants' and Russian side's non-compliance with an agreement on release and exchange of hostages and illegally detained persons on the basis of "all for all" (paragraph 6 of Minsk agreements) makes practical decision on pardon and amnesty of such (mentioned in the previous paragraph) persons next to impossible.

It should be noted that the amnesty procedure requires a clear definition of the time limits that will ensure compliance with the current legislation on criminal liability in space. Thus, the release of all hostages must be completed prior to the amnesty - namely prior to the entry of the relevant law of Ukraine into force.

13. An important issue of national security in the context of further political settlement of the separatist conflict in the Donbas is to determine the mechanism of barring persons, who are not subject to amnesty under any conditions, from participation in local elections, preventing them from entering civil, military and law enforcement service, as well as joining any other government agencies of Ukraine.

The list of such persons is to be developed by law enforcement agencies under the coordination of the SBU right now. After the adoption of the amnesty law, these persons must be detained by law enforcement bodies of Ukraine on suspicion of a criminal offense (as stipulated by the Criminal Code of Ukraine). Or a message that they are suspected is to be drawn up and the relevant measures are to be taken in a manner stipulated by the Criminal Procedure Code of Ukraine (CPC) for delivery of such messages. In compliance with the CPC persons, who are sued for the commission of those particular crimes, are not liable for such preventive measures as personal commitment, personal guarantee, house arrest or bail.

However, according to the Law of Ukraine "On Local Elections" persons who serve the term in prison upon conviction, are considered as not belonging to any local community and have no right to vote in local elections.

At the same time, holding these detainees outside the territory of the local elections, will not deprive these persons the right to stand in local elections, but

will complicate the possibility of their participation in local elections to great extent.

14. The mechanism of suspension from participation in local elections and debarment from the civil and military service, as well as from the service in law enforcement and other government agencies of individuals, whose behaviour threatens national security, may also include widely used in international practice procedure of citizenship deprivation of certain persons in compliance with the requirements of European Convention on nationality (Strasbourg, November 6, 1997).

Given that the legislation of Ukraine on citizenship is largely obsolete, there is an urgent need for amendment of the Constitution of Ukraine and other legislation acts for adjustment of the issue of citizenship deprivation on the grounds specified in Article 7 of the European Convention on Nationality.

15. The political reintegration of the temporarily uncontrolled by public authorities Donbas territories must proceed from the fact that the first chapters of the Constitution of Ukraine provide comprehensive guarantees of the rights, freedoms and legitimate interests of man and citizen. At the same time, the Constitution directly prohibits granting privileges on any grounds, including regional and ethnic. A special procedure of the local self-governance must be considered as an integral part of the overall process of decentralization and take place exclusively within the legal framework of Ukraine.

Amending the Constitution to decentralize powers should include empowerment and extension of authority of local governments in all regions, not just in some areas of Donetsk and Luhansk regions in the form of a "special status".

16. The further implementation of the policy of departure from the centralized model of governance in the country, the empowerment of local communities and the gradual development of an effective system of territorial organization of power in Ukraine based on the principles of subsidiarity, universality and financial sustainability of local government is absolutely

necessary in order to address the complex issues of the future development of the nation, including its territorial system.

In this context, it looks expedient to expand significantly the use of law-making capacity of local referendums, which should actually be an effective mechanism for democratic model of legitimate decision-making on local issues. This requires urgent amendments to the Law "On local government in Ukraine" concerning the enhancement of legal, financial and material autonomy of communities and their residents' social activity, as well as adoption of a conceptually new Law of Ukraine "On local referendum".

17. Today in society there is a high demand for the practical results of new and reformed law-enforcement bodies functioning. With this in mind, it is appropriate to publicize periodically information on the status of resonant separatism criminal cases investigations, and trends in this area, including statistics of crimes solved and relevant court decisions.

18. The Ministry for Temporary Occupied Territories and Internally Displaced Persons of Ukraine should elaborate and put to wide public discussion a reintegration strategy for temporarily occupied territories of Ukraine now. The strategy should include in particular political, economic, social, informational and humanitarian aspects of reintegration, as well as national reconciliation policy.

19. Currently, some representatives of national and ethnic communities living in Ukraine are trying to activate the processes of national autonomization within Ukraine. Governments of some EU countries are often assisting and promoting such communities with no intent to harm the national interests of Ukraine. However, the respective processes may be used by Russia against our country as an element of the "hybrid" warfare.

It would be appropriate for the Ministry of Foreign Affairs of Ukraine in cooperation with the Foreign Intelligence Service of Ukraine to relay to the leadership of European countries (including Slovakia, Hungary, Bulgaria and Romania) the information on the existence of such threats and possible negative regional scale consequences. It is also advisable to draw their attention to the fact

that the interests of national and ethnic minorities will be certainly taken into account within the reform on decentralization of power in Ukraine.