

East Ukraine's Four Perspectives

Written by Roland Benedikter

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ROLAND BENEDIKTER, DEC 11 2014

The armistice signed on September 5, 2014 in Minsk by the Ukrainian government, leaders of the Moscow-backed separatist "governments" in Eastern Ukraine and the Organization for Security and Cooperation in Europe (OSCE) left the areas around Donetsk and Lugansk *de facto* independent from the central government in Kiev. This independence, however, has not been recognized by the international community, nor formalized in any way by the Ukrainian authorities. Since then, at least 1000 people have died in violent clashes, bringing the number of victims of the conflict to 4000, with at least 10,000 wounded. There were innumerable violations of the cease-fire since September, with multiple attempts to establish an enduring truce all broken by the parts involved.

In response, the central government in Kiev since October and November 2014 repeatedly announced a military offensive to "regain" the "lost" territories, only to repeatedly back off again after warnings by Russia. This and the elections held by the separatists in the Eastern Ukrainian areas at the start of November – against the approval of Kiev and not recognized by Western powers – have further added to the factual stall of the decision process of what will happen with the area. This threatens to create a "frozen conflict" of unclear duration. The fact that on November 22, the U.S. – unlike NATO which rejected the request – agreed to deliver up-to-date weaponry to the Ukrainian army, including artillery and radar systems as well as protection vests, will not change the principles of this situation, but is rather another worrying signal of potential deterioration. What are the perspectives for progress? Which concrete options are available?

Four Options

Irrespective of the political, diplomatic and strategic backgrounds and their evaluation in detail which are – rightly – intensely debated, the separatist Eastern parts of Ukraine around Donezk and Lugansk stand in front of four concrete options:

1. Forced re-integration through military intervention by Kiev's central government;
2. Separation followed by potential association with Russia;
3. Federalization of Ukraine by the means of a constitutional reform with strong regional states that cooperate, among them a federal state with Russian majority on the Eastern border; or
4. Wide-reaching territorial autonomy of the area from the central government with special measures for minority protection while remaining integral part of the national Ukrainian territory.

While option 1 and 2 exclude each other, option 3 and 4 could also coexist or be implemented together. The first option, forceful re-integration, could mean continued war and bear the risk of some form of intervention by Russia, as well as further instability and ethnic clashes. The second, separation and association with Russia, may be preferred not only by pro-Russian separatists, but – somewhat surprisingly – eventually also by Kiev in order to avoid open confrontation with Russia. It could also get rid of a potentially permanent source of conflict for which, importantly, the central government has to pay more than it gets out of it. This is due to the catastrophic economic situation of the area that doesn't much contribute to the national budget. Already since fall 2014, Kiev has demonstratively stopped its social welfare payments like pensions and health insurance to the area, which has been read by many as a move towards formal separation of an already informally separated region. In turn, the expected high costs of any potential "integration" of the separatist areas with Russia, be it as association, alliance or direct inclusion into the nation's

East Ukraine's Four Perspectives

Written by Roland Benedikter

territory, are (and will remain) a strong deterrent to curb the appetite of Russia for any such solution.

This is why Russia, in particular Foreign Minister Sergey Lavrov, as his declarations since March 2014 suggest, seems to currently prefer a third option: federalization of Ukraine. As Lavrov stated,

The fact that the current events in Ukraine are the result of a deep crisis of a national identity, caused, in particular, by the inability... to reconcile interests of western and south-eastern regions. Things cannot keep going on in this way. We are convinced that a deep constitutional reform is required. Frankly speaking, we do not see any other ways for sustainable development of the Ukrainian state other than a federal state. Maybe, some people know better and some magic formula can be found within a unitarian state. However, when the west, the east and the south (of Ukraine) celebrate different holidays, honour different heroes, have different economies, speak different languages, think differently and are attracted by the culture of different European civilisations, it is very hard to live in a unitary state in such conditions. Therefore, on 10 March we distributed unofficial documents, which was before those transferred to our US, west European, Chinese partners, several other partners, in particular, BRICS countries, and said that it was our vision.[1]

The creation of a federal state at Ukraine's Eastern border dominated by the Russian ethnic group could give Moscow a strong leverage on the course of a newly federalized Ukraine, since such a federal state would without doubt have a strong voice in Kiev and at the same time cooperate closely with Russia. The problem of this fourth potential solution is that it would make the remaining Ukrainians in the area the minority in such a federal state with the need to claim their rights. That would mean that the ethnic problem as one of the roots of the overall conflict would have been only transferred from the national Ukrainian state (where the Russians are the minority with around 17% of the overall population) to the potential new Eastern federal state. That would create a constellation similar to that of Kosovo, where the independence from Serbia of February 2008 did not pacify the situation since new minorities, the Serbs and Roma, were created within the new nation and up to the present day don't feel considered equally by the ethnic Albanian majority.

Considered overall, all three of these options are to a certain extent imbalanced and bear the risk of new, potentially prolonged conflicts since there is a mix of Russian and Ukrainian populations in the area which will not disappear with any of the three solutions in the short or medium term, at least not without ethnic cleansing from the one or the other side. And while there are U.S. theorists like Jerry Z. Muller in his disputed 2008 *Foreign Affairs* essay "Us and Them. The Enduring Power of Ethnic Nationalism"[2] seem to favor "one time only" ethnic cleansings to "never-ending" ethnic conflict, such cleansings should be avoided at all costs since they would without doubt trigger a further radicalization of the conflict and involve the major powers standing even further away.

Of the available options, then, a fourth: a territorial – not ethnic! – autonomy for all people living in the area, and thus for common benefit, with special rights for *all* ethnic groups and permanent status in the Ukrainian constitution, including guaranteed ethnic representation in a semi-independent regional parliament and with the right of Russia and the European Union to be diplomatic observers on a collaborative basis, could be a feasible intermediate way between forced integration, separation and – potentially conflict-ridden – federalization. In addition, this solution could be the most practical and concrete of the four since it has a decades-long successful predecessor: the case of the South Tyrol autonomy in Northern Italy, which since 1972 has succeeded to pacify the area after a violent post-WWII history and to turn it from poor to rich within just a couple of decades. A regional territorial autonomy like the one of South Tyrol thus could result to be the perspective less harmful both for all ethnicities on the ground as for the outside interests involved at least as a temporary compromise, until the most profound wounds have been healed and dialogue has been strengthened to the point to proceed to potential other solutions.

A Prerequisite: The Ethnonationalism Issue – A Fundamental Problem for Western Strategists

Without doubt, the situation in Eastern Ukraine has very heterogeneous backgrounds and origins, among them power plays between the international actors and geostrategic interests. Ethnic issues are not the only origin of conflict, but they are among the important backgrounds in play – an issue still widely undervalued by Western strategists which tend all too easily to blame Russian versus American geopolitical interests as well as European

East Ukraine's Four Perspectives

Written by Roland Benedikter

weakness and Ukrainian polarization and domestic problems for the situation. But as Patrick J. Buchanan rightly commented in another occasion:

The larger issue [here] is the enduring power of ethnonationalism — the drive of ethnic minorities, embryonic nations, to break free and create their own countries, where their... culture and language are predominant... [Nevertheless], American's elite regard [ethnonationalism] an irrelevancy, an obsession only of the politically retarded.[3]

Indeed, the perception of the meanings and political potentials of ethnic struggles like those in Eastern Ukraine are very different in Russia and America. Russian concerns about the explosive potential of ethnonationalism in Ukraine, including the causes and reasons for minorities to fight against the national government, are not always self-evident in the American strategic hemisphere. And so isn't the "Medvedev doctrine" a programmatic foreign policy approach that foresees that Russia has the duty to help Russian ethnic populations outside Russia and to sustain cooperation with them, since in the view of the Kremlin many of them have been underprivileged after the end of the Soviet Union. It may be a side note of history, but ethnonationalism has been without doubt one of the few blind spots in American domestic and foreign policy of the past decades; and it still remains an under-developed field of expertise among its elites.

The reason is that the whole American mindset, as well as its founding mythology, is not about *formalizing* and *regulating*, but on the contrary about *overcoming* ethnic provenience and affiliation in order to build a nation made of basically all ethnic groups that exist. America is a first-time in the historical experiment of overcoming ethnic and cultural heritage, and an experiment of a "united humanity" society based on individualism, not group-affiliation. In essence, the U.S. is centered on the *demos*, not on the *ethnos*, and this is the main difference to many other societies which in many cases are still centered on ethnic features. That has made the American leadership somewhat hesitant to help ethnic groups develop autonomies within existing nation states.

One example for Western helplessness when dealing with ethnonationalism was as mentioned Jerry Z. Muller' emblematic essay "Us and Them" of 2008, hailed by some U.S. critics and experts as the "new article x" for the multipolar era. From the two basic concepts of conflict resolution: dissociative (partition) versus associative (integration) solution finding, Muller clearly prefers the first one. According to Muller, the best solution for ethnic conflicts particularly in areas where different ethnic groups live together in a tight space (like in Eastern Ukraine) is to make a clean cut in order to divide the groups, if necessary by ethnic cleansing. The goal, according to Muller, to some extent still echoing the idea of "self-determination" of Woodrow Wilson of the post-WW1-era, should be to create a "clean" nation state for each and every group for itself by moving large numbers of the population, if necessary, through forcing them to leave their homes, thus splitting existing ethnic "aggregates" in the hope of ending conflict once and for all by dividing the groups. Muller clearly prefers an end in terror to terror without end. Ethnic cleansing, in his view, may prove to be the smaller evil in the end. Or in his own words:

Partition may thus be the most humane lasting solution to such intense communal conflicts. It inevitably creates new flows of refugees, but at least it deals with the problem at issue. The challenge for the international community in such cases is to separate communities in the most humane manner possible: by aiding in transport, assuring citizenship rights in the new homeland, and providing financial aid for resettlement and economic absorption. The bill for all of this will be huge, but it will rarely be greater than the material costs of interjecting and maintaining a foreign military presence large enough to pacify the rival ethnic combatants or the moral cost of doing nothing.[4]

But if applied to Eastern Ukraine, this approach would not only be in open contrast to Western interests, but could also prove to be catastrophic on the humanitarian dimension. Furthermore, neither Moscow nor Kiev could accept such a "simplifying" "once-and-for-all" perspective, and would probably rather embrace war than accept "partition" at such cost.

The good news then is that *not* undertaking Muller's strategy does in no way mean to "do nothing". On the contrary, there is a much better, peaceful, proven and practical solution to follow – which obviously is not known to Muller and other "old-school" strategists, but yet a model that works well and that has been used for a long time now as an

East Ukraine's Four Perspectives

Written by Roland Benedikter

example in European school books.

A Proven European Model of Pacification

Taking the current phenomena together, one lesson is clear; amid increasing instability, it is time to press for a viable solution able to provide at least a temporary arrangement. Is there a practical model for how the international community may organize the further political and institutional existence of Eastern Ukraine? And could such an arrangement be not only in the interest of Russia, but also be well accepted by the Ukrainian government, the U.S. and Europe, as well as by the international community, at least as an interim solution? What could such a win-win arrangement potentially look?

Perhaps the most viable model of pacification and justice for all sides involved could be one that strictly adheres to *realpolitik*: non-ideological, practice- and problem-oriented policy applied to the concrete circumstances on the ground. This solution might follow the example of the trilingual Autonomous Province of Bolzano-South Tyrol in Northern Italy, a region where three different ethnic groups coexist in harmony. This works on the basis of a commonly developed and accepted rule of law and a formalized arrangement overseen and protected by the European Union.[5] A similar solution, inspired by the South Tyrol example, could be implemented immediately in Eastern Ukraine. It would formalize (if only temporarily) regional autonomy for the separatist areas within the national borders of Ukraine – i.e. implement self-administration (with elements of self-determination) *without* separation.

The implementation of this model would build on solid ground. The South Tyrol model is currently debated for crisis regions around the world, including the West Sahara area in Marocco – South Tyrolean researcher Eva Pfössl (Istituto di Studi Politici “S. Pio V”, Rome) presented it in front of the 4th Committee of the General Assembly of the United Nations in October 2014 -, as well as for Chechenia, Tibet, and even parts of Iraq for the period after the expected victory over ISIS which will see the need for more ethnically differentiated institutional approaches. Permanent study groups made up by representatives of international ethnic groups exist at the European Academy of Applied Sciences (EURAC) in the provincial capital Bolzano/Bozen/Bulzan (carrying three names according to the three main ethnicities that live in the area). The EURAC is a research unit and think tank there dedicated to foster knowledge about the South Tyrol model and to work with representatives of ethnic conflict areas world wide to seek consensual and feasible solutions, with many leading ethnic minority representatives visiting the area on a regular basis.[6] Although like always with intermediate solutions, the notorious problem that all sides in Eastern Ukraine will fear to lose with such a compromising agreement, the outlook would build on a true success story.

The Territorial Autonomy of South Tyrol: A Model for Eastern Ukraine's (Temporary) Pacification?

The regional autonomy of South Tyrol, established – in the framework of a “second autonomy statute” – in 1972 and now proven successful for more than 40 years, is based on the idea of “inter-ethnic tolerance established by law“.[7] To many, it is so far the best example for the positive handling of civil divisions found in Europe.

South Tyrol is a small area approximately the size of Lugansk along the mountainous alpine border between Italy, Austria and Switzerland. With a total population of 505,000 (a couple of thousand more than Lugansk), it has a high degree of political and cultural autonomy, and its model presents a working and practical solution to multi-ethnic co-existence. Here, the German speakers are the majority (67%) and have the majority in the provincial parliament, which disposes of an autonomous legislative and executive power. Italian state population in the province amounts to 26%, and a third ethnic group, the Rhaeto-romanian Ladins who have their own culture and language, represent 4%. All three main ethnic groups have the constitutional right to be represented in the autonomous parliament and to participate in its government.

1. Historical Background

Before World War I (1914-1918) the region of South Tyrol was a core part of Austria. A majority (95%) of the area's inhabitants were culturally Austrian, and thus German (Bavarian) native speakers. Ceded to Italy by the Treaty of St. Germain in 1919 against the will of the population, South Tyrol experienced a troubled and difficult transition to its

East Ukraine's Four Perspectives

Written by Roland Benedikter

current status of a wide-ranging linguistic and cultural autonomy. Not until June 1992 did the foreign ministers of Austria and Italy sign before the United Nations a declaration of settlement of dispute stating that the autonomy was a satisfying agreement safeguarding South Tyrol's full autonomous status within the Republic of Italy.[8]

Three years following the annexation in 1919, Mussolini's Fascist government began to Italianize the region by force by attracting large numbers of Italians mainly from the South to settle in the area. This was interrupted only by World War II. After the end of the Second World War South Tyrolean representatives and the provisional government of Austria began working to see that South Tyrol would be returned to Austria. The great powers of the victorious allies had, however, already rejected such claims in the autumn of 1945 and, despite further massive attempts by the South Tyrolean and Austria (in South Tyrol more than 80% of the native population signed the call for a plebiscite, and in the capital of Tyrol, Innsbruck, a huge anti-Italian demonstration was held on 5 May 1946), a final negative decision was taken at the end of April 1946. The only way left open now for Austria and Italy was to negotiate directly so that South Tyrol should obtain an "intermediate" status through some form of self-government. Through special provisions and legislation, German-speaking citizens should be granted parity between the German and Italian languages in public offices and official documents as well as before the courts. A basic agreement was reached within the framework of the peace negotiations in Paris. On September 5, 1946 the "Paris Agreement" was signed by the foreign ministers of Italy and Austria, Alcide De Gasperi and Karl Gruber, and annexed to the peace treaty with Italy, so that the South Tyrol question was thereby given official international standing.

In the following years, Italy did not fulfill its obligation signed at the Paris Agreement and therefore in September 1959 the South Tyrol question was raised in the United Nations in New York by the then Austrian Foreign Minister Bruno Kreisky. Further efforts by the SVP (the South Tyrolean Peoples Party, an ethnic unification party representing the Austrian and Ladin population) and Austria were not successful: in 1961 bombing attacks were carried out by members of the growing independence movement with 37 separate incidents in the night of June 11 alone. They were followed by new negotiations with Rome, which reached a successful conclusion. Little by little a whole package of measures to put the self-government of the South Tyrol area into effect was agreed upon. It was approved by a narrow majority of the SVP at its congress on 23 November 1969 against its independent wing and thereafter by the Italian and Austrian governments. Only after the coming into effect of the "new Autonomy Statute" (i.e. a local special constitution included in the national Italian constitution) in 1972 was the parity of the minorities energetically pursued with special executive measures and decrees by the Italian state.

2. Ethnic Groups

Besides an increasing immigration group which currently amounts to 10% of the population, three main ethnic groups currently live in South Tyrol: the German and Ladin speaking minorities and the Italian state population. According to the latest official census, carried out on October 9, 2011, of these three ethnic groups the German speaking group with 314,604 people represent 67.15 per cent of the South Tyrolean population; the Italians with 118,120 represent 26.06 per cent and the Ladins with 20,548 4.53 per cent.[9] The Ladins are the oldest and at the same time the smallest language group in the province. They had already been resident in the country at the time of the Roman conquest from the South, but were then increasingly pushed back by the German tribes invading from the North. The Italians in South Tyrol mainly live in the cities of Bolzano/Bozen/Bulzan and Merano/Meran/Maran and in the bigger centers. At the 1910 census, the last to be held before World War I and therefore before South Tyrol's annexation by Italy, there were only 17,339 Italian-speaking inhabitants in South Tyrol (2.9 per cent of the population). The considerable increase of the Italian population of South Tyrol occurred in the 1930s as a consequence of the violent Fascist Italianization of the Province, but also in the years after 1945, reaching its peak, 34.3 per cent, at the 1961 census. Since then, the Italian percentage of the population declined (1971: 33.3 per cent; 1981: 28.7 per cent, 1991: 27.65 per cent, 2001: 26.47 per cent).

3. What Are the Pillars of the South Tyrol Autonomy?

Until today, the Statute of 1972 represents a solid guarantee that the German and Ladin linguistic minorities can survive as ethnic groups with their own linguistic and cultural identities, so that the implementation and observation of the measures of protection form the basis for a peaceful co-existence of the three ethnic and linguistic groups in the

East Ukraine's Four Perspectives

Written by Roland Benedikter

province. Currently, the pillars of the South Tyrolean Autonomy are:

- The so-called *Ethnic Proportions Decree* demands the declaration of ethnic affiliation by every citizen on the soil of South Tyrol in the framework of every census, as well as the proof of an acceptable knowledge of the major provincial languages in South Tyrol, German and Italian, as obligatory for people employed in the public sector. The “acceptable knowledge of the German and Italian languages” is usually ascertained through a bilingualism examination, which can also be extended to trilingualism. This exam is a hurdle for all candidates of the Italian national state who have no knowledge of German and therefore it prevents uncontrolled immigration and is implicitly an advantage for the local population in search of labor. In the competition for employment in the public sector, the vast majority of the candidates from other Italian provinces would be excluded – to the advantage and benefit of South Tyrolean residents. This can be seen as one major reason for high employment in the province (currently 4,5% unemployment rate), which is another main precondition for the success of the Autonomy model and for the peaceful co-existence between the ethnic groups. Most probably, the autonomy regulation wouldn't be accepted so well by all three ethnic groups without the apparent economic success and the practical benefits for all local citizens.
- The proportion of percentages between the ethnic groups also regulates the distribution of public money to the respective groups, as well as the composition of public bodies and the distribution of administrative and bureaucratic posts in the public administration. In practice, every group has the right to as many posts in the public administration as its percentage in the census is; that means that at the present moment, 67% of the posts are announced for declared members of the ethnic German (Austrian) speaking group, 26% for the Italians, and 4% for the Ladins. Nevertheless, the measure is handled flexibly, i.e. when for example no appropriate candidate can be found for a job reserved for the German speaking group, it is opened up to all groups.
- The regulations on bi- and trilingualism contained in the above-mentioned Ethnic Proportions Decree have been extended to the recruitment of personnel in firms, societies and bodies which carry out public services or services of use to the public in the Autonomous Province of Bozen/Bolzano/Bulsan.
- 90% of the taxes collected in the province by the Italian national authorities – South Tyrol has no independent tax authority – are automatically restituted to the local Autonomous government. They are then distributed proportionally to the three ethnic groups (except the expenses for issues of common interest like road building, public constructions etc), thus benefitting every citizen of South Tyrol equally, without favoring neither the Italian state population nor the minorities. That's why the South Tyrol autonomy is explicitly considered a *territorial* autonomy, not an *ethnic* autonomy, which would be at the disadvantage of the Italian state population living on the territory.
- In order to ensure the independent cultural development of each linguistic group, each has its own administrative and organisational domain in form of an independent local ministry for culture and schooling. The Italian ethnic group culturally cooperates closely with other Italian provinces and regions, while the German and Ladin ethnic groups maintain active contacts with the German and Raetoroman cultural worlds. According to the Autonomy Statute, the Province of South Tyrol has primary legislative powers in terms of culture.
- Legal proceedings and trials must be conducted in the declared mother tongue of the accused.

4. Measures to Protect the Minorities

The statute of 1972, the so called “Autonomy Package”, consisted of 137 measures. The measures should have been issued within four years from then by the Italian national government. But in the end more than 20 years were required by the fast changing Italian governments to implement it. On the basis of the Paris Agreement, the South Tyrol Autonomy Statute should ensure the maintenance and linguistic and cultural development of the German and Ladin linguistic groups within the framework of the Italian national state. But at the same time the benefits of the enlarged powers of self-government apply to members of all three linguistic groups in South Tyrol.

- The most important *primary powers* of the Autonomous Province of South Tyrol are: place naming, protection of objects of artistic and ethnic value, the regulation of small holdings, arts and crafts, local

East Ukraine's Four Perspectives

Written by Roland Benedikter

customs and traditions, planning and building, public housing, public construction, common rights (e.g. for pasturage and timber), mining, hunting and fishing, agriculture and forestry, the protection of fauna and flora, fairs and markets, prevention of disasters, transport, tourism, expropriation, public welfare, nursery schools, school welfare, and vocational training.

- *Restricted powers* apply to teaching in primary and secondary schools, trade and commerce, apprenticeships, promotion of industrial production, hygiene and health, sport and leisure.

5. Census and Linguistic Proportions

An important prerequisite for the protection of an ethnic minority is to know its exact numerical size. In the 1920s and 1930s the Italian Fascists succeeded almost completely in forcing the South Tyroleans ("those of foreign origin", as Mussolini described them in his speech to the Parliament in Rome in 1928) out of public employment and regional administration.

Furthermore, during the Fascist dictatorship, public housing in South Tyrol was almost exclusively allotted to Italian-speaking tenants. This kind of policy continued even after the 1946 Paris Agreement which provided for "equality of rights as regards the entering upon public offices with a view to reaching a more appropriate proportion of employment between the two ethnical groups". From 1935 to 1943 3,100 units of public housing were built in South Tyrol (of which 2,800 were in the capital Bolzano/Bozen/Bulzan), which were entirely allotted to immigrating Italian families. From 1950 to 1959 the national government built a further 5,500 units, of which 3,500 were in Bolzano/Bozen/Bulzan with only 5 per cent given to local German-speaking tenants.

The introduction of a fair distribution of administrative posts and housing according to the numerical strength of the three ethnic groups was therefore perceived as reparation of Fascist injustice by the minorities. Since 1972, the key to that distribution has been the above-mentioned principle of ethnic proportions which is based on the numerical strength of the three linguistic groups living in the province according to the latest census. Public housing built since 1972 was distributed according to ethnic proportions; but since 1988 it has been distributed according to a so-called "combined proportion" which takes into account not only the numerical strength of the three linguistic groups but also the needs of each group based on the requests for housing submitted.

Concerning the local bodies in the province (the personnel of the public sector, the municipalities, the health services, etc.), the equality of rights which regulates the entering upon public offices provided for in the Paris Agreement was gradually implemented. By the year 2002, also employment in Italian national and semi-autonomous bodies in South Tyrol (railways, postal service, roads administration, customs service, court administration) occurred proportionally according to the strength of the three ethnic groups. However, certain state bodies such as, for example, the military, the police and the security service, are not subject to the principle of ethnic proportions.

The Basic Idea That Could Be Transferred: Solve Ethnic Conflict through Self-Government

Summing up, the primary legislative competences of the autonomous provincial government of the South Tyrol area include: the organization of provincial authorities and their staff, the obligation of bilingualism (German and Italian, with the third language, Raetoromantic, a plus) for all public employees, the protection and care for historical, artistic and ethnic values, provincial planning and building directives, conservation of the landscape, community easements, roads and public works, communication and transport, tourism and catering industry, agriculture and forestry, public care and welfare. There are special measures to protect and preserve the various languages (German, Italian and the ancient Raetoromantic Ladin), like the distribution of public money for cultural and schooling affairs according to the proportional system to the three mutually independent ministries of culture and schooling.

One of the most important measures is that the province of South Tyrol has *three separate school systems for the three language groups*, where every system works mono-lingually in the native language of one group (with the second language thought as first foreign language), but where all citizens, independent from their ethnic affiliation, can freely choose to which system they want to send their children. The province furthermore spends a substantial amount of money on German, Italian and Ladin cultural activities. In order to ensure the independent cultural

East Ukraine's Four Perspectives

Written by Roland Benedikter

development of each linguistic group, each has its own administrative and organizational domain: that means that the three parallel culture ministries, one for each group, are completely independent from each other and receive their part of the tax revenues according to the proportion of population they represent. Nevertheless there are a number of areas, for example in music and art, where close cooperation between all three linguistic groups results in mutual enrichment.

“Three things are important to us: the parity of the German and Italian languages before the courts, the ethnic representation system in the public sector and the provision of mother tongue media programs” says Bruno Hosp, former Provincial Minister for Culture, Schools and Science of the German and Ladin ethnic groups, and his Italian colleague, Luigi Cigolla, former Minister of the Italian group, agrees. The spending of the 90% of the tax revenue generated in the Province that is returned by the Italian government to the Province is controlled by the locally elected parliament. South Tyroleans receive different color identity cards from those of other Italians and the street signs and other public communications are bilingual, in the Ladin areas trilingual.

In addition, the United Nations play an important role for the South Tyrol autonomy. They made available legal mechanisms to the South Tyrolese to ensure Italy complies with international treaties affecting the region, and require that Italy consult formally or informally with other members of the UN and the European Union before taking any action which may affect the provincial autonomy. The result is that the Italians cannot forbid the use of German (as they did under Fascism in the 1920s) and cannot create economic projects to persuade Italian citizens from other provinces to immigrate thereby possibly weakening the minorities. Italy must, moreover, consult with other states and abide by treaties signed with the minority groups or risk alienation by the European Union which is something that the country can't afford neither for political nor for economic reasons.

The former Chancellor of Germany and architect of German unification, Helmut Kohl, and the former leading member of the European Parliament Ria Oomen-Ruijten from the Netherlands represent the opinion of many international politicians and experts, including Italian statesmen Azeglio Ciampi and Lamberto Dini and former Austrian chancellor Wolfgang Schüssel and foreign minister Alois Mock, when they contend that South Tyrol, after a violent past of ethnic division, today is the best example for the peaceful co-existence of different ethnic groups in Europe. Comparative autonomy researcher Thomas Benedikter rightly calls it “one of the great modern Autonomy systems of the world”[10], able “to solve conflict through self-government”[11].

Conclusion: Autonomy, Equality and Parity as the Three Principles to Integrate in Every Process of Solution Finding

Concluding, it can be stated that, on the one hand, the proportional and bi- and trilingual regulations applied in South Tyrol represent reparation of acts of injustice against the regional minorities. On the other hand, they are a safeguard, not uncontroversial but nevertheless useful for an agreed distribution of welfare amongst members from all three language groups. The success of the South Tyrol model, in contrast to the devastation that has accompanied other ethnic conflicts, reveals that it could provide a good example of autonomous integrated regional organization between different cultural and ethnic groups. Can these arrangements be imitated and succeed in Eastern Ukraine as well, or at least help as an orientation for the co-existence of the major ethnic groups there?

In judging the origin, impact and effect of the South Tyrol autonomy system, the reasons for its success as well as its potential usefulness for contemporary Ukraine's problems, it is first of all important to discern between the three principles of *autonomy*, *equality* and *parity*. They are not the same, but have *all without exception* to be integrated if a working solution has to be practically implemented. As the South Tyrol model teaches, ethnic conflicts are not necessarily only about equality, but about self-determination of certain sub-groups within a more complex societal body in the first place. These groups usually feel disadvantaged and demand a counter-offer for their unsatisfying condition. That implies special treatment, which is usually perceived as “justice” by the given groups, and as “unjustified privilege” by the others, in particular by the majority which has to concede special rights to the minority.

On the other hand, civil conflicts, even if equipped with the most efficient solutions mechanisms, will never reach full “justice” and can never be based solely on equality, but are essentially also about parity. Parity in such settings can

East Ukraine's Four Perspectives

Written by Roland Benedikter

mean many things: from “positive discrimination” like special rights in order to further “equal” chances (an – although productive and potentially progressive – contradiction in itself) through the *territorial* implementation of rights rather than an *ethnic* implementation. Territorial autonomy means to give every citizen living in a special area the same rights, not only to one ethnic group which may be the cause of the existence of special rights in the first place. That would mean to give the Ukrainians living in an autonomous Eastern Ukrainian zone the same autonomous rights like the Russians of the area – although that in turn may lead to new conflict, as in the case of Italy where “normal” Italian citizens outside the South Tyrol area often denounce the special rights of self-government of *Italian* native speakers living in South Tyrol (not of the Germans who were the origin of the special rights) an unjustified discrimination that allegedly hurts the principle of equality, as well as certain fundamentals of the rule of law anchored in the Italian national constitution.

These aspects are exactly two main points why the U.S., centered like few, or probably no other nation on the constitutional rights of the individual, hesitate to deal with special group rights – thus in turn unwillingly creating disadvantaged groups like the Afro-Americans etc, exactly because group rights are not addressed.

Potential Effects of A (Temporary) Autonomy Regulation on the Separatist Regions in Eastern Ukraine – And on Ukraine as a Nation

Following these insights, the best interim solution, as far as can be seen today, could be an agreement between the major ethnic groups on the basis of a regional autonomy following the South Tyrol model – if such a model is implemented through a sober, non-idealistic approach that doesn't ignore the differences and complexities between autonomy, equality, justice and parity.

In particular, some basic aspects from the South Tyrol model could be transferred to Eastern Ukraine, such as differentiated regional tax autonomy, distribution of money according to percentages of ethnic population, guarantees for ethnic representation in the regional government and parliament and systematic cultural independence as an alternative to ethnic separatism. Furthermore, in areas with a high of “mixed” coexistence between different ethnic groups, it might be wise to install parallel cultural and school administrations, and to give national and international guarantees for language and heritage autonomy. Concerning all these proposals, the South Tyrol autonomy should not be merely seen as a model to copy, but as an example of concrete success that can help to find appropriate, original local solutions according to the practical needs of single situations.

In short, following the South Tyrol model, the Eastern Ukrainian areas of Donetsk and Lugansk would proceed from a *de facto* to a *regulated* autonomous zone based on formal agreement and the rule of law, administered by a government elected by the regional residents and equipped with primary and secondary legislative powers. The area would be entitled to establish its independent bilingual schooling system where Russians would have their own self-administered schools using their mother tongue.

Both Russians and Ukrainians would be represented by law in the government and parliament. Money for cultural and educational issues, including heritage protection, would be distributed among the ethnicities according to census percentages. The national government of Ukraine would keep overall sovereignty, while taxes collected within the autonomous area would belong exclusively to the autonomous region and be distributed among the ethnic groups, according to population.

While the Ukrainian national government would continue to control the military to secure the borders, the autonomous Eastern area could have its own police force responsible for domestic security. It would have primary legislative powers in the fields of agricultural development, environment, fishing and hunting, housing (both public and private), industry, transport, demographic development and tourism, among others. The respective agreements could be supervised by Ukraine's “neutral” neighbors such as non-EU member states (Switzerland) or even China, or the OECD, following the practice of supervision and guarantee of the South Tyrol model in Italy by the European Union and (with regard to military blocks neutral) Austria.[12] Such a “greater” arrangement could serve as trust-building measure with positive long-term effects on the geopolitics of the region.

East Ukraine's Four Perspectives

Written by Roland Benedikter

Four Problem Clusters to Deal With

Without doubt, realistically speaking even with all the advantages there are nevertheless many problems and difficulties inbuilt in any such attempt. We have to discern at least *four* fundamental problem clusters, with which every attempt to use the South Tyrol model – and similar approaches – in today's Ukraine split between East and West will have to deal with and to find specific, original solutions for.

First, because of deep mistrust, no outer protecting power may be seriously (and openly) involved in the autonomization process comparable to Austria in the case of the South Tyroleans, and most probably neither will be in the near future. If autonomization is the goal, the will of Ukraine's government will be decisive, and the most influential positive sustain from the outside may come not from nation states, but from global bodies like the United Nations.

Second, the size factor: A small area like South Tyrol is better to handle through regional autonomy than the Eastern area of Ukraine with its 18 million people which is the size of a medium nation state in itself. It shouldn't though be impossible, but it will remain to see if and how a far-reaching autonomy for such an extended part of the country can work out.

Third, there is a different culture of thinking nation, the individual, sub-groups of society, ethnicity and authority in Russia as compared with the West. This is due to the Eastern Orthodox Church and, more importantly, the lack of a tradition of Russian democracy. In fact, one of the crucial prerequisites for the solution of the South Tyrol dispute was that all powers that participated in the negotiation, including in particular Italy and Austria, were working democracies. Democracies don't fight each other or their citizens, but negotiate. Russia is not a democracy in the Western sense to the present day, and will unlikely become one soon, although it may evolve its own forms of rule of law and democracy. This is probably the main problem for an inner-Ukrainian differentiation as envisaged with the autonomy option, more important than most single procedural and institutional issues.

Fourth (and last), there is a global trend away from group rights towards individual rights triggered by modernization and growing transnational and transcultural interdependency. It goes against the trend towards formalizing ethnicity within the rule of law and makes international agreements on the issue not exactly easier.

These differences in context, settings and prerequisites constitute without doubt obstacles against applying the South Tyrol model to today's Ukraine's realities. A proportional mechanism similar to the South Tyrol agreement will only work if both ethnic groups show understanding and a real commitment to reconciliation. This is also the reason why the implementation of any such – or similar – model of pacification on Ukrainian territory may not be a lasting solution like in South Tyrol, but rather a starting point to make the most out of a difficult situation.

In fact, as underscored, the South Tyrol example could be used as a model for a transition phase only temporarily. The effects would nevertheless be multiple. They would lead to a better identification of the ethnicities with a more differentiated Ukrainian overall arrangement – which may be unavoidable anyway in such a nation on the long-term, the more it modernizes or becomes “Europeanized” – and this would lead to more efficiency, a reduction of conflict and the facilitation and further empowerment of Ukraine's development.

Outlook: What Future for Eastern Ukraine?

Given that Vladimir Putin according to his own words doesn't want to have a new iron curtain in Europe because he is aware that “this would be the ruin of Russia”, and although the South Tyrol autonomy model is itself in a phase of transition due to the ongoing reform of the Italian constitution[13], the idea of discussing to transfer some features to Eastern Ukraine in order to facilitate the pacification process could be worth a try – and be it only to ignite ideas more fitting to the local and regional realities involved.

What is needed to make this attempt constructive is first of all – and most important – a new pragmatism from all sides. The new *Ukrainian government* has the credits and the historic window to pacify its Eastern regions in order to

East Ukraine's Four Perspectives

Written by Roland Benedikter

change things for the better. To give Eastern Ukraine an autonomy that better fits the needs and requests would liberate Ukraine from a permanent spine in its flank, and prove to the many domestic and foreign critics that the new government has started a new phase of reconciliation and development. *Russia's Putin*, on the other hand, shouldn't waste this chance because it will not be there forever, but most probably be limited to a certain time window. Third, *Europe* which has proven to be a weak and rather unreliable partner so far, would contribute a practical model which represents one of its best political achievements and part of its specific historic heritage. Fourth and not least, *the U.S.* would have achieved peace and a more democratic Ukraine, which can only be in its interest.

The autonomy solution thus could be in everybody's interest: the Ukraine's, Russia's, Europe's and the U.S.'s. While such a solution might not be fully satisfactory for either party involved, because it necessarily relies on compromise from all negotiating partners, it could provide a rational model of renewal and progress in order to become an at least temporary win-win arrangement for all sides. Given that the South Tyrol autonomy model it is by no means radical, but allows cautious progress based on compromise, "tolerance by law" and justice based on realism, the Ukrainian government and the international community should consider it as a viable path to adapt to the situation for the sake of a better future.

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East Ukraine's Four Perspectives

Written by Roland Benedikter

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