

# W O S C A P

ENHANCING EU PEACEBUILDING CAPABILITIES



## European Union Support to Decentralisation Reform in Ukraine: a Peacebuilding Endeavour?

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## Colophon

# EUROPEAN UNION SUPPORT TO DECENTRALISATION REFORM IN UKRAINE: A PEACEBUILDING ENDEAVOUR?

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## Whole of Society Conflict Prevention and Peacebuilding

The Scholarly Article on Governance Reform was produced as part of the project “Whole-of-Society Conflict Prevention and Peacebuilding” (WOSCAP). It wants to contribute to the ongoing debate on the question of what role decentralisation can play in building sustainable peace, and under which conditions support to such reform efforts can be successful. More specifically, it aims to analyse the EU’s capabilities to support decentralisation reform in Ukraine through a whole-of-society centred peacebuilding lens. This Scholarly Article builds on different debates in the academic and grey literature on themes such as decentralisation, peacebuilding, democratization, and statebuilding in order to lay the groundwork for the empirical analyses. The empirical data used builds largely on the [case study report from Ukraine](#) in the framework of the WOSCAP project, which is based on secondary literature and a substantive amount of interviews and fieldwork. More information at [www.woscap.eu](http://www.woscap.eu).



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# 1. Introduction

Since the end of the Cold War support to governance reform has risen high on the agenda of peacebuilding and development agencies as a method to mitigate conflict and enhance democratization, development and public participation (Schultze-Kraft and Morina 2014; Yusoff et al. 2016; Wolff 2013). Similarly, the notions of inclusivity, participation and coordination have become somewhat of a *leitmotif* for peacebuilders throughout the past years. They are seen as key principles of international support for preventing a re-lapse into violence and building sustainable peace by promoting inclusive societies and states through well-coordinated actions (Dudouet and Lundström 2016; Martin et. al 2016). This kind of peacebuilding support, which combines multiple levels of society, as well as coordinating and integrating action between (and within) different international peacebuilding organisations is referred to as the whole-of-society approach in the research project on which this paper is based (Martin et. al. 2016).<sup>12</sup> However, the question remains to what extent international peacebuilding actors have actually incorporated these principles in their policies and practice.

One type of governance reform which is often linked with conflict resolution and which intrinsically involves many tracks of the state – and increasingly also different tracks of society – is decentralisation reform. On the one hand, the current state of evidence suggests that decentralisation<sup>3</sup> processes in states affected by conflict are positively associated with a number of conflict-mitigating factors. On the other hand, it can also be linked to the re-emergence of conflicts and a relapse into violence (see for example: Grävingsholt et. al. 2016; Brinkerhoff 2011).

The European Union (EU) is one international actor that has since the early 2000s put governance reform and support to decentralisation at the forefront of its foreign policy. In light of increasingly becoming an actor in the field of conflict prevention and conflict resolution, it has also leveraged decentralisation as a tool – among other interventions – for peacebuilding. So far the general evaluations and assessments of the EU's support to decentralisation reform have shown mixed results at best, and disappointing results at worst (see example: Tidemand et al. 2012). Despite this mixed empirical evidence and some knowledge gaps on the decentralisation-peacebuilding nexus, the EU is currently supporting a number of such reforms in states both in its neighbourhood and beyond.

This paper wants to contribute to the ongoing debate on the question of what role decentralisation can play in building sustainable peace, and under which conditions support to such reform efforts can be successful. More specifically, we aim to analyse the EU's capabilities to support decentralisation reform in Ukraine through a whole-of-society centred peacebuilding lens. This ongoing process in Ukraine is one of the most prominent cases of the EU's engagement in supporting decentralisation reform, which became a major focus after the annexation of Crimea by Russia and the armed conflict in the Eastern parts of the country.

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<sup>1</sup> For more on the project see Martin et.al 2016 or project website: [www.woscap.eu/](http://www.woscap.eu/) (last accessed: 19.04.2017).

<sup>2</sup> This Horizon 2020-funded research project assesses the EU civilian peacebuilding capabilities from a whole of society perspective in Mali, Ukraine, Georgia, and Yemen through the clusters Multi-Track Diplomacy, Security Sector Reform, and Governance Reform. For this paper we have chosen to focus on the EU's support to decentralisation in Ukraine as part of the Governance Reform cluster.

<sup>3</sup> Decentralisation describes a general principle of “dispensing political, administrative and/or fiscal powers from the central state to sub-national agencies or authorities” (Noris 2008: 7).

Thus, the authors intend to connect the current academic literature and empirical evidence on decentralisation as a peacebuilding strategy with the EU's policies and practices regarding such reforms in order to tease out some of the current EU reform support capabilities and some of the challenges involved. The research question to be pursued in this paper is thus: *What are the key aspects of the EU's capabilities to support decentralisation reforms if analysed from a whole-of society peacebuilding perspective?*

The paper builds on different debates in the academic and grey literature on themes such as decentralisation, peacebuilding, democratization, and statebuilding in order to lay the groundwork for the empirical analyses of this paper. The empirical data used builds largely on the case study report from Ukraine in the framework of the WOSCAP project, which is based on secondary literature and a substantive amount of interviews and fieldwork.<sup>4</sup>

The paper starts with a short overview on the topic of decentralisation (chapter 2.1.), followed by subchapters on decentralisation and peacebuilding (chapter 2.2.), decentralisation from a whole of society perspective (chapter 2.3.), and external support to decentralisation reform (chapter 2.4). It continues with a general overview on the EU's involvement in decentralisation reform support in a peacebuilding context (chapter 3), and a chapter on the EU's support to decentralisation reform in Ukraine, analysed from a whole-of society peacebuilding perspective (chapter 4.1.). The paper closes with a final discussion (chapter 5) on our findings.

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<sup>4</sup> The empirical findings in this paper are primarily drawn from one case study report produced by the WOSCAP project partner World Policy Institute in Ukraine (see Litra et al. 2016).

## 2. Decentralisation

This chapter will provide an overview of the concept of decentralisation. It is divided into three subsections. The first subsection talks about the concept of decentralisation, the different motives to employ it as part of state reform, and the different shapes it can take (2.1.). The second subsection (2.2.) links decentralisation to peacebuilding and debates the benefits and disadvantages of decentralisation reforms when attempting to mitigate, prevent or resolve conflict. The third subsection examines the linkages between the concepts of inclusivity and a whole-of-society approach, and peacebuilding-oriented decentralisation reform (2.3.). The last subsection of chapter two (2.4) aims to give a short summary of the major trends, studies and policies related to international support for decentralisation reform.

### 2.1 Decentralisation Types and Motives

Decentralisation should be understood as an umbrella term for processes of shifting power from central levels of the state to sub-national levels; it encompasses concepts such as federalization, self-governance, and autonomy. The relocated powers can be of political, fiscal, and/or administrative nature and can be transferred through either deconcentration, devolution, or delegation.<sup>5</sup>

There are essentially two main strands of motives for decentralisation highlighted in the literature. The first strand sees decentralisation through a lens of development that has the potential to reinforce local democracy, and strengthen efficiency, equity and responsiveness regarding the use of public resources (Schou and Haug 2005). The second concentrates on the linkages between national decentralisation and (dis)integration with a particular focus on dissolving ethnic tension (Schou and Haug 2005). In essence both general motivations can be said to either aim: (a) to bring “the government closer to the people or (b) to split sovereignty between various levels of the government.” (Sharma 2008: 3).

In terms of codifying a decentralised state, different options are available. It may be institutionalized as in federal states, in which decentralisation of power is anchored in the constitution. Decentralisation can also be managed through legislation, as in a unitary state. Whereas the form of the state does not say anything about the actual level of decentralisation, it does determine if structures/ entitlements related to decentralisation can be changed more easily (unitary state), or if they are ingrained more deeply (federalized state) (Schou and Haug

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<sup>5</sup> Political decentralisation (devolution of power) is the “transfer of power to lower levels of government which are elected by local citizens (in various ways) and which have some degree of local autonomy” via a legal and regulatory framework that accounts for accountability and transparency (Scott 2014:1). Administrative decentralisation (deconcentrating or delegation of power) occurs when authority, resources and responsibilities from central government are shifted to field offices and agencies (Scott 2014, Sharma 2008) where the administrative units continue to be foremost accountable to higher levels of government (Scott 2014). Fiscal decentralisation means the transfer of influence over budgets and financial decisions to lower levels of government revenues. Scott questions if fiscal decentralisation is a distinct form of decentralisation, as allocating sufficient financial resources on local levels is essential for any type of decentralisation (2014).

2005).<sup>6</sup> Furthermore, decentralisation can lead to different levels and degrees of self-rule for specific national regions or sub-national units. Such special status can often be relevant for processes of conflict resolution, particularly in ethno-national conflicts (see chapter 2.2.).

Decentralisation processes – including their outcome – are dependent on multiple actors, the most important of which is the central state, which is responsible for delegating powers. The second most important actor is the local authorities to which the power is transferred. Other critical actors range from national and local civil society and citizens (see for example Faguet 2015), to actors on the international level such as donors and international agencies.

The struggles over political, social and economic influence that emerge during the processes of changing power distribution thus suggest that decentralisation is not just a technical exercise consisting of strengthening capacities, re-modelling formal intra-state and state-society relations, increasing formal participation or strengthening institutions. Decentralisation should thus in this context (and in this study) be primarily regarded as a process which aims to resolve different degrees and levels of social and/or political conflicts as well as governance inefficiencies by either re-arranging power and/or reforming state structures and procedures. To what extent and in what ways this process can help mitigate, transform or even spark social or political conflicts will be described in the next section.

## 2.2 Decentralisation and Peacebuilding

Making the state more representative, responsive, and efficient as a way to transform structural marginalisation and exclusion is a common demand from non-state armed groups both during armed struggle, as well as an end-goal for many peace processes (Dudouet and Lundström 2016). Many non-state armed groups and movements in consequence have secessionist demands, or demands for some type of self-determination rights, be it autonomy, special regional status, or increased political, administrative and fiscal influence at a regional and/or local level in order to address perceived grievances, marginalisation or security needs. Additionally, it is not an uncommon demand from conflict parties contesting the government (and their respective constituencies), as well as from the peacebuilding community, to make state, governance and society more inclusive in post-war scenarios. Including other types of political and social elites as well as (previously) marginalized groups in decision-making processes and making the state more responsive to the needs and grievances of all segments of society, is often a theme both during peace negotiations, various codifications of agreements and settlements, and the implementation thereof. Hence, in peace negotiations and consequently in peace agreements and their subsequent implementation, it is also not uncommon to find variations of state reform or state restructuring on the agenda. Decentralisation is often one pursued reform in spite of its challenges and the potential risk of contestation or causing new conflicts (Dudouet and Lundström 2016).

Inclusivity and participation on both inter-elite and elite-society levels in peace processes as well as in state-society relations have also equally gained traction within academia

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<sup>6</sup> Such structures or entitlements could potentially be changed in a unitary state (by the central state simply deciding to rescind powers to the states without consulting them, for instance) which would be impossible in a federal state, as federal states would have to agree to have their powers rescinded (Schou and Haug 2005).

and the peacebuilding community. Inclusive peace processes and its' subsequent materialisation are now increasingly being acknowledged as good pre-requisites for transforming exclusionary states and societies, thus also attempting to avoid new conflicts and violence relapse (Rocha Menocal 2015; also see Dudouet and Lundström 2016).

As previously mentioned in chapter 2.1, decentralisation is only one form of state reform, yet it has specifically gained popularity in conflict affected and post-conflict states since the end of the Cold War. Based on this interest there has been a substantial amount of research carried out on the linkages between decentralisation and peacebuilding in the past decades. Yet a large part of the inquiries is conceptual and theoretical (or anecdotal even) rather than being based on solid empirics (Schou and Haug 2005; Brinkerhoff 2011). Still, the available research that does exist gives us fairly mixed results regarding the peacebuilding potential of decentralisation.

There is some empirical evidence that state reform through decentralisation may contribute at best to improved social and political stability through increased political participation of citizens at the local level and increased responsiveness and service delivery of local government. It is also presumed that ideally, decentralised states might be less prone to corruption and might have better developed check and balances regarding their accountability. Lastly, it is also expected that decentralisation can lead to a conflict transformation effect stemming from the local level because local levels of government are assumed to be more effective, representative and informed about local needs and grievances (Siegle and O'Mahony 2007, Faguet 2015). Decentralisation reform can thus be assumed to have the ability to have a conflict mitigating, or in some cases even a conflict transformative, effect by increasing public participation (foremost of minority/marginalized groups), changing dynamics in power-relations to accommodate local or regional demands and making the state itself become more representative and responsive to its citizens' needs.

Yet there is also some empirical-based research showing another type of picture in which decentralisation reform processes have led to further political and social instability or caused new conflicts to emerge or old conflicts to re-emerge. First and foremost, the concept of decentralisation itself is often politicized whereby conflicting actors, state and society have different views on what type of powers (political, fiscal and administrative) should be transferred from the central state, how much of these powers should be transferred (Schou and Haug 2005), and where the new administrative boundaries should be drawn or what they should be called.

Furthermore, decentralisation processes may exacerbate differences between regions and /or communities and further polarize them. Another risk may be that decentralisation reforms can create tensions and conflicts between office holders and civil servants and between national and sub-national levels. In addition, it is not a given that the government at a decentralised level of administration is more efficient, representative, inclusive and responsive to citizens' needs and grievances. Lastly, decentralisation reform processes are also a typical 'incomplete' project where full implementation may be delayed for a very long time due to inefficient procedures, lack of political will or resources, or a lack of legal clarity on the processes of implementation (Schou and Haug 2005). In such cases of contested and imperfect implementation, the overall benefits of decentralisation may not necessarily lead to the intended effects of improved equity, accountability, democratisation, and governance efficacy.



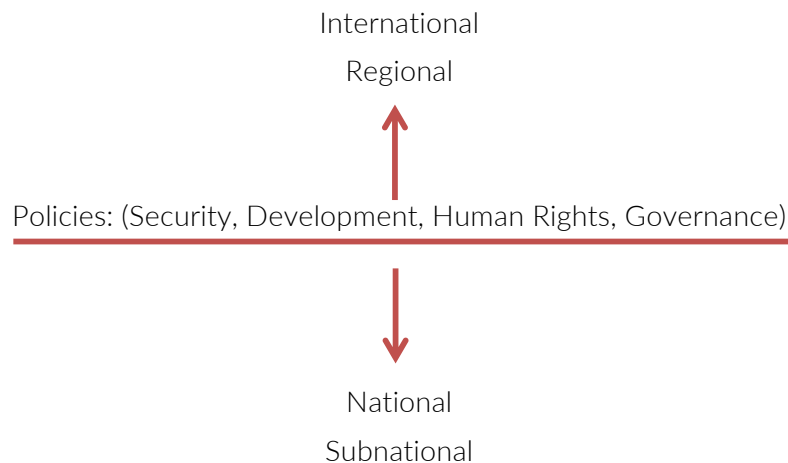
Concluding on the results from the literature, it seems that decentralisation may indeed have conflict mitigation and in some cases a conflict resolution effect, but these outcomes hinge on a few crucial pre conditions.

*Local democracy – the central building point for decentralisation – “requires a set of prerequisites, including an educated and politically aware citizenry, an absence of high inequality in economic or social status that inhibits political participation of the poor or of minorities, a prevalence of law and order, the conduct of free and fair elections according to a constitutional setting that prevents excessive advantage to incumbents, effective competition between political candidates or parties with long-term interests, the presence of reliable information channels to citizens (for example, from an active, independent media), and the presence of oversight mechanisms both formal (legislatures, judiciary, independent auditors) and informal (such as civil society organizations)” (Bardhan and Mookherjee 2006: 9).*

Although decentralisation reform should not be (and is not) portrayed as a speedy fix to resolve conflicts since such reforms take considerable time, decentralisation reform as a conflict resolution tool poses the potential risk to exacerbate conflict (at least in the short-term), and displays a mixed track record of improving governance outcomes (in the long-run). Returning to the above raised topic of inclusivity and participation, the following sections will look more closely at a whole-of-society approach and third party support to decentralisation. Thus, it seeks to explore the positive effects that a whole-of-society approach might unlock in peacebuilding-centred decentralisation reform, and it’s potential to address some of the aforementioned challenges.

## 2.3 Decentralisation from a whole-of society perspective

In addition to the increased attention to inclusivity and participation in peacebuilding there has been a broad realisation and acceptance by academia, policy-makers and practitioners that coordinated and coherent activities and objectives within peacebuilding support interventions provide a better ground for successful support (see for example: Martin et al. 2016). An approach to both inclusivity and participation in combination with coordination and coherence can be placed alongside a vertical and horizontal whole-of-society axis. The vertical axis links “multiple stakeholders, actors (both active and passive), interests/agendas and different levels of action from the supranational and international, to regional, nation state, municipal and local. Each of these categories and levels can be further unbundled to reveal multiple groups and layers of activity” (Martin 2016: 17). The horizontal axis links the vertical axis with the different fields of policy and praxis such as security, development, governance and human rights.



Graph 1: Whole-of-society lens on peacebuilding

In other words, a whole-of-society peacebuilding perspective on decentralisation reform creates a well-suited analytical lens to create an understanding of the possible connections between multiple levels of actors with multiple policy areas in different stages of reform. On a horizontal level it helps us to comprehend the linkage of multiple interventions and actions located in different policy areas which concern governance reform (e.g. gender, security, development, and human rights). On the vertical level it helps us to see the connection between multiple actors and groups reaching from the international level to marginalised groups at the local level, at all stages of decentralisation reform support (negotiation, planning, implementation and the *de facto* outcomes of the decentralised state).

By applying a whole-of-society lens we also assume that decentralisation reform support may be more effective and legitimate if actions and/or interventions are well coordinated and coherent as well as more inclusive towards society and state. Since the scientific empirical evidence supporting this notion is still relatively thin, this study hopes to contribute to the debate by adding further conceptual thinking and some empirical evidence which will help to get a better picture of the nexus of decentralisation and a whole-of-society peacebuilding approach.

## 2.4 Third party support to decentralisation from a WOS perspective

Efforts to support political processes and reforms which involve societal actors beyond the level of the state have been on the agenda of the international donor community for close to two decades, although with imperfections and gaps in both knowledge and practice. One example of such support is the OECD-INCAF's list of best practices and principles of engagement in fragile states. 7 (out of 10) principles explicitly emphasise the need for closer cooperation with non-state actors in terms of development cooperation and peace- and state building (OECD 2011). In its 2011 World Development Report the World Bank also called for

'inclusive enough' coalitions in post-war transitions to transform relations and institutions (World Bank 2011). Other examples are the UN Sustainable Development Goals<sup>7</sup> and the UN Review of its peacebuilding architecture (United Nations 2015) which both include language conducive to a peacebuilding centred whole-of-society approach. Lastly, the EU's 2016 Global Strategy on Foreign Policy and Security linked together poor security, bad governance, women's exclusion and weak economy as both potential roots for armed conflict as well as key areas for peacebuilding. In addition, the strategy also claimed that the EU will "...pursue a multi-level approach to conflicts acting at the local, national, regional and global levels. Finally, none of these conflicts can be solved by the EU alone. We will pursue a multi-lateral approach engaging all those players present in a conflict and necessary for its resolution" (EU Global Strategy on Foreign and Security Policy 2016).

A variety of large donor organisations also support different dimensions of decentralisation reform. For example, the UNDP's ideas on the link between conflict, fragility and decentralisation are most advanced in their 2016 guidance note: *Local governance in fragile and conflict-affected settings: Building a resilient foundation for peace and development*. The publication stresses the crucial role of decentralisation as part of transforming the political settlements after conflict, and the potential for the topic to be taken up in constitutional reform processes and national dialogues after conflict (UNDP 2016a:13). Thus, the guidance note reiterates the acknowledgement of the UN Working Group on Public Administration that "decentralization reforms are increasingly part of peace agreements" (UNDP 2014).

The World Bank has invested large sums of money (\$85 billion) into decentralisation and participative development throughout the last decade (Mansuri and Rao 2013: ix). It defines decentralisation processes as one of the two major tools to achieve better local participation (community development being the other). World Bank support is geared towards linking local participation and conflict mitigating activities and is mainly focused on post-conflict economic reconstruction as a community-driven approach (ibid: 262pp). A 2013 World Bank report states that there is lack of evidence that such reconstruction efforts improve social cohesion or trust beyond single communities (ibid). However, in the new World Development Report (World Bank 2017: 109-123) entitled *Governance and the Law*, decentralisation is again placed at the forefront of mitigating and transforming conflict by re-distributing resources and wealth on the one hand and sharing power on the other. In 2014 the African Union released a charter on decentralisation and local governance which underlines the central values of participation and inclusiveness for any kind of decentralisation reform. However, the charter does not explicitly link decentralisation to peacebuilding.

In general, all the documents and organisations mentioned above acknowledge the strong political nature that the concept of decentralisation has and the need for inclusivity in any decentralisation process. However, only the UNDP explicitly points out the challenges that politicised decentralisation can pose for peacebuilding objectives (UNDP 2016a).

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<sup>7</sup> [sustainabledevelopment.un.org/](https://sustainabledevelopment.un.org/) (last accessed: 19.04.17).

## 3. EU Support to Decentralisation Reform

The purpose of this sub-chapter is to give an overview of how the EU understands and uses decentralisation reform for peacebuilding. A specific focus is put on the degree to which the lens of whole-of-society can be applied to the EU's reform support to decentralisation from a peacebuilding perspective. The aim is also to flesh out how the EU's support for these types of reforms came about and has developed since the early 2000s. Lastly, the section will review the current evidence base on EU capabilities for decentralisation reform support based on internal and external evaluations, as well as policy papers and guidance notes that have been published in the recent past. Drawing on this knowledge, we aim to develop an exploratory model which allows us to examine the EU capabilities for decentralisation and its assumed linkages with peacebuilding in further empirical cases. In the subsequent chapter (chapter 4) this framework will be applied to examine to what extent the EU is capable of supporting decentralisation processes from a whole-of-society perspective in Ukraine.

### 3.1 Trajectory of EU Decentralisation Reform Support Policies

The first formal EU reference to governance as a foreign policy intervention was made in the 2000 ACP-EU Cotonou Partnership Agreement in which support to good governance underpinned the overall agreement (European Commission 2000). A few years later a first specific European Commission (EC) Communication on 'Governance and Development' (COM 615/2003) was published, which made the first formal connection in EU policy between governance and development. In short, the overall EU agenda on governance support expanded from its initial preoccupation with "anti-corruption and democratization measures for building stable and predictable states to a rapid proliferation of good governance clauses, often alongside or including human rights, rule of law, and democracy, as mainstreamed principles and values in all EU foreign policy agreements and instruments" (Lundström and Dressler 2016: 9). Today the portfolio on governance reform support is spread throughout a broad plethora of instruments, Director Generals, bilateral agreements and funding streams, as will be shown further below.

Based on local demand, support to local authorities (LA) and micro projects started to gain traction in the mid-1990s as part of EU support to governance reform. Only a decade later LAs found themselves in policy mainstream and hence referenced in most central policy and guidance documents (Tidemand et al. 2012). In the revised Cotonou Agreement of 2006 for example the role of local authorities was a central theme. Moreover, in 2006 the *Civil Society Organisations – Local Authorities Thematic Programme* was launched and put emphasis on the role of local authorities and decentralisation processes (European Commission 2016).

The paper *Supporting Decentralisation and Local Governance in Third Countries* counts as one of the first seminal publications on decentralisation support within the EU and served as a comprehensive internal knowledge base on the topic for the following years. It examined and developed guidance on understanding, designing, implementing and assessing decentralisation reform. Some of its more interesting observations – in line with the literature reviewed for this study – are that decentralisation reform is deeply political and can exacerbate local conflict (European Commission 2007: xii); both upwards and downwards accountability at the local

level is essential for decentralisation reform to work; there is not much hard evidence on the benefits of decentralisation and it is a fairly normative concept; and lastly, donor support for the topic is still very inconsistent and fragmented in spite of the mantra of coherence and coordination (ibid: xiv – xv).

Other substantial references followed, for example the first communication on support to local authorities in partner countries in 2008, followed by a 2013 communication titled *Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes*. The latter, together with its related council conclusion, is currently setting the strategy on decentralisation related issues, and will be further described below.

Most recently – in November 2016 – a reference document entitled *Supporting decentralisation, local governance and local development through a territorial approach* was released by the EC Directorate General for International Cooperation and Development. It updates the aforementioned 2007 document and is the most comprehensive and up-to-date guidance note for EU institutions, specifically geared towards improving and guiding practical support for decentralisation reforms. The Guidance note specifically advises on political drivers for decentralisation and the potential that Local Authorities may have for development and political legitimacy (European Commission 2016).

Looking at the EU documents from the last decade they vary only slightly in their definition on decentralisation, and are in essence very similar to the definition delineated in chapter 2.1. For instance, in the 2013 communication, decentralisation is said to “...constitute [...] a particular aspect of public sector reform. It involves the transfer of a range of political authority and powers including revenue-raising, responsibilities in service delivery and financial, human and administrative resources from higher levels in the political system to public authorities at lower level.” (European Commission 2013: 5). Furthermore, the commission also makes the three pronged distinction between the political, administrative and financial dimensions of decentralisation, which is used by other authors and international organisations (see for example European Commission 2016).

## 3.2 Strategic motivations behind EU support to decentralisation reform

Over the past two decades the motivations behind EU support to decentralisation related reforms have seemingly developed in parallel to the global trends previously brought up in chapter 2.1 (Tidemand et al. 2012). Hence, in 2012 a comprehensive external evaluation examined the EC's support to decentralisation between 2002 and 2009 and stressed a number of global factors which were spurring the EU's interest in the topic as well as leading to a wave of decentralisation processes in developing countries: for example the increasing participation of non-state actors in development; a paradigm change in development policies and economic liberalisation after the Cold War, and finally increased international concern to support state reforms and democratisation.

This trend was reinforced and interlinked with the EU's new focus on good governance, which also stressed the importance of local actors, and saw decentralisation as a process worth pursuing due to the normative benefits (improving local rule of law and support for democracy and human rights) that it promised (European Commission 2016: 16).

The aforementioned 2013 EC communication can be counted as the first full-fledged strategic vision for supporting local authorities and decentralisation (cf. European Commission 2016; European Commission 2013). It marks a shift away from seeing decentralisation as part of the normative good governance discourse, and understands it as a tool to reach specific goals (European Commission 2016). The underpinning assumption in the document is that decentralisation reform is part of a wider approach to territorial governance which has the potential to increase efficiency of governance, equality and social cohesion (European Commission 2013:6). This notion is based on the realization that “[c]entrally-led, top-down development policies and programmes cannot alone succeed in addressing the complexities of sustainable development and fighting poverty”; and secondly, that “[t]he participation of citizens in decision-making processes that affect their lives and access to accountability mechanisms is fundamental to the promotion of sustainable development and poverty reduction” (European Commission 2013:2). Equipped with this awareness, the step towards making the linkage between decentralisation reform and peacebuilding was not very big.

Regarding the emphasis of this paper on peacebuilding, the 2013 communication makes a clear link between the role local authorities can (and should) play in conflict prevention, resolution and management. Firstly, it mentions a range of conflict drivers and ramifications which can affect local communities and their local authorities in fragile and conflict prone/affected places, for example, social exclusion, migration, public safety and violence, rule of law and access to justice etc. (European Commission 2013:2). Similarly, it outlines the responsibility of local authorities to protect the local population when faced with imminent conflict or threat, for example by strengthening the resilience of the communities under their rule. Moreover, local authorities have a part to play in early warning and de-escalation, particularly in the early stages of violent conflict, for example through employing traditional dispute resolution mechanisms (European Commission 2013: 4).

The 2013 communication also mentions a range of priorities for support in order to make decentralisation reform work: it *“should focus on the establishment of a conducive legal and policy environment for decentralisation and on institutional and capacity development, in order for Local Authorities to enjoy a certain degree of autonomy to fulfil their functions as mandated by law”* (European Commission 2013: 6). In other words, the communication proposes that support should be geared towards different levels of society and political authority: the citizens who demand accountability and better services; the individuals who are active in local authorities and who might be in need of capacity building in order to better deliver on these demands; the institutional setting of local authorities which allows for the smooth delivery of services on every level and the relationship between these different levels of society; and lastly the policy and legal environment which makes decentralisation and the delegation of power possible (European Commission 2013).

In a nutshell, EU policies and strategies acknowledge a relationship between local communities and conflict prevention and management, and single out decentralisation reform as one of the key drivers to support the capacities of local authorities and communities to deal with such challenges. The next section will look more closely at the EU’s capabilities in practice, and it will also review the external and internal evaluations of the EU’s support to decentralisation reform.

### 3.3 The EU's current capabilities beyond policy and strategy

Speaking about capabilities in the context of this paper implies speaking about the EU as an external actor aiming to support political reforms in its partner countries. More specifically, “capability should be understood in relation to expectations and ambitions with regard to stated (policy) goals” (Martin et al. 2016: 16). In order to analyse EU capabilities, we adapt Whitman and Wolff's model of EU capabilities for supporting political reform processes in partner countries. We identify three EU capabilities: the capability to fund, the capability to co-ordinate and co-operate, and the capability to act (Whitman and Wolf 2012: 20).

The *capability to act* deals with the availability of EU personnel (with their various capacities), the range of policies and the range of policy instruments which are at the EU's disposal to support decentralisation reform from a whole-of-society peacebuilding perspective. The *capability to fund* looks at which funding instruments are available to support decentralisation reform. The capability to *co-ordinate and cooperate* describes both relations with external and international actors as well as the internal dealings of the EU. Coordination and cooperation are interlinked with the principle of working inclusively (on both of the axes outlined in chapter 2.3) (Whitman and Wolff 2012).

All of these capabilities work against the contextual background of the EU's internal political willingness and prioritization to get things done, as well as external factors (e.g. an intensifying armed conflict) which will ultimately influence whether or not capabilities will actually be deployed (Cf. Davis et al. 2017; Whaites et al. 2015; van Veen and Dudouet 2017).

The previously mentioned comprehensive external evaluation of the EC's decentralisation reform from 2012 gives us a good sense of how EU support has played out in practice, and on which capabilities it was built. Based on empirical data from 22 different countries, the evaluation does not paint a very positive picture of the EU's support to decentralisation reform. Although the report assesses that the EC to some extent made contributions matching their two goals of improving local governance and service delivery, the assessment points to significant gaps between the EU's policies and their implementation as well as to the lack of solid analysis and mapping of local conditions and the political economy in all stages of support. In terms of actual institutional change and achieving deeper legal reform, the effects of the EU's support were deemed to be of a modest nature. In the assessment it is also highlighted that in cases where the EU has been engaged, there have also been cases of sector legislation and government legislation being in conflicting, which had a negative impact on both reform attempts and the implementation of reform. In these highly politicised cases the EU has not had the sufficient capacity to create leverage. Nor did it have a substantial impact on increasing the involvement of non-governmental and community-based organisations in e.g. policy-discussions on decentralisation. Additionally, issues around “political representation or local governments' relative control over public servants appeared to be too sensitive for [EU] donor support” (ibid: 4). The EU's support has also had a limited impact on intergovernmental/inter-ministerial relations on the national level and on local accountability.

Furthermore, the evaluation concluded that the EU's role was inefficient for supporting decentralisation and had even hampered the effectiveness of decentralisation processes. Perhaps the most discouraging part of the assessment was that the EU was found to have had limited impact on the quality of local services. However, the EU has been effective in some limited areas of decentralisation reform such as improving local capacities of planning and

improved financial management. Finally, its reform support was more sustainable when it was aligned to nationally-owned reform processes (Tidemand et al. 2012).

## 4. The EU's support to Ukraine's Decentralisation Reform

This chapter aims to broaden the knowledge base on the EU's capabilities to support peacebuilding-centred decentralisation reform by providing an empirically-grounded case study of Ukraine, which is analysed through a whole-of-society lens. After giving some background on the political environment the reform support is situated in, as well as discerning the EU's rationale for such support, the chapter will explore the EU's capabilities for supporting decentralisation reform in terms of funding, acting and coordinating.

### 4.1 Ukraine: an intricate setting for political reform support

Ukraine's current process of governance reform started after its proclamation of independence in 1991 (Litra et al. 2016). The EU's most substantial involvement in supporting this process has come through the geographical instruments of the European Neighbourhood Policy (ENP since 2003) and the Eastern Partnership Programme (since 2009). The document which is currently most central in outlining EU support to decentralisation in Ukraine is the EU Ukraine Association Agenda to prepare and facilitate the implementation of the Association Agreement (EU-Ukraine Association Council 2015, EC 2016). The history of the most recent EU support to decentralisation reform in Ukraine is in fact quite intricate. The negotiations around the Association Agreement and the rejection of its implementation by former Ukrainian president Viktor Yanukovich in 2013 led to the mobilisation of Ukrainian pro-EU supporters in 2013 and the so-called Maidan protests. Ultimately the pressure created by the protests led to Yanukovich's ousting and brought to power a pro-European government under the current president Petro Poroshenko (Cross and Karolewski 2017, Marples 2016, Litra et al. 2016). Taken aback by these developments, Russia – who has a crucial geo-political interest in Ukraine – intervened militarily in Crimea and annexed the Ukrainian peninsula.

Simultaneously, unrest erupted in the majoritarian Russian-speaking regions of South and Eastern Ukraine. Two main factors contributed to this development: on the one hand Russia's activities in the Eastern regions and on the other hand fears caused by the proposed policies of the Ukrainian government, which aimed at prohibiting Russian as an official language<sup>8</sup> in the country and minimizing Russian cultural influence in the East (Matveeva 2016, International Crisis Group 2014). Turmoil turned into full-fledged armed conflict and de facto self-governance by independent and pro-Russian rebel forces in parts of Donetsk and Luhansk *oblast* (region). After the Maidan protests and since the start of the conflict, identities based on

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<sup>8</sup> The law which allows for Russian as an official language in some regions of Ukraine was ultimately not repealed. However, the political debate surrounding the repeal (paired with Russian propaganda) (International Crisis Group 2014: 9-10) together with the history of "Ukrainisation" which attempted to diminish the role of Russian language and culture since the 1990s (Mateeva 2016) led to a perception of parts of the population in Donetsk and Luhansk that their identity was threatened and helped to trigger the unrests.



pro and contra Russian or Ukrainian sentiments have started to become more and more politicised across the conflict divide (Matveeva 2016).

Against this background, issues around decentralisation became mixed up with discussions around a special federal<sup>9</sup> status for non-government controlled areas and even claims for independence in the occupied territories in Luhansk and Donetsk region. Despite the violent developments, in the East of the country decentralisation and local self-governance have remained national reform priorities<sup>10</sup> for the government-controlled regions (i.e. all other national regions but parts of Luhansk and Donetsk) (Litra 2016 et al., Gressel 2016, Lankina et al. 2017).

Two very different endeavours towards decentralisation are currently ongoing in Ukraine and the occupied territories. The first process is focused on administrative, fiscal and political decentralisation, which aims to make the Ukraine state more efficient. This undertaking is limited to government controlled territories and works against the background of a highly centralized post-soviet Ukrainian state in which even the smallest of local affairs were historically coordinated through Kiev and local management was de-facto absent (Gressel 2016). This arrangement was prone to inefficient decision making which was caused by the central government taking up issues which only concerned sub-national levels. Thus, decisions taken in Kiev were often not rooted in the realities of people at the *oblast* (region), *rayon* (district) and *hromad* (municipality) levels (Marple 2016). Furthermore, taxes levied at the local level (by the central government) did not necessarily return to the local level in the form of investments and public service delivery. This outcome was a function of corruption, inefficient fiscal transfer mechanisms and a lack of interest to support the local level (Marple 2016, Litra et al. 2016, Gressel 2016). In order to overcome these shortcomings a decentralisation reform was introduced in 2014. Its most significant changes entail that laws continue to be legislated in Kiev, but regional, district and local governments have the autonomy to implement them, as well as to administrate schools, hospitals and other public services (Gressel 2016). As part of this reform, an amalgamation process is currently under way. Hence, small communities are being merged into bigger municipalities (*hormads*), in order to allow for functional service delivery and local management which corresponds to the newly attained responsibilities at the local level (Lankina et al. 2017). Furthermore, local elections took place in government controlled territories in late 2015.<sup>11</sup> The reform is closely modelled after EU-member state Poland's experience, which had undergone substantial government reform itself after the toppling of the Communist authorities in the late 1980s (Marples 2016).

In the mould of mitigating armed conflicts through geographically delimited special status for particular regions (see chapter 2) the second decentralisation undertaking in Ukraine concerns federalisation (see also footnote 10). Hence, it was agreed by the parties of the Minsk

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<sup>9</sup> None of the conflicting parties uses the term 'federalisation' at the time of writing. If it is referred to in this chapter, it reflects the theoretical concept of federalization (see chapter 2) and helps us to make a distinction between the different forms of devolving power which are present in Ukraine. In fact, special status regions, with particular powers (e.g. the Basque country) are discussed under the asymmetric federalization debate (see for example: Agranoff (2005)).

<sup>10</sup> For example decentralisation is one main priority in the document 'Strategy for Sustainable Development 'Ukraine-2020'', which was released by the presidential administration in 2015.

<sup>11</sup> Some elections are still pending, due to the merging of smaller into bigger communities.

II peace agreement<sup>12</sup> that the non-government controlled areas<sup>13</sup> would receive a special status which would allow them some type of autonomy and self-governance in their territories. Whereas the agreement text leaves room for interpretation on the exact design and durability of the special status<sup>14</sup>, it also specifies that this status would only come into effect with the end of the fighting, which implies the retreat of both Russian and Ukrainian Special Forces from the area (Marple 2016; The Economist 2016). Due to the continued fighting and the related unstable security situation as well as public refusal of the special status (which would entail changes to the Ukrainian constitution) not all laws regarding decentralisation and the special status have passed the *Verkhovna Rada* (the Ukrainian parliament). In other words, the current package of proposed constitutional changes which was drafted as a result of the Minsk agreement mixes language on introducing the special status with other changes which are mostly relevant for the overall decentralisation reform (e.g. the role of provincial governors, or the amendment distinguishing the *hromada* as the basic unit of the territorial-administrative system) (Interview EEAS official; Lankina et al. 2017). In sum, due to the difficult security situation, the unstable ceasefire as well as the repudiation of the current formulation of the special status law on both sides of the conflict divide, it seems highly unlikely that a special status<sup>15</sup> will be put into practice in the near future (Marple 2016).

## 4.2 Objectives behind EU support to decentralisation reform in Ukraine

The EU's engagement in the current processes of decentralisation has many different elements and has been supported through various channels (policy, funding, diplomatic engagement) as will be further described below. All of this engagement has to be understood against the background of the armed conflict, Russia's geopolitical interests in Ukraine, and the broad EU security interest in its neighbourhood (Cross and Karolewski 2017). In other words, in Ukraine the EU is as much a supporter of peacebuilding-centred decentralisation reform as it is an important international actor who has security interests in its neighbourhood (expressed for example through "sanctions towards Russia, institutional and financial aid to Ukraine as well as substitute gas delivery to Ukraine from the EU through reverse gas flows", Cross and Karolewski 2017: 138).

Given the limited scope of this paper, this section will mainly focus on one out of multiple substantive decentralisation support initiatives currently being pursued by the EU in Ukraine. Hence, we will focus on examining the EU's capabilities in terms of its Instrument for Stability and Peace (IcSP) funded action "Restoration of Governance and Reconciliation in Crises affected Communities of Ukraine". The project is being implemented by UNDP and UN Women in the government controlled areas closest to the contact line (Luhansk and Donetsk region). It is in this project that decentralisation reform support is built most noticeably on

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<sup>12</sup> See for example Göldner-Ebenthal and Dudouet (2017) for more information.

<sup>13</sup> Referred to as individual areas of the Donetsk and Luhansk regions in the translated text of the agreement <https://www.unian.info/politics/1043394-minsk-agreement-full-text-in-english.html> (last accessed: 19.04.17)

<sup>14</sup> For a brief overview on discussions about the special status see Marples 2016.

<sup>15</sup> The reforms not being finally passed by parliament also means that the government controlled areas of Donetsk and Luhansk Oblast remain under special civil-military legislation (UNDP 2016b).

peacebuilding needs. According to the self-description of the project, as well as the most recent OSCE Special Monitoring Mission to Ukraine report on the situation in territories close to the contact line, issues on which PB initiatives could focus on: a high concentration of Internally Displaced Persons (IDPs) in government controlled areas and issues of social cohesion between IDPs and host communities; a lack of social service delivery on the local level due to the relocation of village councils and regional authorities; the separation of families but also the division of business relations by the contact line; increased threats of intercommunal and interpersonal violence (particular gender violence) in areas (previously) affected by military conflict etc. (UNDP 2016c complimented by data from recent report from the OSCE Special Monitoring Mission to Ukraine (2017)).

Thus the paper does not explicitly cover the EU's engagement in the above mentioned Minsk process, or the Ukraine Local Empowerment, Accountability and Development Programme (U-Lead) which covers support to decentralisation reform in the non-conflict affected areas of Ukraine. We will also not cover the technical advice that the national government receives from the EU in terms of national level decentralisation legislations and policies.<sup>16</sup>

In order to examine the EU's capabilities in terms of a whole-of-society approach to decentralisation reform in Ukraine – based on the IcSP funded project – we need first to discern what the EU's rationale and theory of change are in order to compare its capabilities with these objectives. The project's goals are spelled out as follows: *"The project will strengthen the capacity of the local and regional authorities to develop policies, plans and budgets that are based on gender analysis and responsive to the needs of women, men, girls and boys. In addition, the project will ensure equal and meaningful participation by women and men, particularly the most vulnerable, in the decision-making process"* (UNDP 2016c). Furthermore, it states the assumption that decentralisation in concert with other factors (recovery, social cohesion, security) can play a crucial role in preventing further conflict in the region (ibid.). Improved service delivery, conflict sensitive governance and intra and inter-community dialogue as part of the decentralisation process are emphasized as some mechanisms which link decentralisation with peacebuilding (ibid.). Although not explicitly mentioned in UNDP's project leaflet (UNDP 2016c) or inception report (2016b) the wording and focus of the project is much in line with the priority areas for support mentioned in the EC communication on *Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes* (see chapter 3).

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<sup>16</sup> This support is provided for example by experts belonging to the EU support group for Ukraine (EEAS official interview 29.03.17).

## 4.3 The EU's capabilities of supporting decentralisation reform in Ukraine

### 4.3.1 Capability to fund

As mentioned above the current *international environment*, which is characterized by a struggle for geopolitical influence by Russia, an armed conflict and a newly signed association agreement between the EU and Ukraine, has led to a rise in external funding in Ukraine since 2013 (see European Court of Auditors 2016 for details of budget increase). Sufficient availability of funds obviously influences the overall potential to act. The project "Restoration of Governance and Reconciliation in Crises affected Communities of Ukraine", which is covered by the EU's Instrument Contributing for Stability and Peace, started its implementation phase in May 2016 and will run for 18 months.<sup>17</sup> It has a budget of €10 million and is implemented by UNDP and UN Women and was jointly drawn up by the EU delegation to Ukraine and the implementing partners, while the IcSP was foremost involved in funding. The design process was based on regional development plans which were created by local authorities and civil society with support from UNDP (Litra et al. 2016). Both EU and UNDP staff observed the particularly high engagement of local stakeholders in this planning exercise, as well as the vital prioritisation of issues which resulted from this process (ibid.). Overall, the increased activity and engagement of Ukrainian civil society and local level authorities is a trend which has been persistent since the Maidan protests (cf. BTI 2016).

Hence, themes of administrative reform related to decentralisation, community security, issues of IDPs, and social cohesion - which form the four main pillars of the current IcSP project - were all brought up as priority concerns by local authorities. As one interviewed UNDP official (Litra et al. 2016) states:

*"...because the regional administration engaged in a participatory consultative process with working groups in four areas to discuss these things from bottom up and to actually produce a very different type of regional strategy document [different] from the usual convoluted, very technocratic documents that nobody would ever read. This is actually designed to be read by an interesting public and should be considered as owned by the communities. And this was very useful because, for instance, the emphasis on community security, and administrative reform, and IDPs and social cohesion are also the themes that we integrated into the proposal and, therefore, now the action [the project]. So what we now have is that we have a government-owned product of a participatory process, which is this regional development strategy, and we have the resources from the EU to actually conduct the targeted programmes in those areas"* (UNDP official interviewed in Kyiv 2016, for Litra et al. 2016: 60).

In hindsight, the actual text of the proposal was not drafted in concert with local stakeholders. Nevertheless, the participatory development plans as well as the substantial expertise both the

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<sup>17</sup> The maximum duration for IcSP-funded projects which aim at rapid response and flexible programming (EU 2014).

UNDP and EU offered in designing governance programmes in Ukraine helped to reflect (to some degree) the *demands of local authorities and civil society* (National Reform Council 2016, for Civil Society Organisations (CSOs) involvement in the planning of the development strategy (see UNDP 2015a). However, as the UNDP's inception report states, a planned follow up on the development strategy being jointly conducted by the Swedish International Development Cooperation Agency (SIDA) and the Swiss Agency for Development and Cooperation (SDC) is currently lacking the funds for conducting consultations, which could present an issue for the timely adaptation of the project to local and regional developments (UNDP 2016b:12).

Also, the *flexible* and non-programmable nature of the IcSP allowed for *funding* decentralisation reform in the conflict affected areas based on their local priorities, rather than integrating it directly into U-lead (the bigger financial EU support program which covers decentralisation in the rest of the country). Hence, the IcSP funded action was able to link decentralisation reform to the immediate needs of conflict recovery in the region (Litra et al. 2016). Furthermore, the instrument also worked well in a situation in which the EU realized the need for peacebuilding initiatives in the government controlled areas in Luhansk and Donetsk *oblast* only when the conflict with the rebel-held territories dragged on.<sup>18</sup> In other words, it was able to adapt its focus on decentralisation reform and bring in a peacebuilding component. However, the fact that eight months passed between designing the project and its kick off date (Litra et al. 2016) somewhat questions the claimed flexibility of the funding instrument.

The short-term nature of the IcSP does not necessarily have to be seen as a shortcoming for the project in question due to the current planning of a follow up project funded through the European Neighbourhood Instrument – an instrument more geared at medium and long-term support.<sup>19</sup> On the other hand, the question remains to what extent the new project will be able to include a peacebuilding component into the work on decentralisation reform due to its priority areas being different from the IcSP.<sup>20</sup>

#### 4.3.2 Capability to act

A variety of factors positively influence the EU's capability to act in Ukraine if seen through a whole-of-society lens for peacebuilding-centred decentralisation reform support. Firstly, regarding the internal capacities and tools of the EU, a substantial amount of *policies and policy instruments* are available for the EU to engage in Ukraine in such reform. Thus, as outlined above, policy and guidance documents on the EU headquarters level have been produced to guide decentralisation support. On the national level, the association agreement between the EU and Ukraine and its implementation agenda are critical, as they set out decentralisation as one of the main priorities for Ukraine (EEAS 2015). Likewise, the Minsk peace agreement singles out decentralisation as a priority; although this can also be seen as a stumbling block as described in the introduction to this chapter.

Furthermore, the EU's capability to act in this particular project in Ukraine is positively influenced by the *longstanding field presence* by its implementing partner UNDP in the geographic areas covered by the project (Litra et al. 2016; UNDP 2016b). In combination with

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<sup>18</sup> Interview with EEAS official at headquarters (29.03. 2017).

<sup>19</sup> Interview with EEAS official at headquarters (29.03. 2017).

<sup>20</sup> Interview with EEAS official at headquarters (29.03. 2017).

established expertise of supporting governance reform by both the EU and UNDP, and far-reaching coordination with other international actors on decentralisation reform support (see below) this gave the partnership of UNDP, UN Women and the EU a good starting point to engage. In particular this meant that contacts and working relationships with local stakeholders were already established and that for example the UNDP had a pre-existing regional headquarters from which it could start implementing the project (Litra et al. 2016). Just after the project's inception, this also allowed for the UNDP to receive early feedback on the feasibility of the planned project activities by local administrations, which will ideally lead to their adaptation to local priorities over the remaining project cycle (UNDP 2016b: 6). Along the same lines, UNDP has undertaken broad public consultations with both local administrations and local CSOs with a focus on reconciliation and social cohesion initiatives in order to both inform them and develop with them a monitoring tool aimed at creating an evidence base on inter-group relations. This tool will serve to inform UNDP's work on social cohesion – one priority area of the project – on the local level (UNDP 2016b: 19-20).

On the other hand, Gressel (2016: 64-65) – writing on decentralisation reform in Ukraine in general – reports that the EU *lacks staff* and presence outside of the bigger urban centres, which might impede its own capability to monitor projects. However, it is too early to judge the project on such criteria, as outreach activities which are supposed to engage with and inform more rural populations have recently been launched<sup>21</sup>. Issues related to personnel have also haunted the UNDP in the inception phase of the project, as it could not recruit enough qualified national experts on fiscal decentralisation, territorial amalgamation, and anti-corruption and thus had to resort to short term consultants for an interim period (UNDP 2016b: 7).

However, the lack of national experts and staff in rural areas is contrasted with a high and increasing number of EU personnel working on Ukraine overall (e.g. eight people at the EEAS headquarters, which makes it the biggest country team; 100 people at the delegation, which makes it the second largest EU delegation worldwide; and 30 people for the EU's support group to Ukraine<sup>22</sup>).

From a whole-of-society lens, two other points are worth mentioning. Firstly, although the current project does not cover the non-government controlled territories in Donetsk and Luhansk at this point, the UNDP was chosen as an implementing partner based on the perception of its neutrality and impartiality and thus its potential acceptance by all actors to work in these areas, should the conflict environment change at some point.<sup>23</sup> This would allow the EU to engage in non-government controlled areas in the future (Litra et al. 2016). Currently the EU refrains from engaging in the occupied territories for a number of reasons: e.g. the security situation (OSCE Special Monitoring Mission to Ukraine 2017) and the fact that parts of the Minsk agreement – such as holding local elections – have not been fulfilled.<sup>24</sup>

Secondly, the current project has a very strong gender dimension, which is being implemented by UN Women (2 million of the overall 10 million Euro budget). The participation of UN Women was facilitated by the EU delegation in Ukraine (Villegas et al. 2016). Thus, the

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<sup>21</sup> Information provided by UNDP Ukraine project staff (18.04. 2017)

<sup>22</sup> Interview with EEAS official at headquarters (29.03. 2017)

<sup>23</sup> Mainly based on previous substantial engagement of the UNDP in these areas.

<sup>24</sup> Interview with EEAS official at headquarters (29.03. 2017)

current project has a strong focus on empowering women to become more active gender equality advocates, for example by facilitating the “creation of women’s advocacy initiatives encouraging women to let their voices be heard and increase their participation and influence on decision-making with respect to recovery, planning and budgeting, and community security” (UNDP 2016c). This stream of work is further strengthened through gender coordinators within the EU’s IcSP instrument which are constantly monitoring the potential for gender mainstreaming (Litra et al. 2016). Other target groups of society (e.g. youth) within the decentralisation process are catered through UNDP projects funded by SIDA and Switzerland (see more below on inter-donor coordination).

Next to internal capacities, a range of external factors shape the EU’s capability to act in Ukraine. Firstly, the pro-European nature of the current Ukrainian government fosters a conducive working environment for EU interventions. On the other hand, it is worthwhile pointing out some of the central challenges which the context of Ukraine poses to EU engagement in peacebuilding-centred decentralisation reform from a whole-of-society-perspective. In general, the fluid *security context* and the problem of adapting the necessary legal framework for decentralisation reform on the national level have been pointed out in the background section of this chapter. Particularly, the stalling of parts of the decentralisation reform in the parliament implies that many of the reform’s aspects are dependent on execution without a clear legislative framework (Lankina et al. 2017). What also seems particularly challenging regarding the EU’s engagements is the *politicisation* of the decentralisation issue. While polls show that the Western parts of Ukraine are largely in favour of the reforms, the picture is less rosy in territories close to the contact line (Litra et al. 2016).<sup>25</sup> However, public approval of decentralisation reform in the government-controlled Eastern territories is trending upwards according to a recent survey by the Council of Europe, but remains significantly under the approval rates in other parts of the country (COE 2016: 29pp). In any case, supporting such a politically-loaded topic bears the risk for the EU of being perceived as partisan.

Next to the more obvious challenges such as a lack of funds bemoaned by local authorities,<sup>26</sup> one of the key bottlenecks for successful decentralisation is the *poor communication strategy by the central government* with its lower levels of authority. This shortcoming leads to perceived ambiguities and even bickering over the distribution of tasks, funds and power between the different local levels (Lankina 2017). Together with concerns over struggles between local government and powerful *local oligarchic interests*, as well as concerns about *corruption*, this provides the challenging background against which outreach activities of the project have to take place (Lankina 2017; Yaffa 2016). What is less clear from publicly available documents is how the EU funded projects aims to link and coordinate its local outreach activities with the national governments outreach in order to connect different levels of authority. Furthermore, a wider challenge for the EU is to follow through with investment for economic development in the regions. Due to the amalgamation of communities into bigger administrative units, schools and hospitals in some districts will be closed or merged. This might be an overdue process due to the excess of social facilities (although with low quality service) that Ukraine had inherited from the Soviet Union. On the other hand, this process also implies

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<sup>25</sup> Interview with EEAS official at headquarters (29.03. 2017)

<sup>26</sup> However, a clear spike of the percentage in local budgets compared to the overall budget of the Ukrainian state can be observed since the beginning of decentralisation: from 45.6% in 2015, 47.5% in 2016 and 49.3% in 2017 (COE 2017).

that an improvement in the quality of social service (such as health and education) must materialize in order to not be perceived by the local population as austerity measures (Gressel 2016:50, Jarábik 2017).<sup>27</sup>

### 4.3.3 Capability to coordinate and cooperate

As mentioned in the introduction to this section, the EU coordinates its own action – along the horizontal axis of the aforementioned analytical whole-of-society model – by having divided its efforts to decentralisation reform support in two geographical areas (conflict affected regions in the East/South vs. non-conflict affected regions in the rest of Ukraine). The projects are funded under two different instruments and implemented by two different partners (U-Lead is funded under the European Neighbourhood instrument and implemented by the German Corporation for International Cooperation – GIZ). Furthermore, coordination has also taken place between the EU and its member states, particularly through the so called Support Group for Ukraine.<sup>28</sup> This body is mainly intended to ensure the focused and concentrated implementation of the Association Agreement, for example by closely working with national authorities both through providing technical expertise, but also in order to identify possibilities to support the Ukrainian state through EU funded programming.<sup>29</sup> However, it has also served as the main body for coordination between the EU and its members states, which has among other things led to co-funded projects on decentralisation between the EU and its Member States' (e.g. Sweden and Germany co-funding U-Lead) (Gressel 2016). The expertise build by EU staff in Kiev, which is part of the Support Group, can guide member states and new projects on needs and demands in the decentralisation arena, as well as supporting them in terms of navigating Kiev's political scene and culture (ibid.). More generally speaking, trust between EU states has increased during the crises in Ukraine, parallel to a decrease in trust towards Russia (Cross and Korloewski 2017: 139). EU-internal coordination is also ensured through the expansion of the team at EEAS, which helps coordinate the different actors and instruments working on Ukraine at headquarters level and helps design meta-level policies on the country.<sup>30</sup>

Significant coordination has also taken place along the vertical axis of the aforementioned whole-of-society model (hence with other international actors, national actors, and local actors). In terms of coordination with (non-co-funding) donors the IcSP funded project has coordinated its work tightly with other main donors in the field – most notably USAID's large decentralisation projects – and meets regularly in a working group on Local Governance, Regional Development and Municipal Services facilitated by the Ukrainian government (EC 2015). Thus, the current project is seen as an extension of former peacebuilding and recovery work which was funded by Sweden, Switzerland, Japan, Poland, Czech Republic and the United Kingdom and managed by UNDP (UNDP 2016d). It also ties in with the Netherlands-funded UNDP project working on community justice and security in the area (Litra et al. 2016) and

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<sup>27</sup> In fact, the first tangible outputs of decentralisation reform and the accompanying increase of local budgets has led to an observable improvement in infrastructure (both roads, but also related cultural institutions etc.). Challenges remain in terms of service delivery (health, education) (cf Gressel 2016, Jarábik 2017).

<sup>28</sup> Interview with EEAS official at headquarters (29.03. 2017).

<sup>29</sup> interview with EEAS official at headquarters (29.03.2017).

<sup>30</sup> interview with EEAS official at headquarters (29.03.2017).



SIDA's work on reconciliation and inclusive dialogue with local authorities (UNDP 2015b). Moreover, the IcSP's work on decentralisation is complemented and coordinated through partnership with humanitarian organisations such as the United Nations High Commissioner for Refugees (UNHCR), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), as well as through coordination with the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe mission to Ukraine (EU Delegation 2014: 23).

Regarding the national government, the IcSP has interacted on the project with the following state ministries: Ministry of Regional Development, Building and Housing of Ukraine, as well as at the level of local administrations and communities. However, whereas coordination and cooperation seem to be carried out fairly well between the major donors in the area of decentralisation reform, the same cannot be said for the different ministries of the central Ukrainian government, which is one of the main problems of making the overall process more efficient (Gressel 2016; Lankina 2017). Again, the question arises to what extent the IcSP has substantially coordinated its project activities (e.g. outreach) with national political actors.

Coordinated activities with local authorities and civil society related to the EU's capability to act and fund have already been discussed above. Generally speaking the project has a strong focus of coordinating with local actors on many dimensions: during the project design phase through public consultations, through its objectives to build local governance capacities, and through continuous feedback loops and public consultations during the project.

## 5. Final Discussion

This section intends to complete the circle of connecting empirical evidence of the EU's policies or expectations regarding decentralisation as a peacebuilding strategy with the actual practice of its reform support. Thus, it aims to tease out some of the current EU reform capabilities and challenges involved in supporting decentralisation reforms from a whole-of-society peacebuilding perspective. Furthermore, it hopes to contrast the findings of this comparison with some of the assumptions made in the academic literature.

Regarding a whole-of-society peacebuilding lens applied on decentralisation we had argued that decentralisation is *“a coordinated action that entails inclusive (formal and informal) political dialogue, trust-building, and (formal and informal) political settlements (horizontal and vertical).”* The analytical model chosen for this study argued that the EU's engagement towards supporting such processes can be examined along three core capabilities: to fund, to act and to coordinate/cooperate. It had further argued that the EU's capabilities should be assessed, contrasting its expectations for support to reform with its actual practices.

As a review of the main policy documents on EU decentralisation support revealed, the EU indeed recognizes the political and peacebuilding dimension of decentralisation reform (next to the technical dimension) and identified them as critical to increase efficiency of governance, equality and social cohesion in (post-)conflict contexts (European Commission 2013). Furthermore, the EU clearly outlined its priority areas (or expectations) for its decentralisation reform support in a whole-of-society fashion by aiming to a) support citizen participation and input into reforms; b) facilitate capacity building for local authorities to deliver on these demands; c) improve the institutional setting necessary for service delivery; and d) support the policy and legal environment which makes decentralisation and delegation of powers possible (European Commission 2013; also see chapter 3). These priorities are embedded in more encompassing values such as coordinating support to peacebuilding across multiple tracks of society (cf. EU Global Strategy on Foreign and Security Policy) and between different EU bodies and policy fields (EU's Comprehensive Approach to Security).

As the previous chapter has shown for the example of Eastern Ukraine, the EU has substantial capabilities to support decentralisation reforms from a whole-of-society peacebuilding perspective. In fact, it has engaged in all of the above mentioned priority areas in the case of Ukraine, for example, by a) building its project on local and regional need assessments; b) aiming to improve the planning and service delivery capacities of local authorities<sup>31</sup>; c) assisting the amalgamation process to prepare communities for their new responsibilities; and d) work closely with the Ukrainian parliament and government on the policy dimension of decentralisation reform. Whereas we cannot evaluate those actions (and their shortcomings) in an in-depth fashion in the boundaries of this paper, a number of enabling and constraining factors impacting the level of EU support capabilities can be discerned. We have clustered those factors along the two main axes of the aforementioned whole-of-society model. Thus, the horizontal axis describes our lens on the EU's internal capabilities to act, fund, and coordinate. The vertical axis designates the interaction between the EU and the multiple

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<sup>31</sup> Objective one of the project. It is too early to assess, if an actual improvement has actually taken place. (UNDP 2016b).

actors involved or affected by decentralisation reform, as well as the impact these interactions have on the EU's capabilities.

## 5.1 The EU's internal capabilities: enabling and constraining factors

The choice of a *funding* instrument designed to serve peace and stability for the above examined project shows that the EU does make the link between decentralisation and peacebuilding not only in its policy documents, but also in practical support. More specifically, in Eastern Ukraine the IcSP met its objective of being flexible in terms of complementing other programs which are more bound to strategic vision and programming objectives and which might need longer to set up a project. From the project's design phase until its implementation eight months had passed (Litra et al. 2016). To some extent this questions the flexibility and adaptability of the funding instrument to set up projects quickly. Lastly, the fact that there seems to be financial bottlenecks for the current project in having an updated round of locally drafted development plans – the main basis on which the program is built – does speak for the continued need to prioritize participation of local stakeholders in funding.

Regarding the EU's *capability to act* the longstanding ground presence (by UNDP) and relationship with the Ukrainian government (via the EU delegation) stand out in enabling the project to build upon local input (via development plans). Thus, the project is based on local needs and demands and manages to make local authorities the actual target group of the project. Some of the main challenges for the UNDP as implementing partner were to recruit local/national personnel to carry out the projects, which has the potential to diminish the level of local ownership – a crucial component for reform if looked at from a whole-of-society perspective. The same holds true for the fact that the EU delegation does not have regional offices in the East, which would also allow them to monitor more rural developments.

EU *internal coordination* on decentralisation in Ukraine seems to work fairly well. This is partly due to the work of the Support Group for Ukraine, which takes on coordinating sectorial support between different EU bodies, as well as the EU's Member States in Ukraine. Furthermore, the increase of staff capacities at the EEAS ensures better coordination on Ukraine's portfolio also at headquarters level.

## 5.2 Contextual enabling and constraining factors

First of all, the (geo)political environment has been a big contextual factor regarding decentralisation reform support in Ukraine since the 2013 political crisis and has influenced the EU's *capability to act* in multiple ways.

Thus, the Association Agreement, the political crisis which started with the Maidan protests, as well as the ongoing armed conflict are all factors which meant potential for greater EU engagement in Ukraine. Indeed, the EU responded with an increase of its *resources* to support the country: e.g. higher staff numbers at headquarter desks and in the delegation along with the addition of a 30-person-strong support group and an overall increased financial investment in Ukraine).

On the other hand, the geopolitical context and the still ongoing hostilities as part of the armed conflict impede the EU's efforts for supporting decentralisation reform on many fronts. Firstly, Russia's influence on "every facet of decision making" (Cristescu et.al 2017: 7) in the non-government controlled areas in the East implies that it seeks the greatest possible autonomy and decision-making power for non-government controlled areas for any future peaceful solution to the current armed conflict, in order to keep its political influence (see for example Marlin 2016). Thus, Russia's understanding of decentralisation is different to the decentralisation reform currently ongoing in government controlled areas, and discussed in chapter four. This also complicates the discourse on the topic of decentralisation in the Ukrainian public and parliament, making it a highly politicised topic with connotations of (Russian) security threats and issues of national sovereignty.

This is exemplified by the fact that parts of the decentralisation reform bill have not been passed by the parliament due to their content being linked to giving rebel-held territories a special status and the condition of a functioning ceasefire (induced through clauses in the Minsk II agreements). This development is reinforced by public rejection of a special status law (in the form agreed in the Minsk agreement) on both sides of the conflict divide (Marple 2016, Cristescu et al. 2017). Particularly, the hard stance taken by the vast majority of Ukrainian civil society actors against engaging in any dialogue, compromise and reconciliation with actors in the Donbas region hinders efforts to work across the conflict divide (Cristescu et al. 2017). This is also reflected in the first opinion polls on this topic, which show that in 2016 48% of the Ukrainian population (in government controlled areas) did not think that the decentralisation process will "facilitate the resolution of the conflict in the east" (2016: 140). On the other hand in the same poll only 31% thought that it might contribute to a solution. The disbelief in that decentralisation would facilitate a solution to the conflict has slightly gone up by 5% since 2015 (ibid.).

Furthermore, these public sentiments also contribute to the absence of direct political dialogue with the rebel groups in the Eastern territories. However, such a lack of engagement is also due to the perceived lack of legitimacy of local authorities in the non-government controlled territories in the absence of local elections being held, a stance shared by EU officials<sup>32</sup> (also see Göldner-Ebenthal and Dudouet 2017). This continued territorial divide might make whole-of society engagement across the conflict divide harder in the future, for example because newly formed communities within the amalgamation process do not stretch across the conflict divide, and new service delivery structures are created only for government controlled communities close to the contact line. The examples above also show to what extent the success of decentralisation (or governance reform in general) in the peacebuilding context is closely linked to other fields of the peace process, such as the different tracks of the diplomatic arena (cf. Göldner-Ebenthal and Dudouet 2017).

Regarding the *capability to coordinate*, the EU's support to decentralisation reform seems well coordinated, and embedded within the endeavours of other international donors and states. Donor working groups and the EU's Support Group for Ukraine have played a vital role in that regard. However, shortcomings seem to exist in coordinating or cooperating with the national government on issues of outreach and transitions of power to the local authorities' level. Another potential constraining factor for the reform to succeed on the local level is that

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<sup>32</sup> Interview EEAS official at headquarters (29.03. 2017).

benefits of decentralisation might not materialize in a timely manner (e.g. fewer hospitals as part of amalgamation, but not an immediate increase in quality in the remaining ones). For the project, it thus seems critical to succeed with its support to outreach activities which keep the public informed on the current process. Delayed benefits is another key constraint mentioned by the population as impeding decentralisation reform. Other are corruption and oligarchic interests which might lead to increased powers for some strategic players on the local level, but on the other hand entail less 'decentralisation dividends' for the bulk of the population (Lankina et al. 2017).

### 5.3 Lessons learned for theory and avenues for future research

In terms of linking decentralisation theory to the EU's engagement in Ukraine both main schools of thought seem to be present in current reform endeavours in the country. The first school of thought is the attempt "to split sovereignty between various levels of the government" (Sharma 2008: 3) exemplified in Ukraine by the stalled process of installing a special status for the rebel held territories. The second school of thought is the attempt to bring "the government closer to the people" (Sharma 2008: 3), an example epitomized in Ukraine by empowering local authorities to take on more responsibilities which can be dealt with more effectively on the local level.

Furthermore, the example adds to the debate on the peacebuilding potential of decentralisation. Thus, it re-emphasizes that governance related clauses can play an important role in peace agreements. In the case of Ukraine, the special status of the rebel held areas represents one of the main sticking points of the current peace process, and may even contribute to exacerbate differences between government and non-government controlled areas, as neither party is content with the current clause in the Minsk agreements.

On the other hand, the example of Ukraine has shown the potential to link decentralisation reform to whole-of-society peacebuilding needs in multiple ways, for example by working on IDP's and social cohesion, including gender violence into the agenda of capacitating local authorities, including participatory post conflict reconstruction, and re-organizing local service delivery. In addressing these issues successfully, it might fulfil some of the core peacebuilding goals such as reducing marginalization of certain population groups, reducing grievances which arose due to the neglect of the central state, and rebuilding communities after conflict. Of course the early stage of this reform effort and the fluid security context do not allow for any conclusion on the actual impact that decentralisation has had on helping to transform the conflict.

In sum, the case examined in this study has clearly shown the sensitive and political nature of decentralisation reforms in (post-)conflict contexts. On the other hand, it also shows the potential that decentralisation reform can have in a peacebuilding context. Lastly, the case study raises some questions for possible avenues for future research. For example, it remains to be seen to what extent the 'capacitating' and 'establishing' of a functioning system of local authorities, which are able to take on responses previously carried out by the central government also means the 'establishment' of a new local (cf. Hirbringer and Simon 2015). In the light of the marginal and weak role local authorities have played in the past in Ukraine this seems a valid line of investigation. How will they interact with the vibrant civil society which

characterizes Ukraine in particular since the 2014 protest? Will they be able to improve service delivery, particular under the viewpoint of often blatant corruption? And what will be the role of the EU to support such processes in the long-term beyond the 18-month duration of the IcSP, but also beyond the current association agreement, under which the rest of Ukraine receives support to decentralisation?

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<sup>33</sup> If not otherwise noted, all online sources were last accessed 18 April 2017

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