

Why Ukraine and Russia Stopped Talking

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Summary

- Bilateral talks between Ukraine and Russia commenced in late February, soon after Russia's large-scale invasion. Following the Russian atrocities in Bucha and elsewhere, however, they lost momentum and were eventually suspended.
- Right from the start, there were doubts about Russia's intentions, among other things due to its maximalist demands and brutal behaviour.
- Ukraine has consistently said that it will not compromise on its independence, sovereignty or territorial integrity, but has also proposed a negotiated settlement comprising some Ukrainian concessions combined with international security guarantees.
- Thus far, no agreement has been reached since the positions are fundamentally incompatible and both sides believe that they can make progress militarily. There is also a lack of trust of Moscow in the light of Russia's history of broken promises and disturbing transgressions. Moreover, the security guarantees that Ukraine is asking for appear unrealistic.
- These reasons explain why Ukraine is so loudly asking for additional weapon transfers and increased pressure on Russia, and why suggestions of a "face-saving deal" for Russia and Putin cause so much irritation in Ukraine.
- Ukraine's partners must keep up their support for Ukraine and their pressure on Russia. Any agreement that involves continuing violations must not be encouraged, welcomed, or legitimised.

On 28 May, Chancellor of Germany Olaf Scholz and President of France Emmanuel Macron urged Russia's President Vladimir Putin to engage in "serious direct negotiations" with his Ukrainian counterpart Volodymyr Zelenskyy, and insisted on an immediate ceasefire and a withdrawal of Russian troops. This was not the first call for a "diplomatic solution" to the conflict. Bilateral talks between Ukraine and Russia had commenced exactly three months earlier, four days after Russia launched its large-scale invasion on 24 February. Right from the start, however, there were doubts about Russia's intentions, among other things due to its maximalist demands and open questioning of Ukraine's right to exist as a sovereign state and nation, as well as its brutal warfare and behaviour, arguably amounting to genocide. Following successful Ukrainian counteroffensives, and especially the discovery of Russian atrocities in Bucha and elsewhere in early April, the talks lost momentum and were eventually suspended (although the existence of some secret backchannel talks cannot be excluded). This overview discusses the proposals for a negotiated settlement of the conflict that were put forward publicly by Ukraine and Russia in the course of these talks, and analyses why no agreement has been reached.

What was discussed?

On 15 April, Russia reportedly handed a draft agreement to Ukraine, but Russian representatives have been reluctant to comment publicly on its content or on specific negotiating positions. On launching Russia's "special military operation" on 24 February, Putin, however, stated that its purpose was "to protect people who, for eight years now, have been facing humiliation and genocide perpetrated by the Kiev regime. To this end, we will seek to demilitarise and denazify Ukraine, as well as bring to trial those who perpetrated numerous bloody crimes against civilians, including against citizens of the Russian Federation". Commenting on the bilateral talks, Putin's spokesperson Dmitry Peskov in early March stated that Ukraine must stop defending itself ("cease its military action"), change its constitution to enshrine neutrality and recognise Crimea as Russian and the "people's republics" in eastern Ukraine as independent states.

In turn, Ukrainian representatives have consistently said that Ukraine will not compromise on the country's independence, sovereignty or territorial integrity within its internationally recognised borders. At the same time, however, they have signalled an openness to a negotiated settlement comprising some Ukrainian concessions and spoken relatively openly about their proposals to that end. In late March, Zelenskyy said that the most important issues in the bilateral talks were security guarantees, neutrality and the nuclear-free status of Ukraine, "as Russia calls NATO enlargement one of the reasons for invading Ukraine". He also asserted that Russia's demands for "denazification" and demilitarization were not discussed in the negotiations at all. Zelenskyy has furthermore said that the question of lifting international sanctions against Russia must not be raised "until the war is over, until we get back what's ours and until we restore justice" and his negotiating team has dismissed Russian claims that sanctions have been discussed in the bilateral talks. Certain humanitarian and other issues, including prisoner exchanges and evacuations, meanwhile, are handled separately in still ongoing contacts.

Proposed security guarantees for Ukraine

Following the last round of in-person talks before the process was suspended, in Istanbul

on 29 March, Ukraine's negotiating team stated that Ukraine was seeking clear and legally binding security guarantees, "analogous in content and form to article 5 of the North Atlantic Treaty". The negotiators stressed that these guarantees must not be another Budapest Memorandum, but an international treaty signed and ratified by each guarantor of Ukraine's security. These were suggested to be the permanent members of the UN Security Council – the United States, the United Kingdom, France, China, and Russia – as well as Turkey, Germany, Canada, Italy, Poland and Israel. Additional states would be able to accede to the treaty, nothing in which would deny Ukraine's right to join the European Union, and the guarantors should be committed to facilitate this process.

Ukraine's chief negotiator, David Arakhamia, specified that any treaty must contain a provision, according to which, "within three days after the start of the war, aggression, military operation, any disguised, hybrid war against Ukraine, the guarantor countries hold consultations, after which they are legally obliged to provide military assistance to our country, in particular in the form of armaments and the closure of the skies". A week later, Zelenskyy added that the guarantees should also foresee sanctions. In late April, his adviser, Andriy Yermak, suggested a more general multilateral mechanism called "United for Peace" or "U-24", that within 24 hours would provide aid – humanitarian, financial, material and military-technical – to states suffering from aggression and punish the aggressor with sanctions. This idea seems to have been developed into a more traditional fundraising platform. In May, Zelenskyy further proposed that this platform could be broadened to also help countries or regions deal with natural disasters, social challenges or pandemics, among other things. More recently, Yermak has proposed modernising international law so that any country acting as a terrorist or an aggressor would lose all rights in the UN and other organisations on the first day of aggression.

Proposed Ukrainian concessions

Since 24 February, Zelenskyy has stressed that "there can be no compromise on sovereignty and our territorial integrity. And there will not be any", but also signalled limited war aims by saying that a return to the positions held on 23 February would constitute "a victory" for Ukraine. Presumably, this is linked to the large operational risks that any Ukrainian counteroffensive beyond these lines would entail, since Russian and other Moscow-controlled troops have been dug in there since 2014 and presumably enjoy more support from the Russian propaganda-exposed local population than elsewhere in Ukraine. A potential Ukrainian counteroffensive towards the illegally annexed Crimean Peninsula could also be perceived as an increased risk of a nuclear escalation, since the Russian leadership could believe or claim that Russia's very existence was under threat, which according to Russian nuclear doctrine would open up the possibility of the use of nuclear weapons.

Moreover, Zelenskyy's negotiating team has said that in return for security guarantees, Ukraine would be ready to "fix the current status of a non-aligned and non-nuclear state of permanent neutrality" and to refrain from hosting any foreign military bases (which Ukraine's constitution already prohibits) or foreign military contingents on its territory. Military exercises involving foreign personnel would be possible, but only with the consent of the guarantor states.

The Ukrainian negotiators have furthermore also suggested that the proposed security guarantees would "temporarily" not be applied to "the temporarily occupied territories of the Donetsk and Luhansk regions and the Autonomous Republic of Crimea". Rather, they have

offered to discuss the status of Crimea and Sevastopol in separate bilateral negotiations with Russia within 15 years, during which time both countries should commit not to use military or armed forces to resolve the issue. The status of “certain districts of the Donetsk and Luhansk regions” would also be discussed bilaterally at the presidential level. What the outcome of such separate talks might be has not been elaborated on, but Zelenskyy has stressed that “preserving the status of these territories as Ukrainian is very important for us”, saying “... there can be no discussion that we will allow someone to call Crimea someone else’s territory. This is our territory, Ukrainian territory. Postponing this issue is a compromise. And Donbas for me is Ukraine”.

Proposed process

In late March, Zelenskyy argued that Russian troops would have to withdraw before any security guarantees would be issued and called for a meeting with Putin to start the withdrawal process. Putin’s spokesperson Peskov, however, preconditioned any summit on a specific written agreement being worked out first. By mid-April, Zelenskyy recognised that more than one meeting might be needed. He also stated that Russia wanted everything to be in one document whereas he foresaw two different documents: security guarantees to Ukraine from partner countries and a separate document between Ukraine and Russia.

According to the Ukrainian negotiating team’s ideas, “the most fundamental differences” would first have to be settled at the highest political level. This would then be followed by a multilateral conference, in which senior officials of the guarantor states would participate, and where a multilateral treaty would be signed. This would also have to be ratified by the parliaments of Ukraine and the guarantor countries. As of late April/early May, consultations with potential guarantor states were said to be taking place daily, to the extent that a draft document was being prepared at the level of advisers to the leaders of such states.

According to Ukraine, the treaty would have to be approved in an all-Ukrainian referendum, which Zelenskyy in late March said could be held “in a few months”. Only after this would constitutional amendments be introduced, which according to Zelenskyy would take “at least a year”.

Why has no agreement been reached?

The bilateral talks have not resulted in any agreement, but instead been suspended. The likely reasons for this are, among other things:

1. Lacking Russian will, as reflected in the composition of the Russian negotiating team

An indication that Russia is not really interested in a negotiated settlement, at least yet, is that the Russian negotiating team is led by a relatively lightweight representative, former Minister of Culture Vladimir Medinsky. Meanwhile, Putin, the key decision-maker, remains unwilling to meet with Zelenskyy, in contrast to his participation in the Normandy format meetings that led to the Minsk agreements in 2014 and 2015.

How seriously the Ukrainian side has taken the talks with Medinsky and his collaborators is

somewhat uncertain. That it chose to engage in them at all, given the Russian propaganda spin and the other risks that such contacts entail, could be explained by the fact that Russian forces were still advancing towards Kyiv when the talks started. The Ukrainian side probably also wanted to test the Russians and show a constructive attitude to its population and partners. At the same time, a certain amount of wishful thinking cannot be excluded. Whether Zelenskyy, who has met Putin only once (at a Normandy format meeting in Paris in December 2019), genuinely believes that one or more bilateral summits would change anything for the better is unclear, but he continues to request such talks.

2. The fundamentally incompatible positions

Even bilateral negotiations at the highest level would not lead to any agreement as long as the positions are fundamentally incompatible – and seemingly they are, as are the values and interests from which the positions stem. In words and actions, an increasingly authoritarian Russian leadership continues to question Ukraine's right to exist as a sovereign state and nation. Thus far, Ukraine's resolve and resistance have forced the Russian forces to retreat from northern Ukraine and instead focus on the eastern and south-eastern parts of the country. To some extent, the Russian leadership has also had to adapt its rhetoric. Its current plans regarding Ukraine are difficult to assess, but there are few reasons to believe that it has scaled-down its long-term ambitions, which are clearly not limited to the issue of Ukraine's relationship with NATO, and would be ready to agree to the tabled Ukrainian proposals or be satisfied with any other "compromise" that does not imply Russian control of or significant influence over Ukraine. More recently, Russian diplomats have also stated explicitly that Moscow does not currently see any diplomatic solution, while stressing the need for demilitarisation and "denazification" and also suggesting that even EU membership would be unacceptable. Even if Russia at some point were to declare an end to its "operation", it would not necessarily end its aggression towards Ukraine, and Ukraine would not necessarily stop defending itself.

3. The belief on both sides that military progress is possible

A limited agreement on a cessation of hostilities or a ceasefire would be possible if both sides believed that they would benefit from it, but thus far this has not been the case. The Russian armed forces have shifted focus but are continuing their long-range attacks and attempts to seize and consolidate control over more Ukrainian territory, beyond that which the Moscow-controlled "people's republics" claim as theirs. The Russian hindrance of Ukrainian and international sea traffic in the Black Sea also continues, causing damage to the Ukrainian economy and global food supply chains. In other words, the belief in Moscow that a "military solution" is possible does not seem to have gone away.

Because of the Russian onslaught, Ukraine has suffered significant death, destruction and displacement, and lost control of additional territory, but the Ukrainian forces have also exceeded many expectations while defending their territory and inflicting serious damage on the invading aggressor. They have also managed to launch several successful counteroffensives and are now receiving additional weapons from Ukraine's partners. In combination with Russian shortcomings, the strong Western-backed Ukrainian defence has thus far made it possible for the Ukrainian leadership to reject most of the maximalist Russian

demands and (at least publicly) offer only limited concessions. Foreign Minister Dmytro Kuleba has signalled growing self-confidence by announcing that Ukraine has upgraded its war aims to full liberation of all Ukrainian territory, while at the same time acknowledging that Ukraine might ultimately have to negotiate a settlement. Zelenskyy insists that a return to the lines of 23 February 2022 would constitute a victory, arguing that a liberation of Crimea by force might lead to “hundreds of thousands of killed soldiers from our side”.

A decisive battlefield victory in the near future is difficult to imagine for either side, but both might hope to strengthen their positions ahead of continuing fighting, a future stalemate or more serious negotiations. They might also believe that they have time on their side and that progress on the battlefield or in negotiations will be possible as the other side becomes militarily, economically or politically weaker, either incrementally or through some more dramatic development, such as collapsed morale or a change in leadership.

In Moscow, there are certainly hopes for weakened Western unity, international “Ukraine fatigue” and reduced support for Ukraine. If Russian forces managed to establish firmer control over Ukrainian territory beyond the lines of 23 February 2022, Moscow might also hope to deter Ukrainian forces from counteroffensives by annexing this territory and thus either explicitly or implicitly covering it with the Russian doctrine regarding nuclear weapon use. Such twisted brinkmanship would not be without risks for Russia, however, and perhaps also be tested by the Ukrainian forces, possibly backed up by strategic signalling from the US nuclear-weapon state and others about the consequences of any use of nuclear weapons.

4. The lack of trust of Moscow

Zelenskyy has made it clear that he is sensitive to the losses being inflicted on Ukraine and said that he is prepared to negotiate a settlement to save “maybe even millions of lives”. However, Russia’s track record of broken promises, not only in Ukraine but also in Georgia, Moldova and elsewhere, provides good reasons to doubt that it could be trusted or that concessions would sate the Russian appetite. Judging from past Russian behaviour, Moscow would be expected to use any ceasefire or similar agreement to try to consolidate its control over seized territory, push for additional concessions and prepare for or carry out further military advances or other transgressions.

Any agreement, should one be agreed, would thus perhaps save lives in the short run but also risk being a new version of the Minsk agreements, a dictated and fragile “peace” forced on Ukraine that would neither restore respect for international law, nor be a sustainable solution. It would also probably fail to resolve all the important issues, such as reconstruction, the return of refugees and internally displaced persons (including those deported to Russia) and Ukraine’s access to the Black Sea. Instead, Russia would be, at least partly, rewarded for its transgressions and not necessarily honour any commitments, give up its long-term ambitions or refrain from renewed use of military violence in Ukraine or elsewhere. Ukraine, meanwhile, might risk domestic turbulence, perhaps even intra-Ukrainian violence, since not all Ukrainians would be likely to accept the deal.

A further argument against appeasement and the possibility of “buying peace” through concessions is Russia’s disturbing transgressions in Bucha and other parts of Ukraine while under Russian control. The Russian killings, abductions, rapes, looting, deportations and repression beyond the frontlines naturally make it difficult for Kyiv to agree to any ceasefire or

other agreement with Moscow – or even to continue with bilateral talks.

Reasons like these explain why Ukraine is so loudly asking its partners for additional weapon transfers and increased pressure on Russia – and why Ukraine does not want to talk about a ceasefire before the withdrawal of Russian troops. They also explain why suggestions of an “off-ramp”, a “face-saving deal” or a solution that is not “humiliating” for Russia and Putin, or risks “instability” inside Russia, cause so much irritation and increasing anger in Ukraine.

5. The lack of appetite for providing security guarantees to Ukraine

The international security guarantees requested by Ukraine to address the lack of trust in Russia could arguably be considered a separate and still ongoing track, at least since Ukraine no longer sees Russia as one of the potential guarantors. An obvious challenge in this situation is that genuine and effective security guarantees for Ukraine would be established not with Russian participation or consent, but rather only against Russian wishes (or, possibly, at the price of extreme concessions). Ukraine would therefore face several difficulties, in relation not only to Russia but also to identifying third states that might function as guarantors. Thus far, no state has been willing to get involved in the conflict as a party and it seems unrealistic that any would be willing to give Ukraine security guarantees analogous to or even more specific than NATO's article 5, which is what Kyiv is asking for. The reasons for this lack of appetite are both principled and pragmatic, especially while hostilities are ongoing.

Even if a ceasefire were to be established, any unresolved conflict with Russia and risk of renewed hostilities would make governments and parliaments in potential guarantor states reluctant to agree to any legally binding security guarantees. For the same reason, it might be difficult for Ukraine to obtain full EU member status and thus be covered by the EU's “mutual defence clause”, article 42.7 of the Treaty on European Union. Nonetheless, the EU and NATO memberships of West Germany may perhaps serve as inspiration for some future scenario in which Ukraine lacks full control of its territory but is still integrated into Western structures and enjoys the protection that this entails.

Of course, it is possible to imagine alternative arrangements for Ukraine, such as less far-reaching or more ambiguously formulated “assurances” or declarations of solidarity. This would, however, risk coming close to a “Budapest Memorandum 2.0” and fall short of what Ukraine wants. Crucially, such arrangements would be less likely to deter Russia from renewed aggression in the future – and consequently also less likely to be accepted in a Ukrainian referendum, as the proposed process foresees.

6. Western desire for a negotiated settlement and additional issues

Thus far, Ukraine's partners have formulated their goals towards Russia and Ukraine in relatively vague terms. This has facilitated unity, both among the partners and in relation to Ukraine. As the war continues, discussions about goals may intensify and become more difficult, partly because some of Ukraine's partners seem to have gone from fearing a Ukrainian defeat, which cannot be excluded, to fearing protracted hostilities or even a Russian defeat. Whatever the assessment, some external pressure on Kyiv for a negotiated settlement based on Ukrainian concessions can already be detected and may increase over time. Others,

meanwhile, insist that the assumption that Putin would agree to a “compromise” and calm down if given something is naive and that making concessions, on the contrary, is an even riskier and costlier option.

The prospects for an agreement may also depend on additional issues involving third states, such as the international sanctions on Russia and arms control aspects, and any agreement or process may also have to cover these issues. Finding arrangements that would be acceptable to Russia, Ukraine and Ukraine’s partners, as well as potentially other actors, however, would require additional discussions in various formats and still be very difficult, or even impossible. Many of the obstacles and risks listed above would be the same, and there would arguably be an even greater risk that the normative European security order would be explicitly or implicitly revised for the worse through international acceptance and legitimisation of grave Russian violations.

Policy implications

Ukraine’s partners must be aware of the risks and international law implications of appeasement when proposing “peace plans” and negotiated settlements based on concessions from Ukraine. Reasonably, any discussion should first and foremost be held with Ukraine, take Ukrainian positions as the starting point, and be based on lessons learned from the Minsk process in 2014–2022, the Ukrainian-Russian talks in the spring of 2022 and possibly also Russian behaviour in other countries. External pressure must not be put on Kyiv to enter into agreements against its interests and will. Instead, Ukraine’s partners must keep up their support for Ukraine and their pressure on Russia, as well as strengthen their own and other partners’ defensive capabilities and resilience. Any potential agreement that involves continuing violations must not be encouraged, welcomed, or legitimised. On the contrary, the perpetrators of such violations must be held accountable. Russia’s armed attack on Ukraine is not a local conflict but a systemic crisis with far-reaching consequences – and the lesson for Moscow and others must be that aggression does not pay.



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