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Key challenges in settling the Ukraine conflict: Security status, neutrality and security guarantees

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This analysis follows-on from the author's previous briefing looking at the challenges of Ukrainian sovereignty and questions of territorial disposition in a potential settlement of the current Russo-Ukraine conflict.¹ This paper looks at a second set of core issues, bound up with Ukraine's **security status**. They divide into two key components: the **neutrality** of a post-conflict Ukrainian state, a central and consistent Russian demand; and demanded with equal conviction and consistency on the Ukrainian side, the framing of international **security guarantees** to deter and, if necessary, help defend the country against any future military aggression.

'Asserted' neutrality

'Neutrality' is often used loosely and generically, and it is useful to explore different variants that have existed in Europe. Broadly-speaking, two such can be identified. Firstly, what might be called *asserted* neutrality: chosen and maintained by state authorities (and wider society). This condition is best seen in Switzerland, whose neutral stance in foreign and security policies has been traced back to the early 16th century. Swiss neutrality is 'deep' in that it evidently reflects entrenched norms in the wider society as well as elite policy preferences. As recently as 1986, three-quarters of voters in a referendum rejected a proposal for the

country to – finally – join the United Nations. Later, 45 per cent remained opposed when the proposition was finally passed in 2002.²

Swedish neutrality can be traced back to the early 19th century. Like Switzerland, the country was neutral through both World Wars and the Cold War. Unlike Switzerland it decided to pursue European Union membership in the 1990s and in spring 2022, dramatically moved towards applying for membership of NATO in the wake of the Putin regime's invasion of Ukraine. Although less dramatic than in neighbouring Finland, polling evidence suggested an ongoing shift in Swedish public opinion in favour of that option: rising from 51 per cent of respondents in March, through 57 per cent in April, and reaching 61 per cent by mid-May.³ This suggested that while Swedish public opinion had been supportive of neutrality, this was not deep in the way evident in Switzerland. Swedish neutrality had already eroded somewhat during the 1990s when the country joined the EU. More pertinently, Swedish governments were early and enthusiastic participants in the co-operative military activities facilitated by NATO's Partnership for Peace (PfP) framework from 1994. Since the 1950s, the Swedish posture had also epitomised so-called 'armed neutrality'. Far from adopting a pacifist

stance with little or no military capability, successive Swedish governments developed capable armed forces underpinned by an advanced defence industrial base. Today Sweden is one of the few states making its own combat aircraft (the *Gripen*), and the NLAW anti-tank weapons which have inflicted significant damage on Russian armoured forces in Ukraine are produced jointly by Swedish and British defence manufacturers. Rumours also persist that Swedish leaders considered developing a nuclear weapons capability during the Cold War period.⁴

'Ascribed' neutrality

The second kind of neutrality evident in Europe can be described as *ascribed* (although some commentators might use 'imposed'). The two most pertinent examples here are Finland and Austria. Ascribed neutrality – agreed to in response to pressures from other states – carries negative connotations for some, as epitomised by the pejorative term 'Finlandisation' – used to describe states that are apparently coerced into accepting limitations on their sovereignty. In February 2022, the Ukrainian government's aversion to this concept was evident in its negative response to its reported use by French officials travelling with President Emmanuel Macron to meet President Putin in Moscow in a failed attempt to avert war.⁵

The basis of Finland's Cold War neutrality was an 'Agreement of Friendship, Cooperation and Mutual Assistance' with the Soviet Union, signed in 1948. It made no reference to limitations on Finland's sovereignty, including in the realms of foreign and defence policy, beyond agreement, in Article 4, that neither party would 'conclude any alliance or join any coalition directed against the other High Contracting Party'. Indeed, other provisions in the agreement *encouraged* Finland to develop and maintain a robust military defence

posture. At the core of Article 1 were mutual security assurances, with Finland pledging to wholeheartedly resist any armed attack on the Soviet Union through Finnish territory "by Germany or any state allied with the latter", with assistance from the Soviet Union if necessary.⁶

Although individual Finnish leaders during the Cold War were criticised for being overly deferential to their Soviet counterparts (leading to the coining of the term 'Finlandisation'), Finland itself was not a weak state. The legacy of its variant of ascribed neutrality is evident today in the size of its armed forces, with 280,000 regular personnel and up to 900,000 reservists available for mobilisation. Unlike two thirds of existing member states, Finland also meets the NATO target of spending two per cent of GDP annually on its defence budget.⁷

An Austrian precedent for Ukraine?

A second relevant example of ascribed neutrality is Austria. This is of particular interest as it has been suggested as a potential 'model' for post-conflict Ukraine.⁸ Neutrality was not directly written into the 1955 State Treaty which ended the post-World War II allied occupation regime and restored Austria as a "free, independent and democratic state". Rather, the Austrian parliament passed a later, separate law on "perpetual neutrality".⁹ This was important sequencing. It enabled Austrian governments to assert that they had adopted their neutral status *voluntarily* and not had it imposed as a condition for ending the occupation regime. The neutrality law was adopted on the day after the last occupation forces left the country in October 1955. Austria's is also an armed neutrality, with the state committed to maintaining armed forces to defend its status and make 'active' contributions to wider international stability and security.¹⁰

There is little chance, following the ravages of the current conflict, that the Ukrainian government would (or should) simply be compelled to accept a neutral status determined by others. President Zelensky has made this consistently clear, stating that any such status would need to be agreed not only by state authorities but also by the Ukrainian people in a national referendum. Following the Austrian precedent and adopting neutrality as a national sovereign decision *after* the end of foreign occupation would, on the other hand, perhaps be a viable option. It is indeed possible to imagine Ukraine endorsing virtually word-for-word the 1955 Austrian neutrality law. This asserted that:

For the purpose of the lasting maintenance of her independence externally, and for the purpose of the inviolability of her territory, Austria [Ukraine] declares of her own free will her perpetual neutrality. Austria [Ukraine] will maintain and defend this with all means at her disposal.

This rejects the Putin regime's demands for Ukrainian 'demilitarisation'. The post-conflict state would be free to decide the size and disposition of its own armed forces, within the normal framework and parameters of relevant international humanitarian and non-proliferation laws.

Security guarantees

A major challenge is likely to be the Zelensky Government's insistence that Ukrainian neutrality must come with security guarantees. This is not completely unprecedented. As noted earlier, the Finnish-Soviet Friendship Agreement provided for mutual assistance in the event of a hostile attack. Any notion of 'Finlandising' Ukraine's security status in this sense is, however, certain to be rejected. It is inconceivable that it would be prepared to rely solely or primarily on a bilateral agreement with Russia.

The 1948 Finnish-Soviet agreement also provided for security *assurances* rather than guarantees. Greater ambiguity and less reliability are often attached to the former. This distinction was acknowledged by Swedish Foreign Minister Ann Linde in May 2022, speaking about potential American support during a transition period if the Swedish government decided to apply to join NATO. Linde stated that "I feel very sure that now we have an American assurance. However, not concrete security guarantees, those you can only get if you are a full member of NATO".¹¹ The foreign minister was here referring to Article 5 of the 1949 North Atlantic Treaty. The language of this core article is in itself 'relatively flexible. It permits each NATO member to decide for itself what action should be taken to address an armed attack on a NATO ally. It does not require any member to respond with military force....A member may decide that instead of responding with force, it will send military equipment to NATO allies or impose sanctions on the aggressor'.¹² What has turned this treaty pledge into an (assumed) security guarantee is the development of unique integrated military command and planning structures and the willingness of member states to deploy their own national forces to the territories of vulnerable allies in peacetime, placing them on the frontline in response to any attack. This rationale underpins the recently-extended Enhanced Forward Presence (eFP) deployments to NATO members who share borders with Russia and its neighbours.

The Putin regime is of course aware of this, and would be certain to oppose any status for Ukraine that looked like even *de facto* NATO membership. Nor is there evidence of NATO members themselves being willing to break precedent and offer any such status, for fear of undermining the integrity and strength of the security guarantee for existing members. Since the end of

the Cold War, NATO and its members have been consistently clear that only two kinds of relationship are possible with the Alliance: membership or partnership. NATO partners have been free to co-operate as closely as they wish, but always with the crucial proviso that they cannot be covered by the security guarantee embedded in Article 5 of the 1949 North Atlantic Treaty, unless they are accepted to formally accede to that agreement.

Equally challenging is the question of how to incorporate Russia into a viable and sustainable post-conflict arrangement. It is inconceivable that the Putin regime (or indeed any Russian government) would tolerate being excluded, and an attempt to do so would thus effectively undermine any system from the start. Austrian neutrality offers a further potentially useful precedent here. The 1955 State Treaty was explicitly underwritten (in Articles 1 & 2) by all four of the former occupying powers (the United States, Soviet Union, United Kingdom and France) and this was integral to the subsequent adoption of perpetual neutrality by the parliament of the newly-independent Austrian state.¹³ Austrian neutrality was thus embedded in a wider international legal framework, meaning that any violation would be of direct concern not only to the Austrian Government, but also to the other powers party to the agreement.

Unlike the (in)famous Budapest Memorandum of 1994, which contained – on paper – similar assurances of Ukraine’s security and independence, given by Russia, the USA and UK as part of the process facilitating Ukrainian nuclear disarmament, the Austrian State Treaty is legally-binding. The 1994 agreement was disregarded by the Putin regime (and ignored by its western signatories) in 2014, whereas Austrian independence and neutrality have survived without significant challenge

through eight decades. Given its wholly negative Budapest experience, as the scholar Mariana Budjeryn has noted, “if Ukraine agrees to anything termed ‘neutrality’, it must be neutrality that’s guaranteed in a most concrete and palpable way”.¹⁴ This suggests greater institutionalisation of the reassurances provided than in the case of the Budapest Memorandum, which was simply a quadrilateral political agreement amongst the signatory states.

Any new agreement should be legally-binding on its signatories and embedded within a regional or international institutional framework. Given (in the words of its own Secretary-General) the UN’s “categorical failure” to prevent or punish Russia’s invasion of Ukraine, it seems unlikely that Ukrainian or Western leaders would be content to see the global body underwrite such a framework. A more viable candidate might be the Organisation for Security and Co-operation in Europe (OSCE). OSCE membership includes all core interested parties—Ukraine, Russia, the US, and the other NATO and EU states—on an equal basis. Its procedural rules make provision for ‘Consensus-Minus-One’ decisions in response to a member ‘going rogue’, and it has long-standing experience of conducting monitoring and observer missions in Ukraine. A reinforcing ‘second ring’ of institutionalisation—bringing in a wider network of states internationally—might see an agreement linked to and endorsed by the long-established Non-aligned Movement (NAM), as recently proposed by NATO Watch Director Ian Davis.¹⁵

It should be readily apparent from this brief that there are no easy or clear answers for Ukraine’s security status following the current conflict. There are, however, interesting and potentially viable options. Different understandings and practices of neutrality have evolved in the European

security context and examining which of them offer useful precedents could form the basis of a bespoke package providing necessary guarantees of Ukraine's sovereignty and security and a means to engage Russia and NATO members in a constructive and mutually-reinforcing framework to underpin it. At the time of writing any such agreed package seems a long way off. But it is not impossible to conceive.

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Notes

¹ Martin A. Smith, [Key challenges in settling the Ukraine conflict: Territorial disposition and sovereignty](#), NATO Watch Briefing Paper No.92, 4 May 2022

² [Moving towards the UN in slow motion](#), swissinfo.ch, 25 May 2007

³ Patrick Wintour, [UK goes further than any other Nato country in Sweden and Finland pledge](#), *The Guardian*, 11 May 2022

⁴ Andreas Persbo, [Beyond Neutrality: What is at Stake if Sweden Joins NATO?](#), Institut Montaigne, 5 May 2022

⁵ Patrick Wintour, [Emmanuel Macron's remarks on Russia set alarm bells ringing](#), *The Guardian*, 8 February 2022

⁶ [The Agreement of Friendship, Cooperation, and Mutual Assistance between The Union of Soviet Socialist Republics and The Republic of Finland](#), 6 April 1948

⁷ Ian Davis, [Should Finland and Sweden hold a referendum on NATO membership?](#), NATO Watch Briefing Paper No.93, 6 May 2022

⁸ Franz-Stefan Gady, [Austrian Neutrality: A Model for Ukraine](#), *The National Interest*, 6 March 2014; Thomas Shea and Kateryna Pavlova, [Austria escaped crisis by declaring neutrality. Ukraine could follow that lead](#),

[Bulletin of the Atomic Scientists](#), 7 February 2022; and Heinz Gärtner, [Austrian neutrality does not mean disengaging from international affairs. Instead, it demands an intense involvement](#), *The Parliament Magazine*, 9 May 2022

⁹ [Constitutional Law on the Neutrality of Austria](#), 26 October 1955

¹⁰ Helmut Tichy, [Austria's Permanent Neutrality](#), *New Austrian*, [n.d.]

¹¹ [Sweden says US has offered security guarantees\[sic\] if it applies to join Nato](#), *The Guardian*, 4 May 2022

¹² Katherine Ebright, [NATO's Article 5 Collective Defense Obligations, Explained](#), Brennan Center for Justice, 8 March 2022

¹³ [State Treaty for the re-establishment of an independent and democratic Austria](#), 15 May 1955

¹⁴ Mariana Budjeryn, [If Ukraine chooses neutrality, what could that look like?](#), *Bulletin of the Atomic Scientists*, 7 April 2022

¹⁵ Ian Davis, [How to end the Ukraine crisis and redirect military spending towards climate, health and prosperity: Europe needs to form its own Non-Aligned Movement](#), NATO Watch Briefing Paper No. 90, 1 February 2022