Why the outcome of Russia-Ukraine talks will change Europe's security landscape

Description

Ukraine may abandon its NATO ambitions and to enshrine a neutral status in the Constitution. What will it get in return?

Peace talks between delegations from Russia and Ukraine at Dolmabahce Presidential Office in Istanbul, Turkiye on March 29, 2022. © Getty Images / Cem Ozdel

Six weeks into Moscow's military offensive, Russia and Ukraine do not have a mutually satisfactory agreement. A treaty between the two countries, when signed, could have far-reaching effects that go beyond bilateral relations, transforming the entire landscape of European security. On February 28, Moscow and Kiev kicked off the talks, focusing on four key areas: political aspects, demilitarization, the issue of Crimea and the Donbass, and the subject of NATO expansion.

So far the parties haven't made much progress. The only breakthrough was made when Ukraine said it would be willing to abandon its NATO ambitions and to encapsulate this commitment in the country's Constitution. This didn't come about without conditions, however.

President Volodymyr Zelensky's government has stated that it will require the West to provide security guarantees. Here, RT looks at the implications of Ukraine committing to never joining NATO and remaining neutral. We will also discuss how the peace talks might reshape European security.

Talks, No Compromise

Whatever the outcome of Russia's operation in Ukraine, it is bound to have a lasting impact on the geopolitical map of the world, and some changes are already apparent. The EU member states no longer see a way to go back to the status quo of the previous decade any time soon and are starting to

reassess the risks of possible military conflicts on the continent. It seems like Western Europe can no longer simply remain a consumer of the security provided by the military support of the United States, as before.

After NATO effectively refused to accept Ukraine as a member, the Ukrainian government has realized that it won't have back up in the case of disputes concerning its territory or sovereignty, whether now or in the foreseeable future. The long and arduous Russia-Ukraine talks in Istanbul helped make progress on this track: Zelensky said his country was willing to embrace a non-nuclear and non-bloc status.

In essence the deal is that Ukraine accepts, in return, binding security guarantees from the West, whereas the issue of Crimea and the Donbass becomes a matter for future discussion. The speaker of the Ukrainian Parliament Ruslan Stefanchuk already confirmed that Ukraine's Constitution might be amended to remove the clause about Kiev's aspirations to join NATO, which is a prerequisite for any potential peace agreement with Russia.

"The thing is that integration with the EU and NATO is captured as a goal we pursue in the Constitution of Ukraine, which is a pretty high-level commitment. So we will keep following the progress of the negotiations and look for ways to have the agreements reflected in the Constitution either by expanding or amending it," Stefanchuk said to TV channel Ukraine 24.

On more than one occasion since 2014, Russia has promised a decisive action if Ukraine continues to pursue its EU/NATO ambitions. As the military assault began, Moscow stepped up its demands. Ukraine is now not only to give up its membership prospects with NATO, but also with any other military bloc that may be formed in the future. Additionally, Ukraine will also have to opt out of producing or buying any offensive arms Russia might deem a risk to its security. *"Ukraine must be demilitarized and denazified (…), these issues are pressing, because they pose a military, cultural, informational, linguistic and civilizational threat to Russia. It is a very clear threat, and it must be dealt with now,"* said Russia's Foreign Minister Sergey Lavrov.

At the same time, it is obvious the talks might lose momentum when it comes to working out the legal aspects of the deal and how it should be captured in Ukrainian law. Russia's Foreign Ministry keeps reminding everyone that it's determined to do everything in its power to ensure this deal doesn't fall through like the Minsk Agreements. It all comes down now to one question: which steps Ukraine is ready to take and how it will affect its international standing.

A Long-Sought Dream

Back in 1991, when Ukraine claimed its independence, it positioned itself as a non-aligned state capable of protecting its sovereignty and territorial integrity. This principle was enshrined in its Declaration of State Sovereignty: *"The Ukrainian Soviet Socialist Republic solemnly declares its intention to become a permanently neutral state that does not participate in military blocs and upholds three nuclear-free principles, i.e. never to accept, produce or purchase any nuclear weapons."* Ukraine's Constitution adopted in 1996 contained a similar clause.

Everything changed after the 2004 *"Orange Revolution,"* when the Western-backed Viktor Yushchenko beat the establishment candidate Viktor Yanukovich in a subsequent presidential election. Yushchenko began his term by announcing that Ukraine was going to work towards the goal of satisfying the requirements necessary to join both the EU and NATO. As early as in 2008, statements were made at

the Bucharest Summit that NATO would welcome Kiev sometime in the future.

However, Ukraine did not denounce its non-alignment obligations until late 2014, when, in the wake of the Western-supported Maidan coup, Crimea was claimed by Russia and hostilities started in the Donbass area. Five years later, in 2019, President Petro Poroshenko signed a bill that proposed to enshrine Ukraine's NATO aspirations in the country's Constitution. At the same time, it is true that the nation remained officially non-aligned. Ukraine's chances of joining NATO were quite weak because of its geopolitical standing and the turbulence in its domestic politics.

Nevertheless, after the US refused to discuss security guarantees with Russia, the Kremlin launched its special military operation and started to insist on Ukraine committing to a neutral and non-aligned legal status in a legally binding and internationally recognized way. It has to be noted that the current system of international law clearly differentiates between the terms *"neutrality"* and *"non-alignment,"* defining them as two fundamentally different types of legal status that entail obligations of different nature.

Non-alignment is self-determined by a state and isn't required to be enacted by international treaties. Although it involves non-participation in military alliances and blocs, the country retains the right to unilaterally reconsider its non-aligned status at any time. Besides, a non-aligned state can participate in armed conflicts, including those on foreign soil, and is free to enter into defense cooperation agreements with military alliances and individual states.

Neutrality, on the other hand, has to be defined by an international treaty and recognized by other subjects of international law. This status, in essence, implies that a state undertakes to implement the following: it can't allow other countries to wage wars on its territory; participate in military operations abroad or discriminate against any of the warring parties in the way weapons, ammunition and other implements of warfare are supplied to them.

To ensure Ukraine becomes both neutral and non-aligned is going to be a very challenging task. On the one hand, neutrality is hardly even possible for the country, given the lack of geopolitical consensus on Ukraine's future and its inability to protect its national interests on its own. This has to do with one of the indispensable attributes of neutrality, i.e. that it needs to be recognized by other subjects of international law. (In Europe, for example, only Switzerland has neutral status). On the other hand, being non-aligned (but not neutral) would in no way prevent Ukraine from pursuing active cooperation with NATO, which is something that Russia cannot accept.

It is possible that the plan to achieve compromise might include putting Ukraine on a fast-track to join the EU while it, in turn, would commit to never joining NATO. Indeed, historically, the question of NATO membership for Ukraine was raised in the context of the country seeking integration with Western Europe.

However concerns within the EU regarding Ukraine's economic situation and state governance system meant joining the bloc wasn't something that was likely to happen any time soon.

Joining NATO in this context was viewed by Ukraine's European partners as a stage on its way towards EU membership, as this was something most other candidate states did before.

Iskander short-range ballistic missile system is used during the Russian military operation in Ukraine.

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At the same time, joining NATO is no precondition for EU membership. Ireland and Austria are EU states that prefer to maintain their non-aligned status. Moreover, even though Serbia refused to join NATO, that was no obstacle on its path towards European integration. Therefore, it's quite likely that Ukraine will be granted the coveted status of candidate state soon enough. Ukraine's Deputy Prime Minister for European and Euro-Atlantic Integration Olga Stefanishina has already made statements in this regard. This way, Ukraine's commitment to non-alignment, whether with NATO or any other military alliances or blocs, could become part of a larger deal focusing on Ukraine's accession to the EU.

? New NATO

Nevertheless, the viability of this scenario is limited by the unresolved territorial disputes over the Donbass and Crimea. On the one hand, a big deal is hardly possible without Ukraine recognizing the independence of the Donetsk and Lugansk People's Republics (DPR and LPR) within the borders of those regions, and renouncing its claims to Crimea. The Russian side is unlikely to give up any territory obtained during the current military operation in the Donbass. During a recent visit to Ukraine, even the EU's High Representative for Foreign Affairs and Security Policy, Josep Borrell, said that the armed conflict "*will be won on the battlefield.*" On the other hand, there are big doubts that any Ukrainian government will agree to any loss of territory. So, we can just say that these issues will only be considered and resolved with the advent of peace. And this decision can be made without time limits.

The fact that such a scenario is possible is evidenced by the statements of the members of the Ukrainian delegation about the need to sign a comprehensive agreement on guarantees with respect to Ukraine's sovereignty. This agreement, according to Ukraine's position, should replace the Budapest Memorandum.

"An important part of these agreements is security guarantees. Security guarantees should presuppose the existence of a circle of States that will support our country. And in case of aggression by Russia against Ukraine, the leaders of these countries should help Ukraine in various ways," Zelensky believes.

Kiev insists on guarantees that should be similar to Article 5 of the North Atlantic Collective Security Treaty. That is, if Ukraine becomes the object of military intervention, it will have the right to demand consultations within three days and, if these lead to nothing, then the guarantor countries should help with weapons and even close the skies.

It is assumed that the guarantees will include a commitment by Ukraine not to deploy foreign military bases on its territory or join military alliances or blocs. But the most important thing is that the agreement should not hinder Ukraine's right to join the European Union – that is, integration into the EU, along with a new 'Marshall Plan' that can compensate Ukraine for adopting a non-alignment

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De facto, Ukraine still wants to protect itself with the help of something similar to NATO: the proposed security guarantees are similar to those that operate inside the bloc. At the same time, Ukraine sees the members of the UN Security Council – plus the likes of Turkey, Germany, Canada, Poland, and Israel – as guarantors. Russia seems to have given the green light on this issue, and even offered to include Belarus in the list of guarantor countries.

However, although the existing positions contain serious compromises on the way to achieving real peace, they should be considered only as statements. The most problematic issue may be implementing the agreements. Ukraine insists that to do this, they must first be approved in a referendum, and then the guarantees must be ratified by the parliaments of the involved countries. According to David Arakhamia, a member of the Ukrainian delegation and chairman of the Servant of the People faction, the country's voters may well reject the authorities' decision to abandon the course towards NATO. In other words, the results of a referendum could nullify all the efforts of the negotiators and return the situation to the status quo.

This is undoubtedly a cunning and convenient position that allows Ukraine to draw out the negotiation process and demand the withdrawal of Russian troops from its territory so a referendum can be held. For obvious reasons, Russia is not satisfied with this idea in any form. And there are good reasons for that. After all, Ukraine's commitment to joining NATO was enshrined in the Constitution directly through a decision of the Verkhovna Rada, so its status as a non-aligned country can, likewise, be established without the help of a referendum. Secondly, the impossibility of Ukraine entering the North Atlantic Alliance is the main condition for the cessation of hostilities that Russia will not reconsider. As Russian officials never tire of repeating, the purpose the military operation is to exclude the possibility of the appearance of foreign troops and weapons near Russia's borders.

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The current course of negotiations does not look hopeless, but the parties have not managed to make significant progress either. The talks are negatively affected by mutual distrust, as well as by a lack of commitment to strong, long-term peace guarantees for Russia, and by Ukraine's unwillingness to abandon its claims to the Donbass and Crimea. However, the search for a new Yalta will continue, albeit with much more modest aims for Russia than the USSR. Although, in order to resolve the crisis in Ukraine, it is clear that a dialogue between NATO and Russia must be resumed, since the implementation of any decisions will depend entirely on major international actors.

By **Alexander Nepogodin,** *? political journalist, expert on Russia and the former Soviet Union.*

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