

# What security guarantees can the EU provide to Ukraine?

Any settlement of the Russian-Ukrainian conflict, whether or not it is negotiated with Russia, will have to include security assurances for Ukraine, so that this country no longer finds itself in the position of weakness it was in on 24 February 2022. This objective is clearly stated in point 9 of the peace plan proposed by Ukraine.

In theory, these security assurances could be—at least partially—negative, coming from Russia itself. Russia would have to credibly commit to respect Ukraine's sovereignty and territorial integrity. A system that combines demilitarized zones near the Ukrainian border and the presence of international observers could be a possibility. However, to date, the prospect of such an agreement is highly uncertain. The precedent of the Budapest Memorandum, which was openly breached, does not inspire much hope for

this type of commitment from Moscow<sup>1</sup>. These difficulties mean that the positive security assurances that Ukraine's allies could give are essential. In this case, the main guarantee would be a commitment to support Kyiv in the event of armed aggression.

Such assurances would automatically come with Ukraine's membership of NATO and the European Union (EU), whose treaties provide for mutual assistance clauses in their respective Articles 5 and 42-7. While Ukraine was granted EU candidate status on 23 June 2022, this process will take time, even in the event of a cessation of hostilities with Russia. Poland and the Baltic States support the option of a fast-tracked process, but there is currently no consensus on this point among the 27<sup>2</sup>. **Article 42-7 is therefore not a viable medium-term solution.**

<sup>1</sup> *Memorandum on security assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons*, Budapest, 5 December 1994

<sup>2</sup> Alexandra Brzozowski, "LEAK: EU-Ukraine summit to commend progress, but unlikely to commit to swift accession", *EURACTIV*, 31 January 2023.



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As regards joining NATO, this could be decided more quickly, since this does not involve the formal legal and economic compliance required for EU membership. The main obstacle to Ukraine's NATO membership has long been Russia's hostility and some Member States' wish to avoid any signal that could be interpreted by Moscow as a threat. It could be argued that the invasion conducted since 24 February 2022 has rendered this cautious position meaningless<sup>3</sup>. Nonetheless, some leaders, including French president Macron, continue to believe that it would be inappropriate for the Alliance to make a decision that "would be seen by Russia as confrontational"<sup>4</sup>.

On a multilateral level, these difficulties justified attempts to find an ad hoc solution that could be rolled out in the short term, a task entrusted by President Zelensky to his Head of Office Andrii Yermak and former NATO Secretary General Anders Fogh Rasmussen<sup>5</sup>. The authors recommend the establishment of a **security compact bringing together guarantor States which would commit to assist Ukraine with all the means in their power in the event of aggression**. The report states potential guarantors to be "the US, UK, Canada, Poland, Italy, Germany, France, Australia, Turkey, and Nordic, Baltic, Central and Eastern European countries."

## I • EU guarantor and non-guarantor States

For the EU, the issue is therefore the role it would play in a medium-term guarantee system, i.e. as part of a conflict resolution process but without having to wait for Ukraine's accession to the EU and NATO. The EU is already committed to working with Ukraine to draft and implement a ten-point peace plan, which refers to the issue of security guarantees<sup>6</sup>. Aside from this contribution, the EU faces a more direct problem. Assuming that ad hoc guarantees were provided to Ukraine by a number of Member States,

there is a risk that these guarantees could affect EU cohesion. Yermak and Rasmussen's list of potential guarantor States includes many EU Member States. Yet, **an EU divided between guarantors and non-guarantors would result in its international power and "strategic autonomy" being severely hampered**.

While the end of the Danish opt-out from EU cooperation on defence matters and the prospect of Sweden and Finland joining NATO could have raised hope for greater cohesion between Europeans through a gradual alignment of the two organisation's borders, the issue of guarantees for Ukraine may create a new fault line.

As regards key issues such as the European security architecture, the defence of Ukraine, their relationship with Russia and the choice between war or peace, EU Member States could find themselves upholding starkly different positions and commitments. Worse still, if the implementation of security assurances provided to Ukraine was subject to consultation between guarantor States, as recommended by Yermak and Rasmussen, the EU could see its future decided by deliberations conducted in a different forum, excluding some Member States but including third countries. While the complex nature of EU-NATO relations is already hindering the effectiveness of European defence, adding a third layer may well make dialogue among Europeans particularly challenging.

From this standpoint, security assurances should be provided to Ukraine by the EU as an organisation, rather than by certain Member States only.

## II • A security community

Aside from the risk of division, is it in the EU's interest to stand as a security guarantor for Ukraine? One initial benefit is that of supporting a future Member State. Once a State

3 "Kissinger says Russia war validates Ukraine's NATO bid", *France 24*, 17 January 2023.

4 Philippe Ricard, "Macron on Ukraine: 'I don't want the Chinese and Turks to be the only ones negotiating the day after'", *Le Monde*, 21 December 2022.

5 Anders Fogh Rasmussen and Andrii Yermak, *The Kyiv Security Compact. International Security Guarantees for Ukraine: Recommendations*, 13 September 2022.

6 European Council, "Joint statement following the 24th EU-Ukraine Summit", 3 February 2023.

has begun its accession process, even if this takes a long time, the EU has every reason to facilitate their journey towards becoming a fully-fledged Member State. In terms of financial support, this is, for example, the purpose of the Instrument for Pre-accession Assistance (IPA), which helps candidate countries to carry out their standards and economic convergence with the EU. Yet, for Ukraine, it is clear that preserving its sovereignty, territorial integrity and more broadly its security are key pre-requisites for its gradual convergence. **For the EU, providing security assurances is also a means of protecting its relationship with a candidate country**, by refusing to let a hostile third country impede, by force, a mutually desired accession.

A more diffuse benefit concerns the deepening of the EU's "geopolitical" identity. Since the 2016 Global Strategy, the EU has regularly highlighted its aspiration to achieve "strategic autonomy", while the European Commission has presented itself as a "geopolitical Commission"<sup>7</sup>, since 2019. This role has been more clearly asserted since 24 February 2022. While the scenario of a high-intensity war in Europe against Russia seems to come almost exclusively under NATO's remit, the EU has proved to be a key player, not only through its sanctions policy but also by implementing the European Peace Facility which funds arms delivery. What is noteworthy about Ukraine's accession application which was recognised in June 2022 is that, perhaps for the first time since the 1950s, **security matters are clearly more important than economic issues in a State's decision to embark on the journey towards European integration**<sup>8</sup>.

However, this rise of a "geopolitical Europe" remains tenuous. The US is playing a role that is more vital than ever by providing military support for Ukraine. Coupled with hesitations from certain major Western European States, many experts are wondering if the European "strategic autonomy" plan is dying an early

death<sup>9</sup>. If the EU were to take no part in the Western security guarantee system provided to Ukraine, this would only heighten such musings. Ultimately, the EU's credibility as a global geopolitical player would be severely damaged.

Generally speaking, in the last year Ukraine and the EU engaged in a process of co-construction. Ukraine is becoming more European than ever, while the EU is also changing, influenced by Ukraine's expectations, and increasingly seeing itself as a security community. As Charles Michel summed up, "Ukraine is the EU, the EU is Ukraine"<sup>10</sup>. Security guarantees would only formalize this statement.

### III • What can the EU guarantee?

The security assurances proposed by the EU could be broken down into several components. Firstly, in the long term, the EU could commit to support Ukraine's military capabilities, so that they are able to resist Russia and act as a deterrent to future aggressions. This policy is already in place to a large extent, not only via funding from the European Peace Facility, but also through the EUMAM Ukraine training mission, launched on 30 November 2022 with a view to training 15,000 Ukrainian soldiers. However, these measures remain stopgap solutions. Under a forward-looking security guarantee policy, **a multi-year fund dedicated solely to equipping and training the Ukrainian armed forces would secure and give more credibility to the EU's commitment.**

This long-term military assistance could be provided alongside Ukraine's integration into the EU's defence industrial policy. As Ukraine cannot quickly become a fully-fledged Member State, **the EU could in the short term give it the status of an associated state in the European Defence Fund**, which supports defence research and development.

<sup>7</sup> Pierre Haroche, "A 'Geopolitical Commission': Supranationalism Meets Global Power Competition", *JCMS: Journal of Common Market Studies*, 2022.

<sup>8</sup> Cyrille Bret, *European action against Russia: what does the future hold for the sanction strategy?*, Jacques Delors Institute, 10 November 2022.

<sup>9</sup> "Judy Asks: Is European Strategic Autonomy Over?", Carnegie Europe, 19 January 2023.

<sup>10</sup> European Council, *Remarks by President Charles Michel at the press conference of the EU-Ukraine summit in Kyiv*, 3 February 2023.

Norway already enjoys this status. Ukraine could also be involved in the European Defence Industry Reinforcement through common Procurement Act (EDIRPA) which is currently under discussion and the future European Defence Investment Programme (EDIP) which will be presented in June 2023. The aim will be to anchor Ukraine's defence industry quickly to the EU's, as well as supporting joint acquisitions of the same military equipment for Ukraine and the Member States.

The recent debates concerning the delivery of tanks to Ukraine have highlighted that these deliveries were often difficult to achieve, not only due to there being several different models in Europe, but also because of the need to train Ukrainian troops on how to use equipment unfamiliar to them. If, in future, Ukraine could acquire the same military equipment as several Member States, with EU support, the credibility and effectiveness of the EU's military assistance would be substantially enhanced.

In addition to this long-term support, there is the question of security guarantees in the event of an armed attack on Ukraine. At first glance, one option could be to threaten Russia with economic and financial sanctions. The Yermak-Rasmussen report explicitly states this possibility. However, several arguments point to the need for caution in this regard. Firstly, the threat of economic sanctions was already used in 2022, without any immediate results<sup>11</sup>. Secondly, if, after the end of the current conflict, Russia was to consider attacking Ukraine again, it is likely that it would anticipate sanctions comparable to those currently in force and would attempt to reduce its exposure to the European economy with a view to reducing its vulnerability. Thirdly, and most importantly, a threat of future EU sanctions would only have an impact if the sanctions currently in force are lifted. This decision would probably only be made if Russia were to make a full acknowledgement of Ukraine's victory, which remains a rather hypothetical situation as it stands today. In short, **it appears to be quite likely that the EU and Russia are heading towards long-term economic decoupling.**

**Under these conditions, the threat of new sanctions would not have a major deterrent effect.**

Finally, the core of the concept of security guarantees concerns the commitment to support Ukraine by any means, including military assistance, in the event of aggression. This may seem tricky as the EU does not have its own army. However, Article 42-7 already requires Member States to provide "aid and assistance by all the means in their power" in the event of armed aggression against another Member State. This kind of collective commitment may be used as a template for the EU's commitment to defend Ukraine under the same circumstances.

This security guarantee could be enshrined in a decision of the European Council, acting unanimously. In terms of external action, Article 22 of the TEU provides that "the European Council shall identify the strategic interests and objectives of the Union". Heads of State and government could therefore **agree that Ukraine's defence is in the Union's strategic interest** and state that they will consider any armed aggression against Ukraine as an aggression against a Member State, requiring the same solidarity as defined in Article 42-7.

To give maximum credibility to this commitment, Ukraine's defence could be defined as a "strategic interest" under the framework set out in Article 42-2 of the TEU. This bridging clause enables the European Council to announce the shift to "common defence", recommending that Member States approve such a decision in accordance with their respective constitutional rules.

By adopting this highly symbolic procedure, which would comprehensively strengthen the EU's defence policy, the European Council could formally offer EU protection to Ukraine as a future Member State, while also laying the foundation for new financial instruments that would bolster Ukraine's defence. The recent proposals made by Estonia highlighted that the EU does not yet have the necessary instruments to step up the production and delivery of weapons

<sup>11</sup> Robin Emmott and Sabine Siebold, "EU urges Russia to de-escalate, threatens 'massive' sanctions", Reuters, 24 January 2022.

to Ukraine<sup>12</sup>. A European Council decision based on Article 42-2 could **pave the way for an ambitious EU joint weapon procurement policy**. The benefit of this procedure would be to pursue the idea that Ukraine's defence must be an opportunity for the EU to complete its transformation into a "geopolitical" actor.

## Conclusion

The guarantees provided by the EU would only top up the assurances offered by other non-EU States, in particular the US and the UK, or the guarantees resulting from Ukraine's NATO membership. Above all, the EU would only be taking up a position of guarantor that many Member States are already willing to assume on an individual basis. This would not require too much effort. It is, however, crucial that the EU fully shoulders its responsibilities towards its future member while clearly stating its intention to play a key role in international security. This policy would enable the EU to make progress simultaneously in the two directions that characterise its history: enlargement and deepening.

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<sup>12</sup> Virginie Malingre and Philippe Jacqué, "War in Ukraine: Europe considers sharing procurement to speed up ammunition for Kyiv", *Le Monde*, 13 February 2023.

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