



Principles and Commitments: What Could an Agreement to Guarantee Ukraine's Security Look Like?

Elie Perot | 29 June 2023

Key Issues

- This Policy Brief puts forward the text of a possible agreement to guarantee Ukraine's security in the interim period before its Euro-Atlantic integration, should that happen.
- Such an agreement would involve a group of North Atlantic Treaty Organisation (NATO) and European Union (EU) countries undertaking to help Ukraine defend itself, to consult each other in the event of a threat against Ukraine and to cooperate closely with it in the event of an armed attack on Ukrainian territory. This would not, however, amount to a fully-fledged commitment to collective defence towards Ukraine.
- In addition, the agreement in which these commitments would be made should be explicitly framed as a bridge towards Ukraine's eventual accession to NATO and the EU.

A key issue that NATO leaders will be discussing at the forthcoming summit in Vilnius is the type of security guarantees that they will be willing to provide to Ukraine. Leaders in Europe and North America are indeed increasingly conscious that the security of Ukraine will need to be supported over the long term, whether or not Kyiv will succeed in liberating all or only part of its territory that is currently occupied by Russia.

The specific form that Western security guarantees towards Ukraine might take remains however highly debated. As a contribution to this debate, this Policy Brief puts forward the text of a possible agreement with NATO and EU countries to guarantee Ukraine's security in the interim period before its possible Euro-Atlantic integration.

Political principles: which type of security guarantees for Ukraine?

Politics being the art of the possible, the form that security guarantees for Ukraine could take must be considered in light of what is likely to be acceptable to NATO and EU countries as well as to Ukraine.

Given the fears that Western governments harbour about a direct military confrontation with Russia, and given the many challenges that come with the accession processes to NATO and the EU, it thus seems unlikely that Ukraine will be able to join either organisation in the very short term – even though Kyiv's full Euro-Atlantic integration would, in theory, provide it with the best security guarantees. In contrast, the mere renewal of negative assurances from

Russia to Ukraine, along the lines of the [1994 Budapest Memorandum](#), is simply unthinkable after Moscow's successive aggressions.

A proposal has thus been made in recent months of creating a bespoke framework in which Western countries would commit not to defend Ukraine themselves but to help it defend itself, along the lines of [the security commitment that the United States \(US\) has towards Israel](#). The contours of such an "Israeli model" for Ukraine were elaborated notably in the "[Kyiv Security Compact](#)", in which its authors argued for a formal commitment by Western countries to '[mobilising the necessary political, financial, military, and diplomatic resources for Ukraine's self-defence](#)'.

If such a commitment to help Ukraine defend itself is likely to represent the core of future Western security guarantees, it has however [emerged in recent weeks](#) that this may not be enough to satisfy Ukraine – nor probably its strongest Western supporters. The landing zone for a compromise is therefore likely to lie rather somewhere '[between the security provided to Israel and a full-fledged membership](#)' of NATO, as recently stated by French President Emmanuel Macron at Globsec in Bratislava.

To get there, two things could be envisaged. Firstly, a commitment to help Ukraine defend itself could be supplemented by another commitment to consult in the event of a threat against Ukraine and to cooperate closely with it in the event of an armed attack on its territory – although this would not amount to a fully-fledged commitment to collective defence. Secondly, the agreement in which these commitments would be made should be explicitly framed as a bridge towards Ukraine's eventual accession to NATO and the EU.

Admittedly, such an agreement would not fundamentally transform the nature of Ukraine's ties with its NATO and EU partners. However, the solidarity that the Western countries have shown and continue to show towards Ukraine since February 2022 – through arms transfers, intelligence sharing, financial and humanitarian aid – is by any measure exceptional, reflecting of course the extraordinary circumstances caused by Russia's aggression. Cementing this exceptional solidarity over the long

term, through a formal agreement, would therefore constitute a political act that would be far from negligible.

Such an agreement would also have the advantage – precisely because it would not include a collective defence clause – of being immediately applicable without excessive risks of escalation, including if Russia were to continue to occupy part of Ukraine's internationally recognised territory.

Written commitments: a proposed agreement to guarantee Ukraine's security

The text presented below aims to translate the general political principles outlined above into specific written commitments. An explanatory note follows each article of the proposed agreement.

"Article 1: *The Parties undertake, as provided under the Charter of the United Nations, to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the UN, and to settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered."*

The goal of this article is to recall the prohibition under Article 2 of the United Nations (UN) Charter of the threat or use of force in interstate relations. This is indeed the key international norm that was violated by Russia with its aggression against Ukraine. It also underlines that Ukraine and its Western partners are already bound by negative security guarantees towards each other, given that the UN Charter constitutes, in effect, a universal non-aggression pact.

"Article 2: *The Parties undertake to strengthen their democratic institutions in accordance with their common values of freedom and equality, their constitutional traditions and the rule of law. The Parties will cooperate to foster their economic prosperity, improve the living standards of their citizens, encourage cultural and scientific exchanges and protect the environment. Such cooperation will contribute to the reconstruction and further development of Ukraine, to which the Parties are committed."*

This article is meant to embed the security guarantees towards Ukraine into a broader context of solidarity between Kyiv and its Western partners. It thus refers to the common democratic values that underpin – and will likely remain a condition of – Western support vis-à-vis Ukraine. It also refers to cooperation on economic, social, cultural, scientific and environmental matters, to highlight the wider range of human values that can be achieved beyond security – however important the latter may be – through international partnership. This point could be linked, as proposed here, to the commitment to help Ukraine’s post-war reconstruction and further development once it is integrated into Euro-Atlantic structures.

“Article 3: *The Parties reaffirm their enduring commitment to the security of Ukraine. The Parties undertake to preserve and strengthen the capacity of Ukraine to deter and defend itself against an armed attack on its territory, including through the provision of arms and other military technology, military training and exercises, diplomatic and political support, as well as financial and humanitarian assistance.”*

This article would form the cornerstone of the agreement between Ukraine and its Western partners. It would not amount to a collective defence commitment, as it would not formally oblige Western countries to defend Ukraine themselves, but only to ensuring that Ukraine can defend itself, by its own means.

With regard to arms deliveries in particular, this provision could be made more tangible with the conclusion at the bilateral level of accompanying memoranda of understanding, which would more specifically define the monetary value, quantity and/or type of weapons to be transferred to Ukraine over a given period.

It should also be noted that the above article does not impose a priori restrictions on the weapons that could be transferred to Ukraine. It is clear, however, that such transfers will be dependent, as has been the case thus far, on the political-military judgement of Ukraine’s Western partners and will have, in any event, to comply with international law – such as, for instance, the Non-Proliferation Treaty.

“Article 4: *The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of Ukraine is threatened. If the Parties jointly determine that an armed attack occurs on the territory of Ukraine, they will closely cooperate in order to work with Ukraine with a view to restoring its territorial integrity, political independence or security.”*

This article establishes a mechanism to deal with the risk that Russia may threaten to attack, or even actually attack, Ukraine once again before the latter’s full Euro-Atlantic integration. Under this mechanism, which would operate in two stages, Ukraine and its Western partners would first undertake to consult each other in the event of a threat against Ukraine. Then, in the event of an actual armed attack on the territory of Ukraine, the commitment would be to cooperate closely with Ukraine but without necessarily obliging – nor excluding – collective defence.

It is worth noting that the question of the geographical scope of this commitment is less important than if it were a fully-fledged collective defence obligation – for which the question would then arise as to whether it would be more advisable to cover the whole of Ukraine’s territory, within its internationally recognised borders, or only the part under the effective control of the Ukrainian government at the time of signing such an agreement.

In any case, fears of entanglement could be reduced if, as provided here, the determination of the occurrence of an armed attack against the territory of Ukraine were to be made “jointly” by all parties to the agreement.

“Article 5: *The instruments of ratification of this Agreement will be deposited with the Government of [depository state], which will notify all the other signatories of each deposit. This Agreement will enter into force between the States which have ratified it as soon as the ratifications of the majority of the signatories, including the ratifications of [key signatories], have been deposited. This Agreement will come into effect with respect to other signatories on the date of the deposit of their ratifications. The Parties may, by unanimous agreement, invite any other Member State of NATO or the EU to accede*

to this Agreement. Any invited Member State may become a Party to this Agreement by depositing its instrument of accession with the Government of [depository state]. The Government of [depository state] will inform each of the Parties of the deposit of each such instrument of accession.”

The ratification and accession procedures may appear as relatively minor issues, but they raise the question of the format of the agreement between Ukraine and its Western partners. The model proposed here is one of flexible multilateralism.

This means, first of all, that the agreement to guarantee Ukraine’s security would not need to wait for ratification by all its signatories before coming into force, as provided in the first paragraph of the article above. At the same time, to ensure the credibility of such an agreement, it would be necessary to obtain the ratification of a few key signatories before it enters into force. These key signatories would likely include Ukraine – quite obviously –, the US and the United Kingdom (UK), but also France, Germany and Italy – the three leading military powers in the EU – as well as Poland, Ukraine’s direct neighbour.

In any case, it would be advisable to limit the signatories to NATO and EU member countries, so that the present agreement is explicitly tied to Ukraine’s Euro-Atlantic integration.

Finally, because it may not be possible to obtain the signatures of all NATO and EU members from the outset, it would be useful to leave the door open for them to accede to this agreement later on.

“Article 6: *This Agreement is concluded for an indefinite period. This Agreement will cease to apply: to Parties that are Members of NATO other than Ukraine, from the date on which Ukraine becomes a member of NATO; to Parties that are Members of*

the EU other than Ukraine, from the date on which Ukraine becomes a member of the EU; and to Ukraine, from the date on which it becomes a member of both NATO and the EU.”

As in the previous article, the question of termination, generally a secondary issue, takes on greater importance here. The difficulty with an agreement that would provide security guarantees to Ukraine is indeed that it must, on the one hand, secure the continuous support of Western countries and, on the other hand, avoid giving the impression of locking Ukraine in a permanent waiting room for NATO and the EU.

Thus, as provided here, it could be useful to conclude such an agreement for an indefinite period of time while adding a conditional sunset clause, linked to Ukraine’s eventual entry into NATO and the EU. This would send a clear message that the present agreement, without prejudging the outcome of Ukraine’s accession processes to NATO and the EU, should not be seen as a substitute for future NATO and EU membership, but as a route towards it.

A question of timetable then comes into play, however. Once in NATO or the EU, Ukraine will benefit from the protection of their respective collective defence clauses, namely Article 5 of the Washington Treaty and Article 42.7 of the Treaty on European Union (TEU). Nonetheless, given that Ukraine’s NATO and EU accessions are unlikely to occur simultaneously, it would be advisable to maintain the security guarantees between Ukraine and the countries which would not yet be bound to it otherwise, depending on which organisation Ukraine joins first. In particular, if Ukraine’s accession to the EU were to precede its integration to NATO, it would be important to maintain the security guarantees provided by countries such as the UK and the US, given the relative weakness of Article 42.7 TEU.



ABOUT THE AUTHOR

Elie Perot

Elie Perot is a Programme Director of the Postgraduate Certificate in EU Policy Making and a PhD Researcher at the Centre for Security, Diplomacy and Strategy (CSDS) of the Brussels School of Governance, Vrije Universiteit Brussel.

elie.perot@vub.be

 [@Elie_Perot](https://twitter.com/Elie_Perot)

The **Centre for Security, Diplomacy and Strategy (CSDS)** seeks to contribute to a better understanding of the key contemporary security and diplomatic challenges of the 21st century – and their impact on Europe – while reaching out to the policy community that will ultimately need to handle such challenges. Our expertise in security studies will seek to establish comprehensive theoretical and policy coverage of strategic competition and its impact on Europe, whilst paying particular attention to the Transatlantic relationship and the wider Indo-Pacific region. Diplomacy as a field of study will be treated broadly and comparatively to encompass traditional statecraft and foreign policy analysis, as well as public, economic and cultural diplomacy.

The **CSDS Policy Brief** offers a peer-reviewed, interdisciplinary platform for critical analysis, information and interaction. In providing concise and to the point information, it serves as a reference point for policy makers in discussing geo-political, geo-economic and security issues of relevance for Europe. [Subscribe here](#). In each CSDS Policy Brief, authors express their own views and the content does not reflect the views of CSDS. For more information, contact the editor Dr. Daniel Fiott: daniel.fiott@vub.be. (Print ISSN: 2983-4651 / Online ISSN: 2983-466X)

Follow us at:

Twitter [@CSDS_Brussels](https://twitter.com/CSDS_Brussels)

LinkedIn [CSDS Brussels](https://www.linkedin.com/company/csd-brussels)

Youtube [CSDS](https://www.youtube.com/channel/UC8wGvQvQvQvQvQvQvQvQvQv)

<https://csds.vub.be>



BRUSSELS
SCHOOL OF
GOVERNANCE

Visitor's address:

Pleinlaan 5, 1050 Brussels, Belgium

Mailing address:

Pleinlaan 2, 1050 Brussels, Belgium

The Brussels School of Governance is an alliance between the Institute for European Studies (Vrije Universiteit Brussel) and Vesalius College.

info_bsog@vub.be

www.brussels-school.be