

Protecting Canada's National Interests in Ukraine: Navigating End-of-War Scenarios

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Issue

What are some potential scenarios for an end to the war in Ukraine, and how should the Government of Canada respond to these? The current hostilities between Russia and Ukraine are the largest Europe has seen since World War II. Russia's aggression towards Ukraine and its apparent intention to annihilate Ukrainian nationhood pose serious challenges to international stability, global cooperation, and the rules-based international order. The war in Ukraine thus confronts Canada with questions that are vital to its national interests.

Background

Military

The war between Russia and Ukraine has followed an erratic course. After Russian forces failed to conquer Ukraine outright in 2022, the Ukrainian counteroffensive in the spring of 2023 stoked optimism among Allied states that Kyiv might turn the conflict around. However, since the autumn of 2023, the Russians have gained respite and momentum. The Armed Forces of Ukraine (AFU) are facing significant challenges due to shortages in manpower and equipment, and have lost critical towns along the front line. To meet the operational needs of the AFU, Western states have committed billions of dollars in military aid to Kyiv. Since the start of the war, Canada has committed bilateral aid to Ukraine worth approximately €5.8 billion (Kiel Institute for the World Economy 2024). Additionally, Canada continues to deploy Operation UNIFIER, a military training and capacity-building mission in Latvia,

Poland and the United Kingdom, in which 300 Canadian personnel are training AFU soldiers in a variety of combat skills. This initiative began in 2015 and will continue until March 2026 (Department of National Defence 2023). Most recently, as Ukraine awaited the approval of a US\$61 billion military aid package from Washington in the winter of 2024, Russia steadily advanced along the front line (Karklis, Ledur and Mellen 2024), benefiting from military aid it received from Iran and North Korea (United Nations 2024), and a shift in global attention away from the war in Ukraine to the conflict in Gaza (Raine 2024). Russia's offensive has put tremendous strain on the AFU; its forces are struggling to hold their positions and are withdrawing in some areas.

Diplomatic

The prompt and untrammelled delivery of military aid to Ukraine is the primary concern of Canada and its Allied partners, and rightly so. It is vital to ensure Kyiv's ability to repulse any Russian attempt to strike more deeply into Ukraine. However, it is important for Ukraine's partners, such as Canada — always in coordination with Kyiv — to pursue any favourable leads for a possible diplomatic solution to the conflict, or to at least plan for the postwar status quo once the fighting abates. Until this point, Allied military support to the AFU has not compelled Russia to come to the negotiating table on favourable terms. Nevertheless, Canada has maintained unequivocal diplomatic support for Ukraine, condemning Russia's actions by denouncing its war of aggression at the United Nations (Prime Minister of Canada Justin Trudeau 2023). Canada is actively engaged in various summits and peace talks, including those in Saudi Arabia and Malta, rallying support for Ukraine's 10-Point Peace Plan (Chase

2023). Moreover, Canada has imposed sanctions on more than 3,000 individuals in Belarus, Moldova, Russia and Ukraine whom it deems complicit in the illegal war waged against Ukraine (Global Affairs Canada [GAC] 2024b). Additionally, Canada has taken the initiative of co-chairing the International Coalition for the Return of Ukrainian Children with the Ukrainian government to achieve the fourth point of Ukraine's Peace Plan¹ (ibid. 2024a). Canada's large Ukrainian diaspora, close diplomatic ties with Ukraine and middle power position make it a player in the international diplomatic arena as it pertains to this issue.

Judicial

The international community is rallying behind the International Criminal Court (ICC) to ensure accountability for Russian war crimes and crimes of aggression. The ICC holds legal jurisdiction over war crimes, crimes against humanity, genocide and crime of aggression. Since Russia's invasion of Ukraine in February 2022, Ukrainian authorities and the International Commission of Inquiry on Ukraine have documented over 47,000 alleged war crimes committed by Russian military forces on Ukrainian territory (Marchuk 2022). Canada, as a dedicated supporter of the ICC, is playing a crucial role in organizing a coalition with Ukraine to repatriate abducted children. Through Canada's War Crimes Program, a partnership between the Department of Justice, the Royal Canadian Mounted Police (RCMP), the Canadian Border Services Agency (CBSA) and Immigration Refugees and Citizenship Canada (IRCC) was established. The RCMP, in conjunction with the CBSA and IRCC, has initiated an investigation in Canada to collect evidence of Russian war crimes from Ukrainian individuals who have taken refuge on Canadian soil. This evidence may be used to bring war criminals to justice through the ICC. The program involves documenting crimes and identifying victims, witnesses or suspects for potential future legal action (Public Safety Canada 2023).

End-of-War Scenarios

The task before the Government of Canada at the current juncture is to craft contingency plans tailored to any weak signals that currently indicate what course the war in Ukraine may yet follow. There are three general scenarios that Ottawa can anticipate and, in some cases, even help to

bring into being, ranging from those least desirable to the Canadian national interest to the most.

Scenario #1: Ukrainian Military Defeat, Russian Advance

The worst-case end-of-war scenario would involve Russia's strategic defeat of the AFU, forcing Kyiv to sue for peace. This could result from delayed Western military assistance, a Ukrainian manpower shortage that cannot be offset by conscription or the collapse of the Ukrainian home front due to domestic unrest. In such an event, the Allies can expect Russia to occupy and even annex additional swathes of Ukrainian territory, although it is highly unlikely that the entire country will fall to the Russians (Watling and Reynolds 2024). In this scenario, tensions will mount between Russia and NATO, and the chances of direct conflict between the two will be greater. The integrity of the rules-based international order would be severely damaged, as a major power successfully changed another state's borders by force.

Scenario #2: Stabilization of Ukrainian Front and Frozen Conflict

The second scenario that may mark the end of the war in Ukraine, or at least ongoing internecine fighting, is the complete stabilization and immobility of the front line — in other words, a stalemate. The AFU has repeatedly demonstrated its prowess, and while large-scale offensive operations against numerous, dug-in Russian defenders have yielded only mixed results, Kyiv has shown that it can hold the line when equipped with state-of-the-art weapons, with which it has exacted staggering losses on Russian forces (Foreign, Commonwealth & Development Office 2024). Despite the setbacks over the last six months, the arrival of the US \$61 billion US aid package could allow Ukraine to restabilize the front line. Whether Ukraine can recover all territory it has lost since 2014, or even 2022, is open to doubt. However, the cementation of the front line could yield a Korean War-like scenario in which a free, prosperous and relatively secure Ukrainian rump state exists opposite a fortified border, as Russia, inflicted with colossal losses, resigns to the fact that it can no longer press an advantage (Gady and Kofman 2024).

Scenario #3: Russian Military Defeat, Ukrainian Advance

The third possible scenario for an end to the war in Ukraine would be a stunning AFU advance and its repulsion of the Russian occupiers, leading to a recapture of varying

1 The fourth point of the Ukrainian Peace Plan is titled "Release of all Prisoners and Deportees." It focuses on the release of prisoners, civilians and all adults and children, estimated to be around 20,000 children, who were illegally deported and forcefully transferred to Russia.

proportions of its territory as defined by its 1991 borders. This is a possibility in 2025 or 2026, if the attrition strategy proposed in Scenario #2 can inflict losses on the Russians at a greater rate than Moscow can replace them (Cohen and Zagorodnyuk 2024). Vital factors enabling such a turn of events would include the success of Ukrainian conscription efforts aimed at replenishing AFU ranks and the provision of generous quantities of Western military aid to Ukrainian troops. How much territory Ukraine could recapture would change the stakes in the conflict, potentially intensifying the risk of the Russians use of nuclear weapons on the battlefield or direct NATO-Russian military confrontation. This risk would be particularly acute in the event of Ukrainian success in retaking Crimea. However, such a Ukrainian strategic victory would restore the integrity of the rules-based international order, as Ukraine and the Allies will have successfully prevented a major power from redrawing the map by force of arms.

Recommendations²

It is recommended that the Government of Canada pursue the following policy options in response to these three scenarios.

Military Options

Canada must expand the scope of Operation UNIFIER by providing more Canadian Armed Forces (CAF) personnel for AFU capacity building. To meet Ukrainian troop needs, Kyiv has expanded their mobilization and recruitment, initially aiming for an increase of approximately 500,000 troops, a goal that has been significantly reduced (Palikot 2024). Currently, the AFU is facing difficulty in training these recruits rapidly enough, despite their reduced number. Abundant, trained Ukrainian military personnel will be needed in all three scenarios. Even in the event of Scenario #1, the resultant rump state of Ukraine will require robust defence and security forces. In support of this effort, Canada should also expand the Junior Officer Development program currently delivered in Latvia (Department of National Defence 2023) to train Ukrainian officers at the Canadian Forces Leadership and Recruit School in Quebec.

² Given the rapidly evolving nature of the war in Ukraine, some events described in this policy brief may have changed by the time of publication. The recommendations are not solely contingent on the immediate, on-the-ground realities of the war but the focus of the policy brief is on broader and long-term strategic recommendations which align with Canada's national interests.

Canada must deliver on its bilateral security agreement with Ukraine, ensuring the long-term provision of aid and support. At the Vilnius Security Summit in July 2023, the Group of Seven (G7) nations pledged to create bilateral security agreements with Ukraine (Prime Minister's Office 2024). As of May 22, 2024, Germany (Auswärtiges Amt 2024), United Kingdom (GOV.UK 2024), France (Élysée 2024), Italy (Italian Government Presidency of the Council of Ministers, 2024) have all concluded negotiations with Ukraine and are finalizing their agreements. The agreement on security cooperation between Canada and Ukraine was likewise signed in February 2024. Given the limited size of Canada's standing military, Ottawa should focus on Part IV, Section B of the agreement related to defence industrial cooperation (Government of Canada 2024). Canada should invest in domestic Canadian defence-industrial start-ups like Roshel, which has production assets in both countries (Mazurenko 2024). This is especially vital to increasing the likelihood of Scenarios #2 and #3 discussed above.

Canada should deploy CAF personnel to western Ukraine to perform auxiliary roles in the rear. Without invoking Article 5 of the North Atlantic Treaty, Canada can unilaterally send military personnel to Ukraine to take over the function of rear-echelon units of the AFU, freeing up Ukrainian manpower for duty at the front (Daniel 2024). Such an action, undertaken at the request of Kyiv, would be in harmony with international law enshrined in Article 51 of the United Nations Charter, which permits collective defence.

Diplomatic Options

At the 2024 NATO summit in Washington in July, Canada should advocate the expeditious entry of Ukraine into NATO. Ottawa should propose a specific schedule for Ukraine's admission and a firm date by which the 32 member states should certify Ukraine's entry into the organization in their respective legislatures. No doubt, Moscow will declare this a "red line," yet the Allies have crossed previous red lines without consequence (Cohen and Zagorodnyuk 2024). The Allies agreed at Vilnius in 2023 that Ukraine could forgo the Membership Action Plan typically required of aspiring members (Holland, Irish and Siebold 2023). This demonstrates that NATO allies are capable of bending some of the rules regarding NATO accession when expedient, including the famous provision in the 1995 "Study on Enlargement" that stipulated prospective members have no outstanding territorial disputes (NATO 1995). Ukrainian membership in NATO would greatly increase the likelihood of Scenarios #2 and #3 for ending the war and diminish the chances of Scenario #1 — a Russian strategic victory — from occurring.

Canada should collaborate with other states to confiscate Russian state assets. Seized Russian financial assets can be used to finance the resupply and rearmament of Ukrainian forces and support the reconstruction of Ukraine. The EU countries reached a deal in May of 2024 to use the profits earned from frozen Russian assets to provide military support to Ukraine (ABC News 2024). Canada has taken the lead among G7 countries by introducing legislation targeting Russian assets through amendments to the Special Economic Measures Act with Bill S-278³ (Parliament of Canada 2023). An international treaty should be established to create a global mechanism for using frozen Russian Central Bank assets as third-party countermeasures for loans and bonds for Ukraine's reconstruction, utilizing legal justification under Article 75 of the Vienna Convention on the Law of Treaties (VCLT).⁴ In the increased likelihood for Scenarios #2 and #3, these assets should be used as collateral for loans and bonds for Ukraine by the World Bank and International Monetary Fund to ensure transparency and accountability.

GAC should work with Immigration, Refugees and Citizenship Canada (IRCC) to develop a national strategy to expand Ukrainian protection to refugees fleeing from the Russian occupation. The strategy should be initiated with the increased likelihood of Scenario #1 and #2 and should involve restarting the Canada-Ukraine Authorization for Emergency Travel, providing temporary protected status for Ukrainians, and offering a legal status and protection until they become permanent residents. Additionally, affordable housing remains a challenge in Canada, especially for Ukrainian refugees amidst increased rental demand. GAC should collaborate with Infrastructure Canada to establish a modular housing program for Ukrainian refugees, given its importance in 2024's federal budget.

3 Bill S-278, an act to amend the Special Economic Measures Act, was tabled by Canadian Independent Senator Rata Omidvar and is currently at the second reading in the Senate. The proposed amendment would allow a judge to seize a foreign state's assets to support the reconstruction of a foreign state impacted by a violation of international peace and security.

4 Article 75 of the VCLT provides "[t]he provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor state in consequence of measures taken in conformity with the Charter of the United Nations with reference to that state's aggression." In the context of the war in Ukraine, measures can include resolutions of the UN General Assembly condemning Russia's aggression or supporting the ICJ Order on Provisional Measures.

As a middle power with a proven track record in track-two diplomatic dialogues and being in the top 10 ranking in the Global Soft Power Index, Canada is uniquely positioned to lead and invest in track II diplomacy.⁵ This leadership role will ensure open communication and pave the way for an eventual peace settlement between Ukraine and Russia in Scenario #2 and #3. GAC should collaborate with third-party actors, including think tanks such as the Canadian Global Affairs Institute, Ottawa Dialogue and representatives from the International Crisis Group to address underlying issues, incrementally build mutual understanding between both parties of the war and develop long-term peace-building strategies.

Judicial Options

Canada must lead the way in repatriating abducted Ukrainian children. Canada, through the UN Human Rights Council, should ensure the safety of the children and establish the first point of contact with their families.

Canada should provide more assistance to Ukraine in the prosecution of war crimes on Ukrainian soil. This would include providing experts on the ground in the form of CAF Legal Officers and members of the RCMP with expertise in international humanitarian law, crimes against humanity and war crimes. These experts could provide necessary support to the Ukrainian Attorney-General's office to strengthen Ukraine's judicial capacity to ensure investigations of war crime tribunals are effectively conducted in alignment with international legal standards.

Canada should accumulate evidence of Russian crimes among the Ukrainian diaspora living in Canada. The RCMP should expand its investigation program beyond voluntary methods and online accessibility by reaching out to Ukrainians through IRCC and resettlement organizations in Canada to initiate direct contact with them. This will ensure that its own investigations within the country are connected to other international and Ukrainian efforts, facilitating greater international assistance in the prosecution of perpetrators beyond Ukrainian borders.

5 Track II diplomacy involves a third-party facilitator bringing together a small group of people and experts who are familiar with the conflict region to participate in informal dialogues and problem-solving activities outside official diplomatic channels. The diplomatic initiatives under track II diplomacy, which focus on building trust and understanding, have an important role in leading up to diplomatic negotiations under track I diplomacy, which are more formal and involve high-level government officials.

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