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# What kind of neutrality for Ukraine?

by [Marc Henzelin](#)

(Credit: Vika Strawberrika/Unsplash)

The question of Ukraine's neutrality plays a crucial role in its talks with Moscow. Marc Henzelin, a lawyer in Geneva specialised in international criminal law, looks at the notion of neutrality and all its variations.

According to statements made by both sides, the negotiations between Russia and Ukraine are about defining a "neutrality" status for Ukraine. This status is in fact, variable, and each neutrality status is different.

Switzerland's status is probably one of the oldest and most legally sound, as it was already recognised in the bilateral Treaty of "Perpetual Peace" between France and the Swiss Confederation in 1516, following the Battle of Marignano.

It has been confirmed at least three times, by the 1640 Treaty of Westphalia following the Thirty Years' War, by the 1815 Treaty of Vienna and by the 1919 Treaty of Versailles, not to mention the declarations of Switzerland's membership of the League of Nations (1920) and the United Nations (2002). Switzerland's neutrality has furthermore acquired the status of customary law.

In contrast, Sweden's neutrality is based more on historical tradition and political will than on a legal instrument, at least at the international level. Sweden thus adapts its neutrality policy according

to its interests. For example, during the Second World War, Sweden allowed German forces to cross its territory to the Finnish front while protecting refugees from Nazism. Sweden intervened in Afghanistan starting in 2001 as part of the International Security Assistance Force (ISAF). In the conflict between Russia and Ukraine, Sweden is not totally neutral, but simply non-belligerent. It does not take part in military operations but supplies arms to Ukraine. Ireland's neutrality is close to Sweden's, in that it is more of a policy than a legal obligation.

Between the two models, Finland's status is interesting in the sense that it does not apply to the whole international community, but to all countries of the former Soviet Union, due to the (forced) agreement of 1948 with the now-defunct USSR. Therefore, Finland cannot allow its territory to be used for an attack on the successor countries of the USSR. This is also, like Switzerland, an armed neutrality since Finland has armed forces.

As for Austria, which also has its own armed forces, its status derives from its 1955 State Treaty and Constitution, which prohibit its entry into military alliances and the establishment of military bases on its territory. All countries with which Austria has diplomatic relations ratify the Austrian State Treaty, which gives Austria a “patchwork” of bilateral rights and obligations derived from Austria's neutrality rather than multilateral obligations.

The law of neutrality, crystallised in several international instruments, including the two Hague Conventions of 1907, is essentially intended to govern the relations of the neutral state with the belligerents in time of war, including the right to trade and the modalities of such trade in time of war. A possible future neutrality of Ukraine would not necessarily prevent it from joining the European Union. Austria and Sweden, neutral in different ways, are both members of the EU (but not of NATO). Conversely, a desire by the European Union to become an increasingly integrated military power could either prejudice the future accession of a – presumably neutral – Ukraine to the EU or cause its neutrality to evolve according to its future European interests.

In the end, the fate of the weapons and the political and financial situation of the belligerents will be decisive in setting the cursor on Ukraine's fluctuating neutrality.

See also [Ukraine neutrality – a guarantee of security?](#)



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