

## War in Ukraine: Do Negotiations Stand a Chance?

### 10 points from the Initiative Mediation Support Deutschland (IMSD)<sup>1</sup> / Updated Version April 5, 2022

Recent weeks have seen discussions, equally intense and controversial, over whether ongoing negotiations for humanitarian measures – let alone for ending the war that the Russian leader has been waging against Ukraine – have any chance of success, or whether they are negotiations in name only, doomed to failure. At the end of March, there appeared to be some progress in negotiations, while at the same time a possible new Russian military offensive was expected. With the atrocities against civilians in Butcha and other Ukrainian cities reported in early April, the violence and inhumanity of the ongoing war have entered a new degree of visibility. For some, this means negotiations are completely discredited; for others, negotiations are even more imperative.

Given the basic questions raised in this context, we wish to contribute the following considerations – from the areas of negotiations theory and mediation methodology – to what otherwise has been a primarily political, military-strategic and morally oriented public debate:

- 1. The chances for successful negotiations are determined by timing and conditioning:** For decades, negotiations have brought a great number of wars to an end. Typically, a conflict and the injustice and suffering connected with it appear not to be surmountable through dialogue and mediation. But in this case, Russia's failure to achieve its expected quick military victory, as well as Ukraine's more realistic assessment of western readiness to help, makes it more likely that negotiations could bring hostilities to an end. So, the fundamental question is not so much whether negotiations will continue but rather when and under which conditions they could succeed. It is not uncommon for negotiations to continue parallel to ongoing military action.
- 2. Serious negotiations are possible despite mistrust between parties:** Situations of war typically give rise to the fear that negotiations will be agreed upon to satisfy ulterior motives (achieve a cease-fire, legitimize a cause, gain time for military mobilization, weaken sanctions) and ultimately to realize a military victory. High levels of mistrust are part of violent conflicts and setbacks are part of negotiations. However, this must not also lead to the total abandonment or trivialization of negotiations, or to the failure to consider possible settlement options. The main goals and interests of parties to a conflict (particularly those in which they are interdependent) cannot be fulfilled by military means; they can only be achieved through negotiations. The political and financial, human and psychosocial costs of violent conflicts are immense; there is always an incentive to resolve them.
- 3. The failure to achieve concrete results can lead to the delegitimization of dialogue formats and channels:** Existing channels and formats of dialogue present valuable opportunities that must not be put at risk unnecessarily. That is why it is important to appropriately contextualize negotiation attempts, for example when communicating about them through media. In addition, external actors must coordinate carefully with each other so that parallel negotiation attempts do not undermine one another, and to ensure that the most is made of their various approaches. It can be advantageous to design a roadmap with clearly defined goals to which all intervening parties would commit. However, any public communication on this roadmap should be cautiously weighed, since the failure to meet set goals can seriously delegitimize both process and mediating third parties.
- 4. The establishment of forums for additional actors promises overall improvement of chances for success:** A negotiated settlement between Russia and Ukraine as warring parties is necessary in order to cease violence, but such a settlement can only address parts of the conflict. When it comes to the concessions that are central to agreements, it is crucial to involve those parties that can actually make them. Thus it is not possible to address the overriding Russian security and recognition interests without involving the

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<sup>1</sup> The IMSD, created in 2013, is a network of experts from German organizations in the field of peace mediation and mediation support. Together with the German Federal Foreign Office, it has produced numerous factsheets on peace mediation and contributed to capacity building. Many of its member organizations have played a role in inner-Ukrainian and Ukrainian-Russian dialog work since 2014. This position paper was developed exclusively by the above-mentioned IMSD member organizations (see logos) and represents only their positions, not those of the IMSD as a whole.

relevant western powers (including NATO, USA, EU). The establishment of an additional forum for those elements of the conflict that Russia and Ukraine cannot resolve on their own would greatly improve the chances of success for the negotiation between the warring parties. It could also prevent Russia from using force to pressure Ukraine into unacceptable compromise. As long as a (residual) political and not yet a genuine military logic dominates between Russia and the western powers, a split is also tactically advisable.

- 5. Start out acting procedurally, instead of expecting readiness for substantive compromise:** Paradoxically, the pressure to compromise during highly escalated conflicts often leads to further hardening of positions, since parties to a conflict perceive this pressure as another attack on their existential interests. This is why the focus of third parties should be on a clearly structured process. An intermediate goal on the part of external actors should be explicitly formulated on a low-threshold basis, such as “identifying the conditions for coexistence.”
- 6. Face-saving measures for all warring parties are a basic prerequisite for entering into and concluding lasting negotiated solutions,** even if they are diametrically opposed to one’s own sense of justice or that of the opposing party. The moral, international legal and historical-political classification of Putin’s actions and of the responsibility of soldiers for atrocities will be addressed at other times and in other forums. Consequently, central (international) legal guidelines, such as assurances of impunity for central perpetrators of violence, are not up for negotiation.
- 7. Strong starting positions with good alternatives make it easier to negotiate:** To save face and improve one’s own chances in negotiations, one needs to project strength to the outside world and not appear overly hopeful that a negotiated solution will work. It is generally better to negotiate if one has a (even supposedly) good alternative to an agreement, than to have one’s back against the wall and possibly even feel compelled to take a much tougher counter position. The faltering Russian advance can therefore influence the Russian side’s willingness to negotiate in both directions. This must be taken into consideration, also to avoid further escalation in the direction of biological and nuclear weapons.
- 8. The ongoing negotiations must not force any rotten compromises:** Even if expansionist / revisionist motivations are ascribed to the Russian leadership, a negotiated solution is not necessarily the same as “appeasement” or forced compromises. Negotiated solutions can also include possibilities of settling on preventive measures for the future, if these measures are actually taken (given the fact that previous agreements were not respected, appropriate safeguards/sanctions mechanisms are needed).<sup>2</sup>
- 9. The exercise of influence by third parties should be undertaken with clear incentives:** In addition to the military situation, external pressure is an important factor for the success of negotiations. Sanctions should be designed in such a way that they offer clear incentives toward a negotiated solution. To that end, the clear naming of conditions is of central importance. Sanctions can only change behavior for the better when they stipulate which of them would be lifted under which concrete conditions. In addition, it has been demonstrated that sanctions that collectively punish an entire country and its population or hold them collectively liable have had a counterproductive impact, leading rather to the strengthening and consolidation of the autocratic system in that country.
- 10. An important role for Germany could be to lift the conflict to a level where it can be once again navigated (such as “negotiation of a regional and global coexistence system”):** A possible entry point to such a negotiation level could be to ensure that the situation is recognized on all sides as a highly fragile interdependence (with no common basis of values, incompatible security perceptions and a high potential for destruction). In this kind of system, all participants are interdependent on interest-driven minimal rules.

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<sup>2</sup> When Russia broke the terms of the Budapest Memorandum between UKR and RUS (which contains security guarantees by third countries but no sanctions mechanisms) in 2014, there were only limited reactions towards Russia. Ukraine saw this not only as a violation of the Memorandum but also as an abdication of security guarantees by third states. The resulting loss of confidence complicates the current negotiations.