



A Realistic Path towards **Ukraine's Accession to the EU**

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Executive summary¹

For any new candidate aspiring to join the EU nowadays, the options are not plentiful, and the path is rocky – certainly if candidates come from the former communist bloc, are below the EU GDP average and/or hobbled with perennial conflicts. The EU too struggles with itself, torn about its future and that of enlargement. Claims of enlargement being dead may prove premature though, and, as its response to the Russian full-scale invasion of Ukraine shows, the EU does have sharp geopolitical teeth in spite of its many internal problems. Yet for Ukraine, fighting a long war with a nuclear power and facing daunting challenges of postwar reconstruction, while it also aims to reform and become an EU member, a rocky path is an understatement.

And yet, most decisively in 2022, when the candidate status was granted to Ukraine (and Moldova) last June², the EU and Ukraine embarked together on this path. A path which to a great extent aims to achieve the higher goals of the Euromaidan or Revolution of Dignity (2014) and settle for good Ukraine's rightful strategic place in the Euro-Atlantic structures – while, in the process, providing new meaning to “Europe” and purpose to the EU. The road is uncertain, but the conditions are relatively clear (at least on paper, even if politics might follow other rationales): namely, fundamental rule of law and democratic reforms, implementation of the EU acquis, etc. For starters, at the very minimum, this implies fulfilling 7 key conditions laid out in the EU decision granting candidate status to Ukraine³.

The debate is growing in the EU on whether to green-light the opening of accession negotiations in late 2023. Member states remain torn between reluctance to tolerate shortcuts to the EU (always, but especially with Ukraine and as long as the war rages on) at a time when internal reform in the Union seems wanting,

while others are keen to seize the political momentum, lest Ukraine should forever languish in the never-ending queue of candidate countries, reforms wither and war moral suffers too.

The First Part of this policy paper looks at different positions and perspectives on Ukraine's EU path within several member states with various degrees of influence on the matter. It helps clarify – especially for Ukrainian policymakers and civil society – complex discussions and policy questions inside the EU that Ukrainians will face in the next few years. Specifically, it addresses the cases of France, Germany, Central European states and Spain, given its upcoming presidency of the EU Council in the second half of 2023. It finds that these positions are evolving and are not set in stone – hence the opportunities – although there are a number of bottom-line conditions which will be required of Ukraine anyway and hurdles it is poised to face – hence the challenges. A number of building and stumbling blocks on Ukraine's EU path are discussed. Moreover, the paper also draws tentative lessons learned from the process of enlargement to the Western Balkans, concluding that, while it is not really a model for Ukraine, there are nevertheless aspects that Ukrainian policymakers may want to bear in mind. For instance, the need to be careful with fanning expectations (e.g., concerning fixed deadlines for accession): they have to be just right to maintain domestic support and reform momentum. Teamwork and strategic cooperation with acceding countries – in the case of Ukraine, this clearly applies to Moldova – can greatly help to make progress along the different yardsticks of the process. The narrative matters too: resisting Russia's imperialism and upholding democratic values is important – but may not be enough for Ukraine in the long term.

1) The authors would like to thank Camino Mortera-Martínez (Head of the Brussels Office, Centre for European Reform) and Álvaro Imberón (Director of Policy Planning, Spanish Ministry of Foreign Affairs) for their inputs and comments to an earlier draft of this paper.

2) <https://www.consilium.europa.eu/en/press/press-releases/2022/06/23/european-council-conclusions-on-ukraine-the-membership-applications-of-ukraine-the-republic-of-moldova-and-georgia-western-balkans-and-external-relations-23-june-2022/>

3) <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf>

Germany's position on this matter can be summarised as neither in the driving seat nor a blocker. Although, like France, Italy, Spain and other member states, it has also evolved in the circumstances, Berlin still sees enlargement as a very long-term objective directly tied to the prior accomplishment of internal EU reforms – a nearly insurmountable obstacle now. However, Germany will not block moves to advance Ukraine's EU path, provided there is consensus and Kyiv carries out reforms – even if German officials do worry about the many potential implications of Ukraine's EU accession, distant as this may be.

In France, help to Ukraine in its fight against Russia's aggression and support for its accession to the EU do not necessarily go hand in hand for its political elites. France's lukewarm attitude to Ukraine's EU membership is shaped by a long-standing reluctance to move on with EU enlargement, rather than specific perceptions of Ukraine. The prioritisation of deepening over widening, and, to a lesser extent, lessons drawn from past accessions, are central to explaining France's lack of enthusiasm over EU expansion. Somewhat like Germany, when faced with new applications for EU membership, France is likely to insist on both strict compliance with EU accession criteria (in particular the fundamentals such as the Copenhagen criteria, etc.) and EU reforms prior to new enlargements. France wants to avoid future stumbling blocks related to EU governance and strategic autonomy. This being said, France's position on enlargement is not frozen either and, with these caveats, under Macron the country may shift in a more positive direction given the perceived relevance of enlargement and Ukraine for European security and geopolitical considerations – especially in light of Russian aggressiveness.

In Central Europe, even though all Visegrád Group (V4) countries have negative historical experience with Russian aggression, their stances and public opinion on Ukraine vary. While the Czech Republic and Poland are strong supporters of Ukraine, including when it comes to its EU membership aspirations, Hungary is at the opposite end and Slovakia is somewhere in the middle (though this could change too). Central European countries in general advocate proactively for Ukraine's future EU membership and at times fast track for this purpose. The Czech Republic in particular puts forward proposals for the organic integration of Ukraine (such as the idea of speedy opening of access to the European single market for Ukraine). Yet, as illustrated by this spring's grain exports crisis between

Poland and other countries of the region and Ukraine, this position will be tempered, at times dramatically, by their own sectoral interests. Another obstacle which could block future Ukraine's EU membership (and that of any other candidate, for that matter), is the lack of political will in Central Europe to compromise on EU internal reforms (e.g. decision-making tools).

The upcoming Spanish presidency of the EU Council comes, therefore, at a time when, on top of these conflicting perceptions inside the EU, there is an emerging discussion on the potential launch of accession negotiations with Ukraine – Kyiv's current priority with the EU. Some of the enlargement concerns shared by Germany, France and others – from the troubled experience with the Eurosceptic governments in Poland and Hungary to the EU's absorption capacity of new members – do matter for Spanish officials and elites too. Spain would also bear mid- to long-term costs resulting from Ukraine's accession. Yet, Madrid will support Ukraine on its accession path, chiefly working towards EU consensus while remaining demanding when it comes to the fundamental conditions and the *acquis*.

Ultimately, many in Brussels and among member states believe that any substantial further steps towards Ukraine's accession are unrealistic as long as the war goes on at this scale with no end in sight ("no accession at war, then we will see", captures the mood). And yet public opinion support for Ukraine's membership (one day) remains widespread and the sense of political opportunity is there too. If member states truly believe that Ukraine will one day, in a not-so-distant future, join their ranks, and Ukraine manages to truly reform over time, the chances are tangible. There will also be substantial costs for Ukraine (e.g. shedding of old industries, etc.) and member states throughout the integration process. Ukraine's EU membership should also be part of any future settlement of the war, distant as it may be, tied to the provision of security guarantees to Kyiv.

Before that long-term prospect, the paper suggests building blocks for Ukraine's EU path, as both possible steps and deliverables in the short- to mid-term, such as:

- Organic integration proposals, connectivity and regional integration initiatives (as stepping stones). For example, the further development and expansion of Trans-European networks (energy, transport) to Ukraine linking it with its

Western neighbours and EU member states (especially Poland, but also with Romania, Hungary and Slovakia). First steps, such as cooperation in areas like telecommunications (mobile roaming) or EU digital markets, could be treated as successful cases of Ukraine's gradual organic integration into the EU Single Market.

- Stronger cooperation with other acceding countries – chiefly Moldova, but also Western Balkan candidates.
- Stronger sociopolitical bilateral links with key member states (and not just Central European ones, France or Germany).
- Full implementation of the key reforms required by the EU – not superficial, “tick off the list” type of measures and decisions.

This latter issue, i.e. the full implementation of reforms and conditions required of Ukraine, and the Ukrainian context to pursue the EU path in wartime, is essentially the focus of the Second Part of the paper. The candidate status for Ukraine provided by the EU in June last year, with unprecedented speed and under dramatic tectonic shifts in the geopolitical context of the European continent, gave not only a strong support signal to Ukraine but also opened an ‘accession Pandora box’ – the need to conduct fundamental and painful reforms by Ukraine and ironically for the EU to be capable to manage another wave of enlargement. Ukraine, despite the 8-year Association Agreement implementation experience and trackable progress in some sectoral areas, will encounter the full-scale array of accession process technicalities and tough EU environment for reaching compromises not only with Brussels but with (often) conflicting interests of EU member states.

The nearest milestone of the accession process for Ukraine is the opening of accession negotiations that will be established by the EU at the end of 2023 based on the results of the intermediate (in June) and ultimate (in December) assessments of the progress reached by Ukraine in fulfilling the 7 recommendations set forth by the European Commission in its Opinion of Ukraine's application for EU membership. Developed to mitigate concerns of individual EU member states before voting for candidate status for Ukraine, these recommendations focus on reaching the intermediary benchmarks in the (traditionally problematic for Ukraine) fundamental reform matters, such as the vetting of the judiciary and independence of anti-

corruption bodies. It seems that the EU's final decision on whether Ukraine's progress in implementing the Commission's recommendations is sufficient to open the negotiations will mainly depend on the ability of the EU to find the compromise between the motivation of the current EU leaders to gain from a ‘Ukrainian accession success story’ and contradictory national interests of member states. The actual mixed progress of Ukraine in fulfilling the EU recommendations complicates this puzzle even more as its political elites don't want to completely give up the well-established informal control over all branches of the state power and hope to receive a ‘concessional’ decision of the EU for negotiation opening in December this year without implementing the really fundamental changes. But in any case, the actual approach of the EU to its enlargement (as evidenced by the Western Balkans) must be subject to change to better reflect the current geopolitical interests of the Union and the national specifics of Ukraine (and Moldova).

Implementation of the EU demands inside the ‘Fundamentals’ cluster of the enlargement methodology, namely deep reforms in judicial, anti-corruption and public administration systems, will play a key role either in demonstrating progress with the Commission recommendations this year or during the first stage of accession negotiations, at least during the wartime period. They have truly ‘fundamental’ significance for the initial success of Ukraine in the forthcoming negotiation process, as well as further positive developments in other sectoral acquis implementation and post-war reconstruction efforts. Even though they have always been a stumbling block between official Kyiv and Brussels in defining ‘progress in European integration reforms,’ the unlocking of the candidacy status and a clear perspective for a start of negotiations has triggered tremendous activity of Ukrainian stakeholders to demonstrate its willingness for vetting in the judicial system, removing obstacles for the efficient work of anti-corruption bodies and limiting the oligarchs’ influence over the state authorities and media. However, it is not ultimately clear whether Ukrainian political elites are truly ready to implement these changes for the sake of the EU accession or whether they will play a traditional ‘imitation game’ supplemented by erosion of democratic practices and balance of power using martial law restrictions as an excuse.

The ‘Fundamental’ or political side of the accession process will be closely intertwined with the sectoral integration of the Ukrainian economy into the EU

Single Market and adoption of the relevant EU acquis and regulations and a track of the post-war recovery and reconstruction of the country. Both processes require (i) painstaking work on the approximation of the national laws to EU *acquis communautaire* norms and (ii) preparation of government authorities and businesses to operate in compliance with the new regulations, which will be inevitably lengthy and costly. The relevant progress differs from sector to sector, but in general, the EU should foster the applied sectoral integration of Ukraine using the merit-based approach, rewarding its reform efforts with the relevant funding support for infrastructure development and better access to the EU market (on a gradual basis). The success of post-war reconstruction plans would also to a large extent depend on the sectoral strategies of Ukrainian governments and the successful implementation of the leading EU standards in each sector (e.g., implementation of resource-efficient and energy-effective practices).

The institutional capacity of the Ukrainian authorities to implement the EU-driven reforms is the backbone of success in future accession negotiations with the EU and the most challenging problem that Ukraine must overcome within the next few years. The beginning of the war added to the intrinsic problems inside the European integration wings inside the government and the Parliament, such as erosion of political leadership over EU integration reforms, weak expert and coordination capacities and messy procedures for the implementation of EU *acquis* into national laws, a set of new problems, like the fleeing of qualified public servants abroad (mainly women with children) and sudden and substantial salary cuts since the beginning of 2023. To be able to demonstrate substantial progress after the opening of the accession negotiations, Ukraine should highly prioritise the strengthening of the institutional capacity of its public authorities in the framework of a broader public administration reform and demand from the EU substantial (and properly justified) financial and technical support to resolve this one of the central challenges for Ukraine's accession.

Chapter 1. Lessons Learned from the EU Enlargement to the Western Balkans

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That Ukraine and Moldova were granted EU candidate status in 2022 was a major step for Ukraine and the EU. Few in the EU had contemplated granting a clear membership perspective to any of the countries before February 2022. While the Russian full-scale aggression against Ukraine has changed this, it has also been due to the persistence and skilful diplomatic activities of Ukraine and Moldova that have succeeded in this recognition.

However, achieving candidate status is just a first and at best symbolic step in the process towards membership. Some countries, such as North Macedonia being an extreme case, had to wait 17 years between being granted candidate status and beginning accession talks.

The enlargement process in the Western Balkans has been painfully slow: of the 7 potential countries that began the EU accession process in 2001 with the Stabilization and Association Agreements, only one, Croatia, succeeded in joining in 2013. There are no clear candidates to join in the coming years and the enlargement process is at a standstill in terms of substance, even if there were some symbolic steps in 2022, such as the formal opening of accession talks with North Macedonia and Albania and the candidate status for Bosnia and Herzegovina. All such decisions were shaped by the EU's decision on Ukraine and Moldova.

More important than the stagnation in the accession talks is the stagnation and/or backsliding in terms of democratic consolidation and the transformative dynamic of the integration process in the Western Balkans.

This section outlines lessons learned from the Western Balkan enlargement, lest Ukraine should get caught in a similar trap of remaining 'stuck' in the EU's waiting room.

1. 'The Goldilocks Dilemma': Finding the right level of expectation

Joining the EU is about managing expectations. If citizens believe their country will join the EU very soon, disappointment is guaranteed. However, if citizens have given up hope that their country will join ever or in the coming decades, it will lose any transformative power and not be seen as realistic. Thus, managing expectations is crucial. Just like in the children's tale, Goldilocks picks the porridge with just the right temperature, getting the balance right is crucial.

In the Western Balkans, attitudes about joining the EU are divided. In Serbia, support has been declining over the past decade and currently there is no longer a majority in favour of joining the EU. The support and opposition have been in part linked to larger debates, such as the status of Kosovo, but the overall trend has been downward. A less sharp decline occurred in North Macedonia, mostly linked to the disappointment over the repeated blockages by individual member states, in particular by Bulgaria in recent years. On the other end of the spectrum, Albanian and Kosovo citizens remain the most pro-European population of the region, with support levels well above 80 percent and keeping this level of support high.

A second important indicator in the region has been the level of expectation that EU membership is realistic. An IPSOS poll commissioned by the Balkans in Europe Policy Advisory Group in 2021 indicates that in Serbia and North Macedonia 44 and 34 percent of citizens respectively believe their country will never join the EU. Together with those who see membership 20 years away, these doubters outnumber those who believe in membership within the timeframe of 5–10 years in Serbia and match their number in North Macedonia. This combination of scepticism and doubt is destructive to membership dynamics. While a decline in support has been a common feature during

all accession processes in Central and Eastern Europe – the result of having more realistic expectations of the EU and its benefits, impatience, and other factors – these low rates put the process into doubt. First, political elites no longer have strong citizen pressure to pursue the accession process, as citizens who doubt and oppose EU accession do not demand it from their government to vigorously pursue joining the EU. Thus, the lack of societal pressure reduces political will, especially when joining the EU is associated with political costs for elites – chiefly, reduced opportunities for state capture. If elites are similarly doubtful about membership, the transformative effect of the enlargement process is strictly limited.

On the other end of the ‘Goldilocks dilemma’, too much enthusiasm can also be challenging. For example, a poll showed a similar number of Kosovo citizens believing that their country will join the EU within 5 years as in Montenegro (45 versus 46 percent)¹. This expectation is completely unrealistic since Kosovo is not even a candidate and remains unrecognized by 5 EU member states. The large gap between Albania and Kosovo on the one hand, and Serbia and North Macedonia on the other has multiple causes, including the strong alignment of the former two countries with the West more widely, as well the younger demographic structure of society in Kosovo. Such a lack of realism is not recent, and in Kosovo in particular, citizens have been expecting quick membership for at least a decade.

While optimism and a large level of support for the EU can be motivating, it also bears two risks. The first risk is disappointment. At some point, the clash between reality and expectations will lead to disillusionment, which in turn can lead to a rapid decline in support and undermine the process. Especially when these expectations are so clearly detached from reality, such a breakdown is a matter of when, not if. Secondly, and possibly most seriously, unrealistic expectations signal low levels of understanding of the EU enlargement process. Any familiarity with EU enlargement and its requirements would lower expectations of rapid accession. As a result, these high numbers indicate high expectations but low competence or knowledge of the process. This limited understanding provides ample opportunity for political manipulation.

Once more, just as with too low expectations, political elites can use these attitudes to either shift responsibility for the process and its duration to the EU or other actors or use the EU card as a resource without much critical public scrutiny.

Briefly, the ‘Goldilocks dilemma’ suggests that public expectations should be ‘just right’ to unfold their transformative dynamic. If they are too low or too high, political elites might be tempted to use the EU accession process without feeling the pressure to engage in substantial reforms.

2. Keep on banging on the door

Enlargements of the EU were – and are – rarely welcomed with enthusiasm by member states. The reasons vary: fear of loss of funds, the centre of gravity of the EU shifting away, the weakening of institutions, and fears related to migration and democratic decline. Enlargement is thus driven by the aspiring countries. It is essential in keeping the process on track, which requires persistence in pursuing the process, convincing member states and remaining determined, while gaining key support from institutional actors in the EU.

EU member states are often reluctant to accept new members and institutions loathe to structurally change processes. As a result, even though enlargement is, on the one hand, a natural part of the EU – it has had enlargements at least once a decade for half a century – it requires a certain level of perseverance. When Spain and Portugal sought to join, France was sceptical for fear of sharing agricultural subsidies – and France twice rejected British attempts to join earlier. Such reluctance can be found also in subsequent decades. The enlargement in 2004 was also the result of countries pushing for enlargement in the 1990s, whereas the EU was initially reluctant. Therefore, persistent messaging is essential in keeping the process on track. Crucially, sceptical member states must be convinced and brought on board. Joining the EU is a little like riding a bicycle: to keep your balance, you must keep on moving.

Candidate status is, therefore, an important milestone, alas it should not be seen as a stop, but just as a

¹ See survey results from the Regional Cooperation Council, *Balkan Barometer*, 2022; Corina Stratulat, Natasha Wunsch, Srdjan Cvijić, Zoran Nechev, Matteo Bonomi, Gjergji Vurmo, Marko Kmezić, Miran Lavrič, “Escaping the Transactional Trap: The way forward for EU Enlargement,” BiEPAG Policy Brief, November 2021, <https://biepag.eu/publication/escaping-the-transactional-trap-the-way-forward-for-eu-enlargement>.

marker along the way. The process needs to create a momentum where not just the accession talks, but the end goal is tangible. Hence, when the EU Commission downgraded the DG Enlargement by merging it with the DG Neighbourhood Policy (creating DGNear) in 2015 and the title was changed to “enlargement negotiations” rather than enlargement, these were signals that undermined both the process itself and its end goal.

For Ukraine, as well as other candidates, such a downgrade on the part of the EU should be avoided. This also means seeking strength in numbers. The enlargement process in the Western Balkans never developed the dynamic of a “friendly” competition among candidates who lobby together for enlargement, i.e., who “bang on the EU door together”, and who compete on who is the first to complete reforms. While regional cooperation was challenging in Central Europe, there was more of a joint sense of purpose that helped to also communicate the shared goal of joining the EU. Ukraine, while having a unique moral capital derived from the war, should see itself as a team player, encouraging others to join the push for membership. Cooperation among accession countries reinforces the message, but it also highlights the ability for cooperation and mutual solidarity, key expectations of future members. The better the team player, the more credible the candidate.

3. Creating the narrative

Enlargement is often about narrative. The narrative means the logic and understanding of why a country or group of countries seek to join the EU. If there is no clear narrative, it might be eclipsed by a narrative of “a poorer country wants to get money from the EU” approach, which has sunk in much of the EU establishment over the past decade. The Southern Enlargement was about bringing post-authoritarian countries into the EU. The enlargement to the neutrals (Austria, Finland) was about overcoming the East–West divide and bringing in countries that were already very close. The Eastern Enlargement was about the “Return to Europe” and undoing the injustice of Yalta. This was also powerful in Central Europe, as it allowed to merge nationalism and the affirmation of sovereignty with EU integration.

While the South-Eastern Enlargement could have been framed as ending the war in South-Eastern Europe, this narrative was never pursued sufficiently by the countries of the region, while the fact that conflicts remained unresolved made it less persuasive. In fact, the lack of resolution of the open conflicts is hindering EU integration, with the EU often portrayed as biased and favouring one party over another. In addition, EU conditionality on issues sensitive to national identities, such as the cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), created a direct trade-off between moving towards the EU and protecting national narratives and “heroes.” The main difference between the pro- and anti-European forces in countries such as Bosnia, Croatia, and Serbia were whether the price was right for extraditing war criminals. While pro-European politicians argued that it was a price worth paying, Eurosceptics considered the price too high. Either way, the understanding of EU conditionality became highly transactional, rather than being based on shared values. This renders the accession process vulnerable to a shift in how the cost-benefit balance is understood.

The narrative is not just important in societies seeking to join the EU, to ensure continued pressure on elites to pursue the necessary reforms to join, but also in the EU itself. Considering the inherent scepticism towards enlargement in a number of member states and few countries where citizens are supportive of it, framing enlargement in a positive light is essential. If countries are seen as “problems” due to unresolved conflicts, corruption, organized crime and authoritarianism, it is hard to communicate to EU citizens and elites why the country should join, even if the accession itself might still be remote. Studies conducted in the Netherlands and France on attitudes towards enlargement actually suggest that the topic is not particularly salient for most citizens and that even with “enlargement sceptics” such as these two countries, there is no strong opposition but rather a lack of interest and knowledge². Importantly, in the Netherlands support for the EU usually translates into support for enlargement, a trend likely to be similar elsewhere. Furthermore, familiarity with the countries seeking to join through personal connections (travel or friends) increases support for enlargement.

2) Tobias Spöri, Neele Eilers, Jan Eichhorn, Srdjan Cvijić, Donika Emini, Milena Stefanović, “Strict, Fair and More Open Towards EU Enlargement” BiEPAG Policy Brief, November 2022, <https://biepag.eu/publication/strict-fair-and-more-open-towards-eu-enlargement> & Christine Hübner, Jan Eichhorn, Luuk Molthof, Srdjan Cvijić, “It’s the EU, not Western Balkan Enlargement.. French Public Opinion on EU Membership of the Western Balkans,” Open Society Foundation, 2021, <https://dpart.org/wp-content/uploads/2021/02/Western-balkans-final-FN.pdf>

This suggests that increasing support for enlargement in the EU is not just about the substance of enlargement, but also about familiarity with the countries beyond the news.

For Ukraine, the war, and the aggression of Russia as a threat to democracy and European security is an obvious narrative, but one that has to be shaped, also for countries that might be less afraid of Russian aggression. Furthermore, it is important that citizens and elites in the EU do not see Ukrainian accession as a threat to the EU – considering post-war challenges Ukraine will face that are yet undetermined but include a long border with Russia, which might remain a revisionist power. Furthermore, Ukraine would be the largest country to join the EU since Spain in 1986. Its population – though now greatly affected by mass displacement created by Russia’s invasion and the war – is that of Poland and the Baltics together and nearly three times the population of the Western Balkans. The large size creates challenges, as larger EU states would worry about the balance in the EU, especially states further South and West.

While it is easier to include one country, even one with the size of Ukraine, into the institutional infrastructure of the EU than 6 much smaller countries, it would create anxieties that need to be understood and managed. Some of the opposition towards Turkish membership, besides questions of democracy and anti-Muslim sentiment, was fuelled by concerns about the size of Turkey (larger than Ukraine), chiefly in combination with lower levels of income. This is coupled with worries about large-scale migration to more prosperous EU countries, on the one hand, and potential costs, on the other (i.e., EU structural funds) which would need to be made available in the long term, beyond immediate post-war reconstruction assistance. These challenges in terms of how Ukraine is seen by EU member state elites and citizens will be relevant in the long term, beyond the solidarity and support it can rely on now.

4. Keep the reform consensus going

EU enlargement is only going to be successful if based on a domestic EU consensus. This implies not just a formal commitment, but a strong sense of “doing whatever it takes.” It needs to include all key parties and other social actors. Defection from this consensus might make it much harder to focus on the goal. A substantial EU consensus is crucial in keeping the process going.

All major parties in Central, Eastern and South-Eastern Europe have been supportive of joining the EU, allowing for democratic alternations of power, without threatening the accession process.

This has been more challenging in the Western Balkans. While some countries, such as Croatia, had such an EU consensus, this has been harder to forge in Serbia, where in the 2000s the largest opposition party was the ultra-nationalist Serbian Radical Party. Only after its fragmentation was alternation in power possible while maintaining the pro-EU orientation. However, the experience of Serbia as well as of other countries of the Western Balkans, highlights that keeping a pro-EU consensus is not just about a formal commitment, but substantive devotion to EU integration. While all parties might have become formal supporters of EU enlargement, it is essential that they become substantial supporters: that they also commit to the substantive reforms necessary to move the country towards the EU, not just the end goal in itself.

Closely related is the creation of an EU consensus that also transcends at times deep political cleavages. Many political systems in the Western Balkans are highly polarised: political parties view political competition as a zero-sum game and consider the transfer of power to the political opponent a profound threat. Ironically, this polarisation is not borne out by policy differences. Thus, even two strongly pro-EU parties can block each other, not because of the EU, but because of their mutual distrust and antagonism. This has been characteristic in several countries in the Western Balkans, including Albania and North Macedonia. Thus, a pro-EU consensus entails not just a shared goal, but also a fundamental commitment not to obstruct others in pursuing these goals. There are several institutional mechanisms to secure this approach, such as giving the political opposition a stake in the process, inclusion in the accession negotiations and granting control functions in the relevant parliamentary committee. However, such institutional safeguards are by themselves insufficient to ensure a consensual political atmosphere. It requires a broad societal agreement and active civil society to keep pressure on parties to “deliver”.

5. Conclusion

There is no one road to success in joining the EU, and both the EU and its future members always look at the last round of enlargement as the model for the next. Given the failure of the Western Balkan enlargement to bring the relevant countries into the EU within 20 years, the conclusion must be made that it is not a model for Ukraine. This chapter has not outlined the larger structural flaws from which this process has suffered, as these recommendations are relevant for the EU rather than for Ukraine, Moldova and other countries seeking to join. It is worth mentioning a few aspects in conclusion, though:

- First, the front-loaded conditionality. The very fact that Bosnia managed to become a candidate only after Ukraine highlights that the considerable conditions placed on Bosnia ended up slowing EU accession down rather than accelerating reforms. It is generally understood that difficult decisions for countries and their elites need to be tied to tangible and realistic benefits.
- Second, EU members have become destructive veto players in the process – e.g., with Northern Macedonia, Greece until 2017 and later France and Bulgaria. This has undermined the idea that the EU's accession process is merit-based and fair. While the complete removal of veto rights is unlikely, especially regarding the enlargement process, discussions in the EU have focused on reducing vetoes in fields such as taxation and foreign policy and increasing qualified majority decision-making.
- Third, enlargement has been driven by an effort to prevent post-accession problems that cannot be easily addressed within the Union, such as democratic backsliding and endemic state capture and corruption. The problem is that no accession process can ever provide a fool-proof guarantee. As a result, treaty changes will be important to protect the EU from within and thus make accession easier, as long as there are tools to act against members that abuse their membership. Treaty changes are currently difficult to achieve but might be combinable with accession itself.
- Fourth, the enlargement process should not be open-ended. While dates are risky, there should be a clear timeline and target for the process so that it does not appear to slip into the distant future. The 2004 enlargement took place less than 15 years from the end of the Communist rule and was driven by a clear aim to conclude enlargement for the applicants from Central and Southern Europe. This focus on the end of the process has been absent in the Western Balkans.
- Finally, the enlargement process by itself cannot resolve fundamental issues related to bilateral disputes or internal state organization. This neither proved to suffice in Cyprus nor has been sufficient in Bosnia or between Serbia and Kosovo. It requires substantial mediation and incentives beyond EU accession to address these disputes.

Chapter 2. Germany's Role in and Perception of Ukraine's European Integration

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Summary: *committed to EU enlargement (the Western Balkans and Ukraine, Moldova, Georgia), but as a long-term objective and conditional on 1) the fulfilment of all accession criteria by the aspiring countries; and 2) EU institutional reform. However, open to the idea of staged accession and, in this case, simultaneous institutional reform and enlargement process are possible. Neither in the driving seat for speeding up the process, nor a blocker. Strong supporter of Ukraine's domestic reform process.*

Before the full-scale invasion of February 2022, Germany had largely pursued a Russia-first policy. It started the construction of the Nord Stream 2 pipeline in 2015 (hence, after Russia's annexation of Crimea and occupation of parts of the Donbas) and refused to stop the project. It rejected the supply of weapons to Ukraine, despite having been the fourth-biggest exporter of weapons globally. The perception of guilt towards Russia (not Ukraine) for WWII prevailed. Moreover, deeply rooted economic interests and those in the field of energy with respect to Russia played an important role. This policy was dominant, although since 2014 Germany also became second-largest donor to Ukraine after the EU as a whole and contributed significantly to supporting Ukraine's reforms.

Three days after the full-scale invasion, German Chancellor Olaf Scholz in his speech in the Bundestag used the phrase "Zeitenwende," which in December 2022 the Society for the German Language (GFDS) named the word of the year for 2022. In his speech that day, Scholz announced a new era, which also meant a 180-degree turn of the previous policy. However, Germany has often acted under the pressure of circumstances rather than following a certain strategy. The German last-minute "yes" to granting Ukraine the EU candidate country status in June 2022 was one such example.

When it comes to the war, there has seemed to be a prevailing lack of a clear vision of its desirable outcome, shifting towards stronger support for Ukraine lately. The current formula seems to revolve around the notion that "Ukraine should not lose and Russia should not win." Some parts of the political establishment fear Russia's potential defeat and the uncertainty it might entail. German military support has often been largely dependent on US leadership and Ukrainian successes on the frontline. At the same time, there has been some substantial evolution towards understanding that Russia will remain a long-term security threat and Ukraine needs stronger support. In January, new defence minister Boris Pistorius was appointed. Since then, Germany has accelerated the supply of weapons to Ukraine and finally decided to supply the Marder and Leopard tanks, which was coordinated with the US. During the Munich Security Conference in February 2023, Pistorius said that Ukraine must win the war, in contrast to the more careful rhetoric of Scholz. In May, ahead of Zelensky's visit to Germany, Berlin announced a new over €2.7 billion military aid package, the largest since the full-scale invasion. These moves in 2023 have put Germany in a position of relative leadership in European military, humanitarian and financial support to Ukraine.

¹) I would like to thank Susan Stewart from the Stiftung Wissenschaft und Politik (SWP) and Borja Lasheras for their insightful comments on the earlier version of the paper.

When it comes to Ukraine's EU accession, there has been lingering ambiguity, which was later replaced by a clear formula "first reforms, then enlargement." Germany wants to play an important role in the reconstruction and support of Ukraine's reform process. It has done so already since 2014. However, it was not ready to agree to grant Ukraine the EU candidate status in June 2022 but was forced to do so not to undermine the unity within the EU (specifically under pressure from France and Italy, ready to announce their support for this in Kyiv, in the joint visit of June 2022). Once Ukraine was granted the EU candidate status, the rhetoric has been that of commitment to EU enlargement, yet conditional upon the fulfilment of the accession criteria and the EU's internal reform. Chancellor Scholz has repeatedly expressed Germany's commitment towards Ukraine's future EU accession, yet conditional, as mentioned above. This came through in his speeches in Prague in August 2022, during the International Expert Conference on the Recovery, Reconstruction and Modernisation of in Berlin in October 2022, at the Munich Security Conference, and in Strasbourg in the European Parliament on 9 May 2023. At the same time, there are discussions in Berlin about a possible staged accession process, that is, departing from the formula "nothing or everything (full membership)" and introducing intermediary integration steps. In this case, the EU's institutional reform can go hand in hand with the gradual accession process.

It is important to mention here that this position of the German government is due to differences among the parties building the coalition. While the position of the Chancellor's SPD party seems one of reluctance when it comes to Ukraine's EU accession, the Green Party, which controls the Foreign Office and the Ministry for Economic Affairs and Climate, and the liberal FDP party, have been much more open. Also, German public opinion has been rather supportive of Ukraine, as shown below.

To sum up, in the aftermath of the candidate status decision, the German position seems to emphasise the distant prospect of Ukraine's EU accession, conditional upon both the fulfilment of criteria by Ukraine and progress with EU internal reform with signs of flexibility having been discussed recently.

Thus, Germany might not be in the driving seat for speeding up accession negotiations and Ukraine's integration; however, it will not block progress either, if a strong coalition of willing partners keeps up the pressure. At the same time, it is already in the driving seat when it comes to the EU's institutional reform, as will be discussed below. Talking about the immediate future, Ukraine must do its homework and implement all reforms – starting with the seven steps tied to the candidacy in June 2022. Also in early February, on the eve of the EU-Ukraine Summit in Kyiv, the European Commission presented to Ukraine its internal assessment of the implementation of reforms, structured according to the negotiation chapters, which signalled that Ukraine is not particularly advanced on most of them². If Ukraine progresses well in reforms (chiefly, fighting corruption and promoting the rule of law), Germany will most probably not oppose the process – although, behind the scenes and in spite of the official rhetoric, there remain concerns about Ukraine moving too fast towards the EU.

1. Germany's support for Ukraine (2014–2022): domestic reform focus

German policy towards Ukraine changed after the Revolution of Dignity (2014). As it was clear that Ukraine would sign the Association Agreement with the EU and given Russia's invasion of Crimea and Eastern Ukraine, Germany prioritised support for Ukraine's domestic transformation/reform process. In parallel, together with France, it brokered the Minsk Agreements and became a party to the Normandy Format. Germany has also played a key role in initiating and sustaining EU sanctions against Russia since 2014. Although Germany condemned the annexation of Crimea and never recognised it as being a part of Russia, it avoided most steps which would undermine dialogue and economic cooperation with Russia (the Nord Stream 2 being a case in point).

Thus, apart from engagement at the highest political level in relation to Russia's military aggression, Germany also scaled up its assistance and demonstrated stronger political engagement in the reform processes in Ukraine. Apart from having created a separate unit at the Foreign Federal Ministry,

2) https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_30_Ukraine.pdf. In 4 out of 32 chapters Ukraine had "good level of preparation," in 5 other chapters Ukraine was assessed as "moderately prepared", whereas in 15 chapters Ukraine had "some level of preparation" and in 8 chapters "early stage of preparation."

dealing with Ukraine³, Germany has allocated annually around €110 million worth of grants and loans to support Ukraine (in addition to its contribution to the EU, IMF and other multilateral support schemes), having become the third-largest international donor to Ukraine after the EU and the US. Importantly, the government has stimulated projects for promoting awareness and expertise on Ukraine in Germany and cooperation between German and Ukrainian civil society organisations. Germany was also a key player in promoting the reform of decentralisation in Ukraine⁴, one of the success stories since the Revolution of Dignity (2014). The implications of such reforms played an important role since the full-scale invasion, as local authorities proved capable of organising and supporting resistance, security measures, assistance to internally displaced persons, etc.

Another way in which Germany has played an important role in promoting Ukraine's reform process was initiating the G7 Ambassadors' Support Group for Ukraine in 2015 in Kyiv during Germany's G7 presidency. The latter remains an influential actor in stimulating reforms in Ukraine⁵ by making public statements to praise or criticise certain political decisions (adoption of laws, appointments, lack of certain steps needed for Ukraine's European integration, etc.), meeting important personalities from public authorities or civil society, where the domestic reform process is in the focus and even producing reform guidelines.

2. Focus on the internal reform of the EU: deepening before widening

Before 2022, Ukraine was not regarded as a part of the enlargement paradigm, but now the new reality requires Germany to think in different terms. Not least because it confronts German attitudes towards EU enlargement generally and related issues, such as internal reform of the EU and coalition partners inside the EU.

3) It launched the Ukraine Task Force (Arbeitsstab Ukraine) in its Foreign Office with over 10 employees – the largest division devoted to one country in the Foreign Ministry (in 2021 transformed into the Division on Ukraine, Moldova and Black Sea Cooperation).

4) In the course of this reform, local communities received their own budgets by collecting certain taxes and keeping them in the community (not transferring them to the central level) and thanks to the revenues at the local level, they could invest the money into local development projects. This, in turn, gave a boost to local civil society, who became engaged in keeping local authorities accountable and have been contributing with their expertise.

5) The Group's Twitter account illustrates this well – <https://twitter.com/G7AmbReformUA>

Germany, like France, has favoured the EU's internal reform and, since the enlargement to the Western Balkans came into question, has seen the deepening and widening of the EU as a dichotomy. The Coalition Agreement⁶, which reflects the joint position of the three governing parties (the SPD, the Greens and the FDP) is very clear about the importance of internal EU reform. According to the Agreement, the Government wants to use the Conference on the Future of Europe to promote a new Constitutional Treaty, which would deepen integration even more towards turning the EU into a federation-like entity. Thus, the current German government advocates a stronger European Parliament and stronger responsibility of the Council to discuss the Commission's proposals and adopt decisions. When it comes to the EU as an international actor, the government supports a genuine Common Foreign, Security and Defence Policy and for this purpose, supports qualified majority voting in the Foreign Affairs Council (FAC). Smaller states should be offered some compensatory mechanism. Also, the European External Action Service should be strengthened and the High Representative should become a real EU "Foreign Minister." Importantly, the need to carry out EU institutional reform was stressed in the election programmes of the three coalition partners and that of the CDU, the biggest opposition party, during the 2021 election campaign.

After Ukraine received the candidate status, Scholz has mentioned on several occasions that deepening & EU reform should be a precondition for any new enlargement – hence, deepening before widening. For instance, in his speech in Prague in August 2022, while saying that he is "committed to the enlargement of the European Union to include the countries of the Western Balkans, as well as Ukraine, Moldova and, down the line, also Georgia", Scholz emphasised that "we must also make the EU itself fit for this major enlargement. This will take time..."⁷. He reiterated this message in Paris in January 2023 during the joint meeting of the French National Assembly and the German Bundestag, having said that Ukraine and Moldova, at some point Georgia and the six

6) <https://www.bundesregierung.de/breg-de/service/gesetzesvorhaben/koalitionsvertrag-2021-1990800>

7) Speech by Federal Chancellor Olaf Scholz at the Charles University in Prague on Monday, 29 August 2022. <https://www.bundesregierung.de/breg-en/news/scholz-speech-prague-charles-university-2080752>

countries of the Western Balkans “all belong in an enlarged European Union,” yet “we have a long way to go until we get there. As during previous rounds of EU enlargement, we must make sure this enlarged Union remains capable of action, not least through institutional reform.”⁸

On a practical level, in January 2023 German State Minister for Europe and Climate Anna Lührmann and her French counterpart, the Secretary of State for European Affairs, Laurence Boone announced the establishment of the expert working group to develop proposals for the EU’s institutional reform⁹. At the end of May 2023, the German-French tandem initiated an informal dinner in Brussels with counterparts from EU member states to discuss the EU’s institutional reform¹⁰. This indicates that Germany intends to play a leading role in promoting the institutional reform of the EU and relies on the German-French tandem (historically the engine behind European integration) in this respect.

This focus on the EU’s internal reform signals that Ukraine’s accession is a very distant prospect, as there is no EU consensus on this among the EU member states. However, staged EU accession might be a good solution to overcome the potential stalemate, as discussed below.

3. Government/parties’ position towards EU enlargement

Germany has been supportive of the “Big Bang enlargement,” completed in 2004 and 2007 (when Romania and Bulgaria followed the initial group of the Central and Eastern European countries) and that of the Western Balkans. With the 2004–2007 enlargement, Germany saw enormous economic opportunities for itself and was no longer on the outside edge of the EU.

When it comes to the EU accession for the Western Balkans, Germany largely wanted to overcome the fatigue towards the region, which evolved due to its slow progress after the Western Balkan countries were given the prospect of joining the EU in 2003 in

Thessaloniki. In 2014, then-German Chancellor Angela Merkel launched the so-called Berlin Process for this purpose¹¹. Russia’s full-scale invasion of Ukraine reinvigorated German attention towards the region. In March 2022, the German Federal Foreign Office created a new position of the Special Envoy of the German Government for the Western Balkans¹². In November 2022, the prime ministers of the six Western Balkan countries were invited to Berlin in an attempt to revitalise the Berlin Process by establishing a Common Regional Market (CRM), that is, “four freedoms” on the regional scale as a matter of preparing for EU accession¹³.

Yet, a politically and economically strong EU has been the priority (here Germany has been acting in tandem with France): hence, the EU must improve its absorption capacity before (or at least in parallel to) enlargement. Remarkably, there is a cross-party consensus on this: EU enlargement is a topic in the election programmes of all political parties (meaning the four largest factions in the Bundestag – SPD, CDU, the Greens and FDP) and they agree that internal EU integrity should not be jeopardised by enlargement. There is a point in the Coalition Agreement that says that “in parallel to accession negotiations [with the Western Balkans] the EU must improve its absorption capacity”.

However, if the EU wants to be a strong global player, there is no alternative to enlargement and Germany seems to understand this, especially after Russia’s full-scale invasion. This has been a point in most public statements mentioned above, which reflect the official approach of the government.

4. Attitudes towards Ukraine’s EU accession: political dimension and public opinion

Before the full-scale invasion, granting EU candidate status to Ukraine was unthinkable. The election programmes of the major parties running in the 2021 election to Bundestag did not mention Ukraine, especially not in the context of EU enlargement.

8) Speech by Olaf Scholz, Chancellor of the Federal Republic of Germany and Member of the German Bundestag, at the joint meeting of the French National Assembly and the German Bundestag marking the 60th anniversary of the signing of the Élysée Treaty, Paris, 22 January 2023. <https://www.bundeskanzler.de/bk-en/news/speech-by-olaf-scholz-2160304>

9) <https://www.auswaertiges-amt.de/de/newsroom/deutsch-franzoesische-expertengruppe/2574568>

10) <https://www.politico.eu/newsletter/brussels-playbook/san-chez-goes-all-in-tackling-disinformation-blocking-hungary>

11) <https://www.atlanticcouncil.org/blogs/new-atlanticist/germany-steps-up-in-the-western-balkans-will-the-eu-follow-its-lead>

12) <https://www.auswaertiges-amt.de/de/aamt/koordinatoren/WeBa>

13) Ibid.

The only exception was the Green Party¹⁴, whose programme stated that the EU should take over more responsibility for its immediate neighbourhood. Enlargement was referred to as a success story, which “we want to continue writing.” For the countries of the Eastern Partnership (EaP) “we want to keep the way for the EU accession open.” This was the first time that any of the German parties in its election programme stated that it supported Ukraine’s (and that of Moldova and Georgia) EU accession. A milder version of this appeared in the coalition agreement, which mentions Ukraine as part of the EaP framework in the context of plans for its development and supporting reforms (rule of law and market economy) in order to bring Ukraine, Moldova and Georgia closer to the EU. For the first time ever, it was mentioned that the three countries aspire to EU membership, a notable statement. Thus, until 2022, Ukraine had never been really regarded in Germany within the EU enlargement paradigm.

The Submission of the application for EU membership by Ukraine just a few days after the full-scale invasion and the EU Council’s decision to ask the Commission to issue its Opinion on Ukraine’s application, gave a new dynamic to this process. Heated discussions also took place in Germany, both before the relevant European Commission Opinion of 17 June, advising the Council to grant Ukraine the candidate status, and in its aftermath. Chancellor Scholz ruled out “shortcuts” for Ukraine in a government statement prior to the EU summit. However, the leader of the opposition in the Bundestag, CDU leader Friedrich Merz, recommended that EU leaders grant the country candidate status¹⁵. The Greens and FDP were also supportive of the idea. While before the decision of the Chancellor to support the idea of Ukraine’s EU candidacy they had abstained from public announcements in this respect, this changed after Scholz’s visit to Kyiv and the positive Opinion of the Commission. For instance, the Co-Leader of the Green Party Omid Nouripour

stated that granting Ukraine the candidate status would send a clear stop signal to Moscow by showing that the EU is ready to stand for Ukraine’s freedom in the face of Russian military aggression¹⁶. Michael Link, the Spokesperson on the EU of the FDP Faction, also stated that the granting of the candidate status to Ukraine would be a “strong European response to Putin’s brutal aggression.”¹⁷

Still, on the day of Chancellor Scholz’s departure to Kyiv, Germany’s position was unclear. The Foreign Ministry was supportive of candidate status, yet Scholz’s own stance was unclear until the joint conference in Kyiv with Macron and Draghi. However, as mentioned above, Scholz has since stressed on several occasions that Ukraine’s accession is a distant prospect and dependent on the success of internal reform of the EU. Apparently, his decision to give his consent to the candidate status was driven by the urge not to jeopardise the consensus within the EU, especially since France and Italy decided to support Ukraine’s bid.

When it comes to public opinion polls, some polls show that most Germans support Ukraine’s EU membership, while others show some division. One of the regular polls is that of the ZDF-Politbarometer. According to it, 60% of those polled in Germany in June 2022 agreed that Ukraine should become an EU member in the “coming years,” while 31% disagreed¹⁸. The same poll conducted in February 2023 found that still some 60% believe that Ukraine should be admitted to the European Union in the next few years, while some 34% were against it¹⁹. Per another public opinion poll conducted by Der Spiegel on 9–10 June 2022²⁰, 45% of those polled supported Ukraine’s EU accession, while 42% were against with 13% undecided. This poll also showed important differences between West and East Germans²¹. According to the Eurobarometer opinion poll conducted in September 2022²², 71% of Germans

14) <https://www.gruene.de/artikel/wahlprogramm-zur-bundestagswahl-2021>

15) The Protocol of the hearings in the Bundestag of 22 June 2022 here - <https://dserver.bundestag.de/btp/20/20043.pdf#P.4329>

16) <https://www.rnd.de/politik/eu-beitritt-der-ukraine-gruene-befuerworten-erkennung-als-beitrittskandidat-LQDRZ5NES4CX2IXI6YTE4CKBYI.html>

17) <https://www.fdpbt.de/link-kandidatenstatus-starke-europaeische-antwort-putins-brutale-aggression>

18) See ZDF <https://de.statista.com/statistik/daten/studie/1309716/umfrage/eu-beitritt-der-ukraine>

19) <https://de.statista.com/statistik/daten/studie/1309716/umfrage/eu-beitritt-der-ukraine>

20) <https://www.spiegel.de/politik/deutschland/eu-beitritt-der-ukraine-deutsche-laut-umfrage-gespalten-a-c3542a4b-65dc-4c86-9aae-45b34652a0ee>

21) While 49% of West Germans supported Ukraine’s EU accession (and 37% were against), only 29% of East Germans supported and 60% were against.

22) <https://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2022/public-opinion-on-the-war-in-ukraine/en-public-opinion-on-the-war-in-ukraine-20220929.pdf>

fully agreed or tended to agree that Ukraine is part of the European family.

Importantly, this perception is common for voters of major political parties, which are present in the Bundestag. For instance, in May 2022, over 80% of voters of the Greens, 79% of voters of SPD, 71% of voters of the CDU supported Ukraine's EU membership. AfD was the only party with 59% of voters against it.

The question today is how to proceed with Ukraine's European integration, given the strong consensus in Germany about the importance of the EU's absorption capacity, that is, the necessity for the EU to carry out internal institutional reform. Recent discussions in Berlin indicate that there is readiness for some flexibility. In particular, the idea of staged accession, which has been discussed in expert circles for some time already²³, has made its way to Berlin's decision-making circles and is being discussed as a possible way to go. In this case, the EU's institutional reform and accession process can take place simultaneously, whereby Ukraine will be gradually integrating into the EU's common market and some policies (while negotiating chapters). Full-fledged membership with voting rights and access to all financial instruments will be only the last step in the process.

5. Germany's support to Ukraine and expectations towards Ukraine since 2022

Although Germany had been slow to come to the decision to deliver the necessary weapons to Ukraine, it eventually did so. One could characterise the German approach as "too little, too slow," given the German historical legacy related to prioritising Russia and the lessons of WWII. However, Germany has made a decisive U-turn and is now well on track to supporting Ukraine with all possible means. For instance, when it comes to German assistance in the context of the full-scale invasion, according to the Ukraine Support Tracker of the Kiel Institute for the World Economy by February 2023²⁴ Germany ranked fourth (after the US and EU as a whole, which also includes Germany's input and that of the UK) when it comes to the overall support (military, financial

and humanitarian assistance) in absolute figures (committed support). Thus, it has committed €7.37 billion, which is 0.2% of GDP (in this respect Germany ranks 16). However, as already mentioned, on the eve of President Zelensky's visit to Germany this May, the country announced a new military aid package worth more than €2.7 billion, the largest since the full-scale invasion²⁵. The German-Ukrainian Declaration, published after Zelensky's visit to Germany, mentions that Germany has planned some €11 billion of military support alone for 2023²⁶.

Reconstruction of Ukraine is another important task where Germany is ready to play a leading role. From the German point of view, it is "a great opportunity to link the reconstruction with the modernisation of the state and the economy, an ecological transformation, and last but not least, domestic reforms and the EU accession process." Thus, in October 2022, Germany hosted a large high-level reconstruction conference in Berlin, which was attended by Chancellor Scholz and the President of the European Commission Ursula von der Leyen. In December 2022, still under the German G7 Chairmanship, the G7 countries agreed to establish an international platform for donor coordination of reconstruction, with the secretariat being hosted by the European Commission. In March 2023, the German Ministry for Economic Cooperation and Development (BMZ) launched a new platform that serves as the first point of contact for all non-state actors based in Germany who want to get involved in the reconstruction process.

The platform aims to connect the actors involved in reconstruction and in this way contribute to increased transparency, efficiency and effectiveness of initiatives for the reconstruction of Ukraine²⁷.

Supporting Ukraine's domestic reform remains another key priority for Germany. For instance, Germany is well aware that Ukraine can do more and better when it comes to implementing the seven conditions outlined by the European Commission in June 2022 as immediate tasks for 2023. The above-mentioned Declaration of Germany and Ukraine, states that "Germany strongly supports Ukraine in its reform efforts and in meeting the requirements necessary for the start of accession negotiations and looks forward to the European Commission's report as part

23) Initially suggested by CEPS. See <https://www.ceps.eu/ceps-publications/a-template-for-staged-accession-to-the-eu>

24) <https://www.ifw-kiel.de/topics/war-against-ukraine/ukraine-support-tracker>

25) <https://www.tagesschau.de/inland/deutschland-ukraine-waffen-102.html>

26) <https://www.bundesregierung.de/breg-de/aktuelles/gemeinsame-erklaerung-ukraine-deutschland-2190302>

27) <https://www.ukraine-wiederaufbauen.de>

of its enlargement package in autumn 2023.”²⁸ The wording is careful and puts a strong emphasis on the implementation of domestic reforms as a precondition for opening accession negotiations.

Conclusions and Outlook

To sum up, Germany supports EU enlargement as an inevitable process that will both promote security and peace in Europe and will enhance the EU’s role as a global actor. Yet, the EU has to be ready to accommodate new members and therefore the EU’s institutional reform is an immediate priority. France is a natural partner for Germany here and the French-German tandem in this respect is gaining ground. Also, there will be no shortcuts in the accession process and no leniency in terms of domestic reforms. The aspiring countries have to do their homework in full to be accepted to the club. Importantly, there is a cross-party consensus in Germany on both issues: that is, the EU’s institutional reform and the readiness of the aspiring countries to join. Also, Germany is ready to support the reform process and has been contributing to a great extent to the West’s efforts in this respect: it has been the largest donor to Ukraine’s domestic reforms after the EU as a whole since 2014 and one of the top contributors to Ukraine in terms of military, humanitarian and financial assistance since February 2022. It is also in the driving seat in supporting Ukraine’s recovery and reconstruction.

Talking about short-term and medium perspectives, Ukraine needs to implement in full the seven steps, outlined by the European Commission in June 2022 to receive German consent to opening EU accession negotiations. Also, there are discussions in Germany about the possibility of staged accession. Ukraine, with its experience of implementation of the Association Agreement, which is about partial integration into the Single Market, should take the lead in shaping this policy by identifying the possible modalities and areas of integration.

28) <https://www.bundesregierung.de/breg-de/aktuelles/gemeinsame-erklarung-ukraine-deutschland-2190302>

Chapter 3. Still a Long Way to Go? France and EU Enlargement to Ukraine¹

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France's¹ views on Ukraine's EU integration have thus far been fraught with tensions between support for Ukraine in fighting back Russia's aggression, on the one hand, and a long-standing reluctance to further EU enlargement, on the other.

In essence, Russia's full-scale invasion of Ukraine in February 2022 shook two of the key premises upon which French diplomacy had been built over the past few decades. These two pillars are tightly interwoven, as they both spring from an overarching vision of Europe and France's role therein. First, Russia's massive breach of international law, as well as the atrocities perpetrated in Ukraine by Russian troops, have laid bare the limitations of the dialogue that the French authorities have repeatedly sought to develop with Moscow with a view to creating an "architecture of trust and security"² on the European continent – most recently by President Macron himself with his attempted reset with Russia since 2019. Second, Ukraine's application for EU membership, just a few days after being attacked, questioned French attitudes regarding the EU's integration process, in particular the country's deeply rooted preference for deepening over widening.

Crucially, Russia's unprovoked attack also came at a defining moment for both France and the EU. The French presidency of the EU Council, which started less than two months before the full-scale invasion, planned to identify priorities for future EU action. This was to be based on the outcomes of the Conference on the Future of Europe, which came to an end in May 2022. As part of its presidency, France also sought to push forward its preferences for building a stronger Europe, especially in security and defence. In this context, Russia's invasion abruptly upset the agenda of the French presidency, even though it actually reinforced some of its priorities.

After reviewing France's relationship with Ukraine and actions in support of Kyiv since Russia's invasion, this paper analyses French attitudes to Ukraine's integration with the EU and outlines key factors behind them. It argues that the French position is to a large extent shaped by a long-standing reluctance towards EU enlargement, and previous experiences therewith, rather than specific perceptions of Ukraine. This position, though, is changing as the French authorities are increasingly aware of the security implications of (non-) enlargement and do not question Ukraine's accession per se. This shift is well illustrated by President Macron's speech at the GLOBSEC security conference³. The French stance may be further swayed over time due to an increase in exposure to Ukraine. However, greater acceptance of enlargement crucially hinges on Ukraine's reforms in line with EU accession criteria, as well as the evolution of the EU's integration process (including governance reform) and French domestic politics.

1. France's long way to Ukraine

France's geographical remoteness from the region played out in two respects: in sharp contrast to Central and Eastern European countries, France has limited direct experience of Ukraine; traditionally, it has not regarded Russia as a threat to its own security.

Despite ancient ties between the two countries, Ukraine did not figure prominently on France's foreign policy agenda until the 2010s. This is because of two reasons: first, French diplomacy always prioritised other regions with which France enjoys multifaceted ties (primarily, South Mediterranean countries and Africa) and second, Paris has traditionally viewed Russia as a key interlocutor on major international issues while keeping a relatively low profile in other

1) I would like to thank Liubov Akulenko, Borja Lasheras, Pierre Mirel and Dmytro Naumenko for their comments on earlier versions of this paper.

2) Le Monde, 'Macron assume son virage russe', 7/09/2019.

3) Présidence de la République, Discours de clôture, 1/06/2023.

post-Soviet countries. Attention to the EU's Eastern neighbourhood started increasing in the wake of the "Colour Revolutions" especially after the 2008 conflict in Georgia, where France acted as a broker on behalf of the EU.

Russia's annexation of Crimea and its warfare in the Donbas marked a clear shift in France's engagement with both Ukraine and Russia. As then President Hollande became involved in the Normandy Format, the French authorities also stepped up their engagement with Ukraine at the highest political level, thereby providing significant impetus to the bilateral relationship. By contrast, while staying in favour of maintaining dialogue with Moscow, France suspended its substantial political and security cooperation with Russia and abruptly ended the trend towards tighter economic links initiated in the early 2010s. Against this background, the most crucial – and highly symbolic – step was President Hollande's decision to cancel the delivery of Mistral warships to Russia. This reflected a growing awareness of Russia's destabilising and threatening role in the region, as well as increased attention to its implications for Eastern European and South Caucasus countries.

Before the 2022 war, France's bilateral relationship with Ukraine had thus considerably expanded and strengthened, as illustrated by the fact that President Zelensky chose Paris for his first trip abroad after being elected. However, five years after the annexation of Crimea, President Macron took the initiative to restore ties with Russia. This move was motivated by the deterioration in the international context, marked by both repeated crises in the Middle East and a sharp degradation of the relationship with the US under the Trump presidency. Against that background, the French president returned to the paradigm – deeply entrenched among French elites – according to which Russia is a key interlocutor on major international issues, in particular with a view to rethinking the security architecture in Europe.

Both dynamics – the closer relationship with Kyiv and the renewed dialogue with Moscow – were instrumental in France's unsuccessful attempts to act as a mediator in early 2022. After Russia's invasion, as chair of the Council of the EU, France substantially contributed to shaping the EU's prompt response

to Russia's invasion based on three pillars, namely: supporting Ukraine during the war, sanctioning Russia and strengthening EU strategic autonomy. As part of the French presidency, six sanction packages were adopted, which targeted individuals in both Russia and Belarus as well as Russia's financial, transport, defence and energy sectors, and Belarus' banking sector. The French presidency also worked towards adopting an unprecedented set of measures in support of Ukraine, including the delivery of lethal weapons by the EU (the first time ever to a third country) and the decision to trigger the 2001 Temporary Protection Directive for the first time in the EU's history with a view to granting temporary residency to Ukrainian refugees. Last but not least, France took the lead in shaping the Versailles agenda for an enhanced EU sovereignty, whether in terms of energy, economy or defence capabilities⁴. This was a key priority of the French presidency, which only gained salience after Russia's aggression.

Thus, France's efforts in relation to Ukraine – either as a tentative mediator prior to the full-scale invasion or a consensus-builder in the EU's response to the war – were visible as the country was chairing the Council of the EU. However, France's support to Ukraine in fighting back against Russia has raised criticism in some EU member states. This is because the French position rests upon a complex balance between determined support for Ukraine and a preference for diplomacy with Russia.

2. France's support to Ukraine during the war: unequivocal, yet complex

Since 24 February 2022, the French government has consistently been vocal in supporting Ukraine and condemning Russia's actions as an "act of aggression and invasion and annexation" (...) and "a return to the age of imperialism."⁵ Perhaps for the first time, Russia came to be perceived as a threat among the French ruling elites – not only as a threat to Ukraine and surrounding countries but also to Europe. Macron repeatedly called for Ukraine's victory, yet his message was blurred by references to a diplomatic solution. In particular, he was harshly criticised in some other EU member states for saying that Russia must be "defeated, not crushed."⁶ However, his words triggered

4) Council of the EU, Informal summit of the Heads of State and Government, Versailles Declaration, 11 March 2022.

5) UN News, Macron condemns Russia's invasion of Ukraine as a 'return to imperialism', 20 September 2022.

6) Le Monde, Macron wants Russia to be defeated not crushed, 19 February 2023.

limited criticism domestically. This is because they resonate with the French preference for diplomacy, as well as France's own historical experience (especially in the wake of the First World War)⁷.

France has also been criticised for its relatively limited support to Ukraine. In some rankings, the country ranks 6th worldwide in terms of financial commitments in favour of Ukraine⁸, yet this represents a much lower percentage of GDP (0.067%) compared to Eastern European countries, for instance. France has nevertheless been active in mobilising resources, as illustrated by its co-organisation (with Ukraine) of an international conference on humanitarian aid in December 2022. The government has also rebuffed criticism over weak military efforts by stressing two points: the quality of the equipment delivered and France's limited capacities. To take just one example, the 18 Caesar howitzers delivered to Ukraine represent a quarter of France's total mobile artillery⁹. Thus, whereas the principle of supplying arms to Ukraine is unquestioned, some in the French army have expressed concerns about the implications of increased deliveries for France's own vulnerability. Nevertheless, in early 2023 the French authorities promised to supply Ukraine with Bastion-type light tanks and armoured reconnaissance vehicles AMX-10 RC.

In France, Russia's invasion spurred only limited debate among the political parties regarded as moderate. The Socialist Party, the Greens, Renaissance (Macron's party) and les Républicains immediately condemned Russia's aggression and agreed on the need to support Ukraine. In fact, Macron's action in response to the conflict sparked little (if any) criticism, even during the campaign for presidential elections in March–April. However, both the far-right Rassemblement National, which enjoyed close links with Russia, and the far-left La France Insoumise, known for their anti-US positions, initially questioned the origins of, and responsibility for the conflict. In light of the criticisms voiced by other parties and

unwavering support for Ukraine among French citizens, they subsequently moved to a softer stance and placed the emphasis on the need for Russia to withdraw from Ukraine.

For the public, the war came as a major shock, which further undermined Russia's image. By contrast, surveys indicate that a strong (even if declining over time) majority of French citizens view Ukraine positively¹⁰. The French have consistently been in favour of supporting Ukraine. According to polls conducted in February 2023, most French citizens (56%) still favour continuous support to Ukraine until Russian troops leave the country, whereas 23% oppose it. A similarly clear-cut majority supports the delivery of weapons to Ukraine (52%, with 28% against), and a larger share (69%) is ready to welcome Ukrainian refugees on French territory¹¹. However, surveys also mirror French preferences for diplomacy. Whereas approximately 60–65% of respondents¹² support sanctions against Russia (as opposed to roughly 20% who don't), half of them favour maintaining diplomatic relations with Moscow¹³. This is even though their views of Russia are overwhelmingly negative¹⁴.

Overall, France has voiced unequivocal (from its perspective) support for Ukraine in the war. Such support, however, is not tied with the authorities' position on Kyiv's accession to the EU, shaped by factors that go well beyond Ukraine's situation.

3. France's stance on Ukraine's accession: 'oui, mais...'

Despite agreeing to EU candidate status for Ukraine (and Moldova), the French authorities introduced two important caveats. First, they stressed that these countries' accession is only a remote prospect: in sharp contrast to Central and Eastern European countries, which call for a fast-track accession, President Macron warned that Ukraine's membership

7) France sought to impose harsh conditions humiliating Germany after the latter lost WWI. This was regarded as one of the factors preventing a sustainable peace, as it contributed to Hitler's rise to power, and therefore, indirectly, to WWII.

8) French commitments in favour of Ukraine total € 1.675 billion. Kiel Institute for the World Economy, Ukraine Support Tracker, January 2023.

9) Marie Slavicek, What weapons is France sending to Ukraine? Le Monde, 11 October 2022.

10) 82% of respondents in March 2022 and 64% in February 2023. IFOP/ Fondation Jean Jaurès/Le Figaro, Regards européens sur la crise en Ukraine. Vague 1, March 2022, and Vague 4, February 2023.

11) IPSOS, Perceptions internationales de la guerre en Ukraine, 22 February 2023.

12) Depending on surveys: 57% according to IPSOS, 67% according to IFOP (both conducted in February 2023).

13) IPSOS.

14) Only 16% of French citizens have a good image of Russia. IFOP, Vague 4, February 2023.

will take “years, even decades.”¹⁵ Whereas his narrative has drastically softened ever since¹⁶, he has refrained from providing any specific timeline for future accessions. Second, French authorities have questioned the relevance of EU accession as a response to Ukraine’s current predicament. According to a French non-paper circulated among EU member states in June 2022, EU candidate status “does not today offer the necessary political framework to respond to the urgent historical and geopolitical needs arising from the war against Ukraine.”¹⁷ This is also because of the predominantly technical, if not technocratic, nature of the enlargement toolbox.

In this context, the European Political Community (EPC), tabled by Emmanuel Macron in May 2022, was initially presented as a major instrument for bridging the time discrepancy between Ukraine’s immediate needs and the longer time frame needed for EU accession. The proposal triggered criticism in Central and Eastern Europe, as it was regarded as yet another attempt to dodge new EU accessions by offering an alternative for Ukraine¹⁸. However, President Macron further clarified that joining the EPC would not substitute the accession process, but rather complement it by strengthening political and (soft) security cooperation among partner countries, based upon shared values. This dovetails with the French president’s long-standing views about the need for a renewed political and security architecture on the continent. The EPC, which after its inaugural summit in Prague in 2022, met again recently in Chişinău (Moldova), with Zelensky attending, would thus serve as a forum to build close strategic convergence with a wide range of countries on a number of topics, including climate change, energy supplies, foreign and security policy, commodities and food security¹⁹. In doing so, it is expected to contribute to filling the (geo)political vacuum resulting from an increasingly long and unpredictable EU accession process, as was illustrated in the Western Balkans. Thus, for the French elites, EU enlargement and the war initially appeared as two loosely connected issues. This was in sharp

contrast to Central and Eastern EU countries, where support for Ukraine’s fight against Russia’s aggression and EU accession go hand in hand. The reflection on the enlargement-security nexus, though, has evolved over time as enlargement is now regarded as a part of the EU’s response to the war in Ukraine.

Perceptions among the public are equally complex. Only 33% of French citizens are currently in favour of further EU enlargement (regardless of which countries join the EU), whereas 54% oppose it²⁰. However, polls conducted a few weeks or months after Russia’s invasion revealed drastically different figures. For instance, the share of French citizens favouring further enlargement of the EU increased by 10% in June–July 2022 compared to the previous winter, while those opposing it decreased by 14%²¹. Crucially, when asked specifically about Ukraine’s integration into the EU, 62% of French respondents declare themselves in favour of the country’s accession – a sharp increase compared to 2014 (29%)²². This shows that France’s position on enlargement might change in response to major external events, as also illustrated by the authorities’ approval of EU candidate status for Ukraine and Moldova.

Thus, Russia’s invasion raised France’s awareness of the need to send a strong political signal to Ukraine. However, whether France is actually becoming a proponent of further EU expansion remains to be seen, given the complex set of factors behind the country’s deeply entrenched opposition to enlargement.

4. Key factors behind France’s reluctance to EU enlargement

France’s reluctance vis-à-vis EU widening is anything but new. After all, the country was the first to oppose the accession of new members back in the 1960s, when President de Gaulle fiercely blocked the UK’s accession to the then European Economic Community. France vetoed UK membership on the ground that this would change the nature of the European project and

15) The Brussels Times, Ukraine accession to the EU will take decades, says Macron

16) At the GLOBSEC Security Forum, president Macron indicated that enlargement should take place “for me, as swiftly as possible”. Présidence de la République française, Speech, 1/06/2023.

17) Politico.eu, EU leaders to debate France’s halfway house for Ukraine idea, 15 June 2022.

18) Laure Delcour, Katarzyna Wolczuk, Ukraine and the EU at a Time of War: A New Paradigm, Zentrum Liberal Moderne, 2023.

19) Speech by the President of the French Republic at the conference of ambassadors, 1 September 2022.

20) Standard Eurobarometer 98, Winter 2022–23.

21) Standard Eurobarometer 97, Summer 2022.

22) France Info, Guerre en Ukraine: comment les Européens perçoivent-ils le conflit? 15 March 2022.

jeopardise the deepening of integration. Even though the country did not block (until 2019) subsequent accession rounds, it never turned into a staunch supporter of enlargement, to put it mildly. In fact, the gist of French arguments has not changed since de Gaulle rejected the UK's application.

Deeper EU rather than wider EU?

Like some other founding countries, such as the Netherlands (and Germany since the mid-2000s), France has strongly and consistently prioritised deepening of the European integration project over widening it. To a large extent, French political elites have traditionally regarded the two processes as mutually exclusive. This is because, in their view, enlargement undermines unity among EU members and thereby hinders further integration. Before Ukraine lodged an application for EU membership, the French position on EU enlargement was based upon three pillars, namely a clear European perspective for the Western Balkans combined with the need for reforms in the candidate countries and the necessity of EU overhaul prior to new enlargements²³.

Despite significant progress in EU integration since the last waves of enlargement, the French position remains to a large extent similar with respect to Ukraine's accession. This is tightly interwoven with how the French authorities currently assess the European integration process, namely as being confronted with multiple challenges and crises. Just three months after Ukraine was granted the EU's candidate status, President Macron called for stopping "the assumption of infinite expansion by the EU, which (...) needs to be stronger, more sovereign and more autonomous, and must resolve the problems it already has."²⁴ This indicates that Ukraine's accession, even if agreed by France, cannot take place before substantial progress has been made within the EU, in particular in terms of both governance and strategic autonomy. Turning the EU into a stronger security and defence actor is indeed a key priority for the current French authorities, which is difficult to achieve in light of the different positions of EU member states and would be even more complicated to reach after new accessions.

And yet, Russia's invasion of Ukraine has sparked new reflective thinking in France on the connections

between enlargement and security. The French political elites are increasingly aware of the security costs that may be incurred as a result of non-enlargement, given that several candidate countries are involved in crises and conflicts. In this context, France is likely to emphasise the importance of the Common Foreign and Security Policy (CFSP) both in the EU's internal integration process and as part of EU accession policy.

Lessons learnt from previous enlargements

France's reluctance towards EU widening is also embedded in the perceived negative implications of the most recent waves of enlargement. Back in the mid-2000s, the accession of Central European countries triggered French workers' anxiety over potentially unfair economic competition stemming from cheaper salaries and lower social standards in the new member states. In addition, over the past decade, French authorities have been increasingly concerned by the democratic backsliding in some of the countries that joined the EU in 2004. In their view, Poland's and Hungary's illiberal turn blatantly exposed the shortcomings of the EU enlargement policy, which was regarded as too technocratic in Paris. Thus, in 2019 France vetoed the opening of accession talks with Albania and North Macedonia and subsequently released a non-paper on the revision of the enlargement toolbox with a view to enhancing the political steering of the accession process.

The need for strict compliance with EU accession criteria

A corollary of these concerns is France's insistence on the need for strict alignment with the Copenhagen criteria. France explicitly defends a demanding accession process, based in particular upon compliance with respect to the rule of law. Strict compliance with the so-called "fundamentals" (in particular, the rule of law and strong democratic institutions) was at the core of the "renewed approach to the enlargement process" put forward by France in November 2019, shortly after it vetoed the opening of talks with Albania and North Macedonia. In addition to "gradual association" and "tangible benefits," this revamped approach was to be premised on the stringency of EU conditions and the reversibility

23) French Permanent Representation to the EU, La politique d'élargissement de l'Union européenne.

24) Speech by the President of the French Republic at the conference of ambassadors, 1 September 2022.

of the process. Whereas the revised enlargement methodology as adopted by the Council is less rigid than the French non-paper, France is likely to rely on these principles in relation to Ukraine's membership. It is also likely to insist on the effective alignment of candidate countries with the CFSP. This is why, according to the French president, the accession process is expected to be lengthy "unless the EU decides to "lower its accession standards" and "rethink its unity."²⁵ At the same time, given its focus on values and security, the EPC could contribute to accelerating EU membership.

Ultimately, France's reluctance towards EU enlargement and increasingly strict approach to the accession of new members also derive from an underlying fear of further loss of influence. This is because of several interconnected reasons. Ukraine's accession will move the EU's centre of gravity further east, and thereby enhance France's geographical marginality to the West of the EU. In France's perception, it will also reinforce the US' influence over the EU and may sway the balance towards greater alignment along US world-views, thereby preventing the EU's strategic autonomy favoured by Paris. Perhaps less crucially, Ukraine's accession is also likely to reinforce the domination of English in the EU arena, while being detrimental to the use of the French language (still an important element of influence for Paris). Last but not least, Ukraine's membership will de facto diminish France's weight in the EU institutions, as Ukraine is much more populated than any of the recent members and should be represented accordingly in the EU. While this may trigger joint reflection with other EU member states on whether and how to reform EU decision-making before Ukraine's accession, the first factors mentioned above are specific to France and how it conceives the EU's integration process and its role.

5. Which way forward?

The French authorities' position on EU enlargement is not set in stone. President Macron's GLOBEC speech, in particular, reflects a major turn in the French narrative on enlargement:

"For us, the question is not whether we should enlarge – we answered that question a year ago – nor when we should enlarge – for me, as swiftly as possible – but rather how we should do it."²⁶

However, the extent to which this narrative turn will translate into practice remains to be seen. France's reluctance to enlargement is unlikely to change on its own anytime soon, as it is both long-standing and embedded in societal perceptions. In fact, the official stance may even become much harder should far-right (or possibly far-left) parties gain power after Macron's departure. Thus, the timeframe for swaying the mood in favour of enlargement appears bounded by uncertainties over French future leadership.

Key French concerns over enlargement could be alleviated by reforming key policies in relation to both widening and deepening. Both reform processes should be launched and developed in parallel. First, the model of staged accession (combined with the possibility of reversing the process) should be more firmly embedded in the EU's enlargement policy, possibly through revising the EU Treaties. Gradual or staged accession involves clear progress (or step back) on the path to membership based on detailed benchmarks, thereby allowing a transparent assessment of candidate countries' performance on the basis of reforms actually implemented. Second, the EU's strategic autonomy (an overarching priority for the French authorities) should be given significant impetus, including through a change in the decision-making process. Shifting to qualified majority voting in the CFSP could be done by using the passerelle clause²⁷, that is, without revising the Treaties; however, this move is fiercely opposed by Central and Eastern European countries. Alternatively, new rules could be introduced for veto rights, e.g., allowing vetoes for small groups of member states. Beyond changes in the decision-making process, the EU should also work towards developing a truly common vision of its own international role, one that is genuinely shared by all the member states. Finally, alignment on the CFSP should be given more importance in the enlargement policy.

25) The Brussels Times, Ukraine accession to the EU will take decades, says Macron

26) Présidence de la République française, Speech, 1/06/2023.

27) Art. 48 (7) provides that the European Council may adopt a decision authorising the Council to decide by qualified majority voting, among others on matters falling under Title V on external action and common foreign and security policy. Consolidated version of the Treaty on the European Union, OJUE C326/12, 26 October 2012.

In order to foster more positive views in France about new EU accessions, the Ukrainian authorities could also:

- In the short term (in view of the accession negotiations), deliver on reforms (as much as feasible in a war context), with a focus on the 'fundamentals' that lie at the core of French concerns over the preparation of candidate countries;
- In the longer term (in view of accession and post-accession), showcase their interest in, and commitment as a future member to the deepening of the EU's integration process, especially in those areas that are regarded as priorities in Paris, such as the CFSP.

Chapter 4. Central Europe: Far from a Common Position

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The full-scale Russian invasion of Ukraine caused profound, far-reaching political changes within the Central European region. The war as well as historical experience with Russian expansionism increased security concerns at the government level as well as among the public in some such countries. Yet in others, pro-Russian public sentiments and various political and economic interests of the elites somewhat dwarfed the value-based approach promoted by the EU in response. Regional alliances in Central Europe have since been significantly reshaped. For example, cooperation within the Polish-Hungarian tandem that was facing growing criticism from the EU for its poor track record in the area of rule of law, fundamental rights and values, has been significantly reduced given the differences of the two respective governments on Russian aggression against Ukraine¹.

The “Ukrainian factor” has thus significantly contributed to rethinking issues such as national security strategies and the geopolitical importance of membership in NATO and the EU. It has also revealed deeper and sometimes fundamental regional discrepancies between various Central European societies in perceiving Russia as an aggressor and a threat to national as well as regional security and stability.

Even though all Central European EU (and NATO) member states that are part of the Visegrád 4 Group (V4) formally endorse and support the European aspirations of Ukraine, there are substantial differences and diverging views on how far and fast EU accession should take place. While countries like Poland and the Czech Republic are the most vocal public supporters of Ukraine’s membership in the EU (and NATO), Hungary represents the opposite side. In turn, Slovakia, where many public figures

(including the President and key ministers of foreign affairs and defence) are stout supporters of Ukraine, is somewhere between these two opposite ends. However, the upcoming parliamentary election in September might lead to the formation of a less pro-Ukrainian government, potentially led by pro-Russian as well as nationalistic politicians.

Nevertheless, as the recent grain exports dispute resulting from their unilateral protectionist measures concerning Ukraine’s agricultural products showed, these countries also have limits in their univocal support for Ukraine. Their economies and some specific sectors (like transport, agriculture, and IT) would feel more acutely the competitive pressure from Ukrainian businesses and actors. That will occasionally lead to domestic protests and demands to protect their national businesses and sectors by limiting Ukrainian exports. Such protectionist tendencies will then be brought to the EU level, leading to more crises between the EU and Ukraine, since the EU will then logically need to support and side with its Central European members in potential trade disputes with Ukraine. As was the case this spring of 2023, these risks left a bitter taste and some disappointment with Central European allies – and with European integration itself – among Ukrainians, while damaging their meagre economic lifelines in wartime.

1. Overview of public stances on Ukraine

a) Poland and the Czech Republic

For both Poland and the Czech Republic, the future EU and NATO membership of Ukraine is seen as the strategic guarantee of their own national security. In both countries, Russia is perceived as the chief

¹ The clashing geopolitical stances on the Russian full-scale aggression against Ukraine burst out in the open. Recently, the comments made by the new Hungarian Chief of staff, who indirectly even accused Poland of causing the escalation of the war after Fascist Germany’s attack against Poland on 1 September 1939, were met with fierce dissatisfaction by Polish ruling elites.

security threat currently tamed by Ukrainian resistance and defence. There is a growing understanding that without Ukraine being a part of common Euro-Atlantic structures, regional security will not be secured. This is the main reason (and concern) why Ukraine's accession to the EU (as well as to NATO) is currently unequivocally supported by political elites, which at the same time represent public sentiments.

It comes as no surprise in the case of Poland, a country with numerous tragic historical encounters with Russian expansionism and aggression. Hence, there is a wide, undisputed national consensus on the need to support Ukraine and its Euro-Atlantic aspirations. In the Czech Republic, anti-Russian sentiments, caused mainly by the historical traumatic experience of the Soviet-led invasion of 1968 and partly by the illiberal nature and performance of Russian state authorities, had been gradually losing their public opinion importance. Yet, a dramatic change in Czech society's perception of Russia occurred in 2021 when information about the Russian involvement in the tragic explosion of ammunition depots in Vrbětice² was revealed. This had been preceded by a Czech-Russian diplomatic row over controversial Soviet-era monuments that local Czech authorities wanted to remove from their territories, which was fiercely and undiplomatically contested by the Russian Federation.

Until then, the official Czech position towards Ukraine's EU aspirations had been rather lukewarm, if formally supportive. These turning points eventually influenced the outcome of the parliamentary election in October 2021, won by broader democratic and Russia-sceptic parties supportive of Ukrainian EU-related aspirations even before 24 February 2022. It came as no surprise that, with the full-scale invasion, the government and society decisively and massively supported Ukraine and Ukrainians. A national consensus about the need to support Ukraine, which was defending itself from Russian aggression, prevailed. Even the democratic opposition stood by and supported the government in its efforts to provide Ukraine with such assistance as weapons deliveries, humanitarian aid or support to Ukrainian citizens who sought safe refuge in the Czech Republic. Eventually, issues related to the Czech support for Ukraine were reflected also during the presidential electoral campaign of January 2023,

for the first time dominated by foreign policy issues. Therefore, the victory of Petr Pavel, a clearly pro-Ukrainian candidate, also symbolises the nationwide consensus on the need to assist Ukraine as much as possible.

Both countries' governments have been led and formed by political parties from the same European political families. For example, both Prime Ministers come from the ECR (European Conservatives and Reformers). Therefore, it came as no surprise that the very first post 24 February foreign visit to Kyiv (by train) was organised jointly by the Polish and Czech (as well as Slovenian) Prime Ministers. Similar high-level joint Polish-Czech visits (like the speakers of the Senates and the upper chamber of national parliaments) took place afterwards. These trips set a pattern and precedent later followed by other European and international political leaders.

The scope of challenges that both countries encountered, for example with hosting and accepting the largest numbers of Ukrainian refugees and/or with the energy crisis, pushed their governments to seek and opt for EU-wide solutions and approaches. Paradoxically enough, such circumstances have had interesting side effects that somewhat softened previous Eurosceptic views and stances among some ruling parties and politicians. The understanding of the strategic importance and benefits of EU membership has been reinvented and reinforced domestically. Similarly, for the same reasons and the added value of EU membership, both governments have become strong advocates for the rapprochement between the EU and Ukraine, and support Kyiv's membership prospects, nowadays perceived in Poland and the Czech Republic as an issue of national importance.

b) Hungary

Budapest is not against EU membership for Ukraine per se, mainly because of the potential economic and trade benefits stemming from it. However, given the nationalistic discourse as well as geopolitical interests and links with Moscow of the Hungarian government and its Prime Minister, Viktor Orbán, relations with Ukraine have suffered as a result. Further progress of Ukraine-EU relations has been constantly conditioned by Budapest upon demands for Kyiv to respect the

2) The explosions in ammunition depots in Vrbětice occurred in 2014 when several supplies of stored ammunition were about to be sent to Ukraine. In April 2021, the Czech authorities released information that two suspects who might have been behind these explosions were the same Russian military intelligence (GRU) officers who had poisoned the Skripal family in the UK.

rights of the Hungarian ethnic minority living in the bordering regions in Ukraine. Hungarian authorities stress issues such as language or education policies of Ukraine that affect the Hungarian minority there as stumbling blocks for Ukraine's European integration progress. It is fair to state that some of these concerns have been legitimate and have been raised also by other Member States that have their own minorities living in Ukraine, like Romania, Bulgaria and Poland.

Hungary did not block the move to grant candidate status to Ukraine (and Moldova). However, there have been other Ukraine-related topics – the provision of EU macro-financial assistance, the substance and content of EU sanctions or the EU response to Russian misuse of energy pressure and blackmailing – where Hungarian threats of using its veto power (e.g., reconsidering some sanctions against Russian actors and interests after their adoption) caused more troublesome and time-consuming EU responses and damaged EU's cohesion. Similarly, the fact that the current EU Commissioner for enlargement and neighbourhood, Olivér Várhelyi, is a former close associate and ally of Orban is not always a helpful factor for EU-Ukraine cooperation. Comparatively, much lower numbers of Ukrainian citizens have found refuge in Hungary. Nevertheless, Hungary's approach eventually has led to the regional isolation of Budapest and, apparently, has had a negative impact on regional cooperation within the V4 format.

In these circumstances, the political rift between Hungary and the other V4 countries, especially the Czech Republic (whose political representatives have occasionally refused to meet with their Hungarian counterparts within that format), has been growing.

c) Slovakia

Among these opposing groups of countries in Central Europe, Slovakia stands somewhere in the middle. Several ministers of the current government coalition as well as its president are strong supporters of Ukraine and its EU ambitions. However, the political landscape in Slovakia is unstable and fragmented. Underlying factors such as the attachment of a significant part of society to traditional conservative values often promoted by religious leaders, combined with pan-Slavic sentiments or latent feelings of foreign domination, have left an impact on a large part of Slovak society eventually susceptible to narratives promoted by Russia. Moscow enjoys a high level of influence over Slovak public opinion. As a result, Slovak

society, as well as political elites, are split on their stance on Ukraine.

The preliminary parliamentary election in September 2023 might result in the strengthening of populist and nationalistic parties that are latently pro-Russian. Such an outcome of these elections could further increase Central European rifts and cleavages leaving Slovakia somehow close to Hungary, perhaps further undermining European cohesion regarding its support of Ukraine against Russian aggression.

2. The Czech perspective: emphasis on organic integration

The Czech presidency in the second half of 2022 had an uneasy task to coordinate the EU and prompt responses to the Russian aggression in such areas as sanctions policy, energy, and macro-financial assistance to Ukraine. During the presidency, differences between the Czech approach and that of Hungary became obvious.

Czech diplomats advocated at the EU level for a more ambitious and comprehensive treatment of Ukraine by the EU, so they were occasionally accused of violating the presidency principles of being "an honest broker." This was the case when the EU Council conclusions in December 2022 were drafted and discussed. The Czechs, supported by other EU Member States, pressed for the eventual inclusion of the reference to provide Ukraine with "a roadmap outlining the next steps to ease Ukraine's access to the EU Single Market, using the full potential of the Association Agreement and the Deep and Comprehensive Free Trade Area (DCFTA) with Ukraine." This provision, i.e. to anchor Ukraine to the EU Single Market – which eventually got enshrined in the Conclusions – constitutes the core element of the Czech stance on the EU perspective of Ukraine. That is: integrating Ukraine into the Single Market is seen as another possible way to get Ukraine closer to the EU instead of waiting for lengthy formal procedures and steps. Such an "organic" integration (to others, progressive integration policy) can start almost immediately by plugging Ukraine and its economy into the EU market, production chains and networks.

Remarkably, granting Ukraine all 4 fundamental freedoms that are related to the EU Single Market is not contested anymore and, in general, does not constitute a stumbling block for Ukraine's integration into the Single Market. This is especially true nowadays

for the free movement of people. Before the full-scale Russian invasion of 24 February 2022, there were worries about the possible negative impact of granting this freedom to Ukraine on the EU labour market. Nowadays, with several million Ukrainian citizens legally residing in the EU, there are no major distortions of labour markets even in the countries with the highest concentration of Ukrainian refugees. On the contrary, quite often these people have helped close certain gaps in the labour market and have covered certain (often low-skilled) jobs.

Another practical step in that direction would be the further extension of the exceptional suspension of all tariffs and other trade barriers for Ukrainian exports to the EU lifted in the summer of 2022, thus allowing Ukraine's economy to continue functioning and generating revenues and jobs under war conditions. This was referenced in the joint declaration after the EU-Ukraine Summit in Kyiv, on 3 February 2023. Eventually, EU Member States at the level of COREPER approved at the end of April 2023 the extension of such a trade regime for another year, despite the above-mentioned ongoing disputes over grain exports.

Such a pragmatic approach aims to address the reality that the eventual Ukrainian accession to the EU might turn out to be a long process, without any clearly stipulated time perspective. The example of other candidate countries, especially that of the Western Balkans, shows that this period might be eventually indefinite.

Therefore, based on the experience of the Western Balkans, another important element of the Czech stance on Ukraine is not to push for any concrete date – e.g., that of accession negotiation start. Insistence on specific dates might easily turn out to be counterproductive and demotivating for Ukraine. Missing the dates or even announcing domestically “deadlines” that are then not met could lead to growing frustration in Ukrainian society and could cause mutual accusations between Ukraine and the EU (and a few EU member states in particular). At worst, the European integration of Ukraine would be put at risk. These are some of the lessons from other candidate countries' track records.

In general, instead of waiting for breakthroughs and significant progress in accession talks, which might indeed last for an indefinite period of time, Central European countries promote concrete gradual sectoral integration of Ukraine in EU-specific policy fields, initiatives and programmes³. Such an approach has potential in various fields where Ukraine and Ukrainian actors do not represent a direct competition to their EU counterparts and where, on the contrary, they could even bring additional added value, know-how and comparative advantages to the EU. Namely, one could think of digitalisation, IT solutions, clean renewable energy, space technologies, etc.

3. Czech/Polish initiatives for building blocks towards Ukraine's EU accession

The Czech Republic and Poland could increase their role and communication activities as Ukraine's advocates in the accession process, chiefly in two areas:

- Internally, within the EU, towards the sceptics within the EU.
- Mitigating worries and dissatisfaction of Western Balkan countries, who fear that Ukraine is bypassing them on the EU enlargement track. Both Poland and the Czech Republic have solid contacts and historic relations with these countries, and therefore could more effectively advocate and explain the strategic need to move on faster with the integration of Ukraine into the EU. Similarly, Poles and Czechs could also act as interlocutors in a triangle format between Ukrainians and Western Balkan countries, who also need to enhance mutual relations with each other, especially if the enlargement track and policy would remain the same for all candidate countries.

It is worth noting here that a similar proposal to act as an advocate of Ukraine was made by Czech diplomacy with regard to the so-called global South, especially towards African countries, in the Middle East.

³) A concrete example is access to the EU-wide zone of free roaming between EU Member States, which would also bring tangible results and benefits for citizens of both Ukraine and the EU. A formal proposal was adopted by the European Commission this 14 February, and finally adopted also by the EU Member States on 19 April. It is worth stressing that this extension of roaming depends on the adoption and implementation of EU acquis by Ukraine.

Another important aspect of the support of Ukraine by the Central European countries is related to post-war reconstruction. Again, Poland and the Czech Republic are actively preparing for such future assistance. Interestingly enough, the Ukrainian Parliament already adopted on 28 July 2022 a special law titled “On the Establishment of Legal and Social Guarantees for Citizens of the Republic of Poland on the Territory of Ukraine,”⁴ which almost equals the legal status of Polish companies as well as the rights of Polish citizens in Ukraine with those of Ukrainians. This gesture of gratitude means that Polish companies and citizens could theoretically operate and work in Ukraine with fewer legal restrictions and barriers to tackle than any other EU actors and citizens. Logically, Czech companies are asking for a similar approach. In the end, as Ukraine moves on its enlargement track, such a national treatment will be extended at a certain moment also to other EU nationals and companies. Nevertheless, this practical arrangement gives Polish companies a comparative advantage, which might be crucial during the reconstruction process and access to public procurement tenders.

4. Regional cooperation in Central Europe: a building block for Ukraine?

Another important element of this pragmatic approach to how to further integrate Ukraine with the EU lies in developing concrete regional cooperation ties and relations. There is a huge untapped potential in intra-regional trade, as well as in improving the overall interconnectivity in such areas as energy and transport networks and infrastructure. This is equally true for Central European countries themselves, but even more so for Ukraine, which could unlock huge opportunities in developing such regional cooperation with its EU neighbours.

Russian aggression showed bottlenecks in terms of interconnectivity between Ukraine and its EU neighbours. For example, when the Ukrainian Black Sea ports were blocked, the transportation of agricultural commodities on land (road and railways) proved to be often challenging. The scarcity of connections, routes, and border crossings between Ukraine and the neighbouring countries stressed the strategic need to develop this type of interconnectivity.

Another potential benefit could be tapped in the area of future exports of Ukrainian electricity to the EU, which was provided by connecting Ukraine to the EU electricity grid. For example, during the test exports done in the summer of 2022, Ukraine managed to send 250MWh per day through Romania to the EU grid⁵. Thus, Ukraine also wanted to contribute to the solution of the looming energy crisis in the EU, partly also caused by Russian aggressive hybrid energy policies. The initial plan of Ukraine was to potentially export to the EU 6GWh, which would help to balance the EU electricity market. However, the systematic campaign of Russian missile and drone attacks against Ukraine’s civilian infrastructure put these promising plans on hold. As a consequence, Ukraine was forced to balance its own electricity grid and needs through electricity imports from the EU, especially during the last winter period. As of the beginning of April 2023, though, Ukraine resumed electricity exports to neighbouring countries, including Central and Eastern EU Member States.

Further development of infrastructure, mainly in the area of transport, which would increase the connectivity between Ukraine and other Central and Eastern European neighbours, would provide a new stimulating environment and conditions for the growth of mutual trade, opening new markets in the EU.

These have been exactly the reasons that reopened Central and Eastern European discussions of regional initiatives, especially the Three Seas Initiative bringing together 12 EU Member States⁶ in the region, which got new momentum and new meaning due to Russia’s aggression. Currently, not only some Central and Eastern European states, especially Poland, and the US, are drivers of promoting cooperation within this initiative. Its potential and importance have been acknowledged also by the European Commission and Germany, who are becoming financially and politically interested in this regional cooperation format. Even though this initiative is meant for 12 EU Member States, it seems more than logical and strategic to open it also to Ukraine, fostering the level and the pace of Ukraine’s EU integration.

Such a practical approach, based on sectoral and regional cooperation and improvement of interconnectivity, would result in more tangible results, financial revenues and other benefits than just

4) <https://www.lexology.com/library/detail.aspx?g=018bac04-1170-4719-b248-09323d4c9677>

5) <https://ukraineinvest.gov.ua/news/03-08-22>

6) Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Austria, Croatia, Romania and Bulgaria.

pressure on formal aspects of Ukraine's accession. Concrete deeds and practical integration steps, along with geopolitical considerations, would strengthen the arguments for Ukraine's EU membership.

5. Stumbling blocks in Central and Eastern Europe

Despite the decisive and remarkable assistance that some Central and Eastern European countries have provided Ukraine with, there are potential stumbling blocks related to Ukraine's bid to join the EU. Some, like the grain exports dispute followed by temporary import bans, came dramatically to the spotlight in the spring of 2023.

First of all, a quite sensitive issue that is only now being openly and publicly discussed in Central and Eastern European countries, is the fact that many Ukrainian sectors and producers constitute a natural competition to their producers and companies. This is especially true for the agricultural sector, where Central European farmers fear the influx of cheaper but high-quality Ukrainian goods and products. Central European governments would be then confronted by domestic interest groups when it comes to unconditional support for Ukraine and pressured to protect them from Ukrainian competitors.

Regardless of what the reasons for the current grain exports dispute are – e.g., whether logistical and infrastructural bottlenecks preventing further transit of Ukrainian grain through the neighbouring countries in Central Europe causing domestic market distortions, or issues with both alleged low quality of Ukrainian grain and corruption schemes leading to the eventual sale of Ukrainian grain in these EU member states instead of being shipped to third countries through the transit "Solidarity Lanes" – it is obvious that the Central European EU neighbours of Ukraine are going to protect first of all their domestic interests and interests of their own citizens, businesses and interest groups. Surprisingly enough, so far, almost nobody in Central Europe has pointed yet that this competition from Ukrainian businesses and producers could have a positive impact on domestic consumers. It could lead to a decrease in prices and a better choice of products, goods and services for consumers.

Similar competition from Ukrainian service providers in other areas (like cargo transportation) with cheaper inputs (labour, raw materials) might lead to negative reactions in Central Europe. Interest groups that would

be particularly hit by such competition from Ukraine, might eventually start voicing their concerns and arguments against Ukraine's EU membership even louder. So far, the public opinion in Central Europe is still supportive of Ukraine. However, disputes like that over grain exports could gradually cause a certain decrease over time, especially among less affluent social groups.

Secondly, for any future EU enlargement the EU needs to reform itself, especially its decision-making mechanisms. It is often argued, mainly by large EU Member States, that the principle of unanimity should be abolished. Such a postulate is, however, unacceptable for all Central European states, even for those who belong to the most vocal advocates of Ukraine. Their main fear is that they could be outvoted by big (Western) EU Member States in such sensitive policy areas as the common foreign and defence policy or social/taxation issues. Thus, paradoxically, their insistence on keeping the status quo is de facto blocking the discussion on institutional adjustments of the EU that would be necessary for Ukraine's future EU membership.

Chapter 5. Unexpected friends? The potential role of the Spanish presidency

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Oftentimes, enlargement policy debates tend to revolve around the role of leading member states (France, Germany) and those most engaged in the topic, whether as “pro-enlargement” or “blockers”. Yet, this overlooks a second tier of countries that, while not always visible and not known for espousing big initiatives, can be influential in shaping EU consensus one way or the other. Some use the term “fence-sitters” or even “ambivalent” as opposed to the “activists” (“pro-enlargement” or “blockers”), but such categorizations are misleading. Moreover, actual policymaking inside the EU is often defined by shifting coalitions rather than rigid blocks. The same is true for enlargement. That is, statements aside, countries in the “pro-enlargement” bloc may block decisions crucial for integration if they see their interests at stake (i.e., migration, bilateral disputes, etc.). By the same token, countries seen as “blockers” can also change their position, joining conditional consensus.

While generally sticking to national preferences, this third group of member states in a less visible row can join countries across the aisle and/or help forge consensus through a common position on enlargement, at times playing a more constructive role than either of the main two camps. Such is often the case of the likes of Sweden, Belgium, Portugal or Spain, the eurozone’s fourth economy and, with ups and downs, generally seen as right behind Italy in terms of overall weight in the EU.

This could be a factor in Ukraine’s EU path since pro-European Spain will be chairing the Council of the EU in the second half of 2023, with 2024 defined by elections in the EU (in the midst of Belgium’s presidency, followed by Orban’s Hungary) and the US. The stakes get higher for Ukraine and the EU as the debate focuses on whether to give the green light to opening accession negotiations with Ukraine – or a similar boost in the finest tradition of the EU’s

institutional brinkmanship – in late 2023, provided it fulfils the conditions tied to its candidacy. Spain will surely help craft EU consensus on these questions – although its last-minute early elections in late July, which could lead to a new government in Madrid, will deprive its presidency of the political impetus Madrid wanted.

1. The Spanish position on enlargement: five vectors

Spain is a moderately pro-enlargement country – even if, as explained below, some of its civil servants and political elites hold lukewarm views on its impact on the EU’s cohesion given the examples of Cyprus, Poland or Hungary.

We can summarize the prevailing Spanish stance on enlargement around the following six vectors:

- 1. Individual merits and differentiation** (to each his own). If countries carry out reforms or have shown potential for real progress with a few additional incentives, Spain is favourable, generally with no pre-acquired bias (helped by the fact that Spain mostly lacks vested interests in the regions concerned). That is: no blank checks, as Spain, also influenced by a legalistic approach to EU integration and foreign policy, is demanding when it comes to the implementation of reforms (chiefly, the Copenhagen criteria and all the fundamentals) and the *acquis* (as it believes it had to do itself before joining in the mid-’80s), but no unnecessary stumbling blocks either. A case in point: Spain favoured opening accession negotiations with Albania and Northern Macedonia, diverging from France, a key ally. Alas, this is no absolute rule either and politics may play a role too – take Spain’s bias towards Serbia’s accession in spite of its democratic rollbacks.

2. No regional discrimination, a priori. This pertains to both the Western Balkans as well as now Ukraine and Moldova, and even to Turkey (even if the latter's EU path is seen as wholly unrealistic). Such an approach is compatible with a certain balancing of bids, driven by a sense that boosting Ukraine's and Moldova's EU path must not come at the expense of the Western Balkans.

3. No blocker – unlike, at times, the Dutch, French and others (even some seen in the “pro-enlargement camp” – Bulgaria or Romania). As a rule, Spain does not block or threaten to veto the EU's decision-making process, bar circumstances of hardcore national interests (e.g., the status of Gibraltar during Brexit negotiations). Its veto against some measures on Kosovo is a singular, though substantial, exception¹.

4. Deepener (and conditional widener). Officially, Spain does not directly tie enlargement to EU reform and deepening integration, which Spain favours. This is unlike France and Germany, Madrid's top partners in the EU, which, as we have seen, make the EU's reform a precondition for enlargement. Yet Spanish officials do stress that institutional reform is necessary if the EU is to enlarge further – let alone to Ukraine – while aiming to retain functional internal cohesion and geopolitical aspirations. They worry about absorption capacity – a topic which also features in the speeches of Spanish politicians – and get frustrated, like other member states, with Central and Eastern European countries. In their view, these countries favour speedy enlargement, also to Ukraine, but a hollow one, since they oppose steps that would stave off subsequent EU paralysis (e.g., qualified majority instead of unanimity rule) and also any integrative moves too – e.g., euro, migration etc. The grain exports crisis with Ukraine and the hardball veto plays by Central Europeans would belie their commitment to Ukrainian integration.

So, Spain values the geopolitical and security considerations of enlargement (coupled with its potential risks for EU cohesion), but also the need for EU reform, which it may see as a more immediate priority and long-overdue task.

5. No dreamer: manage expectations. Spanish officials are careful with creating unrealistic expectations for any aspiring countries, such as “fast tracks” – let alone another Big Bang – or unrealistic deadlines given the EU's current travails and future booby traps along the way (e.g., anti-migration moods, vetoes and likely national referenda for admitting new members), especially in the volatile context in the EU. This is compatible with conditional support of political momenta or new priorities, as happens now with Ukraine.

2. Spain and Ukraine: a deepening relationship

In recent years, Spanish foreign policy has shifted from a somewhat ambivalent position regarding Russia and Ukraine – which combined support to EU measures and NATO military posture, with ad hoc political and economic overtures towards Russia – to one openly critical of Russia and aimed at closer engagement with Ukraine. The latter trend predated the full-scale invasion and subsequent Russian atrocities in Ukraine, but it has steadily increased since, freezing political relations with Russia and prioritizing Ukraine.

Not so different from the “*Ruslandverstehers*” in France, Germany or other Western countries, influential Spanish elites and diplomats, especially of the previous generation, used to prioritize relations with Russia over engagement with Ukraine or other post-Soviet countries, seen as less relevant on all counts. Some Spanish policymakers, at different levels, hold views that are pro-Russian or at least Russia-friendly (with putinists confined to segments of the right and far right, and the social media underworld of both extremes). Pre February 2022, they even peddled notions of a deeper Spanish-Russian relationship (Spain as a bridge with Moscow, as it perceives itself with the Arab world), with a more neutral Spain, in spite of Putin's Russia growing aggressiveness abroad and authoritarianism at home. Relations with Ukraine, while friendly, were hollow and secondary for most officials. Nonetheless, there is no and never has been any significant socio-economic fabric underpinning Spanish-Russian relations (e.g., the trade balance between Spain and Poland was, pre-February 2022, several times that which Spain has with Russia), nor are there important energy dependency links.

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¹) Spain, a non-recognizing country, supports the Stabilization and Association Agreement path with Kosovo but as signed by the EC, not by member states, and tends to condition or even veto other related initiatives.

Before February 2022, clear majorities of Spanish public opinion had already been quite anti-Putin, though not actively mobilized on this basis and Russia was not perceived as an imminent security threat until recently. Russia's actions since 2014, including its hybrid actions in Catalonia, together with Spain's EU and NATO commitments, also contributed to gradually mitigating the influence of those pro-Russian sectors.

President Pedro Sánchez (social democrat/PSOE), sworn in in 2018, has deepened the already growing Spanish military engagement in NATO's Eastern Flank (in the Baltics, Romania and the Black Sea), hosted the 2022 NATO Summit in Madrid and, during his mandate, has gradually increased the country's meagre defence budget. Against the instinctive priorities of sections of the Spanish diplomatic establishment, he has avoided friendly gestures with Moscow, openly supported sanctions and stressed the need for the EU and NATO unity on Russia, based on red lines. His term has also seen closer bilateral relations with Ukraine and with the democratic opposition of Belarus. The Kremlin, taking note, toughened accordingly its rhetoric on Spain, no longer "an impartial" actor, while lambasting some Spanish officials (including then FM and now EU High Representative Josep Borrell). This shift in the Spanish position happened in spite of a left coalition government with the smaller radical left-wing party Podemos, which, through its discourse, implicitly toes Kremlin lines. Right before 24 February, Foreign Minister Albares visited Kyiv and pledged support.

The full-scale invasion was met with horror and contempt by the overwhelming majority of Spaniards. Sánchez, one of the first EU Prime Ministers to visit Kyiv (in April 2022), decreed in early March the provision of weaponry for Ukraine against the opposition of his own coalition partner (an opposition increasingly vocal, yet not decisive). While not among the top military contributors, Spanish commitments to Ukraine's defence efforts have over time become cumulatively significant, including air defence, ammunition, training, etc., and appreciated by key actors such as the US leadership. In his second visit to Kyiv this 24 February 2023, Sánchez confirmed that Spain would join the Leopard 2 tanks coalition, refurbishing so far a few old Leopard A4 tanks (up to 10). Defence Minister Robles visited Ukraine too (Odesa). Madrid has been a firm supporter of harsh sanctions and the EU's different packages agreed upon since the full-scale invasion. Moreover, Spain contributes to the European Peace Facility (EPF) and is engaged in other efforts to support Kyiv,

including in the area of justice for Russian crimes and humanitarian aid. The country hosts over 170,000 displaced Ukrainians. Zelensky, who spoke before the Spanish Parliament in April 2022, has lately applauded this role of Spain and Sánchez, bestowing him with a plaque in Kyiv's Promenade of Heroes.

Alas, questions loom large on the long-term continuity of this Spanish proactive engagement with Ukraine. The political future of some of the leaders and officials behind these moves is in question, starting with Sánchez himself. After his party's rout in the local and regional elections of May 2023, Sánchez has called for early national polls on July 23, at the beginning of the Spanish presidency. He trails the opposition leading candidate, Alberto Núñez Feijoo (PP, conservative), and in the best-case scenario, he will struggle to put up again a left-wing, frail parliamentary majority. While president hopeful Feijoo, a moderate, would possibly represent policy continuity in the EU and NATO levels, he lacks international experience and would probably need to rule with the support of Vox, far right, torn between Atlanticist and pro-Russian factions. Another likely scenario is a Spain mired in a political blockade with a hung parliament, tarnishing the international and EU profile it regained in recent years.

3. The Spanish (evolving) position on Ukraine's EU bid

Regarding enlargement, in spite of rumours in Kyiv of a potential Spanish veto of Ukraine's candidacy, Minister Albares, who has also visited Kyiv twice, declared early on that Spain would subscribe to the European Commission's assessment of that candidacy – widely expected to be conditionally favourable. While not decisive (unlike the German-French-Italian yes in Kyiv, in June 2022) and leaving some ambiguity, this hint helped. This policy enjoys the support of a clear majority of Spaniards, who are in favour of Ukraine's EU membership and the main policies designed against Russia's invasion (sanctions, financial and military support)². Such support remains stable, if logically waning a tad after more than a year on.

2) For instance, in addition to Spanish polls, in the Flash Eurobarometer 2022 on EU's response to the war in Ukraine, over 70% of Spaniards totally agreed/ tended to agree Ukraine should join the EU when ready (above the EU high average of some 66%), and similarly high numbers backed sanctions and military support for Ukraine (available at <https://europa.eu/eurobarometer/surveys/detail/2772>). Similar results shown by the European Parliament's Autumn 2022 Eurobarometer Survey (at <https://europa.eu/eurobarometer/surveys/detail/2932>). Other more recent polls of 2023 show high levels of support to other Ukraine related issues, such as the provision of military assistance.

It is worth noting that Spain would also have much to lose short-term with the costs and implications of an eventual enlargement to Ukraine, in terms of influence, competition (e.g., agricultural sector, Spain still being a core recipient of the Common Agricultural Policy) and access to EU funds (still key to some Spanish regions whose GDP is below the EU average). While these implications are not yet a substantial part of the debate nor currently manipulated by political actors, this could change over time given the pattern of Vox populists deftly picking on migration and economic crisis to stir polarization – and overall having more policy influence than they have had thus far.

All in all, the Spanish position on Ukraine's EU bid remains based along the lines summarized above: 1) actively supportive – though concerned about absorption capacity and the EU's need for internal reforms; 2) demanding when it comes to reforms – Ukraine must implement all key conditions, beginning with those attached to the candidacy, and shortcuts should be avoided in principle; 3) comprehensive approach to enlargement, so gestures to other candidates are needed too; and 4) keeping EU consensus.

4. The Spanish presidency of the EU Council: a key opportunity for Ukraine?

This latter vector, EU consensus, will possibly weigh more prominently for Spanish officials' brinkmanship during their incoming presidency of the EU Council. In their joint press statement during Sánchez's visit to Kyiv in February, President Zelensky hinted to Sánchez that the Spanish presidency could be a good opportunity to open accession negotiations this 2023, his government's main objective now with respect to the EU. Sánchez reiterated the official Spanish position on supporting and "accompanying Ukraine" in its path, yet, without assuming any new, more explicit commitments.

For a start, the Spanish presidency will carry on with the ongoing efforts to advance Ukraine's bid under the Swedes. Conscious of the pre-eminence of this dossier for the EU and European security (and for the US too), Spanish officials are adamant that supporting Ukraine in its different dimensions will be a top priority – from sanctions to the multilateral level to ongoing military support under the EPF. Boosting internal reflections on an EU policy with respect to a (hypothetical) negotiated settlement is also gaining

traction, given the emerging non-Western pressure for peace talks (chiefly, from China, but also Brazil's Lula, the Pope, etc.). In his recent meeting with Xi Jinping, Sánchez stressed publicly the centrality of Zelensky's Peace Formula for any such efforts. The Spanish presidency will also overlap with the Ukrainian counter-offensive(s) and its strategic-political aftermath. Organic integration measures, along the lines laid out in previous chapters, could contribute.

Yet, as mentioned, the presidency will now be hampered by Spanish elections that may sap energy from the Spanish leadership – even changing it as a result – and put their civil servants in a more managerial mode.

When it comes to accession negotiations, Spanish officials remain logically non-committal in their public statements, as there is no EU consensus yet. There may be a real chance to open accession negotiations in late 2023, by the European Council of December 15/16. The political momentum seems to be growing in that regard, provided Ukraine "delivers" on key reforms. Needless to say, this will be tied to broader strategic and political considerations – e.g., the war, the sense of political opportunity, the EC assessment this autumn and Ukraine's own reform delivery through the implementation of the conditions attached to the candidacy (as per the joint EU-Ukraine statement after February's summit, "all" such conditions must be met "fully" before further steps).

Spanish officials are at times wary of too much Ukrainian hardball diplomacy and pressure. They are seen as potentially counterproductive given the current lack of EU consensus on "fast-tracks" (a misnomer for EU affairs), let alone "leap-forwards," while the war will rage for a long while and while most big-design EU issues remain unaddressed (including a path to meaningful internal reform). Like other European government officials, there is a perception that the von der Leyen Commission sometimes goes beyond its mandate and what seems realistically possible. Long term, they harbour doubts about the feasibility of Ukraine – or any Western Balkan country – joining the EU given national vetoes and booby traps, bar a sustained political consensus and at least some EU reforms to make accession workable and palatable. There is also a natural feeling that war-torn Ukraine will face huge challenges in implementing the EU *acquis* in full, with their profound socio-economic transformations attached – and that on top of historical needs for reconstruction and security.

5. What can work with Spain

Clear majorities of Spaniards support Ukraine in its fight against Russian aggression (if less actively engaged than when Kyiv seemed in danger) and in its EU path too. The deepening bilateral ties between the two countries, especially since the full-scale invasion – from political links and regular interaction to some sociocultural projects or the growing everyday presence of Ukrainians in Spanish society (still mostly at the local level) – are factors contributing to the normalization of Ukraine’s overall EU integration efforts and increasing its ring of friends and partners. These bilateral ties slowly create synergies and a sociopolitical fabric of sorts where previously there was little common space. There is obviously much more to do in all such areas.

Ukraine’s gradual integration into Euro-Atlantic structures, together with its eventual emergence from this full-scale war, should also increase its relevance for Spanish foreign policy and make it more sustainable too, in spite of Madrid’s established priorities in the South and Latin America. Spain will possibly support organic integration proposals, as described previously. Moreover, for traditionally legalistic Spanish officials, the single main task for Ukrainian actors and institutions can be perhaps summarized as: carry out real – not “tick off the list” type of – reforms as required by the EU, chiefly on the key Copenhagen criteria and implement the *acquis*.

With the caveats described above, Spain will support Ukraine’s EU path, which will no doubt be bumpy and hugely challenging for Ukraine first, and all the rest involved too.

Chapter 6. Ukraine's way to accession: key milestones and challenges

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Since the late 90s, accession to the EU or 'membership prospective' has permanently been a holy grail in Ukrainian domestic and foreign policy that is always on the horizon but hardly reachable in the foreseeable future. The Revolution of Dignity and the experience of implementation of the Association Agreement with the EU since 2014 brought the first 'cold shower understanding' of the EU *acquis'* complexity and tough demands by the EU for deep structural reforms inside the political, economic and social areas of society to make accession even hypothetically possible. Apart from it, Ukraine found itself at the crossroads of geopolitical rivalry between the Western democracies and Russia, which restrained the EU even from giving a veiled perspective of membership for Ukraine, concentrating instead on trade and sectoral cooperation issues.

The beginning of the Russian full-scale aggression in February 2022 shook the status-quo of Ukraine's membership prospective to the core. Suddenly, thanks to its decisive and successful defence and pushbacks against invading forces, Ukraine has obtained geopolitical agency and ceased to be a bargaining chip in the Western international politics, which was mistakenly focused on the 'appeasement' of Russian dictatorship appetites. The EU has finally decided to enter the stage as a geopolitical player drawing the 'red lines', distinguishing 'friends' and 'enemies' and its spheres of influence at Europe's frontier by giving Ukraine (and Moldova) the status of candidate countries¹. For Ukraine, without any exaggeration, this war has become an existential fight for the right to become an EU member someday.

However, in domestic politics the topic of EU accession has largely remained a subject of a highly populist agenda, compounded by all the collateral

damage to the country's capacity for accession inflicted by the large-scale war. Therefore, the country entered the long-awaited candidacy status under very peculiar conditions like no other EU candidate before. First, the war itself brings high uncertainty about the possible timeline for opening and planning of the accession process. Second, it has caused a severe shortage of resources and professionals inside the Ukrainian public authorities responsible for planning, approximation and implementation efforts throughout the accession process. Third, it has led to 'mutual political populism' both in Kyiv and Brussels when Ukrainian political elites present to the nation the accession process to the EU as 'another quick win for Ukraine' to be accomplished within two or three years with the support of enormous financial contributions from the EU (and other Western allies of Ukraine, at the expense of frozen Russian assets), while the EU is clearly avoiding any visible pressure on Ukraine's elites for reaching progress in reforms within the Fundamentals cluster, putting it down to 'difficult wartimes'.

As a result, the ruling Ukrainian elites' strategy is currently based on the assumption that the EU will offer another 'fast-track' decision for opening and reaching compromises along the accession negotiation milestones, possibly inspired by (similarly) geopolitically driven accession of Romania and Bulgaria in 2007. The odds of such an approach may be disputable in the current conditions, but in terms of domestic preparation it leads to a very short-sighted 'mosaic thinking' of politicians and high-level government officials. It results not only in rather formal fulfilment of the EU demands for the sake of populist political messages, which (in numerous instances) involve no real implementation efforts, but also in the lack of a complex vision of the real scale, complexity

¹) With a potential option for Georgia on condition it gets rid of its ties with Russia.

and associated cost of the accession tasks. On the contrary, the candidacy was a vital public support step on the part of the EU, which was wholeheartedly welcomed by the entire Ukrainian society and contributed much to the public and expert support of the governmental efforts to fulfil the EC's seven post-candidacy recommendations, which is supposed to lead to the opening of accession negotiations.

This part of the research is specifically targeted at explaining the realistic picture of the accession pathway from Ukraine's perspective and its specific moments (i.e., the interconnection between the sectoral integration plans and post-war recovery plans), as well as country-specific challenges (i.e., the situation with fundamental reforms and institutional capacity).

1. The start of the accession negotiations with the EU

Russia's full-scale invasion of Ukraine on 24 February 2022 actually shook the entire European continent. The fact that its immediate neighbour was aggressively attacked by Russia forced the EU to act geopolitically not only on paper but also in practice. The EU started providing weapons and ammunition to Ukraine (for the first time to a third country in war), welcoming Ukrainian refugees, lifting trade barriers, and also granted Ukraine candidate status. In less than half a year, Ukraine turned from an associate country at Europe's frontier and a subject of geopolitical games to an EU strategic partner and a candidate for EU membership. Ukraine has effectively used the momentum of immense support from EU countries and bid for EU membership on the fourth day after Russia's full-scale attack. The subsequent procedural mechanism unfolded with remarkable speed: the EU Council considered Ukraine's application in just 7 days and on 7 March invited the Commission to submit its Opinions on Ukraine's (as well as Moldova's and Georgia's) applications. It took 1 month for the Commission to develop a questionnaire, 1 month for Ukraine to provide the answers, and one more month for the Council to grant Ukraine EU candidate status. Judging by the experience of the Western Balkans, this process could take months or even years. That is exactly why Ukraine did not apply earlier to avoid disappointment and bid rejection by the EU. Geopolitics played a key role this time, with Ukraine now playing a crucial role for the security of the entire European continent, and the EU opened de facto an 'emergency accession entry door' for

Ukraine. However, it is based on the comprehensive enlargement methodology² which involves the implementation of all EU acquis and deeper scrutiny of the adaptation of the national legislation by the EU than in the case of the Association Agreement.

On the other hand, the 8 years of implementation of the Association Agreement attest to the fact that Ukraine is not a newcomer to European integration and harmonization of national legislation with EU norms. Ukraine has established a government infrastructure for the coordination of the relevant issues – Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, Government Office for Coordination of European and Euro-Atlantic Integration, Deputy Ministers for European Integration in line ministers. In addition, the EU and Ukraine established intense political dialogue within Association bodies which have been working on a regular basis: Association Council, Association Committee, Association Committee in Trade Configuration, and Parliamentary Association Committee.

According to the independent expert monitoring conducted by the Ukrainian Centre for European Policy, as of the end of 2022, the overall progress of Ukraine's implementation of the Association Agreement (AA) amounts to 55% (this figure includes fully completed commitments and intermediate results), 30.4% of which are the commitments assessed as fully accomplished. Among the major achievements resulting from the implementation of the AA, one can cite the following:

- Electricity and gas markets reform, synchronization of the Ukrainian electrical power system with ENTSO-E;
- Implementation of a transparent public procurement system;
- Market surveillance reform and implementation of EU technical regulations;
- Corporate governance transformation;
- Implementation of the EU legislation to accede to the common transit procedure (NCTS);
- Development of the national system of transplantology.

2) https://neighbourhood-enlargement.ec.europa.eu/enhancing-accession-process-credible-eu-perspective-western-balkans_en

In some sectors, such as foreign, security and defence policy, and telecommunication, EU-Ukraine cooperation goes well beyond the provisions of the Association Agreement. This indicates that in many respects the AA was found to be too obsolete to meet the needs of both partners.

On the other hand, the AA is far-reaching and demanding but does not provide for Ukraine's further integration into the EU, such as access to the EU Single Market or membership. The absence of the end goal in the Agreement has been considered by the Ukrainian party as its main drawback because it hardly motivated Ukraine to implement costly reforms. The association process also did not provide for sufficient EU engagement and leadership over Ukraine's implementation of the reforms envisaged by the AA. The EU assessed Ukraine's progress in its annual reports, without setting specific conditions for Ukraine to implement reforms that would lead to attractive benefits from the EU. The provision of candidate status to Ukraine is expected to reboot EU-Ukraine cooperation and boost the European integration reforms in Ukraine.

2. Ukraine's progress in the implementation of 7 EC recommendations

Since Ukraine obtained the EU candidate country status in June 2022, the Ukrainian government has continuously communicated for a quick opening of the accession negotiations and a fast-track EU membership. However, for Ukraine to move to the next stage of the accession procedure, Kyiv must fulfil 7 recommendations set forth by the European Commission in its Opinion on Ukraine's application for membership of the European Union³. Even though the final European Council conclusions vaguely state that "the Council will decide on further steps once all these conditions are fully met," the fulfilment of the 7 recommendations is perceived by the expert community and especially the Ukrainian political elite as a condition for opening the accession negotiations.

The 7 recommendations set forth by the European Commission are in fact conditions for moving forward in the accession process⁴. They are the following:

1. enact and implement legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on evaluation of their integrity and professional skills, in line with Venice Commission recommendations;
2. finalise the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine;
3. further strengthen the fight against corruption, in particular at high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions; complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor's Office through certifying the identified winner of the competition and launch and complete the selection process and appointment for a new Director of the National Anti-Corruption Bureau of Ukraine;
4. ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF); adopt an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine's security environment;
5. implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation;
6. tackle the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the EU audiovisual media services directive and empowers the independent media regulator;

3) https://neighbourhood-enlargement.ec.europa.eu/opinion-ukraines-application-membership-european-union_en

4) But not only these conditions would be a landmark for the Commission's decision to recommend the EU Council to open the accession negotiations with Ukraine, there is also an extensive package of other requirements (stemming from EU *acquis communautaire* or from so-called EU standards) to be fulfilled by Ukraine in order to be eligible as a candidate for the EU membership.

7. finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission, and adopt immediate and effective implementation mechanisms.

Following this technocratic logic, in the best-case scenario, the European Council may decide to open the accession negotiations in December 2023 (when the European Council summit is scheduled) if the Commission issues a positive opinion. By the same decision, the European Council is expected to invite the Commission to draw up a Negotiations Framework, which is a precondition for holding the first Intergovernmental Conference (IGC). It should be mentioned that the actual accession negotiations start after the completion of the screening process on each cluster or even more precisely after the fulfilment of opening benchmarks, if any, for the cluster of Fundamentals. Therefore, the decision of the European Council itself does not signify the opening of accession talks, it just green-lights for the European Commission to proceed with the preparation of the draft Negotiation Framework. Another unanimous decision of the Council is required to approve the document and thus kick off the accession negotiations during the first IGC.

The procedural details are significant to bear in mind when reflecting upon the future accession talks between Ukraine and the EU. On the one hand, the entire negotiation process premises on a clear-cut enlargement methodology⁵, while on the other hand, it is intrinsically affected by the political priorities of the Member States, as they unanimously vote for each relevant decision. And thus, there is always a chance that the procedure may be either accelerated or slowed down under political influence. Looking further into the case of Ukraine, one may discern the intertwining of two aspects that actually affect the start of accession negotiations: the technical issue of when Ukraine will fulfil the 7 recommendations, and the political issue of whether the EU will be able to reach unanimity and make a decision. The politics of the accession negotiation talk opening with Ukraine in the EU seems to be dependent on a number of key factors. First, the Commission's

recommendations as an approach stem from (and copy & paste the instruments from) the previous enlargement process and merely fits the needs of resolving current geopolitical challenges, and there is a clear need for the EU to reconsider its enlargement policy to make the process more motivational both for the EU and candidates. Second, the EU and its Commission are informally interested in demonstrating a 'quick success story' of Ukraine and, therefore, they would pursue quite a concessional approach in the evaluation of Ukraine's progress in the fulfilment of its 7 candidacy requirements, but so far, no clear-cut compromise concerning the opening of the accession talks with Ukraine has been reached among the EU members states that play a decisive role in the EU Council. Third, Ukrainian elites also (at the opposite end of the process) do not have crystallised motivation for deep fundamental changes during the wartimes and are not prepared to get rid of the established informal state capture practices, which lead to half-measures and superficial solutions in the implementation of the Commission's recommendations⁶. It is clearly demonstrated by the recent scandals over the selection process of the judges to the Constitutional Court, which is a litmus test for key judicial reform and selection of the Supreme Court Head. It would be quite a challenge for the EU to decide whether it can turn a blind eye to this problem, which (unfortunately) cannot be resolved within the nearest six months.

In its Opinion, the EC committed itself to monitoring the fulfilment of the abovementioned recommendations along with a detailed assessment of the country. The EC assessment is expected in October 2023. And the intermediate oral report of the EC was presented to the EU Council on June 22. Worth mentioning that from the Ukrainian side, there are two civil society initiatives that are monitoring the fulfilment of the 7 recommendations⁷. And thus it helps to shed light on the reforms track along implementation. As the EC's assessment shows, Ukraine has completed two out of 7 recommendations. These are reforms of judicial bodies and media legislation. One should note that according to the latest expert monitoring published at the beginning

5) https://neighbourhood-enlargement.ec.europa.eu/enhancing-accession-process-credible-eu-perspective-western-balkans_en

6) However, it is questionable whether it is in principle possible to fulfil the demands of the EU for structural changes inside the fundamental sectors like judiciary on such a short notice.

7) New Europe Center: <http://neweurope.org.ua/analytics/kandy-dat-check-3-de-ukrayina-perebuvaye-u-vykonanni-semy-rekomendat-sij-yes-shhodo-kandydatstva>
Reanimation Package of Reforms: https://rpr.org.ua/wp-content/uploads/2022/12/RPR-Coalition_Entrance-Exam-for-Ukraine.pdf

of May 2023, Ukraine has fulfilled none of these recommendations⁸. Therefore, the completion of two pending reforms in one month signifies Ukraine's intention to demonstrate results before EC's verbal report.

With respect to judiciary reform, In January 2023, the High Council of Justice (HCJ) resumed its work with 15 out of 21 members (which is a quorum) after almost a year of lack of authority⁹. The integrity vetting of candidates by the Ethics Council continues, but the suspension of the online broadcasting of interviews with candidates due to the full-scale war has negatively affected the publicity of the selection process. The selection of members to the High Qualification Commission of Judges (HQCJ) has been completed on 1st of June when the HCJ appointed 16 members. Therefore, the second recommendation of the European Commission is fully implemented.

In December 2022, the Verkhovna Rada of Ukraine adopted the law on media that entered into force on 30 March 2023. And on May 30, 2023, the parliament passed a bill to amend the Law of Ukraine "On Advertising" in terms of implementation provisions of the EU acquis in the field of audiovisual advertising¹⁰.

Comparing to the May report, Ukraine has also advanced in the reform of the Constitutional Court of Ukraine (CCU). In December 2022, the Verkhovna Rada passed the law "On Amendments to Certain Legislative Acts of Ukraine to Improve the Procedure for Selecting Candidates for the Position of a Judge of the Constitutional Court of Ukraine on a Competitive Basis" which does not meet the recommendations of the Venice Commission. For Ukraine to fulfil the requirements of the European Commission, at the end of May 2023, the Verkhovna Rada registered Draft Law on Amendments to Certain Legislative Acts of Ukraine on Clarification of Provisions on Competitive Selection of Candidates for the Position of Judge of the Constitutional Court of Ukraine, which is supposed to amend the existing law in line with the VC's recommendations.

With respect to the finalisation of legislation on national minorities, anti-corruption, anti-money laundering legislation, and anti-oligarch law, Ukraine's reform endeavours may be assessed as satisfactory.

The law on national minorities (communities) was passed in December 2022. In general, it complies with the Council of Europe's Framework Convention on the Protection of National Minorities. However, for the completion of this step, Ukraine needs to implement VC's recommendations released on June 13, 2023, as the European Commission emphasised.

Ukraine has taken steps to implement the EC's recommendation to appoint the head of the Specialised Anti-Corruption Prosecutor's Office (SAP) and the Director of the National Anti-Corruption Bureau of Ukraine (NABU). The head of SAP was appointed on 28 July 2022, and the Director of NABU was appointed on 6 March 2023. Ukraine still has to implement a number of reforms to strengthen the independence of its anti-corruption bodies and facilitate their work. In particular, it is necessary to reform the Security Service of Ukraine (SBU), depriving it of its functions in the field of preventing corruption and fighting economic offences and organised crime¹¹. Another pending step is restoring the declaration of officials' assets.

In the field of anti-money laundering, Ukraine adopted the law on business beneficiaries and ratified the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism. However, according to the expert monitoring, in November 2022, amendments were made to the draft law on the prevention and combating of money laundering that contradict FATF standards and provisions of EU Directive 2015/849. As regards the adoption of an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine's security environment, Ukraine has developed a draft Overarching Strategic Plan for 2023-2027. The European Commission expects Ukraine to implement this recommendation by September 2023.

The least progress was made in the implementation of the anti-oligarch law. In September 2021, the Verkhovna Rada adopted the law "On Prevention of Threats to National Security Associated with Excessive Influence of Persons Having Considerable Economic and Political Weight in Public Life (Oligarchs)." However, its implementation is still ongoing, including

8) <http://neweurope.org.ua/en/analytics/kandydat-check-4-de-ukray-ina-perebuwaye-u-vykonanni-7-rekomendatsij-yes>

9) <http://neweurope.org.ua/en/analytics/kandydat-check-3-de-ukray-ina-perebuwaye-u-vykonanni-semy-rekomendatsij-yes-shhodo-kandydat-stva>

10) <https://itd.rada.gov.ua/billInfo/Bills/Card/41772>

11) Entrance exam for Ukraine: what we should do to implement EU recommendations, Reanimation Package of Reforms Coalition, Kyiv, 2022, P. 20. https://rpr.org.ua/wp-content/uploads/2022/12/RPR-Coalition_Entrance-Exam-for-Ukraine.pdf

amendments to various related laws and the development of a register of persons with significant influence in the public sector. In addition, Ukraine has to implement the recommendations of the Venice Commission¹².

The 7-point conditions put forward by the European Commission cover issues that have been pending for several years and have been the focus of the attention of Ukraine's Western partners. Based on the expert examination of Ukraine's progress in the implementation of these recommendations, two conclusions may be drawn. The first is that the EU's post-candidacy conditions have proved to be a stimulus for Ukraine to implement delayed reforms. Secondly, Ukraine needs to accelerate its reform pace to demonstrate perfect progress by autumn, when the European Commission will publish its opinion regarding further EU enlargement steps.

3. Reforms in Fundamentals – the key to effective start of accession talks

According to the EU enlargement methodology, the 'Fundamentals' cluster is a starting point for EU accession negotiations. It opens first and closes last and has crucial importance and truly 'fundamental' significance for the initial success of Ukraine in the forthcoming negotiation process as well as further positive developments in other sectoral acquis implementation and post-war reconstruction efforts. This cluster encompasses five chapters of the EU acquis (5 – Public Procurement; 18 – Statistics; 23 – Judiciary & Fundamental Rights; 24 – Justice, Freedom & Security; 32 – Financial Control), as well as Public Administration Reform, the Functioning of Democratic Institutions, and Economic Criteria that are incumbent parts of the Copenhagen criteria.

Reforms aimed at implementing the rule of law (Chapters 23 and 24) are a core component of the Fundamentals cluster and always have been a stumbling block between official Kyiv and Brussels in defining a 'progress in European integration reforms'. Furthermore, these reforms are long-awaited in Ukrainian society. A 2021 survey revealed that 71% of Ukrainians did not trust prosecutors, while 63% lacked confidence in the Constitutional Court of Ukraine and the Supreme Court of Ukraine. The level of trust in the

police was also low, with 53% of respondents declaring distrust¹³. Surveys conducted by business associations show that courts and lack of the rule of law have a strong negative impact on conducting business in Ukraine¹⁴. Thus, there is a strong societal demand for reforms aiming to establish the rule of law.

To respond to this public demand, efforts to reform the judicial system have been underway since 2016, beginning with an attempt to overhaul the Supreme Court of Ukraine, as well as courts of appeal. However, the results have been uneven, as many old judges have retained their positions despite the renewal of courts¹⁵. Furthermore, both external political stakeholders and members of the judges' community have sought to maintain their influence over the court system.

In 2019, the launch of the High Anti-Corruption Court of Ukraine was generally perceived as a successful reform case. However, efforts to reform judicial governance authorities, such as the High Council of Justice and the High Qualification Commission of Judges of Ukraine, faced obstacles, as the participation of international experts was blocked. It was not until 2022, when the EU put forward relevant requirements for Ukraine to become a candidate for membership, that a significant breakthrough in the reform of judicial governance authorities was achieved.

Ukraine's candidacy and a visible EU membership pathway pushed Ukrainian politicians and authorities for action in even the most challenging reforms in the rule of law sector. Therefore, the start of negotiations and the opening of the Fundamentals cluster can serve as a powerful driver for reforms in Ukraine.

Ukrainian courts are currently overwhelmed with numerous court cases, yet there is a significant shortage of judges (as of the beginning of 2021, there were almost 2000 vacancies for judges in Ukraine¹⁶).

Weak management of public administration as a whole is one of the reasons for this judicial overload. Ukraine lacks effective pre-court dispute settlement

13) <https://razumkov.org.ua/napriamky/sotsiologichni-doslidzhennia/dovira-do-instytutiv-suspilstva-ta-politykiv-elektoralni-oriientsatsii-gromadi-an-ukrainy>

14) <https://case-ukraine.com.ua/publications/verhovenstvo-prava-chy-ye-korotkyj-shlyah-dlya-sudovoyi-reformy>

15) <https://dejure.foundation/library/sudova-reforma-v-ukraini-scho-zminylos-za-try-roky>

16) <https://hcj.gov.ua/page/shchorichna-dopovid-pro-stan-zabezpechennya-nezalezhnosti-suddiv-v-ukrayini>

12) Ibid. P. 39-47. https://rpr.org.ua/wp-content/uploads/2022/12/RPR-Coalition_Entrance-Exam-for-Ukraine.pdf

procedures, which could resolve the dispute without the need of engaging in the litigation. Additionally, low level of proficiency of public authorities (whose decisions are challenged in courts) contributes to the number of cases that end up in court, being time-consuming and increasing overload on the judicial system even more. Therefore, improving the rule of law in Ukraine will require not only judiciary reform, but also public administration reform.

The low quality of education and professionalism of civil servants is one of the problems faced by public administration in Ukraine as a whole. Inadequate quality of legal education is a significant part of this issue¹⁷, affecting the efficiency of the work of judges, prosecutors and lawyers as well. Therefore, sustainable reforms in the Fundamentals cluster are strongly linked to improvements in legal education.

Transforming the judiciary and public administration is necessary despite the interests of political stakeholders who may benefit from using the judiciary to achieve their goals in the informal system of influence and state capture practices (public authorities in Ukraine are also subject to the influence of political forces). There have been numerous attempts to “overhaul” the public service (implying replacement of the higher leadership of the state authorities), such as the adoption of a law in 2019 that aimed to restart public authorities and select high-ranking civil servants through open competitions¹⁸. However, afterwards some civil servants were dismissed shortly after being appointed, regardless of their performance or competence, indicating that the decisions were politically motivated. In some cases, another special draft law was adopted to find a possibility to change the leadership of certain state authorities. Without any doubt, frequent changes of management (which might be politically driven) do not contribute to the efficiency of public administration in Ukraine.

Anti-corruption reform implemented in Ukraine since 2015 has also been significantly influenced by political forces. During this time, new authorities were established in Ukraine to fight corruption, such as the National Anti-Corruption Bureau of Ukraine, the Specialized Anti-Corruption Prosecutor’s Office, and the National Agency for Prevention of Corruption. The appointment of heads of these anti-corruption bodies

was delayed for a long time. It is speculated that the reason for such a delay was certain politicians’ desire to influence these bodies. However, the introduction of EU candidate requirements has helped to address this issue. As a result, according to GRECO, Ukraine has made significant progress in the fight against corruption, despite the war¹⁹.

Strengthening democratic institutions can play a vital role in reducing political interference in the functioning of state authorities. However, the imposition of martial law in Ukraine since February 2022 has negatively impacted a number of developments in these spheres. The restrictions imposed during this period, such as the closure of public registers, absence of civil discussion on regulatory documents and draft laws, cancellation of competition on public service vacancies, and restriction of access to the register of declarations of civil servants, have led to a decrease in the transparency of public administration.

Martial law and restrictions on citizens’ rights can hinder the development of democracy and inclusivity. It is crucial to assess the feasibility and necessity of these restrictions to ensure the safety of the state. Some of these restrictions may weaken democratic institutions without any significant impact on the state’s security, and their removal can help promote a more open and transparent society. It may be prudent to re-consider the limitations imposed during the martial law and keep in place only those measures that are vital to maintaining the country’s security in a time of war.

Reforming the Fundamentals cluster will undoubtedly require significant time and effort. However, the opening of negotiations can serve as a powerful incentive for reforms in this area, as evidenced by the requirements set forth for EU candidate status.

The European Union’s assistance in enhancing the quality of legal education and refining the qualifications of civil servants would be highly beneficial for Ukraine. Specifically, this could include training Ukrainian civil servants in EU law as part of the preparation to accession negotiations.

17) <http://en.dejure.foundation/problems-of-legal-education>

18) <https://zakon.rada.gov.ua/laws/show/117-20#Text>

19) <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-re-spect-of-members-of/1680aaa790>

4. Sectoral reform action plan and post-war recovery planning

Ukraine's integration into the EU implies the necessity of reforms in a number of sectors covering nearly all aspects of society's life, from free movement of goods to telecom services and agricultural policy.

Ukraine's sectoral integration into the EU single market had actually commenced well before the country received candidacy status. The main tool for sectoral integration at that time was the Association Agreement between Ukraine and the EU. By fulfilling its undertakings under this Agreement, Ukraine has made tangible progress in integrating a number of sectors. Nevertheless, since the Association Agreement does not encompass all EU acquis, and some sectors of economy are not at all covered by the Association Agreement, there is still much to be done in most sectors.

Sectoral integration comprises two interdependent processes, namely: (i) implementation of EU legislation, and (ii) preparation of government authorities and businesses for operation in compliance with new regulations. Both these processes involve their own set of challenges. The implementation of EU acquis is an extensive task that requires drafting numerous legislative acts. However, to enforce this legislation, a lot will have to be changed in institutional operations and new management procedures will have to be established both in public administration and in business.

The situation regarding EU acquis implementation varies significantly from one sector to another. Some sectors have already demonstrated a good level of preparation, such as that of the Customs Union and Energy. However, even in these sectors there are a lot of complex and extensive tasks that Ukraine must undertake before accession (e.g., implementing the Union Customs Code). In other sectors, there is still a lot of work to be done. For example, hundreds of EU acts must be implemented in Agriculture and Rural Development, Fisheries and Free Movement of Goods.

Typically, implementation of a piece of EU acquis takes around 2–3 years from the adoption of the law to its practical enforcement. To tackle such a significant undertaking, Ukraine's commitment to implementing the EU acquis agenda must be unwavering, and the

country must deliver tangible results in a fast and consistent manner. Ukraine needs to prepare a plan for implementation of EU legislation and establish an approach to preparing relevant draft laws.

Administrative capacity is another significant challenge that Ukraine must address. Improving the quality of governance, in particular of the authorities responsible for ensuring equal working conditions for market participants (such as market surveillance bodies, the Anti-Monopoly Committee, customs and tax authorities, and other regulators), is crucial. These public authorities often face similar challenges, such as outdated and inconvenient/insufficient facilities, insufficient equipment and technology, inadequate IT infrastructure with low levels of cybersecurity, low level of salary for staff (negatively impacting motivation and professionalism), and high personnel turnover. To overcome these issues, increased funding for state authorities is required, which is often problematic during times of war. Therefore, enhancing the administrative efficiency of the authorities will necessitate either separate funding within the framework of post-war reconstruction or special assistance from the EU.

Preparing businesses for the new rules of the EU is another issue for successful European integration. To become part of the EU single market, Ukrainian businesses will need to adhere to higher environmental and safety requirements. This will require investments in new equipment, quality and safety control, worker training, etc. For small and medium-sized businesses, meeting these requirements can be especially challenging. Thus, it is essential to introduce business financing programmes that could support adaptation to the new standards, as well as transition periods to ease the burden of the regulations resulting in high costs for businesses.

Another point to consider is how to attract European private capital to invest in Ukraine, despite the uncertainty and risks associated with the ongoing war. One potential solution could be to offer insurance of military risks for business, which could be provided by international donors, or an EU programme to support European business investments in Ukraine.

As a result of the war, Ukraine has suffered extensive damage to its infrastructure, housing, industry and other critical facilities. According to the World Bank estimates as of March 2023, the cost of post-

war recovery is approximately USD 411 billion²⁰. Despite this, Ukraine aims for a large-scale post-war reconstruction and recovery programme, which could be funded through assets confiscated from Russia and/or donor funds. European integration reforms should influence the post-war reconstruction. For example, many housing, schools, hospitals, public buildings, and other facilities have to be rebuilt to be more energy-efficient and powered by renewable sources wherever possible to meet the European Green Deal objectives.

Following the Russian missile attacks, Ukraine's energy infrastructure was severely damaged, and rebuilding it exactly as it was would not be advisable. In 2021, almost 25% of the electricity generated in Ukraine was from coal²¹. Therefore, it is essential for Ukraine to reconstruct its energy sector in a way that reduces reliance on fossil fuels as much as possible. Prioritizing renewable energy sources is the best solution to achieve this goal. Additionally, it will help to decentralize electricity production and reduce vulnerability to missile attacks.

In order for Ukraine to fully participate in the EU single market, there is a need for better connectivity between the Ukrainian transport infrastructure and that of the EU. It is of paramount importance in order to prevent trade tensions with the neighbouring countries, such as the ones that occurred in April 2023. To achieve this, it is important to prioritize the development of transport infrastructure through merit-based approaches, where transport reforms are rewarded with relevant infrastructure financing. The same approach can be applied in the energy and telecommunications sectors as well.

The sectoral and economic development of Ukraine will heavily rely on the post-war recovery plan. Ukraine will require significant financial resources to enhance the administrative capacity of its public authorities, assist businesses in preparing for EU membership, and rebuild its infrastructure in a more resource-efficient and energy-effective manner.

20) <https://www.worldbank.org/en/news/press-release/2023/03/23/updated-ukraine-recovery-and-reconstruction-needs-assessment>

21) <https://www.naftogaz.com/short/67171076>

5. Public authorities' institutional capacity for European integration: status-quo and key challenges to be addressed before accession

The first political declaration about Ukraine's strategic course towards integration into the European Union political, legal and economic space and obtaining the EU membership prospective was issued back in 1998 as a 'Strategy of the Integration of Ukraine into the European Union'²² when a partnership and cooperation agreement between Ukraine, European Communities and a number of EU member states came into force²³. Back then, it was also decided²⁴ to concentrate mainly on the legal aspects of integration, and the Ministry of Justice was designated as the core governmental body responsible for the supervision of the whole process and to coordinate the activities of other ministries and public institutions the cross-ministerial Coordination Council was created for the adaptation of the legislation of Ukraine to the legislation of the European Union under the Minister of Justice²⁵. As a technical support body, the Centre of European and Comparative Law was established within the Ministry of Justice²⁶.

However, the analysis of the first experience of the Coordination Council brought frustrating conclusions: little progress was obtained in the process of approximation of the national law corpus to the EU's *acquis communautaire* due to the Council's insignificant power in the system of central executive bodies and lack of mechanisms for the enforcement of its decisions by other governmental bodies. In early 2004, in an attempt to resolve this deadlock and incorporate the logic of the European Commission White Paper for Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the EU²⁷, the Law 'On the Nationwide Programme of Adaptation of the Legislation of Ukraine to the Legislation of the European Union'²⁸ was adopted. Chapter VIII of the law incorporated a revised general institutional mechanism of European integration by:

22) Presidential Decree No. 615/98 of 11 June 1998 (no longer in force).

23) The Agreement was signed in 1994 on 6 June and ratified on 10 November 1994.

24) By Cabinet Decree No. 852 of 12 June 1998 that clarified the legal mechanism of such approximation inside the governmental system.

25) Established by Cabinet Decree No. 1773 of 12 November 1998.

26) By Cabinet Order No. 716 of 15 May 2003.

27) <https://op.europa.eu/en/publication-detail/-/publication/56d29901-7861-448c-82d8-0d006ba61fc1>

28) Law No. 1629-IV of 18 March 2004.

- Establishing a separate policy in the field of adaptation of the legislation of Ukraine to the legislation of the European Union;
- Legal enactment of an ‘authorized central body of the executive power’ responsible for the execution of the abovementioned Programme of Adaptation and the policy. This status was again granted to the Ministry of Justice, thus, upgrading its power inside the Government system and providing the right to implement all the activities related to the approximation process;
- Empowering the Parliament (the Verkhovna Rada of Ukraine) to govern the Programme and provide its own expert opinion on all draft laws submitted to the Parliament with regard to their compliance with the *acquis communautaire* of the EU;
- Upgrading the level of coordination to the Cabinet level; a new Coordination Council under the Prime Minister’s leadership with a special role of the Ministry of Justice was to cover all key central executive bodies.

In December 2004, it was also decided to upgrade the status of the Centre of European and Comparative Law that was transformed into a State Department of Legislation Adaptation within the Ministry of Justice.

Only three years after the Verkhovna Rada established the framework of the European integration it was capable to participate into the process as an institution – in December 2007, a new Parliamentary Committee on European Integration was established²⁹.

However, even these institutional changes have brought relatively modest results, as the reinforced Ministry of Justice still lacked capacity and was able to do little more than translate some EU *acquis* and provide recommendations to central executive bodies on approximation for some sectoral laws. The political weight and controlling function of the Ministry of Justice was still insufficient to generate a strong push for other ministries to reform their sectoral regulations in line with the EU norms and practices³⁰; the newly established Committee of the Verkhovna Rada had neither tangible impact on other sectoral

Rada committees nor technical capacity to check compliance of draft laws with EU *acquis*. Moreover, the Adaptation Department of the Ministry of Justice was abolished in 2011³¹.

The new strong impetus for the development of European Integration institutions emerged in 2014 after the Revolution of Dignity that defended the European choice of Ukraine and the political and (economic) sectoral parts of the Association Agreement between the EU and Ukraine were signed in March and June, accordingly. What was truly important from the institutional build-up perspective is a new specialized body inside the Cabinet Secretariat, namely the Governmental Office for European and Euro-Atlantic Integration, that was created in August of the same year³². On the ‘supply’ side (ministries) level, the process of development of special European integration units that had started back in 1998, in 2014 finally led to the establishment of the institute of Deputy Ministers on European Integration responsible for legislation adaption inside the relevant sector and fulfilling the Association Agreement.

In 2016, it became clear that the fulfilment of the Association Agreement apart from purely technical functions (such as legal expertise, coordination and monitoring) also requires proper high-level political leadership and a system of supervision and arbitrage set to push the process of national legislation adaptation and resolve conflicts inside the central executive bodies. After some pressure from civil society and international donors of Ukraine, as well as a shift of the political priority to European integration policies at the highest possible level, the new post of the Vice-Prime Minister for European Integration was introduced. In parallel, in the framework of public administration reform, the Vice-Prime Minister received the authority of the re-organized Government Office for Coordination on European and Euro-Atlantic Integration³³, and the capacity of the line ministries in the field of European integration was significantly reinforced by introduction of 50 directorates for strategic planning and European integration in 10 pilot ministries, 2 agencies and the Cabinet Secretariat that has been supported financially by the EU from its technical assistance funds.

29) Verkhovna Rada Decree No. 4-VI of 4 December 2007.

30) But in individual sectors, approximation progressed substantially over this period, e.g., technical regulation where the majority of horizontal regulations were aligned with the respective EU ones (at that time).

31) Cabinet Decree No. 346 of 28 March 2011.

32) Cabinet Decree No.346 of 13 August 2014.

33) Cabinet Decree No. 759 of October 2017.

This latest revised European integration institutional set-up finally stabilized over the next five years and demonstrated mixed results in fulfilling the Association Agreement commitments. The major achievement of the European integration machine was the finalization of a planning, coordination, execution and control system of legal approximation and implementation of amended regulations (in line with EU *acquis*) inside the Government structure. Since 2016, it has been mostly aligned with the Association Agreement agenda, its activities were coordinated with the EU party and amended as necessary. The key ministries also received visible financial and human resources to conduct the complex legal approximation process, which helped intensify the work on developing the draft regulations aimed at aligning the national sectoral regulations with the respective EU *acquis* and submitting them to the Parliament. Organizing the bilateral communication with the official bodies of the EU responsible for enlargement policy (and the Association Agreement) and promoting deeper sectoral integration matters in Brussels was also one of the achievements of the relevant Vice Prime Minister and the specialized Office. The Vice Prime Minister and the European Integration Office played a substantial role in advocating the positive decision of the EU Council to grant candidate status to Ukraine in spring last year.

However, it also demonstrated a number of drawbacks and deficiencies that were caused by the intrinsic political peculiarities of the European integration process in Ukraine, as well as the specifics of the Ukrainian Government.

First, since 2020, there has been gradual erosion of the political leadership of the Vice-Prime Minister for European Integration and their control over the process of the Association Agreement fulfilment. The reason: growing weight in the country's foreign policy (and EU integration) agenda and the influence (formal and informal) of the Presidential Office. In June 2021, an entirely new Department for European and Euro-Atlantic integration of Ukraine was created as a separate branch of the foreign policy structure of the Presidential Office. It quickly became clear that the new centre of influence quickly gained substantial strategic control over the Vice Prime Minister for European Integration by formulating the priorities for the EU integration agenda (restricting the Office to more technical functions). Despite the good personal

relations between the relevant Vice-Prime Minister and the Head of European Integration Department under the Presidential Administration and the coordination of their activities, the appearance of a powerful and largely informal alternative centre of decision-making largely contradicts the initial design of the European integration infrastructure and raises a reasonable question who is ultimately responsible for the strategic planning of the European integration policy and working out key compromises with the EU, esp. after the potential opening of accession negotiations. Such dilution of responsibility and shifts in the established balance of powers substantially demotivates the governmental authorities, undermines planning at the ministerial level (as the Presidential Office, to a large extent, tends to politicise even purely technical processes), and makes communication with the EU stakeholders quite confusing (e.g., what institutions and officials exactly should the EU address in case of disagreements?).

Second, the institutional stability of the European Integration system has been periodically shaken by the shocks in the broader reform of the national public service and the ensuing changes in the general administrative structure of the government. First positive developments since 2017 – e.g., build-up of policy-focused Directorates inside the ministry structure – have largely eroded, especially after the beginning of war in 2022. In November 2022, there was an attempt of a large-scale consolidation of ministries within which the European integration, culture and information policies had to be merged in a new ministry, positively diminishing the political weight and capabilities of the Euro-Integration bloc inside the government. The State Budget for 2023 also brought about the rapid curtailment of ministry expenditures, driven by war-inflicted austerity measures. It led to massive cuts of public servants' salaries (as a major expense category for the ministry) and especially funds for supporting the Directorates and Reform Support Teams (in part these were covered by public funds)³⁴ leaving the majority of qualified officials inside the ministries with the base salary of eq. USD 300. The result was predictable – the most experienced and skilled staff in the ministries, incl. professionals dealing with legislation approximation, started to flee to the private sector and, ironically, to donor technical assistance projects, many of them have the same ministries as the final beneficiaries. Moreover, due to

34) The other part is covered by the international donors, mainly the EU, in the framework of its support to the public service reform launched in 2017.

informal rumours before the potential opening by the EU of the accession negotiations with Ukraine close to the end of 2023, the Ukrainian party tend to impose quite ambitious demands on the EU that most of the financial and capacity development burden in the preparation of the Ukrainian governmental machine for accession has to be borne by the EU due to the lack of internal resources during the wartimes.

Third, the high-level political coordination mechanism (headed by the Prime Minister) does not create enough impetus and pressure on the governmental agencies to conduct systematic work on legal approximation with the EU *acquis* and its further implementation. The work of the initially established Coordination Council was suspended just after a few years of the Association Agreement entering into force, while in January 2020, its successor – the Governmental Committee on European and Euro-Atlantic Integration, International Cooperation, Security, Defence and Regional Development – was re-launched. However, its meeting appeared to come down to rather formal technical reporting by the Governmental Office for European Integration (GOEI) with no clear mechanism of evaluation of the sectoral progress by the Prime Minister, feedback from the Euro-integration wings of the Ministries regarding obstacles on their way, and political responsibility in case of sectoral failures.

Fourth, the expertise and coordination capacity of the abovementioned GOEI has been gradually deteriorating since 2020, which has substantially weakened the horizontal work mechanism between the GOEI and line ministries. Currently, the functions of the GOEI are limited mainly to ‘mailbox’ activities that support only the formal aspect of the European integration process (setting tasks, controlling deadlines, monitoring ministries’ activities). While its main functions – namely, the support of smooth and timely legal approximation work by the relevant government bodies, strengthening their EU *acquis* expertise, advocating and negotiating sectoral matters with the official EU bodies, serving as an expert arbiter in legal clashes between different sectoral stakeholders – have been weakening over the past few years³⁵.

Fifth, the capacity of the line ministries and other governmental agencies to align the national sectoral

laws with the relevant EU legal corpus is obviously not sufficient to ensure the adequate pace and quality of such approximation work. Some problems are primitively basic – i.e., often the responsible civil servants while being excellent sectoral professionals in Ukraine have no colloquial let alone ‘legal’ English skills to correctly interpret the complicated language of EU *acquis*³⁶ or conduct negotiations with their EU counterparts. There are also knowledge gaps concerning how the process of implementation goes in the different EU member states and how the work of the EU bureaucracy is organized. After the establishment of the Directorates for Strategy and European Integration and RSTs inside the ministries, there were high hopes that these ‘special forces’ would boost the approximation process. Often, these well-selected and well-paid professionals made substantial contributions in some sectors, but too wide a gap between their remuneration and salaries of line staff inside the ministries led to internal conflicts and overloading of the new units with regular bureaucratic tasks rather than policy or legal approximation work. The application of other forms of non-financial motivation (such as systemic training and networking in the EU, ensuring sustainable career perspectives etc.) also failed to be implemented efficiently due to lack of efforts at the central level of the Cabinet.

Sixth, the governmental procedures for the development of European integration draft legislation from the initiation of a draft law to its submission to the Parliament are complicated and require countless approvals inside the Cabinet legal system (from other sectoral ministries, the Ministry of Justice, Ministry of Finance, the Cabinet Secretariat and others). In many cases it creates unreasonable protracted delays in the process of finalization of almost ready-to-vote draft laws, so the ministries paradoxically often decide to initiate the process of its draft law submission and consideration in the Verkhovna Rada by friendly MPs (as their authors) rather than go through all the stages of the natural (for them) legal pathway.

Seventh, the capacity of the Parliament to efficiently coordinate its efforts with the Government, prioritize the EU approximation-related drafts laws, and serve as a centre of local expertise in terms of compliance checks for drafts laws that are passing through the Parliament is also insufficient. Until recently, only the European Integration Committee

35) However, not for all the sectors of the Association Agreement, there were also successful examples of cooperation between the GOEI and ministries regarding such tasks.

36) The lack of high-quality translations of EU legal acts is one of the specific issues of the approximation process as a whole.

of the Verkhovna Rada was trying to organize the process of screening of draft laws and supporting the sectoral Committees with EU *acquis* expertise. But due to lack of resources, it was unable to prevent the numerous 'stumbling blocks' for the passing of European integration draft legislation produced by different interest groups aiming to block, distort or significantly delay the implementation of the proposed EU norms in the country. The business lobby groups, fractions or separate MPs that represent the vested (and often corrupt) interests use different means for this purpose – e.g., block the passing of such drafts laws at the sectoral Committee level, launch large-scale 'legislative spam' campaigns (when thousands of amendments are submitted for discussion by MPs at the consideration stages), distort the underlying provisions of draft laws when they are prepared for the second reading, etc. The situation began to change in summer 2022 after Ukraine gained the candidate status. At the beginning of September, special European integration subcommittees were created inside each sectoral Committee of the Verkhovna Rada. Along with that, in response to the urgent need to pass amendments to national laws to fulfil the 7 post-candidate requirements, the special procedure for passing such draft laws jointly with the Government was introduced involving deeper expertise (e.g., mandatory preparation of concordance tables)³⁷. In February 2023, it was also announced that the expertise capacity of the Parliament for checking the incoming European integration draft laws will be improved due to the establishment of a special Office for the adaptation of Ukrainian legislation to the legislation of the EU. This initiative will be supported by an EU technical assistance project and envisages employing 10-15 sectoral experts who will serve the needs of the framework European integration Committee and sectoral Committees in the Rada.

To put it simply, the implementation of the Association Agreement has been a kind of 'primary class homework' both in terms of the coverage of the EU *acquis* and complexity of tasks to be performed mainly inside the country. The recent 'grain crisis' with Poland and other Eastern European countries mercilessly demonstrated that the accession negotiation process with the EU apart from the set domestic reforms would also bring extremely difficult challenges associated with finding compromises with official EU

institutions and national governments of EU member states.

To survive in this 'adult game,' Ukraine should prepare its political elites, bureaucratic machine and expert / CSO communities³⁸ for efficient advancement along the accession pathway. Given our (UCEP) observations and experience in the European integration field, as well as understanding of the accession challenges, we have come up with the following key recommendations for the preparation of the European integration institutional infrastructure:

- Initiate fair and structured dialogue with the EU regarding resources and efforts that would be realistically invested in resolving the current problems and expansion of the institutional capacity of the Ukrainian Eurointegration system. Obviously, during the wartime the EU support has to be more substantial than it was during the last years for the Association Agreement agenda promotion, but Ukraine also has to commit substantial resources to its accession efforts.
- The fulfilment of the Association Agreement, sectoral integration of Ukrainian economy into the EU Single Market, and conducting of the accession negotiations must become one of the highest priorities in the political agenda of Ukraine with a truly working control mechanism and high-level coordination headed by the Prime Minister and strategically led by the relevant Vice Prime Minister. Ukraine must avoid gaps in political leadership and responsibility dilution between different authorities in its European integration process, even given the fact that the most current priority is (and must be) winning the war with Russia and maintaining the sustainability of society and national economy.
- The institutional mechanism is already there, it has the proper design and functions for passing the accession stages. But the institutional capacities of the GOEI and line ministries must be substantially strengthened and prepared to tackle the challenges of the accession process which Ukraine may face already next year.

37) <https://interfax.com.ua/news/political/852770.html>

38) In the specific Ukrainian conditions, sectoral experts who work in international donor-funded technical assistance projects, NGOs, think tanks and business associations are often directly involved in the development of the governmental policy documents, drafting sectoral laws and regulations, and advocacy of the draft laws in the Parliament.

- It is crucial that this process be conducted along with the general reform of public service initiated 5 years ago but still stuck. The recent practice shows that different 'special force' spin-offs to the line ministries are only partially capable of performing the European integration tasks. To be effective, the line sectoral ministries should be restructured, middle- and lower-level staff should be adequately remunerated with substantial (however, not excessive) motivational bonuses for professionals dealing with the EU acquis approximation process as a sign of recognition of their special experience and knowledge of the inner workings of the EU legal system.
- Both the GOEI and line ministries' staff should be trained for in-depth understanding of EU acquis, work of EU institutions and capabilities to conduct the accession dialogue. Permanent, deep and comprehensive training and knowledge-exchange visits to the EU have to be an important part of non-financial motivation for public servants involved in the European integration policy implementation. As a result, the ministries should serve as centres of EU-related sectoral expertise and oversee the major flow of approximation and implementation tasks in close coordination and based on discussions with sectoral business associations, expert community, CSOs and other relevant stakeholders.
- The GOEI must serve not only as a 'mailbox secretariat' of the Vice-Prime Minister, but as 'a special force European integration unit' inside the Government capable of resolving the complex conflicts between the stakeholders inside a particular sector, as well as providing all possible expert and technical support (and all other 'problem-solving' activities) for the proper functioning of the European integration wings of the ministries, incl. improvement of the dialogue and exchange with the EU counterparts.
- For both the GOEI and line ministries' staff, the issue of long-term sustainability of European integration working-level teams and their protection from restructuring shocks is a crucial factor of motivation, especially as a 'comeback' stimulus for the qualified female public servants who fled the country after February 2022. Such professionals must be confident, at least within middle term, that their career would not be ruined in the next round of the Cabinet restructuring or ministry 'optimisation' etc.
- The European integration capacity of the Verkhovna Rada and the mechanism of coordination with the governmental bodies must be further strengthened. The key target of such revision is to ensure the highest possible level of trust of the Parliament in the array of European integration draft laws that are developed and finalized by the ministries and GOEI. The coordination mechanism between the Verkhovna Rada and Government should be further amended with a purpose of creating a 'green lane' for submission and passing in the Parliament of the drafts laws developed by the sectoral ministries. In the meantime, the Rada has to develop its own expertise in the screening and provision of qualified compliance conclusions regarding other draft laws that are submitted by MPs. The European integration Committee also has to acquire the (procedural) capacity to play as an unbiased arbiter for clashes over European integration-related changes at the sectoral Committees and to ensure the right political balance inside the Parliament before voting for important changes to the national law corpus.



The **Ukrainian Center for European Policy (UCEP)** is an independent think tank for policy analysis and development, established in 2015.

Our mission is to promote reforms in Ukraine for sustainable economic growth and to build an open society in partnership with institutions at all levels.

Priority activity areas:

- development of expert-analytical materials to promote European integration reforms in Ukraine;
- promotion of European values among Ukrainian society;
- informing the public on opportunities and benefits of close cooperation with the EU;
- promoting enhanced economic, political, and trade cooperation between Ukraine and the European Union;
- informing the international community about the challenges and achievements of Ukraine's reform process under the EU-Ukraine Association Agreement.

