

Ukraine and the European Union: from Association to Accession

Most Ukrainians have strongly wished to see their country join the European Union for 20 years. This political choice triggered the Orange Revolution in 2004 and the Revolution of Dignity in 2014. Ukrainians have been waging a defensive war between 2014 and 2022, with 14,000 people killed, to support EU values and the basic principles of a rules-based international order. Russia's full-scale invasion in February 2022 and the heroic resistance on the part of Ukrainians to this aggression led all EU Member States, including those Western European countries that had been denying Ukraine's EU Membership perspective for 20 years, to acknowledge that Ukraine's place is in the European Union and not in Russia's sphere of influence.

Ukraine and the EU signed an Association Agreement (AA) in 2014 and started its implementation in 2017 after its ratification by all EU Member States. The AA provides the basis for political association and economic integration between the EU and Ukraine. A core component of the AA is a Deep and Comprehensive Free Trade Area (DCFTA), which will gradually integrate the Ukrainian economy into the EU Single Market. This objective will be reached by promoting regulatory convergence - removing non-tariff barriers to trade. From 2017 to 2022, Ukraine made remarkable progress in implementing the AA, particularly in promoting the rule of law and aligning its legislation with the EU acquis in areas covered by the DCFTA. Ukraine still has to make some efforts to reap the



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full potential of the DCFTA - access to the EU Single Market.

On 28 February 2022, five days after Russia launched the full-scale aggression, Ukraine presented the application for membership in the EU. In June 2022, the European Council granted Ukraine candidate status “on the understanding that” the following steps be taken:

(1) Implement legislation on a selection procedure for judges of the Constitutional Court, including a pre-selection process in line with the Venice Commission recommendations.

(2) Finalise integrity vetting of candidates for High Council of Justice members and the selection of candidates to establish the high qualification Commission of Judges.

(3) Strengthen the fight against corruption, complete the appointment of a new Special Anti-corruption Prosecutor Office head, and appoint a new National Anti-corruption Bureau Director.

(4) Ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force and adopt a strategic plan for the reform of the law enforcement sector.

(5) Implement the anti-oligarch law, taking into account the opinion of the Venice Commission.

(6) Adopt a media law aligned with the EU

audio-visual media services directive and empower an independent media regulator.

(7) Finalize the reform of the legal framework for national minorities and adopt an implementation mechanism.

On 2 February 2023, Commission President Ursula Von Der Leyen handed over an Analytical Report on Ukraine’s Alignment with the EU Acquis to President Zelenskyy. That paper assessed the compliance of Ukraine’s legislation with the EU law in the 33 “negotiating chapters” of the EU accession process, demonstrating that in a few areas (customs services, energy, foreign policy), Ukraine’s law was harmonized, however, in most sectors, there was still a long way to go.

On 8 November 2023, the Commission issued its 2023 Enlargement package. The Commission outlined that Ukraine had made substantial progress on meeting the seven steps of the Commission’s opinion on Ukraine’s membership application and, therefore, recommended that the Council open accession negotiations with Ukraine. Faced with the loss of tens of thousands of lives, eight million refugees, six to seven million IDPs, the deportation of thousands of children to Russia and Belarus, and the massive destruction of critical infrastructures and production facilities, Ukrainian citizens and the government have shown an outstanding determination and ability to function and carry out the necessary

reforms. All observers were impressed by what Ukraine has achieved under wartime conditions.

The Commission asked Ukraine to meet four conditions by March 2024: enact a law proposed by the Ukrainian government to strengthen the National Anti-Corruption Bureau, reinforce the National Agency for the Prevention of Corruption to verify assets declarations, enact a law regulating lobbying, and address the Venice Commission's recommendations on national minorities.

On 15 December 2023, the European Council decided to start accession negotiations with Ukraine. An intergovernmental conference is expected to adopt the relevant negotiating framework in March 2024. In the meantime, the Commission services are carrying out the "screening" exercise.

While recognizing the difficulty of carrying out reforms against the background of Russia's aggression, a devastated economy, and extremely difficult living conditions for a majority of Ukraine's people, it would be opportune to put in place the necessary conditions to accelerate reform efforts. In this context, it might be useful to reflect on the following issues:

- How can Ukraine's state apparatus, local authorities, and CSOs be mobilized under these very difficult circumstances?
- How to ensure that the President's Office takes the necessary steps to move

ahead (political will)?

- How to support the relevant ministries in carrying out the necessary reforms/drafting the required pieces of legislation (capacity building)?
- How to put the relevant Rada Committees (Parliament) under pressure to swiftly adopt the required new laws?

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Against the background of very difficult living conditions in Ukraine, the EU should find ways to ensure that the people of this country see some concrete benefits from the EU candidate status. To that end, Ukraine should be allowed to participate in some EU policies and institutions while making progress in the accession negotiations (gradual integration/staged accession process). This means step-by-step inclusion in the EU policies and funding mechanisms as a result of compliance with the EU norms and standards in such sectors as the Customs Union, Single Market, Trans-European Networks, and Digital Market. This approach would prevent Ukraine from falling into the "Balkan trap" "Balkan trap" (endless accession negotiations without any benefit for the candidate countries' populations). Ukraine's

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Ukraine's accession will have a strong impact on the EU policy areas, in particular, the Common Agricultural Policy and the Cohesion Policy, the EU budget, and institutional balance. The EU should undertake the necessary reforms on all of these issues as quickly as possible. To maintain the EU's capacity to act, it is imperative to review several aspects of EU governance, particularly its decision-making process – expanding the qualified majority voting to many areas currently covered by the unanimity principle. The current Belgian Presidency of the EU vowed to speed up work on these issues.

Ukraine's accession process should be closely linked to the country's reconstruction and recovery efforts. Under the accession process, Ukraine will have to align its legislation with that of the EU in six thematic clusters: fundamentals (judiciary, human rights, freedom, and security), the internal market, competitiveness and inclusive growth, the green agenda and sustainable connectivity, resources, agriculture and cohesion, external rela-

tions). This will require Ukraine to implement complex reforms in many political, economic, and social areas. These reforms must be integrated into the reconstruction and recovery programs, which are expected to promote a green, digital, and inclusive economy in line with EU standards. The Commission has proposed a dedicated "Ukraine Facility," with EUR 50 billion in grants and loans to support macro-financial stability and promote recovery over the 2024-2027 period.

The EU has changed drastically since the 2004/2007 enlargements. It no longer focuses on the Single Market and the Economic and Monetary Union. The relevant instruments will have to be mobilized to ensure that the current EU priorities (green and digital transition, management of migratory flows, security) find their right place in Ukraine's recovery programs.

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Against the backdrop of the deterioration of the European security environment, today, the EU enlargement has a different meaning than it did in 2004/2007. The accession negotiation process should be less technocratic and more political. Drawing the lessons from Poland and Hungary's democratic backsliding, the EU should put more emphasis on respecting core val-

ues - the rule of law, respect for minority rights, etc. There is a need to frontload areas of geostrategic importance, like cyber resilience, fighting against disinformation, defense, and economic security.

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Russia’s full-scale invasion shattered the post-Cold War security order. The EU will have to build a new security architecture on this continent, and Ukraine’s fast integration into the EU security sector should be a priority. Defense-related issues should be at the forefront of accession negotiations and find their right place in the recovery programs to support the rapid ramping-up of Ukraine’s weapons/ammunition manufacturing capabilities. The EU must provide “security commitments,” which will help Ukraine deter acts of aggression and resist destabilization efforts.

In view of Ukraine’s success with the decentralization reform and the country’s outstanding civil society, it is imperative to involve local authorities (municipalities, oblasts, hromadas), CSOs, and business representatives in the accession process and the reconstruction programs. These actors will, without any doubt, bring substantial added value to the country’s modernization and its rapprochement with the EU. Their involvement will, in particular,

be indispensable for handling the effects of a fractured society and the dire demographic trajectory of the country and for strengthening the pillars of democracy.

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Some Member States have expressed concerns about the impact of Ukraine’s accession on EU institutions, the EU budget, and policies. In view of its outstanding potential, well-educated, hardworking, and inventive people, long industrial tradition, the presence of critical raw materials, the best agricultural soil in Europe, and highly digitalized society, Ukraine will be an asset for the EU in the medium term. Thanks to its military capabilities, Ukraine should become the solid security pillar of the EU’s eastern flank.

The EU accession of Ukraine, Moldova, and Georgia will not undermine the EU integration process but bolster European security and strengthen its strategic dimension in an increasingly confrontational environment. The new geopolitical reality makes it imperative to embed Ukraine, Moldova, and Georgia in the EU and thus erase any grey/buffer zone on the European continent. ■