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Ukraine on the Way to EU Membership - The Famous ‘Long, Rocky Road’

A few days after Russia’s full-scale invasion of Ukraine in February 2022, the country applied for EU membership and was granted candidate status in June of the same year.¹ With the decision of the European Council to open EU accession negotiations with Ukraine in December 2023, the EU leaders acknowledged that Ukraine had made “substantial progress” towards fulfilling the conditions set by the Commission in June 2022 for advancing its EU perspective.² In March 2024, the European Council once again recognised the progress made by Ukraine in advancing necessary reforms and invited the Council to “swiftly adopt” the pending draft negotiation framework and “to take work forward without delay”.³ Once adopted, which is expected to happen in the coming months, the actual accession negotiations can begin.

Previous experience has shown that the completion of all enlargement chapters is likely to take several years. Added to this are the circumstances of Ukraine being the first country ever to begin the EU accession process in a state of war. Although the first steps have been taken at an historically fast pace owing to the particular geopolitical situation granting the matter a certain urgency,⁴ Ukraine’s EU accession process will most probably take many years and it will neither be a quick nor easy solution to the numerous security, political, economic and social challenges the country is facing. Therefore, the aim of this paper is to take a look at the expected challenges and risks relating to Ukraine’s EU accession and to outline the tasks lying ahead for both the EU and Ukraine.

Ukraine’s readiness for EU accession

A number of challenges centre around the question of capacities, limitations and constraints of both the EU and Ukraine. For Ukraine, the main task over the next few years will be to meet the conditions of EU accession, and there are many of them. Conditionality is

the main feature of the EU’s enlargement policy: “Accession is and will remain a merit-based process, fully dependent on the objective progress achieved by each country”, as the Commission emphasises in its 2023 enlargement report.⁵ As with every EU candidate country since 1993, Ukraine needs to fulfil the Copenhagen criteria: first, establish stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities (the “political criterion”); second, create a functioning market economy with the capacity to cope with competitive pressure and market forces within the Union (the “economic criterion”); and third, have the ability to implement the EU’s *Acquis Communautaire*, that is to fulfil all obligations associated with EU membership (the “acquis criterion”).

As regards Ukraine’s democratic shape, the country’s performance is not that bad. When recommending candidate status in June 2022, the Commission assessed that “Ukraine overall is well advanced in reaching the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”.⁶ Compared to other former Soviet republics, one must admit that Ukraine has performed rather well since its independence. It is one of the few countries where peaceful changes of governments after fair elections are the rule. Of course, Ukrainian democracy needs time to consolidate and still has deficiencies. In the 2024 Bertelsmann Transformation Index, Ukraine ranks 31 out of 137 countries in its political transformation and is still regarded as a “defective democracy”.⁷ The latest assessment report of the EU on Ukraine’s political development highlights the country’s recent progress made on the rule of law, on judicial and administration reforms, but also points to the need for Ukraine to make progress with its biggest challenge, the fight against corruption.⁸ According to the Commission’s assessment on Ukraine’s membership application of June 2022, four out of the seven “steps to be taken” in order to be granted candidate status directly or indirectly concern

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corruption.⁹ It has been the major issue in EU-Ukraine relations and in the EU's conditionality approach. An example is the visa dialogue: After putting in place a visa facilitation and a readmission agreement (in force since 2008), it took until 2017 for the EU to finally adopt a visa-free regime for Ukrainians travelling to the Schengen area. When adopting the regulation, the EU praised Ukraine's reform progress but linked its implementation to further progress in areas such as corruption, border security and data protection.¹⁰ The EU's conditionality approach worked out here, the more so as the expectations of the Ukrainian people and the domestic pressure on then President Petro Poroshenko were high.¹¹ According to observers, it was EU pressure that made Ukraine seriously start addressing the corruption issue. In Transparency International's Corruption Perceptions Index of 2023, Ukraine still ranked 104 out of 180 countries, although improving continuously in the past decade (2012: rank 144 out of 176).¹² Corruption remains an important challenge for Ukraine's political transformation and for its progression towards EU membership.

Regarding the second issue, the economic criterion, Ukraine has been hit hard by Russia's full-scale invasion. In 2022, Ukraine's real GDP dropped more than 30%, and the country regularly struggles with Russian attacks on its infrastructure. However, observers attest to Ukraine having an astonishing economic resilience despite the heavy impact of the war. EU authorities agree with this assessment and admitted in June 2022 that Ukraine "has continued its strong macro-economic record, demonstrating a noteworthy resilience with macroeconomic and financial stability, while needing to continue ambitious structural economic reforms [...]".¹³ These reforms will have to include efficient measures to fight corruption and persisting oligarchic structures, both of which are major obstacles to economic development. The Deep and Comprehensive Free Trade Agreement (DCFTA) with the EU, in force since 2017 and applied provisionally since 2016, serves Ukraine as an important framework for modernising its economy and its trade relations with the EU.¹⁴ Main issues for Ukraine's economic integration will be competition on the agricultural market and a necessary redistribution of EU regional funds, as well as the relative low competitiveness of the Ukrainian economy. Ukraine is likely to become one of the EU's "poorest" member states, with potential risks such as social divide and brain drain.

Finally, Ukraine will have to adopt the *acquis*, i.e. existing EU law. This has grown remarkably over the years; there is "much more to integrate" than in previous enlargement rounds, which makes this challenge more difficult for today's accession candidates. Yet, Ukraine is highly motivated and is not starting from zero. It can build on a visa dialogue and its participation in the EU Eastern Partnership launched in the 2000s. The main basis of EU-Ukraine relations is the 2014 Association Agreement and the integrated Deep and Comprehensive Free Trade Agreement (DCFTA) which forged the rapprochement between the EU and Ukraine in various ways, including stronger political ties (with regular bilateral summits) and growing economic interdependencies.¹⁵ The long-standing rapprochement materialises in concrete sectoral integration such as the synchronisation of Ukraine's (and Moldova's) electricity grid in March 2022 which enabled electricity trading between the EU and both countries.¹⁶ In October of the same year, Ukraine became part of the European common transit system which facilitates the handling of bilateral trade. Summing up, Ukraine is aware of the scope of transformation that EU accession entails and can build on a solid foundation. The country has proved its capability and rigor to implement EU law and shall be encouraged and motivated to continue in the years to come.

Yet, the adoption of EU standards and the implementation of reforms can also be a painful process with unpleasant side effects and a difficult transition period before positive economic and social effects materialise. What will be crucial for Ukraine is the political will to see the matter through. The development of post-Soviet Ukraine has shown that the country's orientation towards the EU and its commitment to its values was not always as strong and clear as it is today. The pace of strengthening democracy and the rule of law and fighting corruption was slow, given the fact that the political transition has been going on for over 30 years now, and there have also been clear setbacks such as the authoritarian restoration under President Victor Yanukovich in 2010-2014, or the numerous corruption scandals that continue to this day. For many years, the transformation of post-Soviet Ukraine into a liberal democracy and market economy has been in the hands of a small elite that has served its own interests, and has suffered setbacks in pursuing a clear path owing to the internal disunity of the political elites.¹⁷ Even though

the mass protests of 2013-2014 were a momentum that pushed forward essential reforms and gave a boost towards democracy, old legacies and a resistance to change still hamper reforms in the country.¹⁸

On the other hand, Ukraine made a clear European choice many years ago. Although part of the post-Soviet network built up by Russia,¹⁹ Ukraine remained sceptical towards Russia's domination and never joined the Eurasian integration projects launched by Russia in the 2000s, namely the Customs Union, the Eurasian Economic Community and later Union, or the Collective Security Treaty Organisation. Needless to say, Russian-led Eurasian integration has no longer been an option for Ukraine since 2014 and will most probably not be one in the near future. Accession to the EU has been anchored in Ukrainian constitutional law since 2019 and has been the aim of the country's foreign policy for many years now. It was the EU that put the brakes on this ambition, putting the country off with an association agreement and pointing out that it was not yet ready for a membership perspective.

Ultimately, the EU membership perspective is also a motor for reform. From the visa dialogue to the association agreement, to granting candidate status – the prospect of further far-reaching cooperation has always been an incentive for domestic reform in the country. The recent EU membership perspective is expected to create a particularly powerful reform dynamic²⁰, although only the next few years will show whether or not this dynamic holds. In more general terms, EU accession can be a driver of societal, political and economic modernisation in general. This will now also apply to Ukraine.²¹

Finally, a particular challenge for Ukraine's EU accession is its tattered territorial integrity since Russia occupied Crimea and large parts of the Donbas region, which make up around one fifth of the country's territory. The challenge of preparing for EU membership in a state of war is without historical precedent. The EU, too, is not experienced in conducting an enlargement process during a major ongoing violent conflict. On the other hand, the very fact that the process has been launched despite all of this sends a strong message towards Moscow that the countries will not be intimidated and that the sovereignty of all countries in Europe applies, even if Russia does not respect it.

The EU's readiness to enlarge

On the EU's side, the question of readiness for further enlargement mainly addresses its "capacity to absorb". Yet it remains obscure what exactly this means, which is the reason why enlargement is subject to controversial debate within the Union. Despite the solidarity and great unity of EU member states in supporting the attacked Ukraine in 2022, enlargement fatigue persists in the EU. In addition, enlargement has become politicised (as has European integration in general) which sets constraints on the policy, as seen recently when the last Ukraine support package became the plaything of individual interests and the object of political blackmail. An additional complication to the enlargement process is the necessity for the Council to approve each single negotiation chapter and not just the negotiation package as a whole, a practice first applied to Croatia's accession to the EU in 2013. Potential veto players such as Hungary or Slovakia will have numerous opportunities to delay or complicate the negotiation process.²²

Apart from individual member states' interests, there is a general lack of enlargement enthusiasm in the EU, possibly due to the crisis mode that the EU has been experiencing for at least a decade. The accession processes of Albania, Bosnia-Herzegovina, Montenegro, North Macedonia and Serbia have been ongoing for many years now, and the "new" candidates Ukraine and Moldova have now been added to the list. A preferred and sped up Ukrainian accession process will most probably boost frustration in the Western Balkan countries that have been waiting in the line for years, and will damage the EU's credibility. Therefore, the enlargement policy for Ukraine cannot be considered in isolation, but only in a package with the other candidate countries. It is no coincidence that the EU decided to open accession negotiations with Bosnia-Herzegovina in March 2024, just after Ukraine (and Moldova) took the next step on their way to joining the EU while the others are stuck on the long road of accession negotiations.

The EU's capacity to absorb new members is normally discussed in two contexts: the institutional one and the socio-economic one. Regarding the institutional setting, there is almost a consensus that reforms are needed to ensure a future EU-36 will be at least as capable of functioning as well as the current EU-27, if not better. However, there is discord about the concrete steps to be taken. Those aspects under

discussion are, among others, the expansion of the majority vote, the representation of member states in the institutions, and the sequence of rotating presidencies. Since there is no new treaty in sight, nor any political agreement on concrete institutional reforms, it is rather unlikely that the institutional setting of the EU will be properly prepared for new member states. The most probable scenario is the modification of technical procedures to maintain the functioning of the institutions and decision-making. The EU could and should utilise the next three to four years to find sustainable solutions that are more than emergency measures and that create an EU that is strong and capable of acting, for the benefit of both the old and the new member states.

When it comes to the EU's socio-economic absorption capacity, the very fact that the EU already mobilises billions of euros to support Ukraine²³ shall reassure those who see a major economic and financial risk in Ukraine's EU accession. As discussed previously, the huge financial burden of support and future reconstruction of the country will be necessary with or without Ukraine's EU accession. Integrating the reconstruction into the EU accession process would create an opportunity for both the EU and Ukrainian economies. With a consumer market of 38 million new EU citizens, Ukraine would enlarge the EU internal market significantly. However, as Ukraine is a predominantly agricultural economy, its full integration will shake up the internal agriculture market and require a reorganisation of the EU's agricultural policy. Recent trouble over particular trade regulations for Ukrainian agricultural products might prove to be a foretaste of what is to come. Finally, Ukraine's accession will have an impact on the EU's cohesion policy and the distribution of regional funds which will also need to be revised.

Geopolitical risks

In addition to the political and economic challenges, an enlarged EU will face geopolitical risks. The EU would multiply its borders with both Russia and Belarus, thus importing potential sources of conflict and additional security threats. Without question, the ongoing war in Ukraine overshadows everything, and it is still unclear when and how the conflict will end. However, in any possible scenario, the EU and potentially NATO territory (in case Ukraine joins the alliance in the

coming years) will have more borders with Russia and Belarus and will need to prepare for that. In the worst case, the EU could end up importing an active violent conflict in one of its member states with a nuclear power involved. This would be a major challenge, the more so as the EU would have to apply its mutual assistance guarantee under Article 42.7 of the Treaty of Lisbon in case Ukraine activates it (which is likely). In that case, the EU member states would have to engage far beyond the current level and would be directly involved in the conflict. From an international legal perspective, the occupied and illegally annexed Ukrainian regions would become EU territory in the case of Ukraine's EU accession, which is unlikely to be accepted by the EU. Therefore, Ukraine might have to decide whether it "only" joins the EU with the territory it actually controls, risking a further drifting apart of the occupied regions.

Finally, from a more domestic EU perspective, the next round of enlargement would lead to a shift of the Union's political gravity centre towards the East, which will raise old concerns about the distribution of power within the Union, at least in some EU member states. The weight of Western European countries would decrease, and the geographic centre of the EU would shift eastwards, too. This is not a risk as such but a challenge that EU policymaking will need to take into account, for instance, when it comes to infrastructure projects, regional policy, industrial policy, education, culture, and many more.

Conclusion

It is probable that the involved decision-makers are aware of the outlined challenges and of the necessity to address them in a joint effort. The question remains as to whether all involved parties share the same ideas about Ukraine's EU accession. Are we speaking along the same lines, or are we speaking past each other? Given previous experience with EU accessions, it is worth considering sources of potential misunderstandings and misperceptions to avoid disappointment at a later stage.

For Ukraine, EU membership is associated with living under the rule of law, with higher living standards, and in security. To a certain extent, the particular geopolitical circumstances narrow the focus on the idea of escaping Russian imperialism and seeking "shelter", which is understandable. However, idealising EU

accession and reducing it to this aspect poses a risk, as EU accession is much more than that. At present there is a kind of “artificial” consensus over the country’s westward orientation in the Ukrainian society, reinforced by the war. According to recent polls, 90% of Ukrainians wanted EU membership in 2023, whereas for many years, this figure was only around 50% only.²⁴ The war is impacting public opinion and the perception of the EU perspective, which raises the question: What happens if this common viewpoint fades? Another potential source of misunderstanding concerns the speed of EU accession. Even if the political elites and the Ukrainian people are aware of the potentially lengthy process of EU accession, they might nevertheless be disappointed when it comes to small-scale, lengthy and sometimes unpleasant negotiation and transition periods that make it difficult to see the big picture. Even more so as the first steps of the accession process have been achieved rather speedily and without major political or technical obstacles.

For the EU, Ukraine’s accession is regarded as a political, value-driven, but also a very formal and technical process where the EU sets the conditions, according to predefined procedures. It sees the project

as an enlargement of its area of peace and prosperity. This is where both sides share their views, but with different temporal horizons: the EU has no need to hurry and will most probably conduct the process thoroughly and at a moderate speed – like the Western Balkan accession candidates. There seems to be an imbalance regarding the drive and enthusiasm with which both sides address the project. For Ukraine, it is a major endeavour for the years to come; for the EU, Ukraine’s accession is not a priority and would not have been pushed forward so quickly if Ukraine had not applied in its extraordinary situation. In addition to the political imbalance, there is an economic imbalance that might also have an impact: the EU is Ukraine’s main trading partner, accounting for more than 40% of its total trade in goods in 2021, in the meantime this figure has risen to around 60%. In return, Ukraine was the EU’s 15th largest trading partner in the same year, representing around 1.2% of overall EU trade.²⁵

It will be helpful to keep in mind the different constraints, risks, priorities and perceptions when the initial euphoria of the EU accession perspective has faded and when walking the long, rocky road to EU membership.

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