



## POLICY PAPER

# UKRAINE'S PATH TO EU MEMBERSHIP

HOW TO TURN A GEOPOLITICAL NECESSITY INTO A VIABLE PROCESS

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Cover page photo: Ukrainian national flags, flags of Ukrainian trade unions and EU flag are seen during a mass rally in front of the Ukrainian cabinet of ministers building in Kyiv October 15, 2014. REUTERS/ Gleb Garanich/ SCANPIX

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## INTRODUCTION

One of the consequences of Russia's invasion of Ukraine is that it forces the European Union to thoroughly rethink its policies of enlargement and the Eastern Partnership. Ukraine is applying for EU membership at a time when Russia has attacked it in a war of choice. Ukraine's future relationship with the EU will have major implications for not only the future of the Union but also the European security order at large. With the post-Cold War order broken and a new one yet to emerge, the EU's ability to defend its values and principles in Ukraine will define its credibility as a geopolitical actor for years to come.

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The applications for EU membership submitted by Ukraine, Georgia and Moldova within a week after the invasion were received in many EU capitals with anxiety rather than enthusiasm. After a long and tortuous debate, the European Council meeting at Versailles on 10–11 March endorsed the Council's invitation to the Commission to produce an opinion on the three applications. This can be read as the start of the pre-accession process, which is expected to take years. Yet, many member states remain sceptical that the three countries should be given a proper candidate country status and move ahead towards full membership. The Commission is expected to present its opinion in mid-June, to be followed by a decision of the European Council on 23–24 June.

elsewhere.<sup>1</sup> A variety of arguments for and against have been voiced in the debates. What speaks in favour of a candidate country status for Ukraine without delay is, first, a sense of moral duty to give hope to the Ukrainian people, who are making enormous sacrifices to defend their choice to embrace Europe and EU values. Second, clearing Ukraine's path toward membership can be seen as a geopolitical necessity in the changed and volatile European security situation. Third, the country has already made substantial steps to integrate with the EU through the implementation of its commitments under the Association Agreement. Fourth, further enlargement may provide an opportunity and impetus to rejuvenate, strengthen and reform the EU.

The counterarguments address the same points from an opposite angle. First – often with reference to the Western Balkans – it is said to be morally and politically dangerous to raise high expectations in Ukraine when there is no guarantee that they can be met. Second, the approach of some Western European countries to avoid provoking Russia and pursue a geopolitically cautious approach has been severely undermined by the war but has not disappeared. Third, there are concerns about Ukraine's ability in practice to meet the membership criteria, most importantly regarding the rule of law, which receives extra attention because it remains a problem in some of the current member states. Fourth, the founding members in particular are raising the issue of the EU's absorption capacity and ability to strike a balance between deepening and enlargement. And finally, as always with ambitious plans, there is the question of what it will all cost and who will pay the bill.

<sup>1</sup> Ipsos European Public Affairs, *Flash Eurobarometer 506: EU's response to the war in Ukraine* (Brussels: European Commission, 2022).

It is obvious, however, that the EU must pay a high cost for dealing with the consequences of the war in any case. Thus, finding the funds to support Ukraine's accession process is a matter of political choice and priorities, which depends on how the EU replies to the other concerns listed above.

Following the long-standing "own merits" approach developed by the EU in assessing aspirants' readiness for membership, this paper leaves aside the applications of Moldova and Georgia and makes the case that the European Council should grant Ukraine a proper "candidate country" status in June. It will first highlight the geopolitical necessity of this decision and expose the failure of the EU's earlier approach of geopolitical caution. Second, it will propose ways to address the concerns about the readiness of Ukraine, the EU's own absorption capacity and lessons learned from the Western Balkans through a staged accession process.

## 1. UKRAINE'S MEMBERSHIP PROSPECT AS A GEOPOLITICAL NECESSITY

The EU's geostrategic approach to the Eastern Partnership countries has aptly been described as a "halfway house" policy, offering substantial support and deepening relations to the European-oriented partners but refusing to give them clear strategic prospects to become EU members.<sup>2</sup> The EU has been torn between a principled rejection of Russia's demands for a sphere of influence and privileged role in its "near abroad" versus a conviction in many Western European capitals that it was wise to constrain the EU's presence in the region in order not to provoke Russia. This led to a policy of geopolitical caution, including very limited engagement in security issues in the region. Such an approach sent contradictory messages to Russia regarding the issue of spheres of influence. On the one hand,

the EU was opposed to the very concept and developed an ambitious policy of integrating the Eastern partners; on the other hand, it limited its approach in ways that could be read as a partial *de facto* recognition of Russia's privileged role in the region.

### *Restraint and caution by the EU did not prevent Russia's invasion*

Today it must be admitted that the EU's earlier approach to Ukraine's (and other Eastern partners') security has been anything but a success. Restraint and caution by the EU did not prevent Russia's invasion. Russia felt provoked by the EU's support to Ukraine's European-oriented reforms and gradual integration through the Association Agreement. At the same time, the EU left Ukraine in a grey zone of strategic ambiguity, vulnerable to Russia's imperial ambitions. Shocked and dismayed by Russia's brutal invasion, the EU has sent stronger messages than ever about Ukraine belonging to the European family. European Commission president Ursula von der Leyen has stated, "Ukraine is one of us and we want them in the European Union", and the European Council expressed similar convictions in its Versailles Declaration.<sup>3</sup>

Yet the steps ahead with regard to Ukraine's European path remain contested in the EU. The need for a new geopolitical approach to European security is broadly acknowledged

### *The need for a new geopolitical approach to European security is broadly acknowledged by leaders of the EU and its member states*

by leaders of the EU and its member states. However, the argument that the EU has to become a stronger geopolitical actor does not actually tell us what the substance of the EU's geopolitical approach should be. Traditional International Relations theory would prioritise the ability to define one's territorial borders, discriminate between friends and foes, and back up diplomacy with force if needed. Leaving the latter aside, thus far no consensus has emerged

<sup>2</sup> Richard Youngs, "Ukraine's EU Membership and the Geostrategy of Democratic Self-Preservation", Carnegie Europe, 1 April 2022. See also Steven Blockmans, *The Obsolescence of the European Neighbourhood Policy*, (Brussels and London: CEPS/Rowman and Littlefield, 2017).

<sup>3</sup> Meabh Mc Mahon, "Ukraine is one of us and we want them in EU, Ursula von der Leyen tells Euronews", *Euronews*, 19 May 2022; European Council, "Informal meeting of the Heads of State or Government: Versailles Declaration," Versailles, 11 March 2022.

regarding the strategic goals of a geopolitical Europe and Ukraine's place in it.<sup>4</sup>

Some new and recycled initiatives propose solutions that leave aside the question of Ukraine's EU membership prospect. Three prominent voices stand out in recent calls for the EU to expand its geopolitical leadership role on the continent.

**First**, former prime minister of Italy Enrico Letta has called for the immediate establishment of a "European Confederation" consisting of EU member states and candidate countries in Western Balkans and the Eastern neighbourhood. The proposal, first floated by François Mitterrand after the fall of the Iron Curtain, is strongly motivated by a wish to deepen integration among the willing EU members and aims to find a "new way to address the widening of the Union, while still pushing for its deepening towards a federal architecture".<sup>5</sup> Structured around seven policy areas that are already largely covered by the Berlin Process for the Western Balkans, it remains unclear what value the Confederation would add to a wider group of candidate countries, apart from regular high-level meetings and photo opportunities. What is clear is that it runs counter to Ukraine's expressed desire for full-fledged EU membership.

**Second**, French president Emmanuel Macron has proposed a broader "European political community" as a structure that would "allow democratic European nations that subscribe to our shared core values to find a new space for political and security cooperation".<sup>6</sup> Macron's community would be open to both pre-accession countries and "those who have left the EU". The main motivation of the proposal seems to be the need to enhance security and stability in Europe, which raises the question of how such a loose community could contribute to this important goal and solve the geopolitical challenges created by Russia's war of aggression.

**Third**, European Council president Charles Michel has presented a variation on the same theme by suggesting the creation of a "European Geopolitical Community" (EGC), "from Reykjavik to Baku or Yerevan, from Oslo to Ankara". Discarding Macron's notion that democracy is the defining element of this geographical space, the concept is nevertheless more directly linked to enlargement than the two aforementioned proposals: it is seen as a structure to "forge convergence and deepen operational cooperation to address common challenges" that could be particularly useful to countries that aspire to be members.

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Furthermore, the proposed EGC is coupled with a plea to "enhance the enlargement process" by making it "faster, gradual and reversible".<sup>7</sup> As might be expected from the European Council president, his proposal seeks to build a compromise between different views of member states and tries to address the concerns of both proponents and sceptics of enlargement.

All three proposals reflect the concerns mentioned above about the EU's absorption capacity, the readiness of the applicants, and lessons learned from the stalled enlargement process in the Western Balkans. They signal that pre-accession is a prolonged process with an uncertain outcome and propose various new European structures broader than the EU as a response to that uncertainty and as a face-saving alternative for the EU in case discussions in the European Council of 23–24 June run aground. Although not defined as alternatives to enlargement, these ideas do create a separate track of debates and can be seen as a distraction or even a foreboding of an abdication of responsibility at a time when the EU urgently needs to get off the fence and give a clear response to Ukraine's membership application. Furthermore, from a geopolitical perspective, they may lead to the continuation of the policy of geopolitical caution in a somewhat new shape, but without solving the fundamental

<sup>4</sup> See Dylan Macchiarini Crosson and Steven Blockmans, "The EU's Ukraine Watershed: Fast Forward to European Defence Union", *Intereconomics*, Vol. 57, No. 3 (2022): 138–139.

<sup>5</sup> Enrico Letta, "A European Confederation: a common political platform for peace", *Progressive Post*, 25 April 2022.

<sup>6</sup> "Speech by Emmanuel Macron at the closing ceremony of the Conference on the Future of Europe", French Presidency of the Council of the European Union, 9 May 2022.

<sup>7</sup> European Council, "Speech by President Charles Michel at the plenary session of the European Economic and Social Committee", 18 May 2022.

problems of that approach, notably its inability to prevent war on the EU's doorstep.

It is for those reasons too that the “potential” candidate country status should be dismissed. Used as a placeholder for Bosnia-Herzegovina and Kosovo in anticipation of the resolution of pending issues of status and statehood, both countries have effectively been locked in limbo, falling further behind fellow pre-accession countries which are key to the resolution of those issues. Extending the low status of “potential” candidate country to Ukraine would endorse Russia's gameplan of forcibly creating breakaway republics as geopolitical wedges to undermine Kyiv and perpetuate the mistakes of the Minsk Process for the Donbas. Moreover, it would express a gross lack of empathy for the destruction and loss of life on a scale not seen on the European continent since the end of the Second World War.

Since the difficulties encountered over the accession of the divided island of Cyprus, member states have adopted as a political principle the need to resolve all territorial disputes prior to accession. Such outstanding disputes should not prevent accession procedures from starting though; instead, they should be resolved through a parallel diplomatic track. The principle should also apply to the resolution of disputes between candidate countries and existing member states.

*A clear prospect for EU membership for Ukraine has become a geopolitical necessity for a number of reasons*

A clear prospect for EU membership for Ukraine has become a geopolitical necessity for a number of reasons. First, it can end the strategic ambiguity that made Ukraine vulnerable to Russia's aspirations to re-establish its sphere of influence. Second, it would provide an important signal that Russia's aggression did not pay off. Indeed, there is widespread agreement among member states that Russia must not succeed in blocking the sovereign choice of a European country through military aggression. Third, this is a moment of truth for the EU to show that it will actually defend European values and core

principles of European security when they are under attack. Fourth, making a clear strategic choice with regard to Ukraine is essential to building the EU's credibility as an emerging geopolitical actor.

*In times of tightening geopolitical competition, grey zones such as the Western Balkans or the Eastern Partnership countries that are now applying for EU membership have become increasingly unstable*

The war in Ukraine is also a stark reminder that the EU needs to develop a stronger geopolitical approach in the Western Balkans. In times of tightening geopolitical competition, grey zones such as the Western Balkans or the Eastern Partnership countries that are now applying for EU membership have become increasingly unstable, as they are subject to efforts by strategic rivals of the West, notably Russia and China, to strengthen their foothold. The EU needs to develop new ways to engage and integrate such neighbours, but not by offering alternatives to the possibility of full membership. Rather, it needs to reinforce the efficiency of the enlargement process as a sustainable, long-term strategic solution that pulls neighbouring countries out of the unstable grey zones. Only a credible membership prospect can really end the strategic ambiguity while also serving as a strong motivator for the candidate countries' domestic reforms.

## 2. THE NEED FOR A CREDIBLE ACCESSION PROCESS

Candidate country status for Ukraine would be a powerful political signal of support and of a change of strategy for the EU. It would lead into the modalities of the long and complex accession process. Indeed, there is no “fast track” procedure to join the EU. Austria, Finland and Sweden, for instance, took more than a year to negotiate their accession treaties. Croatia, the latest entrant into the EU, took ten years to move from application to membership. The other applicants from Southeastern Europe have been stuck in a damaging impasse for years. Some, like

Serbia, have shown regrettable backsliding on the “fundamentals” for membership – democratic governance and the rule of law. This demonstrates that, while there may not be a fast track to membership, there should be a fast start to bringing tangible benefits online so as to keep candidate countries wedded to genuine reforms.

*There has been considerable debate in the EU over the need to restart momentum to the currently stalled accession processes for the states of the Western Balkans*

There has been considerable debate in the EU over the need to restart momentum to the currently stalled accession processes for the states of the Western Balkans. A modest technical step was taken in this direction in 2020 with the adoption of the “revised methodology” that groups the chapters of the enlargement process into thematic clusters and gives member states a greater stake in supporting reform efforts and assessing progress (or the lack thereof) together with the Commission. But these innovations have not been enough to get the enlargement process unstuck and turn vicious circles into virtuous ones.

An ambitious proposal which has been gaining ground among member states and that European Council president Michel referred to in his aforementioned speech and during visits to Serbia, Albania and Bosnia-Herzegovina in May is to structure the accession process in stages.<sup>8</sup> A phased approach would be grafted onto the revised methodology for enlargement and allow for progressive policy,

*A phased approach would be grafted onto the revised methodology for enlargement and allow for progressive policy, financial and institutional integration with the EU*

financial and institutional integration with the EU, conditioned on achieving progress in the implementation of the EU *acquis* and respect

<sup>8</sup> See, e.g., European Council, “Remarks by President Charles Michel after His Meeting in Belgrade with President Aleksandar Vučić of Serbia”, 19 May 2022; Michael Emerson, Milena Lazarevic, Steven Blockmans and Strahinja Subotic, “A Template for Staged Accession to the EU”, CEP-CEPS Policy Brief, 1 October 2021.

for its political values, as measured (where possible) in quantified ratings.

The model would offer tangible socioeconomic benefits to candidate countries during the accession negotiations, instead of only at the end. The integration of candidate countries would be gradual, i.e. managed and proportionate. More for more. For example, when a country meets the necessary standards in a given sector, it could be involved in an advisory capacity in the work of the Council of Ministers, depending on the agenda.

The country would also be gradually integrated into the EU’s internal market, as its compliance with the *acquis* is confirmed in certain sectors, such as the EU roaming area. And when the country reaches certain benchmarks, it could also be given access to EU programmes and funding that bring benefits to its citizens.

Enhanced funding levels would be of critical importance in supporting socioeconomic development and closing the convergence gap with the EU27 in a timely and gradual manner – and not only for the Western Balkans.<sup>9</sup> The same should apply to Ukraine, which – prior to February 24 – had made such progress in implementing its commitments under the Association Agreement that it matched the levels of preparedness of existing candidate countries and far outdid the “potential” candidates of the Western Balkans.<sup>10</sup> To be sure, in the present exceptional circumstances in Ukraine, there has to be a realistic sequencing of actions: first, those related to ending the war; then those to prepare for the return of refugees, the reconstruction of infrastructure and the rehabilitation of society; and third, the application of staged accession procedures with increased levels of financial support and access to EU bodies and institutions.

Some member states are concerned about footing the bill at a time when the EU’s

<sup>9</sup> See Matteo Bonomi and Dušan Reljić, “The EU and the Western Balkans: So Near and Yet So Far: Why the Region Needs Fast-Track Socio-Economic Convergence with the EU”, SWP Comment 2017/C 53, 19 December 2017.

<sup>10</sup> See Michael Emerson, Steven Blockmans, Veronika Movchan, and Artem Remizov, “Opinion on Ukraine’s Application for Membership of the European Union”, CEPS Policy Insight, April 2022, 4–7.

multiannual financial budget is already greatly inflated due to measures taken to soften the blow of COVID-19. However, if the EU is to meet the current geopolitical moment of truth and speak the language of power, then it should be willing to pay the price not just for the stabilisation and reconstruction of Ukraine but also for the integration of the “grey zone” in Southeastern Europe. In the face of natural and man-made disasters (namely, the pandemic and war), member states have proved themselves able to relax fiscal discipline and support creative off-budget solutions. If they want the EU to be taken seriously as a major player in the geopolitical arena, they will have to do “whatever it takes” to protect the common interest of stabilising the continent and upholding EU values.

That said, concerns about additional EU funding disappearing into the wrong pockets should be pre-empted. The staged accession model should therefore double down on “fundamentals first” and introduce tough budget conditionality. Reversibility should also be built into the model, thus introducing a much-needed dynamic in the enlargement process whereby candidate countries lose benefits (i.e. access to EU bodies and funding) if they backslide on the rule of law and

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democratic governance. Less for less. The conditions for eligibility also cover the Union’s own “absorption capacity” (the fourth Copenhagen criterion, which has infamously been used by member states to delay enlargement). One might assume that, in legal terms at least, any pronouncement by the European Council about the institutional adaptations needed to the EU’s own *modus operandi* to keep the integration process on track would suffice to allow the aspirant members to graduate up to the point of accession.

However, the crucial passage from candidate country (or “associate membership”) to new member state, which in the staged accession model would curtail the graduate’s veto rights in the Council under a temporary derogation from the treaties, would require a treaty of accession based on Article 49 TEU. This would provide a sufficient legal basis for such institutional steps, since the treaty of accession has the same top-level legal status as the EU’s founding treaties, most recently amended at Lisbon.

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In the final (post-accession) stage of consolidation, new member states would be under close scrutiny to verify that the *acquis* adopted is effectively implemented, that the country does not start to renege on the values to which it has subscribed and the principles it has accepted, and that it is not already opposed to new common policies.

Concerns about the creation of a second-class membership should be dismissed. The EU contains a rich body of differentiated arrangements across policy areas (e.g. Schengen, EMU, defence), and previous enlargement waves have been accompanied by post-accession cooperation and verification regimes, as well as temporary derogations from primary law (e.g. free movement of workers and right to establishment).

Such a time-barred phase would also allow the EU to finalise a new governance, including mainstreaming qualified majority voting in Council decision-making procedures (including in the staged accession model itself) and capping the number of commissioners. Irrespective of whether such treaty reform would materialise, at the end of this stage the new member state would become a full EU member.



## CONCLUSION AND WAY FORWARD

There is considerable debate between member states over whether the EU should extend (potential) candidate country status to Ukraine. Our view is that the EU should shed the ambiguity that has hampered closer relations with Eastern Partnership countries and offer strategic clarity to Ukraine, which can only be achieved through proper candidate country status. The grounds for such a positive *avis* are clear: in addition to the (geo)political and moral imperative, Ukraine is objectively qualified for candidate country status, given its years of progressive implementation of the 2014 Association Agreement, whose chapters are effectively the same as the accession procedures.

It is time for the European Union to mobilise all the tools at its disposal to affirm its interest in stabilising the continent and upholding its values. There is every reason to believe that the European Council and conference on the Western Balkans on 23–24 June could confirm this. By grafting a staged accession template onto the 2020 revised methodology for enlargement, the Union would not only tie candidate countries and member states more firmly in genuine domestic and EU reform processes but also finally assert its credibility as a regional power.

*The EU should offer strategic clarity to Ukraine, which can only be achieved through proper candidate country status*

The war in Ukraine has also raised awareness of the vulnerability of the Western Balkans and the need to revise the accession process. There is momentum for change in the EU's enlargement and neighbourhood policies, including implications for the Eastern Partnership. The new architecture is taking shape along two lines.

First, it involves a revision of enlargement procedures to embrace both the Western Balkans and East European applicants, thus converging these two regions together for the purpose of EU policies, which would be

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a major change of doctrine. Second, a new 'European Geopolitical Community' could potentially embrace the whole of Europe excluding Russia and Belarus. For this idea to be acceptable around Europe, the membership, mandate and structure of the Community would need to be defined more clearly. A new European Geopolitical Community should be complementary to the process that leads to full EU membership, not an alternative to it.

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