

# The EU–Ukraine Association Agreement after Ukraine’s EU membership application: Still fit for purpose

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# Table of contents

<b>Executive summary</b>	<b>3</b>
<b>Introduction</b>	<b>4</b>
<b>No fast-track procedure</b>	<b>5</b>
<b>The issues at stake</b>	<b>6</b>
<b>The EU's traditional, cautious approach</b>	<b>7</b>
<b>The Association Agreement and its Deep and Comprehensive Free Trade Area: A framework for gradual and partial EU integration</b>	<b>8</b>
<b>Implementing the Deep and Comprehensive Free Trade Area</b>	<b>8</b>
<b>The Association Agreement is still fit for purpose</b>	<b>9</b>
<b>Conclusion</b>	<b>9</b>
<b>Endnotes</b>	<b>11</b>

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# Executive summary

In an extraordinary session of the European Parliament on 1 March 2022, Ukrainian President Volodymyr Zelensky requested from a bunker in Kyiv, while Russian missiles bombarded Ukraine, the EU to give the war-ravaged country a clear path towards EU membership. The day before, Ukraine had submitted its official application to the EU, followed shortly by Georgia and Moldova.

The European Parliament already supported Ukraine's membership application and called on the EU institutions to work towards granting Ukraine EU candidate status, in line with Article 49 TEU. Offering such a status would be a historic token of support for Ukraine in its self-defence against Russian military aggression. The Versailles declaration, adopted by the heads of state or government of the EU member states on 10 and 11 March, acknowledges that Ukraine belongs to the 'European family' without explicitly mentioning the country's candidate status. Nevertheless, the Council already invited the European Commission to submit its opinion in accordance with Article 49 TEU.

Despite this support for – and recognition of – Ukraine's application, the road to EU membership remains a long one. Several member states have concerns about Ukraine's readiness and eligibility for the pre-accession process,

the EU's absorption capacity, and the geopolitical consequences of the Union's further eastward enlargement. Moreover, the economic consequences of the war will also complicate Ukraine's concrete progress in its accession process. With Russian tanks and missiles still on Ukrainian soil, discussing actual membership is arguably premature. This may create unrealistic expectations and lead to frustrations in the applicant countries. It will therefore be important to remain clear and transparent about the EU accession procedure and offer concrete and credible incentives for reform and gradual integration in the Union throughout the long and winding pre-accession procedure.

Paired with an unprecedented assistance package and new forms of sectoral integration in key EU policies (e.g. the twin green and digital transitions), the current EU–Ukraine Association Agreement remains the most appropriate instrument to develop this bilateral relationship further. The dynamic nature of the agreement, combined with its open-ended accession perspective, implies that both the EU and Ukraine can reorient it to new and more ambitious forms of political association and economic integration and accommodate it to a pre-accession context on the basis of a staged approach.

# Introduction

*“We call on the European societies and states that have demonstrated unity with the people of Ukraine during Russia’s ongoing war not only against Ukraine but also against the entire civilised world to show solidarity with Ukraine and support its membership of the European Union.*

*We call on the European Union to immediately start the formal procedure which will lead to the formal granting to Ukraine of status as a candidate for membership of the European Union.” – Application of Ukraine for membership of the European Union<sup>1</sup>*

In an extraordinary session of the European Parliament on 1 March 2022, Ukrainian President Volodymyr Zelensky made an emotional plea directly to EU lawmakers and leaders. Speaking from a bunker in Kyiv while Russian missiles bombarded Ukraine, he asked the EU to “prove that you are with us” by giving the war-ravaged country a path towards EU membership.<sup>2</sup> The day before, Ukraine had submitted its official application to the EU and requested it “to be considered under a special procedure”.<sup>3</sup>

During this historic session, the European Parliament adopted a resolution in which it not only condemned in the strongest possible terms Russia’s illegal invasion of Ukraine but also “[c]alls for the EU institutions to work towards granting EU candidate status to Ukraine, in line with Article 49 of the Treaty on European Union”.<sup>4</sup> European Commission President Ursula von der Leyen reiterated her comments from a few days earlier, stating that the EU and Ukraine are “closer than ever” and that Ukrainians “[belong] in our European family”.<sup>5</sup>

Notwithstanding the European Parliament’s broad support for the resolution condemning the Russian military aggression against Ukraine – the text was approved by 637 votes in favour, with 13 against and 26 abstentions –, EU leaders also immediately stressed that the Union will not bend its rules by offering the war-torn country a fast-track to EU membership. “There is still a long path ahead”, noted President von der Leyen,<sup>6</sup> referring to the long and winding pre-accession process, which can only be triggered if all 27 EU member states are unanimously on board. After this watershed moment, it became immediately apparent that the EU27 remain divided over whether to grant Ukraine an explicit membership perspective. President of the European Council Charles Michel admitted that there are “different opinions and sensitivities within the EU on enlargement.”<sup>7</sup>

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The specific formulation of a possible membership perspective was, therefore, the subject of intensive discussions before the informal meeting of the heads of state or government of the 27 EU member states in Versailles on 10 March 2022. The statement adopted on this occasion starts with acknowledging “the European aspirations and the European choice of Ukraine, as stated in the Association Agreement.”<sup>8</sup> These references are not new and, as such, not a formal nor explicit recognition of Ukraine as a candidate country.

However, the EU leaders also stressed that the Council acted “swiftly” after Ukraine’s membership application by already inviting the European Commission to submit its opinion on this application. This was done in accordance with the relevant provisions of the EU treaties and the fact that the EU and Ukraine will “further strengthen our bonds and deepen our partnership to support Ukraine in pursuing its European path” in the meantime. Most significantly, it was added that “Ukraine belongs to our European family.”<sup>9</sup> This formulation seems to reconcile the member states’ different views on this issue, as evidenced by the varying reactions to the same statement by different EU leaders.<sup>10</sup>

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There is a certain tension between the EU’s political support for Ukraine and its resistance against the unprovoked Russian military aggression, on the one hand, and the formal requirements for membership under the EU’s accession procedure, on the other. This tension is also reflected in the European Parliament’s resolution. The expression of solidarity with Ukraine and its people has opened the door towards the possible granting of an EU candidate status. Nevertheless, the resolution’s wording remains rather cautious, explicitly referring to potential accession “on the basis of merit” and in line with Article 49 TEU.<sup>11</sup> The Versailles statement of the EU heads of state or government also only generally referred to the treatment of the Ukrainian membership application, “in accordance with the relevant provisions of the Treaties”, and added the more political reference to Ukraine’s place in the European family.<sup>12</sup>



At this stage, the discussion about Ukraine's membership perspective may be regarded as a largely symbolic – albeit historic – political gesture supporting Ukraine in its 'European choice' and self-defence against Russia. However, this gesture has also launched broader and more far-reaching implications. Moldova and Georgia quickly followed the Ukrainian example and also formally applied for EU membership a few days later. The formal requests from three associated Eastern Partnership (EaP) countries trigger a more fundamental debate about the future of the EU's enlargement policy. How should the EU respond to these new applications for membership? How can it reconcile its full political support for Ukraine – and, by extension, Moldova and Georgia – with the rather complex and demanding requirements for EU membership under Article 49 TEU?

Granting a formal EU candidate status to the EaP countries would be a historic recognition of their 'European choice' and an invaluable token of support for the people in Ukraine fighting against Russia's illegal and violent invasion. However, the EU must also not overpromise nor create unrealistic expectations in Ukraine, Moldova and Georgia. In order to overcome this tension between political and strategic considerations and legal and technical concerns, the Association Agreements (AAs) concluded with Ukraine, Moldova and Georgia respectively remain the best instruments for the short and medium terms. The agreements make for an ambitious form of political association and economic integration which can reconcile the different views within the EU, and between the EU and the associated countries on EU membership in the short term, while having the potential to act as genuine pre-accession instruments in the longer term on the basis of a staged approach.

## No fast-track procedure

Despite all the recent rhetoric about a potential 'special' or 'fast-track' procedure,<sup>13</sup> the reality is that such a procedure does not exist under the EU treaties. Like all other applicant countries, Ukraine, Moldova and Georgia must go through all the steps of the accession procedure outlined in Article 49 TEU. The article states that any "European State" which respects the democratic values and principles on which the Union is built may apply for EU membership. This formal step triggers a long preparatory process where the EU27 must approve each step unanimously.

This Discussion Paper will not discuss in detail the entire pre-accession process, but it should be recalled that the first major step in the accession process is the European Commission's submission of an opinion after an invitation from the Council. On this basis, the European Council may take the political decision to grant a formal 'candidate status' and include the applicant country in the EU enlargement policy. As stressed by the EU leaders during the informal Versailles summit on 10-11 March, the Council acted "swiftly" after Ukraine's membership application by quickly inviting the European Commission to submit its opinion "in accordance with the relevant provisions of the Treaties."<sup>14</sup>

Significantly, there is no particular timeframe for the Commission to issue such an opinion. It can happen rather quickly post-submission of a membership application, or take several years. For instance, Bosnia and Herzegovina applied in February 2016, and the Commission published its opinion in May 2019. Moreover, the European Council's recognition of a candidate country does not imply that accession negotiations will be launched immediately. For example, North Macedonia and Albania were granted the status in 2005 and 2014, respectively, but formal negotiations are yet to commence. Once again, negotiations require a

unanimous decision and formal adoption by the Council; in practice, after a political agreement has reached the level of the European Council.

In the current context, the timing of the next stage is a sensitive issue. Delays may lead to disappointment about the EU's (lack of) solidarity with those literally risking their lives to protect European values. But making quick decisions in the middle of an unprecedented war may have unintended consequences, such as unfulfilled dreams and unrealistic expectations in Ukraine. In light of this dilemma between short-term political considerations and long-term perspectives, it is of utmost importance to offer Ukraine a realistic picture of the EU enlargement process and, for the time being, tangible yet ambitious steps towards EU accession.

Applicant countries must comply with the well-known political, economic, legal and institutional 'Copenhagen criteria'. Even once the devastating war in Ukraine ends, there will inevitably be new challenges, particularly in relation to the EU's administrative and institutional capacity to effectively implement its *acquis* and ability to take on the obligations of membership. Hence, a dedicated support facility will be necessary if the EU is to offer a credible accession perspective.

Moreover, there is the 'fourth Copenhagen criterion', which relates to the EU's capacity to absorb new member states. A Union with more than 30 member states would imply a further revision of the EU's internal structures, resuscitating the old debate about the options for differentiated integration in the EU legal order. Moreover, a fundamental revision of the EU enlargement policy, allowing for a gradual and staged integration, would not only be relevant for the new applicants but also for the existing candidate countries in the Western Balkans.<sup>15</sup>

# The issues at stake

The divergence in views on the further enlargement of the Union is nothing new. When the Central and Eastern European countries applied for membership at the beginning of the 1990s, the initial enthusiasm among the then member states was fairly limited. This explains why the first generation of Europe agreements concluded with Hungary, Poland and Czechoslovakia, respectively, did not include an explicit membership objective.

This only changed after the Copenhagen European Council meeting in June 1993, when these associated countries were invited to apply for membership. At that time too, external political factors may explain the sudden shift in the EU's position. It was a period of uncertainty about Russia's future course, with Russian Foreign Minister Andrei Kozyrev's speech at the 1992 Stockholm meeting of the Organization for Security and Co-operation in Europe functioning as a wakeup call to take the requests of the former Soviet satellite countries seriously. Accordingly, the Europe agreements – initially conceived as an alternative for accession – became important instruments when preparing the EU's eastward enlargement to Central and Eastern Europe.

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## **EU member states are divided over how to react to Ukraine's membership application.**

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Whereas the current situation in Ukraine is of a different nature, the Union's question about whether to offer explicit EU membership perspectives is not new. Just as in the past, EU member states are divided over how to react to Ukraine's membership application. Eight Central and Eastern European member states already expressed their support in an open letter and called on the EU institutions "to conduct steps to immediately grant Ukraine a EU candidate country status".<sup>16</sup> Other members, including Germany, France and the Benelux countries, are more reluctant, having concerns about Ukraine's readiness and eligibility for the pre-accession process, the EU's absorption capacity, and the long-term geopolitical consequences.

It is widely recognised that the EU's pre-accession process has proven to be the most successful instrument in the EU's external toolbox to promote economic and political reforms in applicant countries. Nonetheless, there are a couple of reasons why certain member states remain more reluctant to offer Ukraine ambitious membership commitments (at this point).

First, concerns surround Ukraine's economic and institutional preparedness to begin the long and demanding EU accession journey, particularly now that the country faces enormous economic damages from

the war. Even if Ukraine is granted formal recognition of its membership ambitions (i.e. the candidate status) rather quickly, it will take several years before the actual negotiations start, marking the actual onset of a new extremely demanding and burdensome phase in the pre-accession process. As evident in several Western Balkan countries, an excessive delay between the EU's recognition of applicants' membership ambitions and the latter experiencing the first concrete benefits from this demanding pre-accession process can lead to disappointment, frustration and, eventually, Euroscepticism in the applicant country. For the pre-accession process to be effective, it must be credible and realistic.

Another concern relates to the geopolitical implications of granting EU membership to Ukraine. In the short term, granting candidate status to Ukraine could provoke Russian President Vladimir Putin and further escalate the conflict. A longer-term concern is that, as an EU member state, Ukraine would benefit from the 'mutual assistance clause' enshrined in Article 42(7) TEU, obliging other EU member states to offer "aid and assistance by all the means in their power" in the case of armed aggression on the territory of a member state. Whereas this clause is not exactly the same as the 'collective defence clause' in Article 5 of NATO's Washington Treaty, it nevertheless raises questions about the EU's defensive capabilities. At least, a fundamental strengthening of the Common Foreign and Security Policy (CFSP) in the direction of a European Defence Union is to be on the agenda when the EU expands eastwards. Of course, this unavoidably has implications for the EU's broader neighbourhood relations.

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These concerns would come on top of the general enlargement fatigue in several member states and worries about the impact of a new member with a population of 44 million on the function of the Union. Ukraine would be the fifth-most populated EU member state, with more inhabitants than all the current Western Balkan candidate countries combined. Hence, it appears that the membership applications from Ukraine, Georgia and Moldova cannot be dissociated from a broader and more fundamental discussion about the future of the EU and its neighbourhood.

# The EU's traditional, cautious approach

Although the possibility of EU membership for Ukraine is, so far, rather symbolic, its significance cannot be underestimated. Since the 2004 Orange Revolution, and especially the 2014 Maidan Revolution, Ukraine has insisted on a clear membership perspective at each annual high-level EU–Ukraine summit and Eastern Partnership summit. However, the EU always cautiously avoided using explicit or specific membership language in the joint statements adopted on these occasions.

The potential membership perspective was also a thorny issue during the negotiations on the EU–Ukraine Association Agreement (which took place with the pre-Maidan Ukrainian leadership). The final compromise, enshrined in the preamble to the AA, is that the EU recognises Ukraine as “a European country [which] shares a common history and common values with the Member States of the European Union [...] and is committed to promoting those values”.<sup>17</sup> This is a near copy-paste of the formula used in the first sentence of Article 49 TEU. In addition, the preamble states that the EU “acknowledges the European aspirations of Ukraine and welcomes its European choice”.<sup>18</sup>

These references, which were consistently referred to in all post-Maidan EU–Ukraine summit declarations and European Council conclusions, cautiously recognise Ukraine's membership ambitions and right to apply according to Article 49 TEU without making explicit promises. Other AAs, such as the Stabilisation and Association Agreements (SAAs) with the Western Balkan countries, or even the 1963 Ankara Agreement with Turkey, are more explicit and do include specific membership commitments. For example, the SAAs recognise the Western Balkan countries’ “status as a potential candidate for EU membership”.

It is to be recalled that EU heads of state or government adopted a decision annexed to the European Council meeting of 15 December 2016 stating that the EU–Ukraine AA “does not confer on Ukraine the status of a candidate country for accession to the Union, nor does it constitute a commitment to confer such a status to Ukraine in the future.”<sup>19</sup> This decision gave the then Dutch Government a diplomatic exit from proceeding with the ratification of the AA, even after the negative outcome of a consultative Dutch referendum.<sup>20</sup> This decision functioned as an instrument of international law by which the member states agreed on how to interpret several provisions of the agreement.<sup>21</sup> However, not a single word of the agreement changed, and the EU member states were not prevented from considering the Ukrainian application for EU membership.

Whereas it is true that the AA does not involve the EU's commitment towards accession, it also leaves open the possibility to develop EU–Ukraine relations further. However, due to this referendum, Ukraine's membership remains a thorny political issue in the Netherlands, which explains the countries' reluctance to agree to an ambitious or concrete membership perspective for Ukraine.<sup>22</sup>

As noted above, the joint statement adopted during the Versailles summit on 10 March 2022 granted no explicit membership commitments. It repeated the traditional formula concerning Ukraine's “European choice” and aspirations with the important addition that “Ukraine belongs to our European family.”<sup>23</sup> This is a diplomatic expression of solidarity with Ukraine, which may be regarded as an indication that the option of membership is more than a unilateral ambition of Ukraine.

EU leaders also stressed that the Council already “swiftly” invited the Commission to submit its opinion on Ukraine's membership application. Although any explicit reference to Article 49 TEU or the pre-accession process was avoided, the Council's request for the Commission's opinion is not without consequences as it initiates the first procedural requirement of Article 49 TEU.

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The Commission is also invited to submit its opinions on the membership applications of the Republic of Moldova and Georgia. Remarkably, with respect to the latter countries, the EU member states did not use the expression that they “belong to our European family.” Hence, there is a certain differentiation in the EU member states' initial reaction to the new applications for membership.

In this context, it is also noteworthy that the EU–Georgia Association Agreement recognises Georgia as an *Eastern* European country and not simply European, as is the case for both Ukraine and Moldova. Most likely, this differentiation was included to distinguish the South Caucasus geographically from the ‘Western’ ex-Soviet republics. It has been argued that this ‘Eastern’ tag was included during the negotiations to preclude an accession perspective for Georgia.<sup>24</sup> However, from a legal point of view, this reference does not prevent Georgia from applying for EU accession as foreseen in Article 49 TEU. Any European state committed to the EU's values has a right to apply for membership, regardless of its location. Moreover, the condition of ‘Europeanness’ has always been defined broadly, as can be derived from the EU accession of Cyprus and Turkey's candidate status.

# The Association Agreement and its Deep and Comprehensive Free Trade Area: A framework for gradual and partial EU integration

Whether the current EU–Ukraine AA is still the appropriate legal framework for EU–Ukraine relations following the latter’s recent EU membership application and Russia’s invasion has been questioned. For example, Belgian Prime Minister Alexander De Croo stated that a new, “more intensive partnership” with Ukraine should be developed instead.<sup>25</sup>

A detailed analysis of the EU–Ukraine AA is provided elsewhere.<sup>26</sup> However, it should be reminded that it was the refusal – due to Russian pressure – of former Ukrainian President Viktor Yanukovich to sign the landmark agreement in 2013 that sparked the Euromaidan protests in Kyiv. This led to new, pro-European leadership in Ukraine and subsequently triggered Russia’s illegal annexation of Crimea and support for the self-declared separatist republics in Donetsk and Luhansk.

The AA and its Deep and Comprehensive Free Trade Area (DCFTA) has been in force for more than 5 years now, after the latter’s provisional application was initially postponed for a year due to Russian pressure (trilateral talks in 2015 between the EU, Russia and Ukraine to address Russia’s ‘trade-related concerns’ about the DCFTA illustrated that they were unfounded and geopolitically motivated).<sup>27</sup>

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## The Deep and Comprehensive Free Trade Area part of the EU–Ukraine Association Agreement is highly ambitious and unprecedented.

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The AA makes for an ambitious form of political cooperation in several areas, from political dialogue to

establishing an institutional framework and cooperation in the areas of CFSP, freedom, security and justice. Of particular significance in the context of Russia’s invasion are the provisions on military–technical cooperation<sup>28</sup> and “gradual convergence” in the area of foreign and security policy, including the Common Security and Defence Policy (CSDP).<sup>29</sup> The political part of the AA is, with a few notable exceptions, not revolutionary compared to the EU’s other AAs concluded (e.g. the SAAs). On the other hand, the DCFTA part, which is an integral part of the AAs, is highly ambitious and unprecedented.

This trade deal goes beyond the new generation of EU trade agreements recently concluded with, for example, Korea, Canada, Japan and Vietnam, because it aims to gradually and partially integrate Ukraine into the EU Internal Market on the basis of legislative approximation. The first article of the EU–Ukraine AA stresses that the parties’ objective is to establish “Ukraine’s gradual integration in the EU Internal Market”.<sup>30</sup> This implies that Ukraine committed itself to take over a selection of EU legislation annexed to the agreement, which can lead to far-reaching integration into specific sections of the EU Internal Market (in the area of e.g. services, public procurement, trade in goods) after a strict compliance check by the European Commission. Although this form of conditional economic integration is far-reaching, it is still a far cry from the more ambitious forms of third-country integration into the EU Internal Market present in the European Economic Area or the EU’s bilateral framework with Switzerland.<sup>31</sup>

In addition to the AA and the DCFTA, the EU and Ukraine have signed several sectoral agreements that partially integrate Ukraine into specific sections of the EU Internal Market, such as energy (i.e. Ukraine’s accession to the Energy Community Treaty in 2011) and aviation (i.e. the EU–Ukraine Common Aviation Area Agreement, signed in 2021).

## Implementing the Deep and Comprehensive Free Trade Area

The DCFTA provisionally entered into force on 1 January 2016, while the full AA entered into force formally on 1 September 2017. The European Commission’s recent implementation reports illustrate that Ukraine has made significant progress in the last 5 years in implementing the agreement thanks to challenging economic, institutional and political reforms. However, further

efforts are still required in areas like energy, intellectual property rights, corporate governance of state-owned enterprises, judicial reform and the rule of law.<sup>32</sup>

The DCFTA’s impact on EU–Ukraine trade has been relatively positive. Since the trade deal entered into force (provisionally), bilateral trade has increased



steadily in both directions, recovering from the fallout from the Maidan Revolution and partially making up for Ukraine's trade losses with Russia. Ukrainian exports to the EU are also broadening and include more value-added goods, while more companies export these goods to the EU. However, the trade relationship remains very asymmetrical. The EU is Ukraine's largest trading partner, accounting for more than 40% of its trade, whereas Ukraine is only the 17th partner of the EU, accounting for around 1.1% of the EU's total trade.<sup>53</sup>

Ukraine's approximation to the EU's *acquis*, as foreseen in the AA and DCFTA, also progressed well, although implementation and enforcement challenges remain in several areas. But despite these positive developments, Ukraine was not yet able to 'integrate' into sections of the EU Internal Market, such as services, public procurement, and trade in goods as envisaged in the DCFTA. This is mainly because Ukraine does not yet meet the required legislative and institutional conditions enshrined in the DCFTA for these far-reaching forms of economic integration into the EU Internal Market.

## The Association Agreement is still fit for purpose

Although Ukraine made significant progress in implementing the AA and DCFTA, the enormous economic fallout expected from the war risks thwarting Ukraine's efforts in this regard – and its reform agenda in general. Nevertheless, the AA remains the most appropriate framework for EU–Ukraine relations, even in a difficult post-war economic context and in light of Ukraine's membership application.

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### An important feature of the EU–Ukraine Association Agreement is that it is dynamic.

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An important feature of the AA is that it is dynamic. Both the EU and Ukraine have great flexibility to 'update' the annexes of the agreement, to catch up with new relevant developments in EU legislation or broaden the scope and depth of economic integration (by decisions of the Association Council or other joint bodies, set up by the agreement). For example, since 2018, the EU and Ukraine have agreed to update the agreement's annexes in the area of customs, energy, public procurement and services.<sup>54</sup> This dynamic feature can be used after the war to recalibrate some of the technical DCFTA requirements, adjusting them to the post-war economic reality of

Ukraine. As such, the AA and DCFTA can remain an up-to-date and realistic instrument promoting economic reforms in Ukraine.

On the other hand, as noted above, considering the long and winding pre-accession process that Ukraine would need to undergo after obtaining candidate status, it will be crucial to offer tangible, attractive and intermediate forms of cooperation or integration throughout. The dynamic nature of the AA and DCFTA implies that Ukraine's implementation and reform efforts can already result in integration into specific sections of the EU Internal Market during the long pre-accession process, providing for a gradual, staged approach to full EU membership.

Secondly, in parallel to this rather technical process, Ukraine should integrate further into other EU sectoral policies and instruments, alongside Moldova and Georgia. At the request of the Association Trio, the EU is currently exploring further sectoral cooperation and integration with these three countries, which would complement their respective AAs and DCFTAs.<sup>55</sup> This involves areas like the twin green and digital transitions, connectivity, energy security, justice and home affairs, strategic communication, healthcare, and participation in several EU agencies and programmes. As the Association Trio recognises, the further implementation of the (updated) AAs and DCFTAs, together with such new forms of sectoral integration, will bring the three countries closer to the Copenhagen criteria.<sup>56</sup>

## Conclusion

The outcome and long-term geopolitical consequences of the ongoing war in Ukraine are still impossible to anticipate. What is certain is that Russia's violent invasion will cause enormous economic damages and leave the country in ruins. The EU and its allies will need to support Ukraine's economic recovery with an enormous package of financial and technical assistance. The horrific war in

Ukraine has triggered an unprecedented reaction from the EU in many areas (e.g. refugee protection, sanctions). It is in this context of solidarity that the European Parliament and several EU leaders have called for a clear membership perspective for Ukraine. Offering Ukraine candidate status would be an important token of support for Ukraine; a country literally defending the EU's values.

Paradoxically, the economic consequences of the war will also complicate Ukraine's concrete progress in its potential accession process. Moreover, discussing membership perspectives are arguably premature, with Russian tanks and missiles still on Ukrainian soil. This may create unrealistic expectations and lead to frustrations in the applicant countries. It will therefore be important to remain clear and transparent about the EU accession procedure. This will be a long and difficult exercise for Ukraine (and Moldova and Georgia), and the EU.

In the meantime, offering concrete and credible incentives for reform and the gradual integration into the Union will be of fundamental importance. Paired with financial assistance and new forms of sectoral integration in key EU policies (e.g. the green and digital transitions), the current AAs remain the most appropriate instruments to develop these bilateral relationships further. The dynamic nature of AAs, combined with its open-ended accession perspective, implies that both the EU and Ukraine can reorient their AA to new and more ambitious forms of political association or economic integration, and even accommodate it to a pre-accession context on the basis of a staged approach.

- <sup>1</sup> Council of the European Union (2022), [Application of Ukraine for membership of the European Union. Annex II: Joint Statement by the President of Ukraine Volodymyr Zelenskyy, the Chairman of the Verkhovna Rada of Ukraine Ruslan Stefanchuk and the Prime Minister of Ukraine Denys Shmyhal on Ukraine's application for membership of the European Union](#), CM 2003/22, Brussels, p.9.
- <sup>2</sup> European Parliament, [Extraordinary Plenary session of the European Parliament on 1 March 2022 on the Russian aggression against Ukraine: Statement by Volodymyr Zelensky, President of Ukraine and Ruslan Stefanchuk, Chairperson of Ukrainian Parliament](#), 01 March 2022a.
- <sup>3</sup> Council of the European Union (2022), *op.cit.*, p.9.
- <sup>4</sup> European Parliament (2022b), [European Parliament resolution of 1 March 2022 on the Russian aggression against Ukraine](#), 2022/2564(RSP), Brussels, para.37.
- <sup>5</sup> von Der Leyen, Ursula, [Speech by President von der Leyen at the European Parliament Plenary on the Russian aggression against Ukraine](#), European Parliament, 01 March 2022.
- <sup>6</sup> *Ibid.*
- <sup>7</sup> Michel, Charles, [Remarks by President Charles Michel at the extraordinary debate at the European Parliament on Russian aggression against Ukraine](#), European Parliament, 01 March 2021.
- <sup>8</sup> European Council, [Statement of the heads of state or government, meeting in Versailles, on the Russian military aggression against Ukraine](#), 10 March 2022, para.4.
- <sup>9</sup> *Ibid.*, para.4.
- <sup>10</sup> E.g. Lithuanian President Gitanas Nausėda, who advocated for a strong membership perspective, tweeted after the adoption of this statement that "EU leaders said yes to Ukrainian eurointegration" and that "the process started". Dutch Prime Minister Rutte, on the other hand, stated after the meeting that the EU membership is now not a priority and the EU focus should be on immediate financial support. Nausėda, Gitana, "A historic night at Versailles.", *Twitter*, @GitanaNauseda, 11 March 2022; *Europa Nu*, "Nederland en West-Europese landen tegen snel toelaten Oekraïne", 10 March 2022.
- <sup>11</sup> European Parliament (2022b), *op.cit.*, para.37.
- <sup>12</sup> European Council (2022), *op.cit.*, para.4.
- <sup>13</sup> See e.g. in 't Veld, Sophie; Petras Auštrevičius; Michal Šimečka; Ilhan Kyuchyuk; and Dragoş Tudorache, "Why Ukraine deserves fast-tracked EU membership", *EURACTIV*, 07 March 2022.
- <sup>14</sup> European Council (2022), *op.cit.* para.4.
- <sup>15</sup> See Think for Europe Network (2021), "The Enlargement Impasse and the Necessity for its Transformation: Statement on the occasion of the start to the Slovenian Presidency of the EU Council, 1 July 2021", Brussels: Centre for European Policy Studies.
- <sup>16</sup> President of the Republic of Poland, "Support of Ukraine's swift candidacy to the EU", 28 February 2022.
- <sup>17</sup> [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part](#) (2014), p.4.
- <sup>18</sup> *Ibid.*, p.4.
- <sup>19</sup> European Council (2016), [European Council Conclusions on Ukraine \(15 December 2016\). Annex: Decision of the Heads of State or Government of the 28 Member States of the European Union, meeting within the European Council, on the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part](#), Brussels, p.3.
- <sup>20</sup> Van der Loo, Guillaume (2016a), "The Dutch Referendum on the EU-Ukraine Association Agreement: Legal options for navigating a tricky and awkward situation", Brussels: Centre for European Policy Studies; van Elsuwege, Peter, "Towards a Solution for the Ratification Conundrum of the EU-Ukraine Association Agreement?", *Verfassungsblog*, 16 December 2016.
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- <sup>22</sup> Herszenhorn, David M., "Netherlands' tight fist now chokes Ukraine's EU bid", *Politico*, 10 March 2022.
- <sup>23</sup> European Council (2022), *op.cit.* para.4.
- <sup>24</sup> See e.g. Rettman, Andrew, "EU-Georgia treaty highlights enlargement fatigue", *EUobserver*, 08 July 2013.
- <sup>25</sup> Clapson, Colin, "Belgian PM backs 'more intensive partnership' with Ukraine", *VRT*, 02 March 2022.
- <sup>26</sup> Van der Loo, Guillaume (2016b), [The EU-Ukraine Association Agreement and Deep and Comprehensive Free Trade Area. A new legal instrument for EU Integration without membership](#), Brill.
- <sup>27</sup> See *ibid.*, Ch.6.2.
- <sup>28</sup> [Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part](#) (2014), Art.10.
- <sup>29</sup> *Ibid.*, Art.7.
- <sup>30</sup> *Ibid.*, Art.1(d).
- <sup>31</sup> For a comparison of the Deep and Comprehensive Free Trade Areas, the European Economic Area and other forms of 'third-country integration' into the EU Internal Market, see Van der Loo (2016), *op.cit.*
- <sup>32</sup> See e.g. European Commission (2020), [Association Implementation Report on Ukraine](#), SWD(2020) 329 final, Brussels.
- <sup>33</sup> *Eurostat*, "Ukraine-EU - international trade in goods statistics" (accessed 11 March 2022).
- <sup>34</sup> See Van der Loo, Guillaume and Tinatin Akhvediani (2020), "Catch me if you can: Updating the Eastern Partnership Association Agreements and DCFTAs", Brussels: Centre for European Policy Studies.
- <sup>35</sup> Council of the European Union (2021), [Joint Declaration of the Eastern Partnership Summit \(Brussels, 15 December 2021\)](#), 14964/21, Brussels.
- <sup>36</sup> President of Ukraine, "Joint Statement issued by the Heads of State/Government of Association Trio – Georgia, Republic of Moldova and Ukraine following the 6th Eastern Partnership Summit", 15 December 2021.

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