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Policy Brief Ukraine:

# **ACCESSION OF UKRAINE TO THE EU – WHAT NOW? WHAT NEXT?**

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LibMod Input Paper

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## INTRODUCTION

It is remarkable that Ukraine is making progress in implementing 7 EU Commission priorities despite Russia’s ongoing war of aggression. In his policy brief, Leonid Litra emphasises why

the EU enlargement and deepening process should take place simultaneously and argues why the EU should start accession negotiations with Ukraine this year.

## STATUS QUO ON EU REFORMS AND THE SEVEN STEPS

In the face of Russia’s full-scale war against Ukraine, Kyiv has shown remarkable resilience, continuing to implement reforms aimed at bringing Ukraine closer to the EU even as it defends its territories militarily. The candidate status given to Ukraine in June 2022 has changed the entire *philosophy* of the country’s integration into the EU – recognizing Ukraine’s EU aspirations not only in Kyiv, but also in Brussels, and thus transforming the process into one that may actually lead to membership.

The seven steps<sup>1</sup> (recommendations) issued to Ukraine upon the approval of candidate status for the country have been welcomed by the Ukrainian civil society and supporters of integration with the EU. Having recommendations on some of the most pressing reforms provides stakeholders with an excellent basis from which to push for the necessary reforms despite the war. The reforms addressed in the seven recommendations relate to the areas where reforms are most painful, such as the rule of law and corruption. It would be an overstatement to claim that all the problems in the areas covered by the seven recommendations could be fixed by fulfilling the EU’s recommendations. However, their implementation would test how serious is Kyiv about its reforms and about playing by the EU rules.

The oral update<sup>2</sup> provided by the European Commission to the European Council in the summer of 2023 is meant, in part, to give Ukraine a sense of how the EU is assessing Kyiv’s progress and thus give the country time to address the shortcomings. The preliminary assessment of the EU found that

Ukraine is well on track with the implementation of the seven steps. Above all, as of early summer, 2023, two steps had already been completed – reform of key judiciary bodies and adoption of media legislation – while others recorded “good progress” or “some progress”. Since the update, the Verkhovna Rada, Ukraine’s parliament, has addressed most of the other reforms related to seven steps.

Moreover, the independent monitoring tool “Candidate Check”,<sup>3</sup> developed and implemented by a civil society coalition, is largely confirming the results of the EU Commission. Civil society is usually more demanding vis-à-vis the authorities, but even so, the latest evaluation report at the end of September 2023 accords the Ukrainian government a score of 8.1 out of 10; the most recent reform-related developments were not taken into account.

In mid-October, Ukraine also adopted the law on “politically exposed persons” (PEP Law). This law is intended to secure compliance with the highest FATF standards for combating money laundering and corruption. That the law was adopted despite resistance from a wide variety of persons falling within its scope demonstrates the existence of a real commitment to fighting corruption. However, although it is generally understood that it is Ukraine itself that will benefit the most from the reforms, it is difficult to imagine that legislation of this kind would have been adopted in the current situation if not for the EU conditionality.

Nevertheless, security remains Ukraine’s top priority at this time and will continue to weigh more heavily than other priorities since

there is little reason to push forward with reform if Ukraine is at risk of losing its sovereignty. Therefore, however strange it may sound, the EU should prioritize security assistance and work on bringing Ukraine into NATO. Only a Ukraine that is secure, either as a NATO member or as a state provided with security guarantees, will be able to ensure lasting reforms and lasting peace. The EU has already

taken steps in this direction by providing multi-billion euros worth of support to Ukraine by way of the European Peace Facility.

What is more, the latest step, in which the EU pledged to ramp up production capacity for ammunition, earmarking 500 million euros for this purpose, and accelerate its delivery to Ukraine, is the best guarantee that EU investments in the reforms of Ukraine are safeguarded.

## CHALLENGES AND OBSTACLES ON THE WAY TO THE EU

We are used to thinking of the accession of Ukraine to the EU as a unilateral process, one that depends solely on Ukraine's results in implementing reforms. Ideally, the process is merit-based, but, in fact, it is more complicated than that. The stagnation of the process of EU accession for the candidate countries in the Western Balkans changed the perception of how the process of accession is structured.

According to the country reports in the Enlargement Package<sup>4</sup> of the European Commission, candidate countries in the Western Balkans should have opened and closed more chapters for negotiation by this time. However, a recent study<sup>5</sup> shows that implementing reforms is not enough to guarantee progress: advancing on the path towards membership also requires the existence of corresponding political will in the EU. The new enlargement methodology, which is rightly focused on the rule of law and the fight against corruption as the fundamental reforms for accession to the EU has also some significant shortcomings. The problem is that progress in implementing reforms does not necessarily mean progress in EU accession since the process is subject to political conditionality not necessarily related to the negotiation chapters.

The "bilateralization" of relations between EU members and candidate countries has had a strong impact on the enlargement process, rendering it far more challenging. The dispute

between Bulgaria and North Macedonia is an example of the enlargement process becoming ensnared by bilateral grievances. Unlike the previous methodology, the revised enlargement methodology allows any member of the EU to block the process leading to a given country's accession for reasons unrelated to the accession methodology. This could potentially become relevant for other candidate countries, Ukraine among them.

There are also enlargement challenges on the side of the EU. The view that reform of the European Union should be a prerequisite for any further enlargement is fairly widespread. In Ukraine, the debates on the reform of the EU are seen in a positive light, however, Kyiv is sticking to the position that the reform of the EU and the accession process can and should proceed in parallel so that no time is wasted. Moreover, reforming the EU should not pose an obstacle to "phasing in" candidate countries into individual EU policies, markets and programs, as allowed under the revised methodology. Ukraine is already in the process of integrating into certain EU policies based on its Association Agreement and the DCFTA, however, the grant of candidate status to Ukraine has expanded the scope for greater pre-accession integration. At the same time, Ukrainian officials are unflagging in their insistence that "phasing in" and integration with EU policies should not replace membership.

# WHY ADVANCING ON THE PATH TOWARD EU ACCESSION IS OF EXISTENTIAL IMPORTANCE TO UKRAINE NOW

Ukraine's commitment to implementing reforms even in the midst of the war should be rewarded by an EU decision to open accession negotiations with the country. Candidate status for Ukraine has been perceived by certain experts, including pro-Russian groups, as a "consolation prize": a longed-for but essentially empty promise. The analogy they drew was with NATO's 2008 Bucharest Summit Declaration, which announced that Ukraine would one day become a member but was never acted upon. A signal that EU membership is an attainable goal is important at this stage, both for Ukraine and for the EU.

The risks of not offering Ukraine a real possibility to complete the EU accession process would be catastrophic for the country and could alienate Ukraine and Ukrainians, changing attitudes towards the EU and towards some of the reforms. People in Ukraine currently see the EU as its main "partner" in pushing for painful but necessary reforms. At the same time, opening accession talks for Ukraine would give the reforms a substantial boost. Both the EU and the Ukrainians stand to win big here, since such a move would give them powerful leverage over the reform process.

## CONCLUSIONS

More than ever before, the EU has the power to transform Ukraine, despite the fact that the state is caught up in a fight for its very existence in the war with Russia. EU leadership has been instrumental in stabilizing Ukraine and helping it to withstand Russian aggression. Through its actions in this regard, the EU has shown that it is more than a normative power and an economic giant. The EU's provision of military support for Ukraine succeeded in keeping Ukraine afloat and safeguarded the reforms that had been implemented before the war began. The EU needs to scale up its military support to ensure that Ukraine can respond to Russia's war of attrition without sidelining the EU-related reforms. A security-first approach is essential to any success, lest Ukraine's security risks become so overriding as to render the implementation of reforms pointless.

At the same time, candidate status gave a boost to the reform process in some of the most painful areas, such as the rule of law and the fight against corruption. The diligent implementation of the seven steps laid out by the EU, together with the candidate status, ticks all the boxes for the EU to start of the accession negotiations with Ukraine. A failure on the Council's part to do so at its December meeting could result in setbacks in the reform process and alienate Ukrainians.

It is important that the upcoming process to reform the EU take place in parallel with the process for Ukrainian accession. The latter is seen as a merit-based process in which bilateral grievances not related to the accession should not be allowed to block progress. Thus, the merit-based is expected to go both ways – if Ukraine delivers on reforms than the EU should acknowledge this and move forward on the accession path, but not turn a blind eye to Ukraine's progress. Everyone, including the EU, stands to gain from the opening of accession talks with Ukraine. All the stakeholders would gain greater leverage over the reform process.<sup>6</sup>

## Endnotes

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