

Workshop December 13, 2023

Input paper: Adapting EU Policy – Enlargement and the Future of EU Neighborhood Policy

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**View from Ukraine**, by Liubov Akulenko (Ukrainian Centre for European Policy).

Russia's unprovoked war against Ukraine has demonstrated that neither the European Union nor Ukraine were ready for this challenge. All the instruments that the EU has developed for Ukraine, including the Eastern Partnership (EaP), have mostly led to a deepening of trade relations, the elimination of Soviet-era business standards, and profound changes in the economy, with the bulk of Ukrainian exports going to the EU instead of Russia. This was an effective technocratic project that helped Ukraine understand the philosophy of EU standards, which is different from Soviet ones. However, it did not focus on strengthening democratic institutions, as is the case with the enlargement process, of which Ukraine was not part. For this reason, the political part of the Association Agreement between the EU and Ukraine did not foresee the development of action plans for judicial, public administration, and other political reforms.

The EaP has stimulated the Europeanization of Ukraine's economy and has helped the country maintain trade relations with the EU during the war, which is very important for its economic survival, but it did not provide incentives and instruments for political reforms. In the case of the Deep and Comprehensive Free Trade Agreement, the incentive was rather simple – access to the EU's internal market – while the political part of the Association Agreement had no such incentive.

Such a logic could be applied before but not in the current circumstances, when Ukraine is facing political and security challenges. The development of accession negotiations is the best instrument that the EU can apply to Ukraine now. Only in these negotiations can the EU apply instruments that will stimulate not only economic but also political changes in the country, which are so important for its victory and further democratic transformation. The best example of this is the [data from the Ukrainian Centre for European Policy](#) that demonstrate how Ukraine has changed the trajectory of reform implementation from June 2022. Since then, Ukraine has addressed all of the issues in the EU's seven demands for it, most of which are related to political reforms (judicial, anti-corruption, media). All of them were not on the priority list of reforms in the Association Agreement. This demonstrates that the EU has a strong transformative power in aspiring members. The EaP did not have the kind of instruments for a deep political transformation in Ukraine that are now needed in this time of crisis.

The EU should concentrate its efforts on providing gradual access to the EU market for Ukraine, which will help the country's trade balance, and on making improvements to the enlargement methodology.

### **Gradual Access to the EU Market**

The war is causing deep damage to Ukraine's economy with heavy industries and the agrarian sector suffering major losses. As a result, the structure of its exports has changed dramatically. Currently exports are oriented mostly to the EU (56 percent) since all other trade routes are blocked. Agrarian products dominate while before the war heavy metals were top. Complicated logistics led to a decrease

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The publication was produced in the framework of DGAP's [Think Tank Network on the Eastern Partnership](#) with the support of the European Commission. The views represented herein are those of the author and do not necessarily reflect the views of the German Council on Foreign Relations, its staff or its funders.

in agrarian exports, though – from \$27 billion in 2021 to \$23 billion in 2022. The sector provides jobs for 3 million Ukrainians and brings a lot of foreign currency into Ukraine.

Taking this into consideration, it is important for the EU not only to apply temporary trade liberalization and transport measures while the war lasts, but also to consider gradual access to the EU market. This approach can be applied to trade in goods (industrial and agrarian products) and in services (energy, electronic commerce, postal services, telecommunication services). Full access to the EU market is a long way off, while Ukraine needs measures now that will increase the inflow of foreign currency.

In almost all these sectors Ukraine had made before the war huge progress in terms of EU legislation approximation, but all of them suffered have suffered from war damage. The Ukrainian Centre for European Policy has produced a [set of recommendations](#) that the EU and Ukraine should apply to intensify trade relations in these sectors.

### **Improvement of the EU Enlargement Methodology**

The experience of the Western Balkan candidates for EU membership has demonstrated one of the challenges that could be repeated in Ukraine's case: vagueness of the negotiations framework when it comes to the cluster of fundamentals reform. As mentioned above, the EU's seven demands are connected mostly with this cluster. One of the reasons why Ukraine has been successfully implementing them is the clarity in their formulation. This helps the EU to judge the process properly and provides Ukraine with the possibility to demonstrate results to society. It is important that such an approach is also applied during the negotiations for the fundamentals cluster.

First, this cluster does not have any EU *acquis communautaire* since it covers such political sectors as the rule of law, democratic institutions, and human rights, which are regulated only by the national legislation of member states. It is also challenging to develop a common set of demands for candidate countries since each of them has their own historical preconditions that cause different gaps and problems. For example, it is impossible to develop the same recommendations list for judicial reform in Serbia and in Ukraine as their circumstances are different.

Second, the EU does not have knowledge in reforms for the fundamentals cluster since this is the field of analysis of other international bodies such as the Council of Europe, the Organization for Security and Co-operation in Europe, and SIGMA, and other international institutions. All of them need to cooperate with local experts in candidate countries to be able to know perfectly the national specifics of political reforms.

In the Western Balkans the European Commission used an approach that developed too general indicators or benchmarks for the success of reform implementation. From the first point of view, there is not a problem with this since such vagueness makes it possible to simplify the implementation of benchmarks. But in practice this created a huge ambiguity and space for manipulation in progress evaluation in the Western Balkans.

The major risk for Ukraine's benchmarks in the fundamentals cluster is that they may be mostly copied from the Western Balkans frameworks. They could be too general and based on a superficial understanding of the Ukrainian background in the rule of law and political reforms. This could seriously stall progress in the fundamentals cluster, proposing neither a specific nor a reasonable agenda for the relevant and truly challenging reforms that Ukraine has to undertake to close this cluster.

To avoid this technical challenge that can lead to huge problems in the negotiations in the future, the best Ukrainian experts should be involved and develop in cooperation with EU experts in the fundamentals cluster the set of benchmarks for its different chapters. Afterward, the European Commission and other international institutions should judge the proposed recommendations. Civil

society experts in Ukraine have a deep understanding of most political reforms and only they can develop sets of benchmarks that will reduce the possibility for elites to postpone reforms or not to implement them. Currently Ukraine has a possibility to make benchmarks as concrete as possible. This would also provide the chance to communicate intermediate results of the fundamentals cluster to society.