



Department of Political Science

Master's Degree in International Relations

Chair of Diplomacy and Negotiation

FROM EUROMAIDAN TO ROND POINT SCHUMAN. NEGOTIATING UKRAINE'S ACCESSION TO THE EU.

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Abstract

This dissertation analyzes the intricate relationship between the European Union (EU) and Ukraine, spanning from the Euromaidan protests in 2013 to the onset of Russian aggression against Ukraine in 2022. It explores the historical context, diplomatic maneuvers, and aspirations of Ukraine's integration into the EU. The research begins by tracing the evolution of EU-Ukraine relations, emphasizing pivotal events such as the Euromaidan protests and the signing of the Association Agreement in 2014. It delves into the ramifications of Russia's annexation of Crimea and occupation of the Donbas, shedding light on the failures of the Minsk agreements in achieving peace. Furthermore, it analyzes the EU's response to Russian aggression, including the imposition of sanctions against Russia and the diplomatic initiatives aimed at supporting Ukraine. Moving forward, the research evaluates Ukraine's path towards EU membership, navigating through challenges posed by reforms and geopolitical complexities. It scrutinizes the EU's enlargement process, focusing on the importance of the Copenhagen criteria and the role of multilateral diplomacy. Additionally, it briefly explores strategies for fostering peace in Ukraine post-conflict, assessing the plausibility of the EU's potential role in facilitating negotiations and reconstruction efforts. Methodologically, the research employs an analytical approach, drawing insights from international law, diplomatic studies, and negotiation theory. It synthesizes primary documents, such as EU treaties and official reports, with secondary literature to offer a comprehensive analysis of EU-Ukraine dynamics. Ultimately, the dissertation aims to address key research questions regarding Ukraine's journey towards EU integration and the EU's response to Russian aggression. By elucidating historical context, policy implications, diplomatic strategies, and future projects, it contributes to a nuanced understanding of one of the most pressing geopolitical issues in contemporary Europe.

Key words: *European Union (EU), Ukraine, Russia, accession process, Russian war of aggression, reconstruction, assistance, multilateral diplomacy.*

I hereby declare that I have composed the present thesis autonomously and without the use of any other than the cited sources or means. I have indicated parts that were taken out of published or unpublished work correctly and in a verifiable manner through a quotation. I further guarantee that I have not presented this thesis to any other institute or university for evaluation and that it has not been published before.

February 2024, Rita Federica Sciuto

THE AUTHOR IS ITALIAN.

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INTRODUCTION

The subject

Every story has a beginning and end. The story to which this dissertation refers has a beginning but not an end, at least not yet. It begins in a square in Kyiv, Maidan Nezalezhnosti, in English literally *Independence Square*. The vision of this work is that, in an indefinite future, this story will end in another square, many kilometers away, that is, Round Point Schuman in Brussels, where the main European Union institutions meet. The symbolic convergence between two places physically so distant and ideologically so different from each other has developed throughout years and intensified in the last two years, following Russian war of aggression against Ukraine.

On February 24, 2022, the Russian Federation invaded Ukraine. It was generally perceived as a sudden attack which astonished the world and shocked public opinion. However, the relationship between Russia and Ukraine had been tense since the end of the Cold War and in particular following the NATO enlargements towards Eastern European countries in the 2000s and the NATO approval of Georgia's and Ukraine's aspirations for memberships expressed during the Bucharest Summit of 2008. At the same time, the relationship between Ukraine and the European Union has gradually evolved, also due to the growing importance of the EU as an international actor and to the Association Agreement signed in 2014 after Russia's annexation of Crimea and occupation of the Donbas. Since the beginning of Russian war of aggression in 2022, the EU has dynamically supported Ukraine and countered Russia by implementing thirteen packages of sanctions; it has generally been playing an active international role, to the extent that it has become a point of reference for Ukraine and a challenge for Russia. Once the war is over, the EU is likely to side with Ukraine in negotiating a fair settlement and to continue using sanctions as a leverage against Russia.

The purpose of this dissertation is to reconstruct this path and analyze the possible developments of Ukraine's integration in the EU bloc, eventually leading to full membership. However, before the supposed accession of the country in the EU, many conditions are to be satisfied, starting with reconstruction, a project the EU is willing to participate to from an advantaged and leading position.

For the sake of clarity, this dissertation will mainly consider a timeframe of ten years, from the beginning of the Euromaidan protests in November 2013 to the Russian invasion of Ukraine in February 2022, providing an overview of the latest events until 2023 and a few references to the beginning of 2024. It is fair to specify that this dissertation does not comment on the dynamics of the war, favoring one side rather than another one, but instead focuses on the development and implications of the relationship between Ukraine and the European Union. This dissertation is inspired by a two-week mock exercise which took place during the Diplomacy and Negotiation class of the second year of LUISS' Master's Degree in International Relations of 2022-2023. The purpose of this exercise was to negotiate a *Future peace for Ukraine* considering possible evolutions and the role each delegation would play. In this sense, considerations on the future of diplomacy as regards international organizations' leadership were useful to describe the strategy the EU is implementing as far as Ukraine is concerned.

The thesis structure is the following:

Chapter One analyzes the history of the relationship between the EU and Ukraine from 2013 until the beginning of Russian aggression against Ukraine in February 2022. After a brief introduction on the Orange revolution of 2004-2005, the chapter focuses on the Euromaidan movement, also known as the Revolution of Dignity, which altered the country's precarious balance from the end of 2013 to the first months of 2014 after President Yanukovich's refusal to sign the Association Agreement with the EU. Thereafter, the consequences of the revolution are examined in relation to Russia's decision to annex Crimea and occupy the Donbas. It is also explained why the Minsk agreements failed in guaranteeing peace between Russia and Ukraine. In another section, the Association Agreement of 2014 and the Deep and Comprehensive Free Trade Agreement of 2016 with the EU are analyzed. The chapter concludes with an overview of the beginning of Russian war of aggression against Ukraine.

Chapter Two explores how the relationship between Russia and Ukraine has evolved since the beginning of the war of aggression. It offers an extensive explanation of the sanction regime that the EU has implemented against Russia, trying also to analyze its impact on Russia on the basis of the data currently available. The chapter is then divided in other two subchapters: in the first one, it is analyzed how the EU is

assisting Ukraine, identifying four areas of assistance, that is, political, financial, humanitarian, and military; in the second one, it is given an assessment of the damages the war has produced so far and is then examined the EU's role in Ukraine's future reconstruction, including the main instruments proposed such as the "Ukraine Facility". Therefore, the chapter focuses on the international crimes allegedly committed by Russia and how the EU intends to hold the country responsible for them. In conclusion, it is given an overview on the main conferences on Ukraine's reconstruction held so far, such as the several editions of the "Ukraine Recovery Conference".

Chapter Three discusses Ukraine's path towards the EU. In the first part, it examines how EU enlargement works and what makes the EU different from other international organizations. It is also described the accession process that countries willing to access the Union follow, closely looking at the Copenhagen criteria. In the second part, it is explained how Russian war of aggression against Ukraine has accelerated the country journey towards the EU, considering that in less than one year and a half Ukraine became a candidate country and accession negotiations were opened. It is also analyzed in detail the reform process that Ukraine is undertaking to meet the European Commission's requests and the accession criteria. To better trace related developments, relevant opinions and reports of the European Commission and conclusions of the Council of the EU are examined. The chapter then focuses on what should be different within the EU to render the accession process more resilient and in general the Union more prepared for new geopolitical challenges. In particular, it discusses how the Treaties could be amended accordingly and how the EU could benefit from making foreign policies the new path for European integration. The last part analyzes possible peace plans for Ukraine, giving an overview on Ukrainian President Zelensky's 10-point plan and discussing the role the EU should play in the future of Ukraine. More specifically, it is discussed the case of Cyprus and how the EU should pursue new strategies to guarantee safety and peace in Ukraine.

In the **conclusions**, the findings of this dissertation are summarized. The main aim of this research is to evaluate Ukraine's journey towards EU membership. It concludes that this path may be long and arduous, but that continued collaboration and partnership between the EU and Ukraine will expedite the process and pave the way for a better future for both parties.

Research question, literal review, and methodology

This dissertation tries to answer to the following research questions:

How would the Ukrainian bid look like today without the Russian threat? Is the latter just an accelerator or a main causal factor? What is the weight in this decision of the idea of a “geopolitical Commission” put forward since the beginning of her mandate by President Ursula von der Layen on the European path of Ukraine? And how the EU would be able to “digest” the Ukraine’s accession in the context of voting rights, members of the European Parliament, and many EU policies?

One key finding was that the aggression has spurred Ukraine’s integration into the European bloc, acting as both an accelerator and a pivotal factor in shaping Ukraine’s European path. The EU’s response to the conflict demonstrates unprecedented support for Ukraine, indicative of a significant shift in EU policy towards the country. The research underscores the importance of the EU’s role in guiding Ukraine’s recovery and reconstruction efforts, despite significant financial and logistical obstacles. It also focuses on the ongoing debates on the allocation of resources and the scale of reconstruction efforts, as well as differing views on Ukraine’s long-term aspirations. Moreover, the study emphasizes the geopolitical significance of Ukraine’s accession to the EU and the potential benefits it offers in terms of stability, security, and international influence. However, it also acknowledges the challenges and uncertainties surrounding Ukraine’s integration process, including issues related to governance, economic development, and regional stability. In light of these findings, the research proposes several recommendations for the EU to strengthen its response to the crisis and enhance its ability to address future challenges. These recommendations include amending the Treaties to enhance the EU’s crisis response capabilities, upholding EU standards in the enlargement process, and prioritizing foreign policy as a pathway for deeper European integration.

To answer these questions, different types of sources were used. Primary research is based on the interpretation of the two main EU Treaties, the consolidated versions of the *Treaty of the European Union* (TEU) and the *Treaty on the Functioning of the European Union* (TFEU), both amended by the Treaty of Lisbon which entered into force in 2009. Further literature crucial to this dissertation includes the following

documents:

Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part.

World Bank; Government of Ukraine; European Union; United Nations. *Ukraine Rapid Damage and Needs Assessment: February 2022 - February 2023 (English).*

Liadze, Iana, Corrado Macchiarelli, Paul Mortimer-Lee, and Patricia Sanchez Juanino. “Economic Costs of the Russia-Ukraine War”.

European Parliament. “Texts Adopted - Proposals of the European Parliament for the Amendment of the Treaties - Wednesday, 22 November 2023”.

The official websites of the European Union, such as the European Commission website and the Consilium Europa website, are used to gather reliable information on the latest events. Furthermore, in the third chapter, the following EU documents

Council of the EU. 2023. “Conclusions on Enlargement”. Consilium Europa. December 12, 2023.

European Commission. 2022. “Opinion on Ukraine’s Application for Membership of the European Union.” European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). June 16, 2022.

European Commission. 2023. “Ukraine Report 2023.” European Neighbourhood Policy and Enlargement Negotiations (DG NEAR). November 8, 2023.

are analyzed to understand the gradual alignment of Ukraine with European standards. Useful and integrative background information is found in the following books:

Lonardo, Luigi. *Russia’s 2022 War Against Ukraine and the Foreign Policy Reaction of the EU.* Springer eBooks.

Viceré, Maria Giulia Amadio, and Giulio Venneri. *The European Union’s Engagement With the Southern Mediterranean.* European Administrative Governance.

Viceré, Maria Giulia Amadio. *The High Representative and EU Foreign Policy Integration.* European Administrative Governance.

This dissertation follows a descriptive, analytical, and interpretative approach based on qualitative methodology. In the first chapter, an historical background is provided to examine the evolution of the EU's approach towards Ukraine since 2014. In the second and third chapters, interdisciplinary research comprising international law and diplomatic studies is conducted to analyze current events and developments in depth. Negotiation theory provides the general theoretical framework to this dissertation to elaborate on the EU's attitude towards Ukraine. In this respect, two main principles were applied: multilateral diplomacy and the two-level game of foreign policymaking.

Multilateral diplomacy is here intended as multilateralism. In international relations, multilateralism is the “process of organizing relations between groups of three or more states” comprising “principles [such as] indivisibility of interests among participants, a commitment to diffuse reciprocity, and a system of dispute settlement intended to enforce a particular mode of behaviour”¹. A multilateral organization is therefore an association of three or more nation states which work together for a common goal.

The definition of the two-level game of foreign policymaking is based on the theories of the renowned seminar works *Essence of Decision: Explaining the Cuban Missile Crisis* of Graham Allison and Philip Zelikow (1999) and *Double-Edged Diplomacy, International Bargaining and Domestic Politics* of Peter Evans et al. (1993). Graham Allison's works, *Conceptual Models and the Cuban Missile Crisis* (1969) and *Essence of Decision: Explaining the Cuban Missile Crisis* (1971), introduced two novel decision-making frameworks: the bureaucratic politics model and the organizational process model. These models have become integral components of foreign policy analysis. The bureaucratic politics model argues that foreign policy decisions result from political bargaining among individual leaders occupying governmental positions, influenced by their organizational roles. Conversely, the organizational process model asserts that foreign policy actions stem from the behavior of large bureaucracies with distinct priorities and perceptions, adhering to standard operating procedures. Therefore, foreign policy is shaped by the output of multiple

¹ Scott, James. 2015. “Multilateralism | International Relations, Global Cooperation & Diplomacy.” Encyclopedia Britannica.

October 13, 2015. <https://www.britannica.com/topic/multilateralism>.

bureaucracies, each with its own responsibilities and interests. According to Allison and Zelikow, foreign policy and domestic policy are intersected. Indeed, even though foreign policy is perceived as an independent and isolated part of the political system of a state, several state agencies are involved in its employment. Consequently, the foreign policy of a state is influenced by the power and opinions of its national agencies. In other words, the way they present an issue at the domestic level will shape the foreign policy of the state. According to Evans et al., foreign policy is double-edged diplomacy. In fact, foreign policymaking is both an extension of the promises of the government at the domestic level and the fulfilment of the expectations of the other states at the regional and international levels. Accordingly, foreign ministers and policymakers should synchronize international issues with domestic objectives by linking specific elements of their international agenda to international negotiations. Moreover, international coordination may enhance the effectiveness of foreign policymaking whether the right procedures are respected.

In this dissertation, the EU is defined as a peculiar organization whose exact nature is hard to interpret leaving room for continuous evolution and developments. However, it is fair to say that the EU is essentially an advanced multilateral system of states which itself actively participates in a multilateral global system at numerous and intersected policy levels. Indeed, “the EU itself constitutes a kind of regional »laboratory for global governance«. Multilevel politics between national states and the Union, the far-reaching juridification of its international cooperation, the bundling of »shared sovereignties, « the continuous development of common interests between the member states, as well as the division of labor between national states, the quasi-supranational EU Commission and the EU Parliament – that is, the complicated but unavoidable »governing beyond nation states« – has been practiced in the EU for a number of decades”². At the multilateral level, the EU plays for instance an important role as regards the universal promotion and protection of human rights, supporting and participating in the work of other organizations, such as the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), and specialized UN

² Messner, Dirk. 2007. “The European Union: Protagonist in a Multilateral World Order or Peripheral Power in the »Asia-Pacific«...” 13-14. ResearchGate, January. https://www.researchgate.net/publication/266480068_The_European_Union_Protagonist_in_a_Multilateral_World_Order_or_Peripheral_Power_in_the_Asia-Pacific_Century.

agencies³. From a diplomatic perspective, Russian aggression against Ukraine represents a new challenge for the EU. The Commission of the President Ursula von der Leyen has carried out a new form of multilateralism with new geopolitical implications which would demand transformations in the Union system. The second chapter emphasizes that EU action towards Ukraine is implicating the implementation of diplomatic measures. For instance, the sanctions against Russia are “A form of hard power [...] coercive measures taken by one or more states to protest another state’s actions and to force a change of behavior”⁴. Furthermore, the EU is promoting Ukraine reconstruction at the international level, actively sponsoring Ukraine within international conferences and seeking funds for its future from public and private actors. The EU is also trying to bring Russia before an international court for its aggression against Ukraine while finding a way to make the country compensate for the damage caused. All these elements implicate the involvement of the EU in a more advanced form of multilateral diplomacy. In the definition of James P. Muldoon Jr. and JoAnn Fagot Aviel, multilateral diplomacy is “the management of international relations by negotiations among three or more states through diplomatic or governmental representatives, but it can also be engaged in by representatives of non-state actors. Multilateral negotiation is characterized by multi-parties, multi-issues, multi-roles, and multi-values [...] It can be based on multilateralism or have multilateralism as a goal [...] Multilateralism can be defined as global governance of the many, and a major principle is the opposition to bilateral discriminatory arrangements”⁵. The EU is certainly a non-state actor guided by moral principles and common interests.

The third chapter of this dissertation appreciates the fact that the EU has acted as a unified actor speaking with one voice as regards Ukraine but also emphasizes the inherent differences among its 27 Member States which should be treated accordingly in view of new geopolitical challenges. In this dissertation, the two-level game of foreign policymaking can also be applied to the EU, even though Allison,

³ “Human Rights at Multilateral Level”. EEAS. https://www.eeas.europa.eu/eeas/human-rights-multilateral-level_en.

⁴ The National Museum of American Diplomacy. 2024. “Sanctions - the National Museum of American Diplomacy.” January 4, 2024. <https://diplomacy.state.gov/encyclopedia/sanctions/>.

⁵ Muldoon, James P., and JoAnn Fagot Aviel. "Multilateral Diplomacy." *Oxford Research Encyclopedia of International Studies*. 11 Jan. 2018. <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-462>.

Zelikow, and Evans based their theories on the interpretation of foreign policymaking within states and not organizations. However, it is possible to consider European policy as domestic policy, European institutions as national agencies, EU international agenda as a reflection of internal issues influenced by geopolitical challenges. On the one hand, the EU is currently coping with important issues related to major internal policies; on the other, the European Commission is pushing EU Member States and the other European institutions for helping and assisting Ukraine while proceeding with its accession process. If European domestic and foreign issues are considered detached from each other, EU efforts towards Ukraine could be perceived as exaggerated and unmotivated. Conversely, framing the EU international agenda within EU domestic policies is crucial. For instance, European dependence on Russian gas resulting in an EU energy crisis since February 2022 could be resolved had the issue considered at the global level: being one of the richest European countries in resources, Ukraine could replace Russia's supplies to the EU.

In fact, foreign policy and diplomacy should be further enhanced and adapted in order to make the EU a more effective international actor. More specifically, EU's ability to influence the outcome of international negotiations is based on a bargaining approach intended as a "process during which parties with conflicting interests attempt to reach a mutually beneficial agreement, and proposals on which agreement to reach arise endogenously"⁶. Therefore, "Bargaining is [...] often seen as an ever-present part of social interaction and explains the path towards collective agreements"⁷. In the case of Ukraine, the EU is trying to demonstrate enough flexibility to direct the negotiation process towards a desirable outcome. Such flexibility within a multilateral environment is also emphasized in the third chapter as regards the accession negotiations between Ukraine, the EU, and its Member States. This dissertation considers that, once the war is over, further research will be necessary to find out whether the EU maintains a similar role

⁶ Eraslan, Hülya, and Kirill S. Evdokimov. 2019. "Legislative and Multilateral Bargaining." *Annual Review of Economics* 11 (1): 444. <https://doi.org/10.1146/annurev-economics-080218-025633>.

⁷ Schwarzkopf, Anke. 2021. "The EU as a Global Negotiator? The Advancement of the EU's Role in Multilateral Negotiations at the UN General Assembly." *International Relations* 35 (4): 574. <https://doi.org/10.1177/00471178211045623>.

in future peace negotiations.

CHAPTER ONE

Historical background on the relationship between the EU and Ukraine

Introduction

Contemporary history of Ukraine goes hand in hand with its relationship with the European Union (EU). Though intense and sometime harsh, the special link between the country and the EU is the result of various major events, mainly EU enlargements towards former-Soviet East European countries and the Ukrainian divergence from Russia. Furthermore, its geographical position is key in understanding why it has been extensively considered a buffer state dividing the West from the East. However, this oversimplification does not serve well the Ukrainian strong will of independence and self-determination: indeed, this spirit has been often sacrificed in name of neutrality, for the sake of a fragile balance which has hardly considered the perspective of the people most affected by it. In fact, more than once Ukrainians have found in the EU a close ally and have sought refuge in the European democratic values, in the will to be part of a bigger reality providing them security and prosperity.

Before Euromaidan

1.1 The Heritage of the Orange Revolution

It is not new that Ukrainians know how to protest. In 2004, the Orange revolution began as a riot against corruption and soon risked turning into a proper civil war. For two months, the world observed astonished the massive uprisings that from the well-known Kyiv's Nezhdelyzhny Square spread like wildfire throughout the whole country. The protests began on November 22, following the alleged criminal voter fraud committed in the presidential election of that year (Encyclopedia Britannica, 'The Orange Revolution and the Yushchenko presidency').

In the presidential elections of 2004, the two leading candidates embodied two opposite political inclinations: one, more conservative, Mr. Yanukovych, hailing from the Donbas region and highly supported by the outgoing President Kuchma and Russian President Vladimir Putin, representing thus the *status quo* and the still strong Russian influence over the country; another one, progressive and open-minded, Mr. Yushchenko, founder and leader of 'Our Ukraine Bloc', one of the most popular political parties,

representing the openness towards the West and the aspiration to enter NATO and the EU (Encyclopedia Britannica, 'The Orange Revolution and the Yushchenko presidency').

In the initial round of October 31, they both obtained almost 40% of the vote. When the following month the second runoff was held, Mr. Yanukovich was declared the winner, in a scrutiny of uncertain legality. Wearing orange clothes, the supporters of Mr. Yushchenko poured into the streets. In December, the Supreme Court annulled the results of the elections. Finally, Mr. Yushchenko emerged as the winner of the new runoff, with 52% of the votes. He took office on January 23, 2005, and the protests stopped (Encyclopedia Britannica, 'The Orange Revolution and the Yushchenko presidency').

After this turmoil, one could expect that his mandate was vivid. Far from it. In September of the same year, President Yushchenko dismissed the first cabinet and the second one lasted just few months. Furthermore, in the parliamentary elections of 2006, 'Our Ukraine Bloc' ranked third, after Mr. Yanukovich's and Mrs. Yuliya Tymoshenko's parties. Eventually, President Yushchenko had to accept Mr. Yanukovich as prime minister. However, power struggle and political instability resulted in new parliamentary elections already in 2007 (Encyclopedia Britannica, 'The Orange Revolution and the Yushchenko presidency').

If on the one hand the Orange revolution did not favor political stability in the country, on the other it certainly had a major ideological impact. This historical moment certainly laid the ground for current events. On the one hand, for the first time in the post-Soviet era, Russian influence on Ukraine started diminishing: media and press became freer and the sense of national and European identity among Ukrainians became stronger. This climate was clearly in contrast with the first thirteen years of independence, when "the political, cultural, social, and economic boundaries between Ukraine and Russia had remained blurred. Most people on both sides of the border continued to regard the fates of the two notionally separate countries as inextricably intertwined. This changed dramatically in 2004 when millions of Ukrainians mobilized in defense of free elections". On the other hand, Russia redirected itself towards nationalism, by restricting domestic opposition and establishing serious limitations on the spread of information. Classifying revolutions as a threat, "Moscow sought to make sure the sudden outbreak of

democracy in Ukraine did not prove contagious. This expressed itself in a curiously defiant form of state-sanctioned nationalism which embraced a sense of continuity with the Soviet past while downplaying the crimes of the Communist era” (Dickinson, 2020). Without the Orange revolution, it is likely that the history of Ukraine may have taken a different path: not aware of the other options available, Ukrainians could have remained within Russia’s sphere of influence and Russia’s hegemony could have increased.

This ideological shift is represented by the role of Mr. Yushchenko as President in his five-year mandate. Already in 2005, it was evident his commitment to international relations. As for Russia, Moscow was his first official international visit, even though his relationship with President Putin had not started off on the right foot. In February, the Ukrainian President landed in Brussels, asking for membership talks (Mite, 2008). Indeed, “Even as he seeks to improve his relationship with Russia, Yushchenko’s main goal is the consolidation of Ukraine’s democracy and market economy through integration with the EU” (Karatnyck, 2005: p.50).

Despite apparently unrealistic due to political and economic factors, the Orange revolution boosted favorable media coverage for Ukraine as a growing European democracy. Furthermore, “On January 13, the European Parliament voted 467 in favor, 19 against for a non-binding resolution calling on Ukraine to be given ‘a clear European perspective, possibly leading to EU membership’”. It is fair to say that this “was the clearest sign to Kiev that the EU’s door is open”. However, Ukraine was certainly divergent from the European standards for accession described in the Copenhagen criteria⁸. With a population of 48 million and a low level of economic development, a quick entry into the common market was certainly unfeasible. At that time, Former Polish President Kwasniewski argued that Ukraine would become an EU member within 15 years, whereas other analysts suggested a timeframe of 7 years (Karatnyck, 2005: p.50). EU integration was something to be attained in the long-term. In 2013, nine years after the Orange revolution, the pro-European ideology was well-rooted in the country to the extent that, when President Yanukovich refused to sign the Association Agreement with the EU, another massive wave of protests started in

⁸ The Treaty on European Union sets out the conditions (Article 49) and principles (Article 6(1)) to which any country wishing to become a member of the European Union (EU) must conform. Certain criteria must be met for accession. These criteria (known as the Copenhagen criteria) were established by the Copenhagen European Council in 1993 and strengthened by the Madrid European Council in 1995. <https://eur-lex.europa.eu/EN/legal-content/glossary/accession-criteria-copenhagen-criteria.html>

Independence Square.

Reconstruction of Euromaidan events

1.2 The Yanukovych Presidency

In 2010, new presidential elections were held in the country. While the outgoing President Yushchenko obtained a mere 5%, in a situation similar to the one of five years before Mr. Yanukovych went to the second runoff with the other leading candidate, Prime Minister Tymoshenko. Eventually, Mr. Yanukovych emerged as the winner with 48.95% of the votes. Even though Mrs. Tymoshenko tried to dispute the results, she only obtained a vote of no confidence for her government which was replaced shortly after. When later that year the Constitutional Court overturned the constitution of 2004 granting more powers to the Prime Minister, President Yanukovych received extended executive powers (Encyclopedia Britannica, 'The Yanukovych presidency').

The Yanukovych presidency marked the revival of the ancient tensions between the East and the West. Once the 2006 reform was overturned, "President Yanukovych rapidly turned to authoritarian rule and reversed the pro-Western policies and attitudes of his predecessor, Viktor Yushchenko". This degeneration was reflected in the reelection of President Putin in 2012, when it was further clear that "Ukraine came into his crosshairs as a central part of his grandiose plan to create a great Eurasian Union" (Diuk, March-April 2014: p.11). Plan to which President Yanukovych was willing to participate. Certainly, for this plan to be implemented it was necessary that Ukraine moved closer to Russia and farther from Europe.

Indeed, "Putin sought to block the West by reeling in a country that had been negotiating a Deep and Comprehensive Free Trade Agreement [...] as part of the EU's Eastern Partnership not only with Ukraine, but also with Moldova, Belarus, Armenia, Azerbaijan, and Georgia. Ukraine was ahead of the others in having already initialed an agreement" (Diuk, March-April 2014: p.11). More specifically, the negotiation process with the EU, which began in 2008, included the Deep and Comprehensive Free Trade Agreement (DCFTA) as a component of the broader Association Agreement (AA). The DCFTA would have given Ukraine a preferential corridor to the EU single market, among other neoliberal advantages. However, during

Yushchenko Presidency, negotiations had reached an impasse due to the evident political instability and to the widespread corruption. “Ironically, it was Yanukovich’s election victory in 2010 and the “promise of executive stability” that rejuvenated the EU-Ukraine dialogue” (Ritter, 2017: p. 201)

However, shortly after the election of President Yanukovich, European observers and EU leaders started to express their concerns as regards the realignment of Ukraine with Russia and the preservation of the rule of law in the country. As for Russia, it was clear that their diplomatic relationship was improving. For instance, “In April 2010, after a contentious parliamentary debate, Ukraine agreed to extend Russia’s lease of the Sevastopol port, originally set to expire in 2017, until 2042. In exchange, Ukraine received a reduction in the price of Russian natural gas”. Yet, more importantly, “In June 2010, the Ukrainian government further improved relations with Russia by officially abandoning its aspiration to join NATO, a goal that Russia had opposed” (Diuk, March-April 2014: p.11). As for the preservation of the rule of law, the concerns of the EU leaders were mainly related to the fact that in 2011 former Prime Minister Tymoshenko was accused of abuse of power concerning a 2009 agreement on natural gas with Russia and was jailed for seven years (Amnesty International, 2011). In 2012, her former interior minister, Yuri Lutsenko, was given a four-year prison sentence also for abuse of power. Given the arbitrary of the events, many suspected that they were politically motivated. Moreover, the 2012 European Championships to be host in Ukraine risked turning into a diplomatic debacle after “EU leaders said they would join Germany in a boycott of the event unless Ukraine freed the opposition leader, Yulia Tymoshenko [and] unless the human rights situation under President Viktor Yanukovich improved” (Harding and Traynor, 2012). Ukraine was apparently distancing itself from the European dream.

Anyhow, EU officials still believed that the Association Agreement was on the table. In fact, the Ukrainian government had not given reasons to believe otherwise. “For months, the officials of the EU, believing that the Ukrainian government was sincere in its claims that it wanted to move toward Europe, had been trying to establish the protocol that would lead to a signing ceremony”, which was due in Vilnius on November 28-29, 2013 (Diuk, March-April 2014: p.11). Certainly, they could not ignore the politically motivated imprisonments and the weak preservation of the rule of law. More precisely, “the EU put pressure

on Ukraine to release Tymoshenko from prison. More concretely, albeit vaguely, the EU demanded that Ukraine undertake “electoral, judiciary, and constitutional reforms before an agreement could be signed” (Ritter, 2017: p.202).

The Tymonshenko issue further delayed the signing of the agreement. It is well known that the countries that want to engage in special relations with the EU - mainly if the relationship in object is the status of associate leading eventually to full membership - must respect certain political criteria, in line with the principles enshrined in Article 2 of the Treaty of the European Union (TEU)⁹. The EU officials were working on the agreement while expecting a positive reaction from Ukraine and thus the release of Mrs. Tymonshenko. However, “While this strategy was intended to lead to Ukrainian progress, it did in fact have the opposite effect” (Ritter, 2017: p. 202).

President Yanukovich found himself at a crossroads: on one side, Russia with its promises and its threats; on the other, the possibility to approach the EU and trade in the big European market. Shortly before the expected signing of the agreement, Russia did what it could to interfere with the process: economic sanctions were imposed on Ukraine, mainly targeting the oligarchs who had established closer relations with the EU. In the first six months of 2013, it is estimated that “Russia’s sanctions against Ukraine cost the latter \$500 million”. Promises of assistance in trade and energy once Ukraine would renounce to the European dream were also advanced, in a classic scheme of sticks and carrots. Putin strategy was clearly to put pressure on President Yanukovich and to remind him “of how an Association Agreement with the EU would differ from how business was currently being done in Ukraine (and with Russia)”. Consequently, the President started to treat the negotiations with the EU as if Ukraine were in control and could dictate the terms, “arguing that the economic consequences for the country – including the loss of trade with Russia – meant that the EU would have to be expected to compensate Ukraine”. However, “Russian pressures were in the end effective, as Yanukovich decided to forego the Association Agreement with the EU” (Ritter, 2017: p.202). Yet, he had forgotten one important lesson from nine years before: if Ukrainians do not agree with

⁹ Article 2: The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. https://eur-lex.europa.eu/eli/treaty/teu_2012/art_2/oj

something, they know how to protest.

1.2.1 The Revolution of Dignity

Few days before the Vilnius Summit, President Yanukovich communicated to the EU that Ukraine would not sign the Association Agreement. Indeed, he claimed that the financial difficulties in which the country found itself at that time could be solved only with a stronger Russian involvement and aid, and not otherwise. In other words, he surrendered to Putin's pressure (Diuk, March-April 2014: p.12). The sudden news astonished both EU officials, who had decided to trust the President, and Ukrainians, who had already shown their support to the idea of Ukraine being part of the EU.

The Euromaidan protests officially began on November 21, 2013. The green light was given by a famous Ukrainian journalist, Mustafa Naim, who "posted a message on Facebook encouraging people to congregate in Kyiv's Independence Square (Maidan Nezalezhnosti) to protest against Yanukovich's decision to renege on his commitment to sign an Association Agreement (AA) with the European Union". Not so surprisingly, this post went viral and provoked the reaction of about two thousand people who met in Independence Square that same night. It is important to note that Naim's idea was to urge President Yanukovich to reconsider his decision, calling for a nonviolent protest movement similar to the Orange Revolution of nine years before (Ritter, 2017: p.192). However, as subsequent events demonstrated, this was not the case, and the movement soon turned into bloodshed.

Young people were among the first ones to pour into the streets. Indeed, in view of the agreement, students had organized several assemblies to discuss the implications of a future in the EU and had appreciated the possibilities that this new partnership would offer them. Thereafter, when President Yanukovich made this unexpected U-turn, "An assembly of students on the Euro-maidan [...] suddenly bloomed into a full-fledged movement not only of protest but of opposition" (Diuk, March-April 2014: p.11). Certainly, young people are traditionally the most active on social media so it could be understandable why they were the first ones to be included in the protests; yet their prompt involvement in this revolution marked a stark difference from the past. Indeed, "The Euromaidan of 2013 distinguished itself in the first

few days as something new. The student organizers' rejection of political party symbols was the first sign that this was not a second coming of the Orange Revolution. This generation of young Ukrainians is more hardheaded and clear-sighted about the future than their predecessors" (Diuk, March-April 2014: p.12). Furthermore, this time the issue was not related to preferring one political leader to another one but rather to obtaining a better future, above all for the youngest generation. Diuk indeed notes that "The main difference from previous protests, such as the Orange Revolution of nine years earlier, was the sense that no one political leader could provide a quick solution to Ukraine's troubles, and that people themselves must be responsible for working and organizing for a better future" (March-April 2014: p.10). Moreover, "the movement began as a movement "for" an idea—Ukraine's future in Europe—rather than as a movement "against" an authoritarian regime, as had been the case back in 2004" (Diuk, July 2014: p.85-86).

Anyhow, during the first days the participation in the protests remained quite limited. The numbers grew from 2,000 participants the first day to between 50,000 and 200,000 the following days (Ritter, p.192-3). When the riots started spreading outside Kyiv, about 300,000 people were participating. Still, politicians and parties decided not to take part in this phase, mainly because "the students on the square [were] warning that party-political banners and slogans were unwelcome" (Diuk, July 2014: p.86). Moreover, at that time the idea of Ukraine's future in Europe attracted more young people than older generations. In fact, most of the population was not so upset for the refusal of the President to sign the Association Agreement with the EU, to the extent that "once that rumor was turned into reality by the president's actions in Vilnius, the movement's size began to dwindle rather than grow" (Ritter, 2017: p.193). Anyway, it was precisely the way the President managed the protests that led to their escalation.

Considering the initial modest participation in the protests, it is quite likely that tensions would dwindle slowly and naturally. In fact, "early demands on the regime came almost exclusively from the movement itself, with both the United States and the European Union putting only limited pressure on Yanukovich", resulting in a missed opportunity for the EU (Ritter, 2017: p.193). To understand why eventually the Revolution of Dignity resulted in the fall of the regime, it is necessary to track down the main events starting from November 30. President Yanukovich had just returned from the Vilnius Summit and

the Berkut, the special Ukrainian riot police, was given the order to remove all protesters from Independence Square.

The members of Berkut undergo a more meticulous selection process, receive superior training, higher remuneration, and are equipped with better resources compared to standard police units, and are well-known for their abuse of force and brutality (BBC News, 2014). During that instance, they opted to employ violence to intimidate the protesters. This dramatic turning point was recorded in videos that became soon viral and shocked the world. “The brutal attack, caught on several live cameras, showed the masked and helmeted special forces laying into the students with rubber batons, beating them bloody. The country awoke that morning in a state of shock” (Diuk, March-April 2014: p.12). This was the first time since Ukraine’s independence that authorities used such force against a peaceful demonstration and, sadly, not the last one.

However, this strategy had the opposite effect: rather than intimidate them, the Berkut police made protesters angrier. Indeed, “The following day the protester numbers grew from 10,000 to at least 500,000. These numbers continued to grow until approximately 800,000 Ukrainians throughout the country left their dwellings to express disapproval with the government’s actions” (Ritter, 2017: p.193). Several scholars noted how, from this moment on, the revolution gained a self-regulating and autonomous momentum. Indeed, “The Euromaidan came to have a life of its own: newspapers were published twice a day so that those living in tents with no easy access to the Internet could learn the latest news; a Free University of the Maidan was established, and an ambitious program of cultural activities took place at all hours. [Moreover,] Protesters took over the building of the Kyiv City Council to provide kitchen and sleeping facilities” (Diuk, March-April 2014: p.15). The entire population moved closer together against the regime’s actions, intending to protect those young people who had been the first ones to start the rebellion and roll with the punches.

In this phase, therefore, the population was expressly protesting the regime. Euromaidan was no longer a dissent movement only against President Yanukovich’s decision to turn down the Association Agreement with the EU, even though this idea was never abandoned. One week after the events of November 30, a poll was conducted and it was found that 70% of the protesters decided to participate to complaint

against police brutality, whereas 53.3% were rebelling against the missed agreement with the EU. Nevertheless, European values remained the core purpose, even though not everyone identified them directly with EU policies. People were fighting for democracy, the rule of law, protection of human rights and fundamental freedoms, to the extent that “This was no longer a movement against the foreign policies of the Yanukovich government, but a protest against its “non-European” actions at home” (Ritter, 2017: p.194).

In December, the situation further escalated. Already the first day of the month, the streets of Kyiv were crowded by seven hundred thousand people who were “Outrage over the violence, combined with anger at Yanukovich for summarily depriving the nation of a European future” (Diuk, March-April 2014: p.12). On December 11, the Berkut police were given again the order to clear Independence Square. Sensationally, the crowds managed to resist for hours and pushed the police away by using their bodies as weapons. Tension was skyrocketing. The demonstrators were building and rebuilding barricades that the police dismantled during the night. Furthermore, a station house was organized with ordinary people taking turns to stand vigil during day and night. Independence Square remained rigorously occupied.

A peak was reached on December 17, when President Yanukovich suddenly signed an energy agreement with Russian President Putin. Accordingly, Russia would buy “\$15 billion in Ukrainian bonds and [slash] the price on natural gas by a third”. However, the criticality did not lie on the content of the deal, but instead on the fact that the President was purposely and evidently distancing Ukraine from Europe and approaching Russia again. Indeed, it was clear that “Yanukovich had no intention of giving in to the innovative protest movement that had put his government in crisis by demanding that the country look west toward Europe instead of becoming a Russian ally once more” (Diuk, March-April 2014: p.9).

Another key event that stirred up the crowd was the attack against a journalist, Tetyana Chornovol. During Christmas Day, Mrs. Chornovol was “run off the road by a black SUV, dragged out of her car, and beaten by men presumed to be government agents” (Diuk, March-April 2014: p.10). She was one of the Euromaidan leaders who had extensively accused the President of corruption in her articles. She soon became a symbol of what the protesters were fighting for and “by New Year’s Eve, hundreds of thousands of demonstrators were in the streets again, stronger than ever” (Diuk, March-April 2014: p.9). They

eventually managed to occupy Kyiv's city hall while demanding President Yanukovych's resignation. A point of no return was reached.

1.2.2 The Demands of the Protesters

Protesters were also highly organized as regards the demands they had. During the mass rally of December 29, they presented the "Manifesto of Maidan" summarizing the focal requests upon which they had agreed. First, they demanded the release of all young people arrested by the Berkut and the drop of all charges against them. Moreover, they wanted justice for the brutal attack of November 30 and the legal punishment of the officials who had ordered it. They also invoked the involvement of the international community, in particular the United States and the EU, asking for the freezing of the bank accounts abroad of the Yanukovych family and their "oligarch" associates. In their view, all the authorities and their relatives directly and indirectly responsible for the Ukrainian corrupted system should be banned from travelling abroad as well (Diuk, March-April 2014: p.13).

At this point, they were also backed up by the political opposition leaders, mainly Arseniy Yatseniuk of the Fatherland party, standing in for Yulia Tymoshenko; Vitaly Klitschko of the Ukrainian Democratic Alliance for Reform (UDAR); Oleh Tyahnybok of the Svoboda party; and Yuri Lutsenko, former minister of the interior, who was imprisoned for two years by President Yanukovych. However, they found themselves dealing with a demanding situation: on the one hand, they had to manage "the rising expectations of the people and their increasing fury against the regime"; on the other, they had to develop a political strategy to solve the crisis (Diuk, March-April 2014: p.13-14).

Initially, the opposition presented certain conditions that it insisted must be fulfilled before engaging in direct negotiations with the government. These conditions included the resignation of the minister of interior and the dismissal of the Berkut police. By the end of the year and due to the pressures of the crowd, the opposition called also for the resignation of President Yanukovych and the dissolution of the Parliament, followed by early elections as soon as possible. They also advocated for a return to the Constitution of 2004, which had been overturned by the Constitutional Court in 2010. Notably, one of their key demands was the

immediate signing of the Association Agreement with the EU, along with the prompt implementation of a visa-free regime with Europe (Diuk, March-April 2014: p.14).

It is fair to say that the Euromaidan movement has brought the opposition leaders closer to ordinary citizens than ever before. The idea of Ukraine being part of the EU has not only become a cause worth fighting for, but also a cause worth living for. The coordination between political party members and civic groups led to the realization that the accomplishments of the Euromaidan should be solidified and advanced through the creation of a new nationwide movement. This movement aimed to expand the liberated zone, as they referred to it, to encompass all of Ukraine. Alongside pursuing specific political objectives, the individuals behind this movement also sought to establish a framework that would unite the interests of different civic and political groups. It was intended to serve as a foundation for developing a new generation of national leaders (Diuk, March-April 2014: p.15-16).

1.2.3 The Reaction of the President

Since the beginning, President Yanukovich had resorted to violence as a reaction to the Revolution. He and his entourage believed that repressing and punishing the rebels would eventually lead to the end of the protests and to the de-escalation of the crisis. It is therefore not surprising that in January 2014 the President pushed the Parliament – which he controlled – to introduce a set of laws criminalizing any kind of involvement in the revolution. Indeed, anyone found guilty of “participation in mass disruption” would be punished with ten to fifteen years in prison.

These laws became infamous as “dictatorship laws” since they rejected the most basic international civil and political rights, mainly the right to protest and the right to freedom of speech and of assembly. In fact, they did not tolerate peaceful protest activities either, such as distribution of informative material or picketing in front of institutional buildings (Ritter, 2017: p.194).

However, President Yanukovich’s strategy was once again the result of a miscalculation. His intent was to use the laws to “crush the movement once and for all”. Yet, instead, he made the protesters even angrier, just like in November when he had the Berkut violently dispersed crowds. The consequences were two: the “increased activist resolve” and the “opposition’s strategic transformation” (Ritter, 2017: p.195).

Unfortunately, this marked also the beginning of a cycle of violence and bloodshed.

1.2.4 The End of the Game

The attempts of the government to stop the protests only made them more violent. Indeed, January 2014 went down in history as the month in which Ukrainians armed themselves and took the revolution to the next level. Until that moment, protesters had maintained a peaceful attitude, even in front of the retaliation of the government. However, just like a time bomb, the situation escalated starting from Kyiv, where “People donned helmets, put on bulletproof vests and took up shields and bats. Molotov cocktails and stones began flying, massive tire fires were lit and improvised trebuchets appeared” (Ritter, 2017: p.195). Shortly after, the entire country was in turmoil.

The consequences were disastrous. The regime reacted by playing the only card it seemed to know, violence, but at a more vicious level. For the first time since Ukrainian independence, “the government unleashed a nefarious campaign of murder, beating, torture, arrests, and kidnapping across the country. Police hunted down civic activists, journalists, and medical workers” (Ritter, 2017: p.195). Society was increasingly indignant. Mass protests became ordinary involving hundreds of thousands of participants and leading to sporadic episodes of brutality: protesters were now directly confronting the regime and answering back to violence with violence. This radical change in their approach was mainly due to their discontent as regards the dictatorships laws and to the implementation of cynical tactics of repression by the regime, such as the sudden disappearance of demonstrators even from their hospital beds.

On January 22, two protesters were shot to death by the police. Euromaidan saw its first - and sadly not last - fatalities. In response, protests quickly spread also to eastern Ukraine, a region traditionally supportive of Yanukovich and with closer ties to Russia. Demonstrators managed to occupy the justice ministry in Kyiv, whereas the parliament hastily repealed the anti-protest measures. Meanwhile, Prime Minister Azarov resigned (Ritter, 2017: p.195).

In parallel, attempts to negotiate were pursued. In late January, the protesters obtained the obrogation of nine of the twelve dictatorship laws. Other agreements were reached between the government and the opposition. However, the reality was that the regime was not willing to stick with the pacts: while pretending

to negotiate, it “simultaneously planned how to deploy even larger militia groups against the protesters [...] it was only a matter of time before the regime would violate their terms” (Ritter, 2017: p.195).

The last phase of the Revolution of Dignity began on February 18 and lasted only a few days. Still convinced that some nonviolent means could be implemented, the protesters organized for that day “a 20,000-strong march on parliament that had been named the “peace offensive” [...] Ironically, this would prove to be the last major peaceful event of the uprising.” (Ritter, 2017: p.195). In fact, already in the morning, the streets surrounding Independence Square witnessed violent confrontations between the pro-regime militia and the demonstrators, causing the death of around twenty people. In the evening the fighting escalated even more and “the regime began its offensive operations, which resulted in the protest forces losing significant ground on the square” (Ritter, 2017: p.196).

The situation was officially out of control. The next day, the government’s telephones were ringing off the hook: Western leaders were urging the President to find a diplomatic solution to the crisis as soon as possible in order to avoid further life losses. Moreover, EU officials threatened sanctions against Ukraine unless the Yanukovich administration took steps to de-escalate the violence. It would ultimately prove ineffective. In a warlike climate, “The opposition forces surprised the militias in the early morning of February 20, a Thursday. Already at 7:30am they began to push the regime’s thugs back” (Ritter, 2017: p.196).

Despite a weak attempt to negotiate a ceasefire, as a means of last resort the government gave the green light to the snipers, who were believed to have been in place for weeks. “Over the next few hours Kyiv turned into a war zone as the opposition forced the snipers to retreat, in the process capturing dozens of militia fighters”. After learning the news, EU leaders implemented the promised sanctions against Ukraine. Meanwhile, central government control further eroded in western Ukraine as opposition forces occupied police stations and government offices in Lutsk, Uzhhorod, and Ternopil (Ritter, 2017: p.196).

Official data are shady as regards the exact number of fatalities. It is believed that on February 20 alone around 70 people lost their lives, even though some observers argue that this number is as high as 166 people. Furthermore, it is quite certain that 622 people were injured, as it was confirmed by the Ukrainian

Health Ministry (Ritter, 2017: p.196). Rock bottom was hit.

1.2.5 The Amnesty

After a bloody week, on February 21 matters moved in a new and more diplomatic direction. President Yanukovich was now probably aware of the turmoil his bad management of the protests had caused. At this point, following the horrors of the last events and the pressure of the international community, he could do nothing but accept an EU-mediated agreement between the government and the opposition (Shveda, Yuriy, and Joung Ho Park, 2016: p.90).

As part of the Agreement on the Settlement of the Political Crisis in Ukraine, the 2004 “Orange” constitution would be temporarily restored, which would thus limit the powers of the President and in turn result in an interim unity government. A new constitution was to be written by September and an early presidential election to be held in December based on new election rules to be decided. Amnesty was also granted to the demonstrators arrested after February 17, resulting in the release of hundreds of people and in the evacuation from government buildings. Moreover, a committee composed of representatives from the government, the opposition, and the Council of Europe would investigate to analyze the events of the previous months and assess their accountability and responsibility (The Guardian, 2014).

The agreement was approved by Parliament unanimously. Even though accordingly Mr. Yanukovich would stay in office until the new presidential election, he eventually decided to flee the country before an impeachment procedure could be initiated against him. The following day, he was officially removed from power, in a move that he defined as a *coup d'état* (Shveda, Yuriy, and Joung Ho Park, 2016: p.90).

In the meantime, the Parliament decriminalized the laws introduced by President Yanukovich and Mrs. Tymoshenko was thus released from prison; she then returned to Kyiv where she addressed the citizens reunited in the Maidan in a very moving speech. Eventually, the internal affairs minister Vitaliy Zakharchenko was removed from office due to his involvement in the reprisal and Mr. Oleksandr Turchynov, deputy leader of Fatherland, was appointed Acting President. When on February 24 Mr.

Yanukovych was officially charged with mass murder and an arrest warrant was issued against him, it was evident that the Revolution of Dignity was finally over (Jazeera, 2014). However, it was yet to be decided what the consequences would be.

In the Middle of two Spheres of Influence

1.3 The Role of the EU

In this chapter, it has been previously recognized that the initial reason behind the revolution was the backward step of President Yanukovych as regards the Association Agreement with the EU. Certainly, when the revolution reached its peak, protesters were mainly fighting against the regime and its corrupt nature, even though it is fair to say that they were in some way inspired by the European values of democracy and the rule of law. The same name with which the movement went down in history, “Euromaidan”, leaves little to the imagination. However, if on the one hand, a little bit of the EU was in Euromaidan, on the other it is necessary to understand how much Euromaidan was in the EU. In other words, while in Ukraine citizens were fighting and dying for the sake of a brighter and more democratic future, it should be assessed whether and how the EU was dealing with these events.

During the first phases of the revolution, EU leaders were hesitant to intervene. Among the geopolitical causes behind this approach, there was probably the concern that a boundary would be overcome and that the historic balance created after the fall of the Soviet Union would be compromised. Such circumstances are usually complex and demand a deep understanding of international law dynamics, such as the impact of the principle of self-determination, among other things.

Anyhow, when President Yanukovych announced that Ukraine would not sign the Agreement and the protests began, the EU remained quite passive and observed the events at a safe distance. Therefore, “the EU limited itself to welcoming the expression of support for Ukraine’s European orientation and calling for a peaceful resolution to the crisis, punctuated by periodic visits by officials from EU institutions and member states” (Delcour and Wolczuk, 2015: p. 466). Only when the conflict escalated, and people started to die, did Europe decide to intervene. The EU was very criticized for this approach and, overall, the sanctions it

decided to impose on Ukraine at the very end were generally perceived as insufficient.

However, several observers have noted that this apparent lack of resolution was not new. Even though after the Orange Revolution the EU decided to help Ukraine transit to democracy highlighting the importance of the principle of “good governance”, it eventually retreated in front of the instability of the new leadership. Indeed, “This development was accelerated when Yanukovich won the presidency in 2010, causing Western governments to reassess their aid packages to Kyiv” (Ritter, 2017: p.205). In the EU assistance agenda for 2011-2013, democracy was not mentioned as “key reform priority [whereas the agenda] focused on constitutional reform, the rule of law, combating corruption, and improving the business and investment climate. Overall, there was a shift towards good governance in more threat-oriented areas such as justice, freedom and security, “integrated border management”, and “disarmament” (Delcour and Wolczuk, 2015: p. 462). However, when the Ukraine political situation started to deteriorate, between 2011 and 2012 the EU implemented a democratic conditionality mechanism in its negotiations for the missed Association Agreement of 2013. Among other things, “European leaders demanded that the political harassment of opposition leaders, including Yulia Tymoshenko, come to an end, and that elections, unlike the 2012 parliamentary vote, be conducted in adherence to international standards” (Ritter, 2017: p.206).

Nevertheless, it would not be fair to argue that the EU did not try to support Ukraine. Indeed, in Ukraine the EU “has remained an important source of funding for civil society and the media, a powerful role-model, and a reference point for the pro-democratic forces” (Delcour and Wolczuk, 2015: p. 463). Moreover, its intervention at the end of the protests proved to be decisive. When it was evident that the situation was out of control, the EU stepped in and helped negotiate the agreement that eventually resulted in President Yanukovich’s escape.

The departure of Mr. Yanukovich changed the framework. Following his flight, “the EU has sought to aid the new Ukrainian leadership in its attempts to stabilize the country. The EU embedded officials in several ministries to help the country deal with legal and energy issues and worked closely with Kyiv to combat fraud and embezzlement” (Ritter, 2017: p.206). An integrated strategy was implemented, in which the reinforcement of the rule of law and the fight against corruption were considered vital for Ukrainian

democratic transition. This plan of action was reflected in the definitive Association Agreement, which was finally signed in March 2014, just a month after the collapse of Yanukovich's regime.

1.4 Russian influence

Overall, for almost of all Euromaidan, a crucial moment in the contemporary history of Ukraine, the EU had accepted to play a secondary role, as a talented side character who is too afraid to audition for the lead. However, it is certain that the void left by EU was filled by Russia.

Indeed, "While the EU, and the West at large, remained reluctant to get involved in the conflict, the same cannot be said of Russia. [...] the argument has been made that Russia did not wish to see a country it considered to belong to its sphere of influence move closer to the West" (Ritter, 2017: p. 203). Promises of progress and economic wellbeing were advanced by President Putin in order to maintain his influence on the country. It is certain that President Putin has always regarded Ukraine as a territory ideologically and historically belonging to the Russian Federation. Therefore, he could not allow that "Ukraine would increasingly trade with the West rather than with Russia and [that] a future EU membership might result in Ukrainian NATO membership, making the country a potential base for Western armed forces". It is also interesting to note how the rhetoric of the Russian President has remained coherent throughout the years: back to 2013, "Putin [...] argued that Russian responses to the Ukrainian crisis had their roots in the country's duty to protect the Russian-speaking (and sometimes Russi-leaning) minority in Ukraine" (Ritter, 2017: p. 204). In 2022, the President advanced the same argument to justify Russian aggression against Ukraine.

Furthermore, it is undeniable that the two countries share a similar political and economic structure based on the role of oligarchs. Indeed, "Ukraine's rule of oligarchs [...] – what has sometimes been referred to as kleptocracy – is almost identical to what Russians refer to as the sistema, the unofficial arrangement that allows Putin and his "friends" to pillage Russia's economic resources". In Putin's understanding, the dismantling of that system in Ukraine would awake dangerous ideas in the minds of Russian citizens. In fact, "If Russians [...] were to be provided with evidence that oligarchy could be removed and replaced with

more transparent, democratic rule, then what would prevent them from seeking the same type of change at home?" (Ritter, 2017: p.204).

In February 2014, Euromaidan was over but the same cannot be said of Putin's concerns. The Russian President was not willing to give the impression that a people's movement could succeed in Ukraine without consequences. After the revolution, he designed a strategy that could "sufficiently weaken Ukraine and show that a popular movement, regardless of its intentions and origins, would be detrimental to any country even remotely similar to it" (Ritter, 2017: p.204). The annexation of Crimea in 2014 and the destabilization of eastern Ukraine were therefore direct implications of this strategy.

From Euromaidan to Russian aggression against Ukraine

February 21, 2014. February 24, 2022. Eight years divide exactly the end of the Euromaidan movement and the beginning of Russian aggression against Ukraine. Beyond the symbolism of this peculiar coincidence, the purpose of this section is to reconstruct what happened during these eight years and to find a common thread that could correlate the two events one to each other.

1.5 The Annexation of Crimea

After Euromaidan, Ukraine was in the spotlight again since another major event kept public opinion busy, that is, the Russian annexation of Crimea.

As mentioned before, Russian President Putin was not willing to twiddle his thumbs while Ukraine was once again converging toward the West. From President Putin's perspective, Russia was justified to intervene in any of its post-Soviet neighboring countries in case of divergence from the political model designed for them by Moscow. The invasion of Crimea was almost certainly part of an older plan to be implemented in case things went south. Generally, it is described as a smooth and furtive operation which went unnoticed until it was completed.

After Euromaidan, the circumstances were certainly in favor of Russia. Indeed, President Putin could take advantage of a moment of chaos and political unbalance, due to Mr. Yanukovich's flight to Russia together with the minister of defense, the minister of the interior, the general prosecutor, the head of the state

security service and other companions. The dearth of the executive “created a situation in which the parliament remained as the sole legitimate body of government. A deep crisis of sovereignty and the state provided ideal conditions for the annexation of Crimea by Russia and the subsequent military operations in the regions of Donetsk and Luhansk” (Portnov, 2015: p.69).

These operations started in mid-February 2014, when Russian soldiers and civilian volunteers were secretly sent to the Ukrainian bases in Crimea. On February 28, one week after the end of Euromaidan, checkpoints were established at key crossings from mainland Ukraine to Crimea, controlled by individuals wearing unmarked uniforms. On March 2, the operation came out into the open when Ukrainian military bases were officially occupied by soldiers carrying Russian weapons. Together with them, there were groups of volunteers, possibly Russian reservists, and other fanatic amateurs (Simpson, 2014).

For the most part this operation was conducted bloodlessly, preventing any attack on civilians. Only on March 18, a group of armed pro-Russians openly attacked a small Ukrainian army base in Simferopol, killing one officer and injuring another. This systematic and extremely precise approach made many observers believe that the entire operation had been decided and planned in advance. Rather than an invasion, it was a well-studied infiltration. The *coup d'état* resulted in the annexation of Crimea to Russia, supported by an ambiguous referendum voted by a population intimidated by the presence of armed forces on the territory (Simpson, 2014).

Part of President Putin’s strategy included a massive use of propaganda, which was vital in shaping perceptions and driving conflict in the events leading up to the annexation of Crimea. Since the beginning of the Revolution of Dignity, mass media loyal to the Party of Regions and Yanukovich had portrayed the Maidan protesters as “radicals”, “terrorists”, and “outlaws”. These propaganda clichés were disseminated by the Russian media also in the case of Crimea and the eastern regions bordering with Russia. Many protesters were accused of “anti-Semitism” and “nationalism”. Regional leaders of the Party of Regions reinforced these messages, leading to the establishment of paramilitary organizations in the eastern and southern parts of Ukraine motivated by money or hate towards Western Ukrainians and Ukrainian-speaking individuals (Petro Burkovskyi and Olexiy Haran, 2015: p.79).

In January and February 2014, prominent figures within the Party of Regions incited resistance against what they labeled a *coup d'état*. They supported paramilitary groups like “The Ukrainian Front” and “Oplot” to counter the perceived threat from the protesters. Due to the general instability, “The opposition was slow to react to these allegations even when it took power after President Yanukovich had escaped from Kyiv. The new leaders lost the opportunity to visit Crimea before it was invaded by the troops and explain their future policies addressing concerns about the economic, social and cultural development of the peninsula”. This lack of engagement left Crimea without a viable choice, and many residents saw the Russian military occupation as a way to protect themselves from the perceived “fascist coup” in Kyiv (Petro Burkovskyi and Olexiy Haran, 2015: p.79-80).

With the annexation of Crimea, President Putin cried victory. Apparently, he managed to keep his popularity untouched. However, the reality was different from his expectations. Indeed, “By annexing Crimea and provoking and supporting separatism in Donbas, Putin [...] brought Russia into a military conflict with no happy ending and highly dangerous long-term implications. He hoped for the mass support of the people of the Donbas, underestimated Ukrainian identity and the Ukrainian army as well as the capacity of the US and EU to resist his politics”. Shortly after, he faced the failure of his original plan for Donetsk and Luhansk, which in his view would become two ‘people’s republics’. At that point, President Putin implemented a plan b: “turning the East into a constant source of trouble which keeps Ukraine chaotic, dysfunctional and unpalatable to West, and [transforming] Ukraine into a buffer state with a level of disorder Russia can turn up or down” (Portnov, 2015: p.69-70).

1.6 The Minks Agreements

As aforementioned, the Agreement on the Solution of the Crisis in Ukraine was signed on February 21, 2014, mediated by the European Union and by its Member States Germany, France and Poland. However, it soon proved to be insufficient to guarantee peace in the region after Euromaidan. Indeed, the transitional arrangements it provided for – such as a transitional government of national unity, constitutional reforms and presidential elections at the end of 2014 – were rejected by a very polarized Ukrainian society. It should

also be noted that at that time President Yanukovich was still in the office, something that the Euromaidan protesters did not see in a good light. When he eventually fled the country, Ukraine was facing both a political and a territorial crisis, with Russia threatening its integrity in Crimea and in the regions of Donetsk and Luhansk in East Ukraine (Wittke, 2019: p. 267).

1.6.1 Minsk-1

As conflicts escalated in East Ukraine, on April 17 international negotiations were held in Geneva to discuss the situation. In that occasion, the United States, the European Union, Ukraine, and Russia jointly released the Geneva Statement on Ukraine, proclaiming that the “constitutional process will be inclusive, transparent and accountable. It will include the immediate establishment of a broad national dialogue, with outreach to all of Ukraine’s regions and political constituencies, and allow for the consideration of public comments and proposed amendments”. As Wittke noted, “Later these points were also included in President Poroshenko’s Unilateral Peace Plan of June 2014 as well as the first and second Minsk Agreements” (2019, p. 267).

The first Minsk agreement was signed in the capital of Belarus on September 5, 2014. It was negotiated under the auspices of the Normandy Format, a group of four states – Germany, Russia, Ukraine, and France – that was created for the purpose to discuss viable solutions to the war in Donbas. The agreement was formally signed by the members of the Trilateral Contact Group: “Ambassador Talyavini for the OSCE, former President Kuchma for Ukraine, Russia’s Ambassador to Ukraine, Zurabov, and “representatives” of the Donetsk People’s Republic (DPR) and Luhansk People’s Republic (LPR), Zakharchenko and Plotnitski”. The same signatories are at the origin of the fragile nature of this agreement. Indeed, on the one hand, it was doubted the legitimacy of former President Kuchma, whose mandate to represent Ukraine and to sign agreements on Ukraine’s behalf was highly questioned by the population; on the other hand, it was not accepted that the DPR and the LPR were represented by independent personalities (Wittke, 2019: p.268).

As for the content of the agreement, it contains 12 points of intervention. Echoing the Unilateral Peace Plan, it established conditions for an OSCE-monitored ceasefire, an OSCE-monitored security zone along the border, the withdrawal of heavy weapons from Ukraine, prisoners’ release, local elections, and

reforms for decentralizing power. Furthermore, it envisioned “the continuation of the process through an “inclusive national dialogue”” as well as “early local elections in Donetsk and Luhansk “Oblasts” (province) [and] highly detailed and legalised provisions regarding power-sharing between the central government in Kiev and the conflicted regions” (Wittke, 2019: p.268). More in detail, Russia was the one to insist on the inclusion of the clauses providing for decentralization and local elections in the Donbas, with the view that “Instead of being dissolved, the DNR and LNR would now be elements of a future political settlement” (Allan, 2020).

It is fair to say that the effects of Minsk-1 were quite modest. On September 16, Ukrainian deputies passed a law allowing pre-term local elections in Donbas and giving the DNR and LNR “rights to establish their own police forces, to appoint judges and prosecutors, and to pursue ‘language self-determination’. The law also prohibited the central authorities from dismissing local councils”. On the other hand, Russia soon violated the main terms of the agreement. Indeed, it did not respect the ceasefire and, more notably, after the local elections it proceeded to install new Moscow-backed local leaders. Furthermore, “On 15 December, Russia created an inter-ministerial commission to manage the DNR/LNR economies” (Allan, 2020).

On October 26, parliamentary elections were held in Ukraine. The results unveiled a shared will to commit to deeper European integration: indeed, most of the Rada, the unicameral parliament of Ukraine, was formed of a Western-oriented coalition. However, it was clear that the DNR and LNR electorates were shifting eastwards, “with ‘pro-Western’ parties doing better in the south and much of the east than their ‘pro-Russian’ rivals”. As a consequence, central authorities decided to boost a process of isolation against the DNR and LNR, “cutting economic and financial ties with [them,] establishing a limited number of crossing points across the line of contact and fortifying their military positions in the region” (Allan, 2020).

1.6.2 Minsk-2

At the beginning of the new year, the conflict reached a peak in Debaltseve, a city halfway between Donetsk and Luhansk. Insurgents backed by Russian troops attacked the Ukrainian Armed Forces, resulting in a bloody battle which ended on February 18, 2015, with the withdrawal of Ukrainian forces from Debaltseve.

In this context, German Chancellor Angela Merkel and French President François Hollande pushed for the emergency negotiations of a Minsk-2. The agreement was signed on February 12 by representatives from the OSCE, Russia, Ukraine, the DNR and LNR.

Minsk-2 was the second attempt to establish a framework leading to peace in the region. However, its humble ambitiousness soon led to failure. In fact, it was not able to draw a definite line between the Ukrainian and Russian positions. “As a result, it contains contradictory provisions and sets out a convoluted sequence of actions”. Furthermore, the document does not mention Russia even once, resulting in a lack of responsibility for its implementation.

As for its content, it is composed of 13 points. Nine of them concern conflict management, including dispositions for a ceasefire, the withdrawal of heavy weapons from the contact line, an amnesty, exchange of prisoners, humanitarian assistance, the reestablishment of economic ties between Ukraine and the Donbas, the withdrawal of foreign armed positions from Ukraine, the disarmament of illegal groups, and the activities of the Trilateral Contact Group. The other four points cover political matters, including dispositions for elections in Donbas, to be held after the withdrawal of heavy weaponry in accordance with Ukrainian law, the reestablishment of the Ukrainian control over its border with Russia, constitutional reform and a new Ukrainian constitution emphasizing decentralization, election procedures in Donbas in accordance with the temporary law on special status of September 2014 and OSCE’s standards for democratic elections.

However, many observers have noticed that the political sections of the agreement tended to be in favor of Russia. In particular, the provisions on a constitutional reform leading to decentralization would create separate and powerful entities within the country. Russia’s demands, including granting these regions extensive powers, could fundamentally weaken Ukraine’s sovereignty and prevent its access in the EU and NATO. The document’s contradictory nature arises from the conflicting interpretations by Ukraine and Russia: Ukraine considered it a way to restore its sovereignty, while Russia a means to control territories within Ukraine (Allan, 2020).

Therefore, one of the major problems of the agreement was that there was not a clear definition of its nature and of the positions of the parties to it. As noted by Wittke, this *per se* “implicitly contradicts the

idealised notions of peace agreements forged to address incompatibilities between conflict parties, i.e. that peace agreements will end a violent conflict by addressing and settling the incompatibilities between the direct parties to the conflict”. With Minks-2, it seemed that the differences between the parties were left unsolved on purpose, as well as it was preferred not to give an exact definition of the political nature of the conflict, maybe in order to reach an agreement and avoid turmoil. In practice, this meant that “Ukraine considers itself to be in direct international armed conflict with Russia and does not recognise DPR and LPR representatives as parties to either the conflict or the Minsk Agreements, while Russia considers itself a third-party mediator and/or guarantor of the interests of the DPR and LPR as well as the Agreements’ implementation”, rather than a party to the conflict (2019: p.279). Moreover, the agreement was not equipped with any provisions in case of non-compliance and violation of its terms, making it far from being binding.

It was just a matter of time for Minks-2 to prove inefficient as well.

1.7 The Association Agreement

While President Putin was busy with the military operations in Crimea and at the Normandy Format was mediating for the Minsk packages, at the regional level European leaders were dealing with the preparation of the Association Agreement with Ukraine. The deal was considered to be the most urgent issues of bilateral relations and international cooperation between Ukraine and the EU. It was composed of two parts: “the political part [...] which was signed on 21 March 2014 [and] The economic part [which] was signed on 16 September 2015 and entered into force on 01 January 2016”. This new level of cooperation was “the result of a long process, the aim of which is to create conditions for mutually beneficial relations for both sides” (Tragniuk, 2016: p.45).

Several factors hinder cooperation between Ukraine and the EU. These include discrepancies in the development of democratic institutions and civil society, leading to accusations of human rights violations and election irregularities. Additionally, Ukraine’s economic development was slow, with low GDP and per capita incomes. The country lacked robust regulatory support for businesses and essential economic

institutions, creating an unfavorable investment climate. Corruption and economic crime were the prevalent issues, along with challenges in protecting intellectual property and fulfilling debt obligations. Moreover, Ukraine's export structure for the EU internal market was limited, with a shortage of experienced specialists in European integration matters within Ukrainian state structures (Tragniuk, 2016: p.62).

Certainly, economic development should be based upon strategic political, legal and structural change. During the protests, indeed, "The main demand of the protesters was the introduction in Ukraine of European social and economic, political and legal development models that required structural system reforms in the country" (Tragniuk, 2016: p.44). European officials agreed with this vision and tried to reflect it also in the text of the Agreement.

On a scale, an Association Agreement is the last step before the accession process and therefore before full membership. Indeed, "The Association Agreement is the most advanced type of international agreements which the EU may conclude with third countries - countries with which the EU is ready to develop strong long-term allied relations based on mutual trust and respect for common values" (Tragniuk, 2016: p.55). It is important to note that an Association Agreement, though usually preceding the status of candidate of a country, is not always equal to a possible membership. Indeed, the EU entertains this form of relation with several countries in the world, also African and American countries which are not eligible *a priori* for membership since not part of the European continent. However, in the context of EU enlargements, an Association Agreement is a bilateral deal with a third country which is the basis for implementation of the accession process (European Commission, "European Neighbourhood Policy and Enlargement Negotiations (DG NEAR)"). This was indeed the case of Ukraine.

1.7.1 The negotiation process

As already noted, after the fall of the Soviet Union, the European Community decided to establish formal relations with Ukraine. According to Tragniuk, the EC was among the first to do so, "after getting convinced of the democratic character of the national referendum on the proclamation of independence of our state" (2016: p.46). Between 2004 and 2007, the EU enlargements toward East Europe made Ukraine officially a

neighboring country. The geographical closeness increased the need to boost further cooperation, to the extent that Ukraine became part of the European Neighborhood Policy and its zone of stability, together with other 15 countries (2016: p.51).

Another key step was taken on November 23, 2009, when the Association Agenda between EU and Ukraine was approved. The agenda was preferred to the Ukraine-EC Action Plan that had been discussed until that moment, since it was considered to be a more suitable solution. Indeed, the Action Plan was an instrument in which priorities and objectives were decided annually and unilaterally by both parties, whereas the Association Agenda was “a new tool, which was to prepare the entry into force of the Association Agreement between Ukraine and the EU, and to facilitate of this process”. In the Association Agenda, there were defined “the key priorities of the reforms, to which Ukraine should pay attention during the next years and which would help to fully seize the opportunities to take an advantage of intensified cooperation and improved market access provided by the new Association Agreement between Ukraine and the EU” (Tragniuk, 2016: p.52).

The preparation of an Association Agreement is not an easy task. In the case of Ukraine, the text was negotiated for almost four years, between 2007 and 2011. Even though in separate occasions Ukraine seemed to be close to the conclusion of the agreement, political turmoil slowed the process, and the signing ceremony was postponed until March 2014, in the context of Russian annexation of Crimea.

Finally, after “21 rounds of negotiations on the development and adoption of the text of the Agreement and 18 concerning the Free Trade Area”, the document was ready. On March 21, “at the extraordinary Ukraine - the EU summit the political part was signed”. On June 27, “during a meeting of Council of the EU, the President of Ukraine and the EU leaders, and also heads of states and governments of EU Member States signed [the] economic part of the Agreement”. On September 16, the Association Agreement was ratified by the European Parliament and the Supreme Council of Ukraine. On 15 December 2014, the first Association Council between the EU and Ukraine was held under the new Association Agreement (Tragniuk, 2016: p.55).

However, to officially enter into force, the AA needed the ratification by all parties, even though

“major parts of the agreement were already provisionally applied as of 1 September 2014, [whereas] the provisional application of the deep and comprehensive free trade area started on 1 January 2016” (Consilium Europa, “EU Relations with Ukraine”). The ultimate step of the ratification process was taken on July 11, 2017, when the Council adopted the document. Therefore, the agreement was fully implemented on September 1, 2017.

1.7.2 The political part

In 2014, European leaders defined the AA as the main tool for bringing Ukraine and the EU closer together. The three pillars of the agreement were: deeper political ties, stronger economic links, and respect for common values.

The content of an AA with the EU usually covers many areas of bilateral cooperation. The traditional spheres include economics (trade, investment, commerce), social, cultural, scientific, and technical collaboration. In addition, “the Agreement regulates questions of cooperation in the sphere of foreign policy and security policy, military cooperation, justice, human development, civil society etc.” (Tragniuk, 2016: p. 58).

One of its more interesting areas of coordination is indeed foreign policy. According to the text, “in the sphere of global and regional international relations, [...] Ukraine is leaving the right to freely choose and develop its own position” in collaboration with the EU Member States (Tragniuk, 2016: p.59). In this regard, Art. 472 of AA states: “Nothing in this Agreement shall prevent a Party from taking any measures: (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests ; (b) which relate to the production of, or trade in, arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes; (c) which it considers essential to its own security, in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or serious international tension constituting threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international

security”.

Legal regulation is another important feature of the AA. Hence, without reforms, it would be impossible to apply EU legislative acts to a country with a different legal framework. This part includes “a substantial increase of spheres of legal regulation, which needs an adaptation of Ukrainian legalization to acquis of the European Union and fixation of the detail lists of legislative acts of the European Union, which is subjected to be attached in Ukraine with the certain terms of their adoption”. About two hundred EU regulations and directives and as many as other international agreements and standards were included as subject to these reforms (Tragniuk, 2016: p. 60).

It should be noted that, even though the AA was intended to foster further bilateral cooperation between the two entities, a wide range of discretion was left to Ukraine on as to how carry out such reforms. Indeed, the document only mentions that structural changes are necessary at the political, economic, and infrastructural level. As for the political part, it is recognized that corruption remains one of the biggest burdens, which could be solved by “reforming the judiciary and law enforcement system in general, [focusing on] personal data protection [and] anti-discrimination reform” (Tragniuk, 2016: p.62). Generally, the positive outcome of the implementation of the Agreement lied on the willingness of Ukraine to achieve the necessary objectives. In fact, “All political, legal, economic and social reforms to be carried out for the successful implementation of the Agreement require not only significant economic costs, but also the political will to support this challenge” (2016: p.63).

1.7.3 The economic part

As aforementioned, the Deep and Comprehensive Free Trade Area (DCFTA) is the economic part of the Association Agreement. It offers a framework for modernizing Ukraine’s economy and trade relations, envisaging “a higher level of economic integration of Ukraine in the economic area of united Europe”. Together with the AA, the DCFTA was negotiated between 2007 and 2011. It was provisionally applied since 1 January 2016 and formally entered into force on September 1, 2017, following ratification by EU Member States. It was intended to enhance trade in goods and services between the EU and Ukraine by

gradually reducing tariffs and aligning Ukraine's regulations with those of the EU in specific industrial and agricultural sectors (European Commission, "EU-Ukraine Deep and Comprehensive Free Trade Area").

Indeed, in March 2014, in view of the signing ceremony, it was clear that a crucial part of the deal should focus on economy. Indeed, the Ukrainian economy, already struggling prior to the Maidan protests, reacted unpredictably to the shifting power dynamics, with the hryvnia currency diverging to historic lows. Credit agency Standard & Poor's downgraded the country's debt rating and revised its financial outlook, while the International Monetary Fund (IMF) sought to restore stability. Ukraine lagged EU Member States and candidate countries in terms of basic economic indicators and social development, with significant disparities and structural issues in its economy. There was also a notable deficiency in direct foreign investments.

The main purpose of a DCFTA is usually to allow the accession of a country to a part of the EU single market, in view of a complete integration. In this phase, it was implemented a system intended to reduce tariffs that European firms had to face when exporting to Ukraine. By fixing precise trade rules and predicting possible fluctuations, the DCFTA facilitated the opening of markets for goods and services for both parties. In this sense, "The agreement facilitates trade by making customs procedures more efficient and by gradual approximation of Ukrainian legislation, rules and procedures, including standards, to those of the EU". Furthermore, the elimination of tariffs created the favorable circumstances for EU investments in Ukraine and vice versa, facilitating export and import thanks to quicker custom procedures at the borders (European Commission, "EU-Ukraine Deep and Comprehensive Free Trade Area").

According to the European Commission, Ukraine is one of the major EU trade allies, resulting in a wide range of possibilities for both sides. Key export items include raw materials like iron, steel, mining products, agricultural products, machinery, and chemical products ("EU-Ukraine Deep and Comprehensive Free Trade Area").

Thanks to the agreement, competitiveness of European and Ukrainian businesses improved. As for trade in goods, the DCFTA eliminated most tariffs: 98.1% for the EU and 99.1% for Ukraine. As for industrial products, at the date of entry into force of the agreement, almost 50% of them could be exported

to Ukraine free of duties. For the rest, a transitional period was established. The same applied to agricultural goods, half of which were liberalized when the DCFTA entered into force, whereas for the remaining part it was necessary to wait a little longer¹⁰ (European Commission, “EU-Ukraine Deep and Comprehensive Free Trade Area”).

Furthermore, Ukraine was granted a specific safeguard measure mechanism for its exports, valid until 2031. Under this provision, Ukraine has the authority to apply an additional charge on the export duty of certain goods, including raw hide materials, sunflower seeds, steel, and copper, if the total volume of exports from Ukraine to the EU surpasses a certain threshold during a given period (European Commission, “EU-Ukraine Deep and Comprehensive Free Trade Area”).

In conclusion, it should be noted that the “Association Agreement [in both its parts] is a significant result of political and legal cooperation between EU and Ukraine in recent years” (Tragniuk, 2016: p. 63). It mainly targets the new generation of Ukrainians, the ones who were the first to pour into the streets during the Revolution of Dignity.

1.7.4 The effects of the Agreement

It is fair to say that the Association Agreement, in both its political and economic parts, produced some important effects, mainly as regards the gradual incorporation of Ukraine in the EU single market.

As for the political part, it certainly boosted further dialogue between the Ukraine and EU. Among the most important meeting, it should be mentioned the sixth EU-Ukraine Association Council on January 28, 2020, which was convened to review the progress made in implementing the EU-Ukraine Association Agreement, and to discuss developments concerning Ukraine’s sovereignty and territorial integrity (Consilium Europa, “EU Relations with Ukraine”).

On February 11, 2021, the seventh EU-Ukraine Association Council was held to assess the implementation of the EU-Ukraine Association Agreement. The discussions focused on political reforms, rule of law, economic cooperation, trade, and issues related to Ukraine’s sovereignty and territorial integrity. On

¹⁰ According to pre-war data, until 2023.

September 5, 2022, the eighth EU-Ukraine Association Council gathered, marking the first meeting since Ukraine was granted EU candidate status. During the meeting, the EU reaffirmed its unwavering support to Ukraine against Russia's aggression. Participants also discussed progress in implementing the association agreement and further cooperation between the EU and Ukraine (Consilium Europa, "EU Relations with Ukraine").

As for the economic part, data suggest that the DCFTA has produced the desirable effects. As for 2021, the EU was Ukraine's largest trading partner, being 39.5% of its total trade. Conversely, Ukraine ranked as the EU's 15th most significant trading partner, accounting for approximately 1.2% of the EU's overall trade. The total trade volume between the EU and Ukraine in 2021 reached almost €52.4 billion, nearly doubling since the implementation of the DCFTA in 2016 (European Commission, "EU-Ukraine Deep and Comprehensive Free Trade Area").

Ukraine experienced substantial growth in its exports to the EU, reaching €24.1 billion in 2021, which marked an impressive increase of over 47% compared to the previous year. The main export items from Ukraine to the EU encompass iron and steel (constituting 20.8% of total exports), ores, slag, and ash (12.5%), animal and vegetable fats and oils (notably sunflower seed oil) accounting for 8.5%, electrical machinery (7.8%), and cereals (7.3%) (European Commission, "EU-Ukraine Deep and Comprehensive Free Trade Area").

Conversely, the EU's exports to Ukraine amounted to €28.3 billion in 2021, with a notable growth of 22.4% since 2020. The EU's primary exports to Ukraine encompass machinery (14.8% of all exports), transport equipment and vehicles (10.2%), mineral fuels (9.4%), electrical machinery (9.3%), and pharmaceutical products (5.9%) (European Commission, "EU-Ukraine Deep and Comprehensive Free Trade Area").

However, these promising effects were impacted by Russia's aggression against Ukraine in February 2022.

1.8 Towards Russian aggression

Euromaidan certainly marked a watershed in Ukraine's contemporary history. Four years after the protests, it was evident that the country was undergoing important transformations. However, opinions varied on whether these changes have been beneficial. Post-Euromaidan economic changes resulted in a decline in welfare, with notable reductions in GDP per capita and an increase in external debt. Nonetheless, Ukraine also achieved some economic successes, including improvements in the banking system and macroeconomic stability (Fedorenko, 2017).

Furthermore, external incentives and conditionality mechanisms, such as demands from the EU and IMF, have proven effective in promoting reforms. However, the absence of sustained external pressure has led to stalled processes. In some instances, progressive reforms were hindered, raising concerns about the concentration of power within the president and the cabinet.

Widespread corruption remained a significant issue in Ukraine, and the lack of reform in the judiciary hampered efforts to combat high-profile corruption cases. Furthermore, the validity of some laws, such as the one limiting minority language education, has been questioned, which has also caused tensions with neighboring countries. Despite the challenges, many Ukrainians still viewed Euromaidan positively and supported the need for change (Fedorenko, 2017).

Six years after Euromaidan, Ukraine was still facing a low-intensity conflict with Russia in Donbas, whose resolution seemed dubious. Furthermore, the country was experiencing the same problems of corruption and economic stagnation, despite some progress in domestic reforms. Indeed, the government under Petro Poroshenko initially achieved reform milestones, but progress slowed, resulting in a decisive defeat in the 2019 elections, with Volodymyr Zelensky assuming office (Pifer, 2020).

President Zelensky's administration faced the task of accelerating reforms, combating corruption, and seeking a resolution to the Donbas conflict. However, Moscow's unwillingness to change its approach hampered progress in resolving the Donbas issue. President Zelensky's government was willing to focus on domestic reform efforts in order to build a stronger and more resilient state, potentially better prepared to withstand Russian pressure and realize the aspirations of the Maidan Revolution (Pifer, 2020).

1.9 Russia's aggression against Ukraine

On February 24, 2022, the Russian Federation invaded Ukraine. It was generally perceived as a sudden attack which astonished the world and shocked public opinion. Far from that. Since the annexation of Crimea in 2014, Russia had never left Ukrainian territory, even though until that moment its military efforts had interested mainly the eastern regions of Donetsk and Luhansk, collectively referred to as Donbas.

Therefore, it is fair to say that Russia's invasion of Ukraine started in 2014, resulting in thousands of deaths and significant humanitarian and economic consequences for Ukraine. It has also strained relations between Russia and many Western countries, leading to increased tensions and geopolitical implications in the region. Despite in March 2014 the international community condemned the annexation of Crimea and many countries, including the EU, imposed sanctions against Russia, the conflict continued to escalate into a full-blown war between Ukrainian forces and Russian-backed separatists. Even though throughout the years efforts to resolve the conflict have been made through diplomatic negotiations, including the Minsk agreements, achieving a lasting peace has proven challenging, with numerous ceasefires being violated and ongoing hostilities persisting from both sides. Eventually, military buildups and diplomatic efforts proved unsuccessful when on an early Thursday morning Russia officially initiated its aggression against Ukraine, launching shelling and rocket attacks on major cities, including Kyiv, and resulting in numerous casualties (Ramzy, 2022).

President Putin justified this move as a "special military operation" under the pretext of "demilitarizing" and "denazifying" Ukraine. However, it was soon clear that the motivations behind Russia's invasion lie in President Putin's desire to exert control over Ukraine and oppose to Ukraine's aspirations for closer ties with the West, including its goal of joining NATO (Ramzy, 2022).

On the other side, just before the beginning of the attacks, President Zelensky made a passionate televised appeal to the people of Russia, urging them to listen to reason and expressing the desire for peace. However, the aggression proceeded, and the situation rapidly escalated. Ukrainians faced a dire reality as they witnessed the invasion they had feared for months. Many sought refuges in parts of the country not yet surrounded by Russian forces, while others sought protection in subway stations and bomb shelters as air

raid sirens sounded. The attacks resulted in more than 40 Ukrainian soldier deaths and numerous civilian casualties only on the first day (Ramzy, 2022).

Russia launched attacks from multiple directions, including from Belarus¹¹ in the north and Crimea in the south. The invasion caused considerable damage to Ukrainian military targets and civilian areas. The Chernobyl exclusion zone, which includes the site of the infamous nuclear disaster, was also impacted by Russian forces. The international community has condemned this act of aggression and launched sanctions against Russia. Furthermore, the United Nations Security Council held an emergency meeting to address the situation, and countries worldwide have been expressing solidarity with Ukraine and taking measures to hold Russia accountable for its actions (Ramzy, 2022).

¹¹ Belarus is a close ally of Russia. The two countries have indeed formed a supranational union which is called “Union State”.

Conclusions

The relationship between Ukraine and the EU has evolved throughout the years and had its highs and lows. Before Yanukovich's refusal to sign the Association Agreement, the EU was always cautious as regards Ukraine's internal dynamics, trying not to be involved in accordance with the international law principle of non-intervention. This was also the attitude that the EU maintained during the 2013-2014 protests, nevertheless condemning the regime's excessive use of force. Conversely, at the latest stages of the Euromaidan revolution, the EU joined the international community and promptly tried to contain the damages and find a solution to the conflict, resulting in Mr. Yanukovich abandonment of his political role. After the revolution, the EU has increasingly approached Ukraine and became more involved in its dynamics, to the extent that the AA was finally signed. However, Russia has continued to find its way to influence and intimidate Ukraine by annexing Crimea and occupying the Donbas in 2014. In the following years, the situation seemed to have reached deadlock; yet, due to the increasing influence of the West on Ukraine, Russia decided to attack Ukraine on February 24, 2022. Following Russian war of aggression, the EU is on the frontline in supporting Ukraine. In the next chapter, it will explain what the EU response to the war is. In particular, it will be examined the sanction regime against Russia. The chapter is then divided in other two subchapters: in the first one, it will be analyzed how the EU is assisting Ukraine; in the second one, it will be examined what the EU is doing for Ukraine's future reconstruction and how it intends to hold Russia responsible for its international crimes.

CHAPTER TWO

EU support to Ukraine: assistance and reconstruction

Introduction

Since the sudden attack on February 24, 2022, and since the first Russian missiles hit different cities in Ukraine, the European Union has stood with Ukraine. Its support has been reiterated and demonstrated multiple times. However, the purpose of this chapter is not to admire the actions of the EU but instead to identify the way it responded to the conflict. It will be analyzed how the EU is trying to hamper Russia's actions by implementing several packages of sanctions and, on the other hand, how it is providing assistance to Ukraine and how it is committed to the country's future reconstruction.

In the European Commission official website, there exists a specific session called "EU Solidarity with Ukraine"¹². It is available in English, Ukrainian, and Russian and contains practical information for Ukrainian refugees, suggestions for people who want to donate or support Ukrainians, and the latest news as regards EU actions for Ukraine. The website title and the introduction are very incisive and clear: "EU stands united with Ukraine"; and immediately below: "The EU and its international partners are united in condemning Putin's aggression on Ukraine. We will provide support to those seeking shelter and we will help those looking for a safe way home. The EU will continue to offer strong political, financial and humanitarian assistance to Ukraine and impose hard-hitting sanctions against Russia and those complicit in the war". In a few sentences, EU officials have summarized EU views and actions of the last months. The tone and words used are not casual: Russian aggression is defined as Putin's aggression, whereas the contraposition between Russia and the West makes clear that this is not only a conflict between two countries but instead a war between an aggressor, who is left deliberately isolated, and the rest of the world representing democracy, international rights and values, and the respect for the rule of law.

¹² For further information, please consult: https://eu-solidarity-ukraine.ec.europa.eu/index_en.

EU measures against Russia

2.1 EU sanctions against Russia

For months, sanctions against Russia have divided European public opinion. Indeed, some observers consider that their effect is limited on Russia and that they are having an impact on the EU itself, such as higher energy prices and economic competitiveness challenges. However, before going into detail, it is useful to define what sanctions are from a diplomatic perspective. According to the National Museum of American Diplomacy, sanctions are “A form of hard power [...] coercive measures taken by one or more states to protest another state’s actions and to force a change of behavior. Although sanctions may technically include military action, they usually refer to measures taken by diplomats in lieu of military action. Diplomatically, sanctions may include the breaking of formal relations or the removal of a country’s embassy. Other forms include economic sanctions to ban certain types of trade, and sports sanctions to prevent a country’s people and teams from competing in international events”. In the context of the Ukrainian war, all these forms have concretized. Despite also other countries such as the United States have implemented sanctions against Russia, EU packages are certainly the most complete and severe.

2.1.1 The sanction regime

Since February 23, 2022, until February 23, 2024, thirteen packages were approved and implemented, plus an extension on the scope of sanctions on Belarus to fight circumvention was agreed upon on August 3, 2023. Since they have all been approved within the Council, EU Member States are responsible for their implementation, whereas the European Commission oversees and manages the process. Overall, these packages target two principal areas of application: economy, including individual restrictive measures, and trade and investment with certain territories.

As for economic sanctions, the legal basis for their implementation lays down in Council Decision 2014/512/CFSPEN and Council Regulation (EU) No 833/2014EN. In this respect, measures include: prohibition on trade in arms; prohibition on investment on Russian financed or co-financed projects; prohibition on the financing of the Russian government and Central Bank; decoupling of certain Russian

banks from the SWIFT messaging system (a measure that has been the object of much debate); prohibition on exports of many goods, including oil, coal, iron, steel, advanced technology items, chemicals, sensitive machinery, luxury goods, and so on; prohibition on new investments in the energy sector; prohibition to access EU ports and locks; prohibition on the broadcast of certain state-owned media outlets; prohibition on imports of cement, rubber products, wood, spirits, liquor, high-end seafood, seaborne crude oil, gold; full exclusion of Russia from public contracts and European money; prohibition on accepting deposits and on providing trusts. Other subsequent diplomatic sanctions include the suspension of visa facilitation between the EU and Russia. This part of the sanction regime is then complemented by individual restrictive measures, which consist of travel bans and financial measures (mainly asset freezes) targeting members of Russian oligarchy and organizations which are deemed responsible for supporting Russian aggression against Ukraine. Until the eleventh package, the list included 1,206 individuals and 108 organizations; after the recent approval of the twelfth package, an additional 140 individuals and entities were added to the list.

As for restrictions on trade and investment with certain territories, the European Commission clarifies that these measures have been in place since 2014 concerning Crimea, after Russian annexation, and Sevastopol. Their legal basis can be found in Council Decision 2014/386/CFSPEN and Council Regulation (EU) No 692/2014EN. Furthermore, similar measures were implemented in 2022 against the Donetsk, Kherson, Luhansk and Zaporizhzhia oblasts of Ukraine after Council Decisions (CFSP) 2022/266EN and the approval of Council Regulation (EU) 2022/263EN.

As for Belarus, since 2020 due to the country's close relationship with Russia specific economic sanctions, individual restrictive measures, and restrictions on trade have been imposed. The relative sanctions regime consists of Council Decision 2012/642/CFSPEN and Council Regulation (EC) No 765/2006EN.

2.1.2 The impact on Russia

As noted above, the scope of application of EU sanctions regime against Russia covers multiple sectors. Their purpose is quite clear: in front of the momentaneous impossibility to engage in diplomatic dialogue with Russia, the EU is intentionally trying to undermine Russian economy in a leverage strategy aimed at isolating and weakening the country until it finally decides to adopt a different approach. However, it is fair to understand how these sanctions have impacted Russia since their implementation to assess whether they have been effective or not. In March 2023, the European Parliamentary Research Service published a briefing summarizing their economic effects on Russia.

In the report, it is specified that the EU has worked in close collaboration with other global partners, such as the United States, the United Kingdom, Canada, Australia, and Japan. However, it is also mentioned that the EU and its Member States had to work tirelessly to make the sanction regime work and to ensure global alignment. In sum, the EU had a primary role in the so-called ‘sanctions revolution’, that is, “an unparalleled set of measures targeting the key sectors of the Russian economy and the political elites” (Anna and Angelos, 2023: p.1). The magnitude and scope of the sanctions imposed on Russia presented the EU with unprecedented implementation challenges, such as avoiding circumvention. To this purpose, in November 2022 the violation of sanctions was included in the list of ‘EU crimes’ outlined in the Treaties. Furthermore, on November 23, 2022, the European Parliament passed a resolution recognizing Russia as a state sponsor of terrorism.

Roughly more than one year and a half after the beginning of the aggression, observers and analysts believe that three important objectives have been achieved: the Kremlin has now understood that the West is more united than it expected; Russian military capabilities have been weakened permanently; Russian economy and energy sector have been jeopardized with long-term effects. However, it is not clear whether the current state of sanctions will prevent Russia from continuing its war against Ukraine. Certainly, at present time¹³, after thirteen sanction packages, the war is still on. In this respect, the Parliament believes that a more severe and broader sanction mechanism is needed in order to definitely stop Russia. Another

¹³ February 2024.

peculiar suggestion includes the frozen of Russian assets to be used to fund the reconstruction of Ukraine: an interesting idea, certainly, but currently difficult to implement.

As for the economic impact, the report tries to identify the main consequences of the aggression and subsequent sanctions based on the analysis of six aspects: GDP projections; unemployment rate; inflation; exchange rate; trade; Russia's relationship with foreign companies.

As for the Gross Domestic Product, on the basis of January 2022 International Monetary Forum (IMF) projections, Russia's GDP was expected to increase by 2.8% in 2022 and 2.1% in 2023. The World Bank did not agree and assessed these percentages to be as high as 2.4% in 2022 and 1.8% in 2023. In any case, Russian economy was expected to grow. Certainly, the war impacted these projections. According to the IMF, in the quarter following the invasion, Russian economy contracted by 21.8%, significantly more than 10 to 12% expected by the World Bank and the European Bank for Reconstruction and Development (EBRD). However, experts agree that this economic downturn is to be attributed to distinct factors, mainly "shocks to transaction systems and supply chains, leading to a collapse in domestic demand and export volumes, a sharp depreciation of the ruble, increased inflation, declining private consumption and reduced investment". Indeed, it is difficult to assess the exact impact of Western actions, because "since the invasion of Ukraine in 2014, the Russian government has actively planned, and implemented several policies to soften the economic blow from potential additional sanctions" (p.9). For instance, these strategies included fiscal discipline, diversifying the economy away from oil and gas, reducing reliance on Western technology, and conducting stress tests on state-owned companies and major banks, "including scenarios in which the West stopped supplying certain technologies, or in which Russia was disconnected from SWIFT and correspondent accounts were blocked". Furthermore, fiscal measures were implemented by Russian authorities, including increased social benefits, subsidized loans, tax breaks, and raised minimum wages, to the extent that "the projected shortfall for 2022 was gradually reduced to -4.5 %, by the World Bank, -3.9 % by the Organization for Economic Co-operation and Development (OECD), and by -3.4 % by the IMF" (Anna and Angelos, 2023: p.9). It is fair to say that Russia had prepared itself to mitigate the possible consequences of the war. As for latest developments, the OECD expected Russia's GDP to decline by -5.6%

in 2023 and -0.2% in 2024. The World Bank predicted a continued recession in 2023 (-3.3% of GDP) due to the impact of sanctions but anticipated modest growth in 2024 (1.6%). In contrast, the IMF projected a 0.3% GDP increase in 2023 (compared to a -2.3% drop in its October 2022 projection) and somewhat higher growth in 2024 (2.1%).

As for the unemployment rate, in its world economic outlook for 2022, the IMF projected a decrease in Russia's unemployment rate from 4.9% to 4.6%. On the other hand, Russian authorities claim that only 3.7% of Russian are currently unemployed. However, this official figure is considered misleading since it does not consider people on unpaid leave and the effects of military mobilization and exodus due to the war. Therefore, "Experts [...] are of the view that the true number of unemployed at the end of 2022 is at least double the official data, if not closer to 10 %" (Anna and Angelos, 2023: p.10). Accordingly, it is difficult to understand whether this unclear percentage is the indirect consequence of Western sanctions or an effect of the war.

As for inflation, it is certainly easier to link its fluctuation to Western actions against Russia. In fact, the IMF initially estimated a 4.8% increase in Russian consumer prices for 2022. However, due to sanctions, in March 2022 Russian inflation reached 16.7% and in December 2022 stabilized at 11.9% following the intervention of the Central Bank of Russia. The IMF and the World Bank predicted respectively a range between 5% in 2023 and 4% in 2024 and between 5.9% in 2023 and 4.5% in 2024. Therefore, inflation will remain relatively high, impacting the cost of living, consumption, and the quality of life of Russian citizens (Anna and Angelos, 2023: p.10).

As for the exchange rate, as already noted, sanctions imposed by the EU and US had significant effects, including restricting Western banks from dealing with important Russian counterparts and disconnecting several Russian banks from the SWIFT interbank payment system. These sanctions also froze a substantial portion of the Central Bank of Russia's foreign exchange reserves, making half of them unusable. As a consequence, the Central Bank of Russia raised the key interest rate to 20%, mandated the conversion of 80% of export income into rubles, and imposed limits non-resident investors' capital withdrawals and Russians' cross-border cash movements. Overall, these measures have been effective and

prevented capital flight, to the extent that by the end of April 2022 the ruble had regained its pre-war value (Anna and Angelos, 2023: p.10).

As for trade, the exclusion of Russia from SWIFT has posed many challenges, mainly due to the difficulty to pay for imports and to receive payments for exports. Initiatives implemented so far include the use of cryptocurrencies and of Chinese yuan for transactions. However, they have not been effective. “From October 2021 to October 2022, EU exports to Russia fell by 52 % (US\$4.6 billion), US exports fell by 85 % (US\$0.4 billion), UK exports fell 89 % (US\$0.4 billion), and those of Japan by 41 % (US\$0.3 billion). Given the fall in imports from the West and Japan, including crucial inputs, parts, and technology for its industries, Russia currently faces supply shortages within its domestic economy”. In the medium term, there is the possibility that Russia will rise imports from “friendly” country which have not imposed any sanction, such as China and India. Furthermore, it should be noted that Russia’s main income sources are commodity exports, especially in energy, grains, and fertilizers, which account for over 60% of its state revenues. In this sense, food and fertilizer exports remain exempt from Western sanctions to support food security. Furthermore, “Given the increase in price for such commodities, Russia’s fertiliser export revenue increased by 70 %”(Anna and Angelos, 2023: p.10). Also, other commodities such as aluminum, nickel, palladium, gold, and silver remain exempt from sanctions. In brief, Russia’s main sources of revenue from commodity exports, especially in the energy sector, remain largely intact. However, oil revenues are expected to fall with the introduction of the oil price cap, possibly leading to an increased budget deficit.

Lastly, as for the relationship of Russia with foreign companies, it has been largely impacted by the war and the subsequent sanctions. The Moscow Exchange’s main index fell by over a third between February 2022 and February 2023, though it has partially recovered since then. In 2022, several Western companies chose to "self-sanction" by voluntarily exiting the Russian market due to their own risk assessments and public pressure. These companies collectively employed around one million Russian local staff. Additionally, during the same period, many highly educated and skilled Russians left the country, which is believed to impact Russian productivity in the future (Anna and Angelos, 2023: p.10).

The report concludes that sanctions have achieved three major objectives: signaling Western unity

to the Kremlin, degrading Russia's military capabilities, and severely affecting its economy and energy sector with long-lasting consequences. While experts warn that the decline in revenue, particularly in the oil and gas sectors, may not severely limit Russia's ability to continue its war in Ukraine, there will be a significant impact. Russia's Ministry of Finance projects a 25% decrease in oil and gas revenues for 2023, but this projection is based on an optimistic oil price assumption. Even with declining commodity revenues, Russia's National Wealth Fund (NWF) reserves can likely finance its military efforts for another year. Despite these challenges, most of the Russian population has not suffered from significant effects due to the sanctions. Furthermore, another important consequence of sanctions is Russia's increasing economic dependence on China, with a growing share of payments and reserves in yuan. This dependence raises the risk of China influencing Russia's trade, economy, and policy. If relations between the two countries deteriorate, Russia may face further reserve losses and payment disruptions (Anna and Angelos, 2023: p.11). However, there seems to be little the EU can do to influence this relationship.

Overall, it is fair to say that the sanctions imposed by Western nations have impeded the production of various goods in Russia and have resulted in a growing budget shortfall. Although these actions alone cannot bring an end to the war, they do restrict Russia's capacity to replace its damaged military equipment and fund the ongoing campaign.

However, as the war persists alongside ongoing sanctions, Russia's fiscal position becomes increasingly challenging. Waging a war demands substantial financial resources, and in Russia's 2022 budget, a massive portion, one-third, was allocated to military and internal security expenditures. The original budget projection for 2023 anticipated a decrease in nominal expenditures, but this now appears highly unrealistic, especially considering that sanctions are impacting Russia's tax revenues. Analyzing the report, the primary impact of Western policies on the Russian economy is fiscal strain, whose effects will probably become more evident throughout time. The conflict is likely to continue and at the same time economic sanctions are likely to become increasingly severe.

EU Assistance to Ukraine

As aforementioned, following what the EU has defined “a large-scale invasion of Ukraine”, the EU was in the frontline to support the country; support is indeed a recurring word in the rhetoric of the EU since it covers several areas of assistance. Anyhow, it is worth mentioning more in detail how the EU is helping Ukraine.

In this regard, four areas of assistance can be identified: political, financial, humanitarian, and military.

2.2 Political assistance

As for political assistance, it can be understood as a broader concept including a more or less defined set of actions. In this context, it is worth mentioning the European Political Community (EPC) which was established in 2022 as a response to Russian invasion of Ukraine. However, it was not an initiative of the EU *per se* but rather an idea of French President Emmanuel Macron. It was then implemented in a wider European setting. The EU certainly plays a key role in it since all 27 EU Member States and the President of the European Council, the President of the European Commission, the President of the European Parliament, and the High Representative of the European Union for Foreign Affairs and Security Policy are participants to the meetings. The EPC is then composed of representatives from Albania, Andorra, Armenia, Bosnia and Herzegovina, Georgia, Iceland, Kosovo¹⁴, Liechtenstein, Moldova, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland, Ukraine, United Kingdom. It should be noted that they are all countries which, for different or similar reasons, are strongly tied with the EU. Since October 2022 to October 2023, three meetings were held: the first one in Prague, the second in Moldova (the first in a non-EU country), and the last one in Granada.

An observer of *Istituto Affari Internazionali*, Luca Cinciripini, notes that “The EPC was initiated with the express purpose of filling the political and institutional vacuum created by the Russian invasion of Ukraine at the heart of the previously existing European security architecture”. Moreover, the fact that all

¹⁴ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

European countries except Russia and Belarus were invited to participate is not casual: “the inclusion of 47 European countries in the new structure, with the sole exception of Russia and Belarus, sent a clear signal of political unity against the Russian invasion of Ukraine”. This is exactly the reason this forum has a strong political significance. The EPC was born as a “multilateral diplomatic forum aimed at promoting political dialogue and cooperation on the European continent”. Ensuring security in Europe is certainly its main purpose, “with a view to reorganising the European security architecture once the war in Ukraine is over”. However, the war in Ukraine has not been the only matter discussed. In the first summit, the energy crisis – which was a consequence to the war – was the core topic; yet, practical actions were decided as regards other issues, such as the implementation of an “EU-led civilian mission to Armenia and Azerbaijan to monitor the crisis in Nagorno-Karabakh, which later led to the creation of the European Union Mission in Armenia (EUMA)”. The Moldova summit then placed greater emphasis on a wide-ranging interpretation of security, covering areas such as energy and infrastructure. Furthermore, it reaffirmed political support for Ukraine. Notably, it was decided to provide €87 million for non-military logistical aid through the European Peace Facility, and the initiation of a civilian mission in Chişinău was also announced. However, despite the success of the first two summits, the third one fell short of expectations. Indeed, the future itself of the EPC was threatened by the obvious limitations to the project. In particular, it is unclear whether it should serve as an informal forum for multilateral strategic dialogue primarily aimed at isolating Russia or as a body with clear political objectives. In the latter case, there would be an evident overlapping of competences with Brussels “in those matters that are already strictly regulated at the EU level [...] while Eastern countries viewed the project as a potentially permanent slowdown in the enlargement process and a possible source of contrast with NATO”. Consequently, it will be essential to find a format combining flexibility and informality while operating within a more defined framework for cooperation. A stronger identity of the EPC would certainly be meaningful in a post-war international scenario (2023).

2.3 Financial assistance

As for financial assistance, the EU and its Member States have decided to implement multiple instruments

in order to support Ukraine's economy. In this section, it will be analyzed the main financial tools, the assistance provided to Ukraine's energy sector, and the country's integration in the Single Market.

2.3.1 Financial tools

In 2022, in order to meet the needs of Ukraine in a moment of distress, the EU activated different mechanisms. For instance, it was guaranteed budget support amounting to €620 million, whose €500 million were part of donations from the fundraising campaign "Stand up for Ukraine", created in order to meet housing, education, and farming needs. Therefore, the support provided or guaranteed by the EU budget for the year amounted to €11.6 billion, "€10.5 billion of which has been disbursed (including €7.2 billion in macro-financial assistance, €2 billion in grants contributed directly by the European Commission, and €2.4 in loans of European Financial Institutions enabled by the EU budget)" (European Commission, "EU Solidarity With Ukraine – Factsheet", January 2023).

The most extensive tool implemented is certainly the Macro-Financial Assistance (MFA). The MFA is a financial mechanism which is dedicated to countries geographically and politically close to the EU which are experiencing payment crisis. "These include candidate and potential candidate countries, countries bordering the EU covered by the European Neighbourhood Policy (ENP) and, in certain circumstances, other third countries". It can be in the form of medium/long-term loans, grants, or a combination of both, and is exclusively accessible to countries as part of an International Monetary Fund program (European Commission, "Economic and Finance - Macro-Financial Assistance (MFA)", 2023).

Since 2014 and until Russian aggression, the EU "provided over EUR 5 billion through dedicated programs (MFA I, MFA II, MFA III, MFA IV, Emergency MFA) to support the reform agenda in areas such as the fight against corruption, an independent judiciary, the rule of law, improving the conditions for the development of the business environment" (Prus-Nowacka and Czarkowski, 2023: p. 114). As aforementioned, only in 2022 €7.2 billion were made available to Ukraine under the Exceptional MFA package.

Among all EU partner countries, Ukraine was the main recipient under MFA, to the extent that

following Russia's invasion the European Commission proposed the implementation of an *ad hoc* and advanced MFA. On November 9, 2022, the European Commission proposed the implementation of a new instrument, the Macro-Financial Assistance Plus (MFA+). Therefore, on January 16, 2023, the European Commission and Ukraine signed the Memorandum of Understanding and the Loan Facility Agreement. The MFA+ is an unprecedented support package which envisages the disbursement of €18 billion for 2023 in the form of loans on highly concessional terms, such as 35- year maturity, 10-year grace period, possibility to subsidize interest and administrative charges from the EU budget (European Commission, "Economy and Finance - Ukraine"). As for November 2023, Ukraine received €15 billion under this new tool. The funds have been disbursed in multiple tranches after verifying Ukraine's compliance with reporting requirements and policy conditions, and transparency in using the funds. Indeed, according to the European Commission, "Ukraine has notably achieved important progress to enhance financial stability, strengthen the rule of law, improve its gas system, encourage energy efficiency and promote a better business climate". MFA+ funds are supposed to pay wages and pensions and maintain essential public services (schools, hospitals...). It is also intended to restore macroeconomic stability in the country and to rebuild energy infrastructure, water systems, transport networks, roads and bridges which are being destroyed by the war (European Commission, "Press Corner - Daily News 25 / 07 / 2023").

Furthermore, for the period 2024-2027, the European Commission has proposed the implementation of a Ukraine Facility worth of €50 billion which would be disbursed in the form of grants and loans within the Ukraine Investment Framework (European Commission, "Press Corner - Daily News 25 / 07 / 2023").

2.4 Support to the energy sector

The war has certainly made difficult for Ukraine to access the adequate amount of energy supply. Furthermore, it should be noted that the country has heavily depended on natural gas imports from Russia. Consequently, part of EU economic support to Ukraine concerns the energy sector. In this regard, the two main purposes are to ensure the flow of gas to the country and facilitate Ukraine's access to the EU's common supplies of gas, liquefied natural gas (LNG), and hydrogen.

Notably, the EU is facilitating the supply of gas to Ukraine by reversing physical flow capacity from the West to the East. Moreover, on March 16, 2022, Ukrainian and Moldovan electricity grid were synchronized with the Continental European Grid, that is, the grid used within the EU. This operation was based on a project of the European Network of Transmission System Operators for Electricity (ENTSO E) which had started in 2017 and which was exceptionally accelerated due to the disconnection from the Russian system at the beginning of the invasion. Furthermore, the EU is providing 5,400 generators and 35 million LED light bulbs to Ukraine (European Commission, “EU-Ukraine: Standing Together”, 2023).

Through the Ukraine Energy Support Fund, established by the Energy Community, over €157.5 million have been invested to address immediate energy sector needs. On May 11, 2022, the European Bank for Reconstruction and Development (EBRD) provided €50 million in emergency liquidity to Ukrenergo, the electricity transmission company in Ukraine. This financial assistance is intended to ensure the proper functioning of the Ukrainian electricity grid, including nuclear generators, and to maintain power supplies to both industries and households. Moreover, it is worth mentioning that EU Member States have been quite receptive in meeting the immediate needs of Ukraine. Indeed, Poland, Lithuania, and Czechia have already scheduled deliveries of essentials such as diesel, petrol, jet fuel, and generators, whereas other States have offered their support (European Commission, “EU-Ukraine: Standing Together”, 2023).

2.5 Integration in the Single Market

As mentioned in the first chapter, in accordance with the Association Agreement, and in particular under the Deep and Comprehensive Free Trade Agreement, Ukraine is supposed to gradually integrate in the Single Market. However, the war risks jeopardizing this project. In this regard, the EU has decided to continue to assist Ukraine via different initiatives to accelerate the full implementation of the trade agreement.

As part of the Priority Action Plan for 2023-2024, on February 2, 2023, President of the European Commission Ursula von der Leyen and Ukrainian Prime Minister Denys Shmyhal formalized Ukraine’s involvement in the Single Market Programme (SMP). The SMP is particularly addressed to Ukrainian small and medium-sized enterprises (SMEs) and aims at facilitating their entry into EU markets fostering an

appropriate business environment for sustainable growth and internationalization. In this way, Ukraine will be able to join the Enterprise Europe Network (EEN) and benefit from projects such as Erasmus for Young Entrepreneurs and the European Cluster Collaboration Platform (ECCP) (European Commission, “Support Actions for Ukraine”, 2023).

Moreover, the European Commission has decided to extend the suspension of import duties, quotas and trade defense measures on Ukrainian exports to the EU until June 2024 (European Commission, “Support Actions for Ukraine”, 2023).

2.6 Humanitarian assistance

One of the most profound consequences of the war in Ukraine is certainly the humanitarian emergency. Intense and ongoing attacks pose a serious threat to the safety of civilians, resulting in significant harm to essential elements like housing, water and electricity supply, heating, as well as to critical infrastructure such as schools and health facilities. Indeed, it has been reported that millions of Ukrainians have limited or no access to basic services, whereas others have been fleeing the country to escape the war since the beginning of the invasion. In this framework, the EU has promptly mobilized all the possible resources in an attempt to limit the damage.

First, it is necessary to distinguish the related humanitarian needs.

Since February 2022, millions of Ukrainians, mostly women and children, have been escaping their homes resulting in one of the worst refugee crises in the world and in an “unprecedented humanitarian crisis across all of the country’s sub-regional divisions” (IOM UN Migration, 2023: p.2). Many of them have managed to cross the borders, whereas many others are currently internally displaced, probably unable to leave due to military action. According to the UN Refugee Agency UNHCR, as of May 2023 nearly 5.1 million people are internally displaced in Ukraine. Furthermore, as of July 2023 “more than 6.2 million people have crossed into neighboring countries in the region including Poland, Hungary, Moldova or other countries globally”. It is also estimated that in 2023 approximately 17.6 million Ukrainians need humanitarian assistance (USA for UNHCR, 2023).

In this framework, the EU is currently assisting Ukraine both internally and externally.

As for external action, the EU has become the main recipient of Ukrainian refugees. In particular, “Poland has welcomed the greatest number of Ukrainian refugees, hosting nearly 60 percent of all refugees from Ukraine” (USA for UNHCR, 2023). Since February 24, 2022, EU countries have indeed received around 4 million registrations for temporary protection, according to the latest estimates of November 2023 (European Commission, “EU Solidarity with Ukraine – Factsheet”, November 13, 2023). EU assistance to Ukrainian refugees was regulated through the activation of the Temporary Protection Directive unanimously agreed by the Council of the European Union on March 4, 2022. In accordance with the Directive, those fleeing the war are granted exceptional residency rights, access to the labor market, access to housing, social welfare assistance, medical or other assistance, and means of subsistence. Therefore, Ukrainian war refugees benefit from “simplification of border controls for those fleeing the war, flexibility regarding entry conditions, opening temporary border crossing points, easy access for rescue services and humanitarian assistance, and facilitations for refugees bringing personal belongings and pets”. Temporary protection is also extended to non-Ukrainian nationals and stateless individuals legally residing in Ukraine, as well as to individuals present in Ukraine for a brief period who will be able to transit the EU to return to their home countries. The mechanism was thought to last between one and three years, unless the situation in Ukraine improves before, which is quite unlikely at the time being (European Neighbourhood Policy and Enlargement Negotiations (DG NEAR), 2022). The European Commission has also established that Member States can use unspent 2014-2020 cohesion funds to support Ukrainian refugees, making available up to €17 billion (European Commission, “EU Solidarity with Ukraine – Factsheet”, November 13, 2023).

On May 12, 2022, the European Union together with Ukraine and the Republic of Moldova activated the EU-Ukraine Solidarity Lanes. They are safe corridors for Ukraine’s export of grain and other agricultural products, as well as other goods it may need. Their main purpose is to facilitate exchange of agricultural and non-agricultural products in order to sustain Ukraine’s economy. Since May 2022 and until November 2023, Ukrainian customs registers recorded the export of 102 million tons of goods, of which more than 57 million tons of agricultural products, “generating about €26 billion of income for Ukrainian farmers and businesses”.

In November 2022, the European Commission allocated €250 million in grants for sustaining the Solidarity Lanes. Overall, €1 billion was mobilized by the European Commission, the European Investment Bank, the European Bank for Reconstruction and Development, and the World Bank Group (European Commission, “EU Solidarity with Ukraine – Factsheet”, November 13, 2023).

As for internal action, the EU has promptly intervened in the areas most impacted by the war, sending substantial aid to the country. Since February 2022, the EU has granted a total of €685 million to projects helping Ukrainian civilians, of which €485 million were mobilized in 2022 and €200 million in 2023. Therefore, thanks to this funding, people inside Ukraine have been ensured food, water, essential household items, healthcare, psychological and psychosocial support, emergency shelters, protection, education, and cash assistance. Furthermore, the Republic of Moldova was granted €48 million to provide assistance to people fleeing Ukraine. Additionally, in 2022 the EU mobilized €330 million for an emergency aid programme to provide Ukrainians with basic goods and services, such as food, education, and healthcare. It was also intended to projects helping internally displaced people, host communities, small and medium businesses, and agriculture. The European Bank for Reconstruction and Development has announced an additional loan worth €1 billion to cover the needs of Ukrainians displaced due to the invasion. The EU also decided to support Ukrainian damaged schools with €100 million (€66 million coming from budget support and €34 from the humanitarian funding); €14 million were allocated to purchase school buses for Ukrainian children. Other ongoing projects worth €192 million were adapted to address immediate necessities on the field (European Commission, “European Civil Protection and Humanitarian Aid Operations – Ukraine”, 2023).

Notably, in April 2023, the European Commission launched the EU Civil Protection Mechanism, whose aim is to coordinate emergency assistance and civil protection to improve prevention and response to disasters. All 27 EU Member States together with Norway, Turkey, North Macedonia, Iceland and Serbia, are participating. As for November 2023, it is estimated that over 94,000 tons of in-kind assistance including medical supplies, shelter items, vehicles, firefighting equipment, energy equipment, and even school buses worth over €759 million were delivered to Ukraine via the mechanism. The EU Civil Protection Mechanism

is then complemented by the RescUE medical stockpiles, which are used to deliver emergency and medical equipment with a financial value of over €97 million. Both mechanisms rely on the logistical hubs present in Poland, Romania, and Slovakia. A hub in Poland was also established by the EU to facilitate the transfer of Ukrainian patients in need of specialized care to hospitals across Europe (European Commission, “European Civil Protection and Humanitarian Aid Operations – Ukraine”, 2023).

2.7 Military assistance

Among all forms of assistance offered to Ukraine, military support is certainly the most pioneering. Indeed, this is the first time in history that the EU is supplying lethal equipment to a third country. Traditionally, European countries have relied on NATO for matters of foreign security and the EU itself has repeatedly abandoned the idea of an EU army in order to avoid a quagmire with the US. With a war at the doors of the EU, this has irremediably changed. On February 27, 2022, during a press conference, the EU High Representative for the Common Foreign and Security Policy Josep Borrell has affirmed that “Another taboo has fallen. The taboo that the European Union was not providing arms in a war. Yes, we are doing it. Because this war requires our engagement to support the Ukrainian army” (2022).

Only four days after Russian invasion, the EU authorized two assistance measures: the first finances the provision of lethal force under Article 1(3) Decision 2022/338 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force [2022] OJ L60/1. The second finances the provision of non-lethal equipment under Article 1(3) Decision 2022/339 on an assistance measure under the European Peace Facility to support the Ukrainian Armed Forces [2022] OJ L 61/1. Both measures were therefore approved within the framework of the European Peace Facility (EPF), a tool part of the Common Security and Defense Policy (CSDP). It is worth mentioning what is the EPF and how it works.

The EPF is a recent mechanism adopted within the EU following a Council decision of March 22, 2021. This is essentially a new off-budget fund used to boost EU ability to prevent conflicts, build peace, and strengthen EU role in the international security scenario. The Athena Mechanism and the African Peace

Facility were the main financial instruments used by the EU in this respect until they were both substituted by the EPF in 2021. Initially, it was decided to attribute to the EPF a financial ceiling of €5.692 billion in current prices¹⁵ for the 2021-2027 period, financed by each Member States on the basis of their Gross National Income (GNI). As aforementioned, the war in Ukraine has then led to a change of plans and to the need to boost this mechanism. Therefore, on December 12, 2022, the Council of the EU decided to increase the EPF financial ceiling by €2.287 billion in current prices¹⁶, with the possibility to add another €3.5 billion until 2027. In March 2023, this increase was confirmed and the EPF financial ceiling was brought to €7.979 billion in current prices¹⁷ until 2027. In the same month, the EU foreign affairs and defense ministers sitting in the Council of the EU agreed on the proposal of the High Representative Commissioner Breton to provide Ukraine with artillery ammunition. In June, another €4.061 billion¹⁸ were added to the financial ceiling, to the extent that currently the overall EPF financial ceiling amounts to more than €12 billion¹⁹. This is more than twice as high as its initial ceiling. At the same time, the General guidelines and proposed priorities for assistance measures during the inception period (2021-2023) and the EPF safeguards paper were adopted in order to establish how the EU would control the process of military supply to Ukraine within the EPF. In this way, EU Member States can provide to the Ukrainian Armed Forces military equipment and supplies, such as provision of lethal force, personal protective equipment, first aid kits, and fuel. It is also interesting to note that the EPF is managed by a proper body, the Facility Committee, which is composed of representatives of each Member State and chaired by a representative of the presidency of the Council. The Committee decides on the annual budget and on the expenditure rules.

The EPF is based on two financial pillars: operations pillar and assistance measures pillar. The former is used to finance missions and operations with military and defense implications within the framework of the CSDP, in accordance with Articles 42(4) and 43(2) of the TFEU. The latter is implemented to finance EU action of third states and regional or international organizations in order to support military

¹⁵ €5 billion in 2018 prices.

¹⁶ € 2 billion in 2018 prices).

¹⁷ €7 billion in 2018 prices.

¹⁸ €3.5 billion in 2018 prices.

¹⁹ €10.5 billion in 2018 prices.

implications of peace operations and reinforce military and defense capacities, in accordance with Articles 28 and 30 of the TEU (Consilium Europa, “European Peace Facility”, 2023).

Therefore, the EU was able to implement a pioneering instrument without diverging from existing powers specifically granted to it in the treaties. Indeed, the EPF does not directly finance Kiev but instead supports actions undertaken by EU Member States. “This is the innovative feature of the EPF: it streamlines budget management in so far as, contrary to the general rule of the CSDP, costs are not borne only by the specific Member States or third countries participating in a CSDP military operation [...] Assistance to third countries is another innovation of the EPF (not present in the Athena mechanism)”. Furthermore, the provision of lethal force assistance must adhere to previous EU measures, dating back to 2008, ensuring that export licenses for military equipment are granted only when specific criteria are met. Questions arise about the EU’s potential co-responsibility if weapons provided are misused by Ukraine, but the EU has a monitoring mechanism in place. The possibility that the EU could be held responsible for damages is considered remote, as it only allows Member States to transfer weapons by financing the transfer, without directly providing them (Lonardo, 2023: p. 75).

In addition, on October 17, 2022, the EU decided to launch the EU Military Assistance Mission for Ukraine (EUMAM Ukraine) for an initial period of two years. The EUMAM is currently granted €255 million financed via the EPF and is intended to provide military training to Ukrainian Armed Forces. As for November 2023, the EUMAM Ukraine has trained more than 34000 soldiers (Council of the EU, 2023).

2.8 Other forms of assistance

The forms of assistance aforementioned are certainly the most important ones implemented so far by the EU. However, at the time being there exist also other types of support intended to make EU actions as effective as possible. They can be summarize as following:

- Bilateral cooperation to increase Ukraine’s resilience and support reforms: €585 million.
- Civil society support: €31 million
- Crisis response measures: €154 million

- EU grants for blending projects: €94 million
- Connecting Europe Facility support for Solidarity Lanes: €202 million
- Nuclear safety cooperation: €16 million
- Humanitarian demining from the EU budget, as part of the rapid response funding: €21.5 million
- Suspension or decrease of roaming charges for Ukrainians in the EU
- Association to Horizon Europe and the Euratom Research and Training Programme
- Cyber resilience: €10 million
- Digital transformation: €19 million
- Fight against impunity and support to the Criminal Court investigations into war crimes committed by Russia: €7.5 million
- Multi-agency Donor Coordination Platform to coordinate support by international donors and financial institutions.
- Support for Ukrainian artists, cultural and creative professionals and organizations: €5 million (European Commission, “Support Actions for Ukraine”).

Ukraine Reconstruction

In the aftermath of the Second World War, Robert Schuman, the author of the homonymous Schuman Declaration giving birth to the European Coal and Steel Community, declared that “Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a *de facto* solidarity”. This citation, one of the most famous in the history of the European Union, is still very current. As Europe found itself destroyed and in need of reconstruction after the atrocities of the war, also Ukraine will be needing to recover eventually. It is not a case that many politicians and reporters have referred to a modern “Marshall Plan” for Ukraine. The Marshall Plan is the notorious US initiative advanced in 1947 by the then Secretary of State George C. Marshall with the purpose to restore the economies of the Western and Southern European countries to create stable conditions for democracy (Encyclopedia Britannica, “Marshall Plan”, 2023). Certainly, the idea behind the original Marshall Plan (or the European Recovery Program) was to avoid the spread of communist ideologies in Europe which would lead to a

dangerous approach to the Soviet Union. Today, the purpose to help rebuilding Ukraine is probably moved by modern principles of international solidarity, even though the influence component cannot be ignored, as the history of the Euromaidan movement in the first chapter has shown. Another big and evident difference from the past is that, while in 1947 the war was already over, to date Russia is still fighting in Ukraine and an end date to the war cannot be predicted. Despite this and the criticisms, the EU is already thinking of a recovery plan for Ukraine in order to make the process as fast as possible once the conflict is over.

2.9 Assessment of the damages

In order to rebuild Ukraine, it is necessary to make an evaluation of the damages. Certainly, it is not possible to assess exactly what Ukraine would need once the war is over; however, it is viable to gradually track the losses from the war in order to understand what to expect. For this purpose, the EU and other important international organizations are working closely to analyze data and offer a prospect. The main report so far²⁰ released is the Rapid Damage and Needs Assessment (RDNA2), written in a joint effort by the World Bank, the Government of Ukraine, the European Commission, the United Nations, and other partners. The report “aims to assess the scale of economic and social needs for Ukraine’s survival during the war and its prospering afterward” and takes into consideration one year of war, from February 24, 2022, to February 24, 2023. It estimates that to that date direct damage in Ukraine reached over US\$135 billion, with housing (17%), transport (22%), energy (11%), social protection and livelihoods (10%), explosive hazard management (9%), and agriculture (7%) as the most impacted sectors. Other sectors contributing to the remaining needs are human development sectors, health, education, commerce and business. The most affected areas are believed to be in the frontline oblasts, “particularly Donetska, Kharkivska, Luhanska, Zaporizka, Khersonska, Mykolaivska, and in oblasts that were brought back under government control, such as Kyivska and Chernihivska”. To direct damage, it is necessary to add additional expenses connected to the war, such as disruptions to economic flows and production, which amounted to approximately US\$290 billion at the time of the analysis. Indeed, due to the war, “Ukraine’s gross domestic product (GDP) shrank

²⁰ As for February 2024.

by 29.2 percent in 2022, and poverty increased from 5.5 percent to 24.1 percent in 2022 (based on the poverty line of US\$6.85 per person per day)” (p.9). Up to February 2023, it was estimated that reconstruction and recovery needs reached about US\$411 billion, that is, €383 billion, 2.6 times the actual GDP of Ukraine in 2022. Moreover, “Across all sectors, the cost of debris clearance and management (and demolition where needed) exceeds US\$5 billion”. These costs are estimated for 10 years and take into consideration inflation, market conditions, surge pricing in construction commonly seen in areas of mass construction, higher insurance premiums, and a shift toward lower energy intensity and more resilient, inclusive, and modern design (p.11). The report then recognizes that these needs are strictly associated with “critical steps toward becoming a modern, low-carbon, disaster- and climate-resilient country” in line with “European Union policies and standards in view of being ready to join the European Union, and where the population’s vulnerabilities are addressed and people live in prosperity” (p.9).

Furthermore, it argues that a phased approach to reconstruction is crucial, mainly considering experiences from other countries. Therefore, it sets the strategy for most urgent needs to be implemented already in 2023. The priorities for 2023 are estimated at around US\$14 billion, covering “restoration of energy, housing, critical and social infrastructure, basic services for the most vulnerable, explosive hazard management, and private sector development”. Direct government expenditure should cover around US\$9 billion, then complemented by “investments by state-owned enterprises (SOEs) and support to sustain and catalyze the private sector, including de-risking investment and trade”. The report also finds that additional US\$11 billion are needed for financing, “including around US\$6 billion in further funding of the government budget and close to US\$5 billion to facilitate critical investments by SOEs and the private sector” (p.9).

On October 17, 2023, it was published a report following the horrible destruction of the Kakhovka dam, which caused great loss and damage on Ukraine. The Post-Disaster Needs Assessment (PDNA) of the destruction of the Kakhovka Dam was prepared jointly by the United Nations and the Government of Ukraine, led by the Ministry of the Economy, with inputs by the World Bank Group and the European Union, following the UN-EU-WB methodology for Rapid Damage and Needs Assessment (RDNA). It tries to assess the scale of the 6 June 2023 tragedy, “which wreaked economic and environmental havoc in areas

downstream from the Kakhovka dam and hydropower plant on the Dnipro River, as well as upstream areas losing access to water supply”. In the breach, 620 square kilometers of territory in four oblasts (Kherson, Mykolaiv, Dnipropetrovsk, and Zaporizhzhia) were impacted, involving 100,000 residents. More specifically, housing, infrastructure, the environment, cultural sites, energy supplies, drinking water, agricultural irrigation, and river transport in southern Ukraine were severely damaged. The report examines both the damage to physical assets and to economic activities and estimates US\$2.79 billion of direct damage to infrastructure and assets and over US\$11 billion of losses, amounting almost to US\$14 billion. Also, the lasting impact on the environment is under examination. The consequences of Russia’s war on Ukraine are dire, affecting crucial infrastructures, natural resources, critical ecosystems, as well as the health, livelihoods, and security of the population. Total damage exceeds €52 billion, whereas 497 water management facilities have been damaged or destroyed, the forestry sector has incurred over €1.4 billion in damages, and 20% of protected areas are currently under threat. As for reconstruction and recovery, it will be needed \$5.04 billion, whereas the priorities for 2023/2024 are estimated at around \$1.82 billion (p.9). As these numbers are likely to grow, this is proof that sudden and unexpected events may further impact the overall costs for recovery by the end of the war.

2.10 Plans for reconstruction

Once the damages of the war are assessed, it is fair to understand which possible plans have been considered so far and what is the best strategy to pursue in this respect. It is certain that the EU alone will not be able to finance entire Ukraine’s reconstruction, even though it is likely to be one of the major sponsors in view of the process of accession. To this purpose, many actors will be involved in a joint effort to rebuild Ukraine after the war damage. The process will be headed by Ukraine in collaboration with the EU and other partners, such as G70 and G20, other countries, as well as international organizations and financial institutions. In this respect, World Bank Vice President for Europe and Central Asia Anna Bjerde affirmed that “Ukraine’s recovery and reconstruction will take several years but the good news is that the country’s resilience and determination as well as partner support during the invasion is containing damages and reducing the needs [...] Continued support for Ukraine is an investment in both the country and the global economy.

Development partner support for public investment needs to be complemented by significant private investment to increase the available financing for reconstruction” (World Bank; Government of Ukraine; European Commission; UN, “Updated Ukraine Recovery and Reconstruction Needs Assessment”, 2023). According to the RDNA2, it is necessary to pursue “a comprehensive financial and operational strategy and plan to support the early recovery and long-term reconstruction of Ukraine”. Furthermore, during the next planning phase, it is essential to increase the institutional capacity of national and subnational authorities in Ukraine, in order to allocate available funds in the most efficient way. This would mean to develop common systems, expand the managerial and technical capacity of implementation units, organize the funds and allocate them to the different projects, plan private and public financial strategies, hire specialized personnel, and establish long-term planning and financing frameworks (p.9).

2.10.1 The Multi-agency Donor Coordination Platform for Ukraine

In order to coordinate support for Ukraine’s economy by international donors and financial institutions, in January 2023 the Multi-agency Donor Coordination Platform for Ukraine was launched. The Platform was inaugurated with a Steering Committee meeting and is supported by high-level officials from Ukraine, the EU, G7 countries, as well as key actors from international financial institutions. Notably, its Secretariat office is divided between Brussels, hosted by the European Commission, and Kyiv, hosted by the Government of Ukraine, symbolizing EU strong involvement in Ukraine’s future reconstruction. Its purpose is to enable effective coordination among global donors and international financial institutions, ensuring that assistance is delivered consistently, transparently, and accountably. On the medium-term, it will be served as a basis for defining and classifying strategic needs for the recovery process. More specifically, it will align economic aid with Ukraine’s reform objectives, adhering to the conditions set by major donors for financing and structural support, and in accordance with future EU annexation. In this context, “it will coordinate international efforts to support a sustainable, resilient, inclusive, and green economic recovery which enhances strong democratic institutions, rule of law, and anti-corruption measures” (Multi-agency Donor Coordination Platform for Ukraine, 2023). Its implementation is decisive for setting the main priorities in view of a sustainable and complete reconstruction of the country in the aftermath of the war.

2.10.2 The Ukraine Facility

On June 20, 2023, the European Commission proposed the implementation of a new EU financial instrument entirely dedicated to Ukraine’s reconstruction and modernization. This new Ukraine Facility would be coordinated with the Multi-Agency Donor Coordination Platform in partnership with EU Member States and European financial institutions as Team Europe, and with other international financial institutions. Furthermore, other stakeholders from civil society, private sector, and local authorities would be invited to participate. It is important to understand that to date the Facility is undergoing examination by the European Parliament and the Council, which will assess whether it fits the framework of the MFF mid-term review package. If adopted, Ukraine will need to submit a specific Plan explaining the reforms and investments it is intended to implement. The Plan will be then assessed by the Commission which will propose its adoption to the Council. Only then, Ukraine will be able to access the Facility under specific conditions (European Commission, “Recovery and Reconstruction of Ukraine”, 2023).

The proposal of a new Ukraine Facility is based on the will of the EU to support the country in the medium- and long-term, in order to “re-establish the foundations of a free and prosperous country, anchored in European values and well-integrated into the European and global economy and to support it on its European path”. Therefore, this form of ongoing support is deeply rooted in the best possible scenario that Ukraine will win the war and will finally become a EU Member States, given that “The Facility underscores the EU’s steadfast commitment to supporting Ukraine in the face of Russia’s ongoing war of aggression and its path towards EU membership” (European Commission, “Recovery and Reconstruction of Ukraine”, 2023).

This dedicated financial instrument would be implemented for the period 2024-2027 and would entail up to €50 billion in grants and loans to be allocated in projects promoting macro-financial stability, recovery, reconstruction, modernization, and key structural reforms. It would also allow for the use of contributions from other donors and revenue from frozen Russian assets. The Facility would consist of three pillars:

1. Pillar I “Support to Ukraine’s Plan”: grants and loans to the state budget; support to urgent financial needs for macro-financial stability; support to investments for recovery, reconstruction, and

modernization; support to reforms in view of EU accession specifically related to good governance, rule of law, anti-corruption, financial management.

2. Pillar II “Ukraine Investment Framework”: de-risking mechanisms for investors to attract public and private investments; support to the Ukrainian private sector.
3. Pillar III “Assistance Programmes”: support to civil society; technical support to Ukrainian Government through EU acquis and reforms; capacity building.

A proper and independent Audit Board would be established to assist the European Commission in its supervision of the projects. Therefore, EU interests would be protected on the basis of the principle of transparency (European Commission, “Recovery and Reconstruction of Ukraine”, 2023). If approved, this instrument will mirror the NextGenerationEU, the EU revolutionary recovery plan for its Member States implemented during the Covid-19 crisis and still in force. However, it is clear that Ukraine will have to deal with substantial issues that could hamper the disbursement of EU funds, most of all its infamous Corruption Index of 33 out of 100 in 2022²¹.

2.11 Holding Russia responsible

As aforementioned, the EU is intended to hold Russia accountable for its aggression against Ukraine. In this sense, making Russia pay for its war crimes and for the damages perpetrated against Ukraine has a dual significance: on the one hand, the moral duty to bring Russia to justice for the unmotivated aggression against another country; on the other hand, the practical need to financially compensate the losses caused by the aggression. In any case, regardless of what is considered to be the most convenient interpretation, history²² has shown that holding the aggressors responsible is a crucial part of the process of reconstruction following a devastating event. Furthermore, the feeling that justice has been served is crucial since it helps

²¹ The Corruption Perceptions Index ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory’s score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). Corruption Index in Ukraine averaged 26.28 Points from 1998 until 2022, reaching an all-time high of 33.00 Points in 2020 and a record low of 15.00 Points in 2000 (Transparency International, 2023).

²² Please consider for instance the Nuremberg trials between 1945 and 1946 against the Nazis.

the remaining population of a destroyed country react to adversities and find the motivation and courage to rebuild from the ashes.

2.11.1 Justice before the Court

There is little doubt that what Russia is doing to Ukraine is a violation of many principles of international law. Russia is allegedly implied in a series of profoundly serious international crimes committed in Ukraine, mainly crimes against humanity, war crimes, genocide, and crimes of aggression. In this respect, Ukraine is currently investigating more than 69,000 incidents that would fall within these international crimes, whereas some EU Member States are already working to ensure that these wrongdoings do not go unpunished. More specifically, 14 EU Member States have opened national investigations, whereas six States are part of the Joint Investigation Team supported by Eurojust, in partnership with Ukraine and the ICC. Furthermore, the European Commission is committed to do whatever it takes to ensure that Russia will pay for its crimes. For instance, it has established an International Centre for the Prosecution of the Crime of Aggression against Ukraine in The Hague in the framework of the Joint Investigation Team supported by Eurojust and with the purpose to coordinate the investigations and collection of evidence of the war crimes committed in Ukraine. Furthermore, the Commission is committed to support ICC's capacities with over €10 million, provide over €6 million on IT and equipment to the Ukrainian Prosecutor General's Office, facilitate Eurojust's work with proper amendments to its Regulation and the creation of a new database, support Europol, communicate with international partners to boost a global response (European Commission, "Holding Russia Accountable", 2023).

Among these crimes, the first one allegedly committed by Russia is the crime of aggression. The crime of aggression is defined by art. 8bis in the Rome Statute of the International Criminal Court (ICC) adopted at the 2010 Review Conference in Kampala. According to the ICC definition, three elements are required for a crime to be classified accordingly: "first, the perpetrator must be a political or military leader [...]; second, the Court must prove that the perpetrator was involved in the planning, preparation, initiation or execution of such a State act of aggression [...]; third, such a State act must amount to an act of aggression in accordance with the definition contained in General Assembly Resolution 3314, and it must, by its

character, gravity and scale, constitute a manifest violation of the UN Charter”. According to Article 8bis (2), an act of aggression is “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations”. More specifically, Russia is believed to have committed the following acts of aggression: “Invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof; Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State; The blockade of the ports or coasts of a State by the armed forces of another State; An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State; The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement” (The Global Campaign for Ratification and Implementation of the Kampala Amendments on the Crime of Aggression). However, a major issue is that Russia has not accepted the jurisdiction of the ICC and is theoretically not prosecutable before this court. Consequently, the risk is that Russia would go unpunished as regards the crime of aggression. Therefore, the European Commission is working together with the international community to find alternative ways to bring Russia to justice. One solution would be the creation of an *ad hoc* tribunal to investigate and prosecute Russia’s crime of aggression (European Commission, “Holding Russia Accountable”, 2023).

2.11.2 Paying for damages

Once found guilty of the aforementioned international crimes, Russia is expected to compensate Ukraine for the damage caused. In this sense, the sanctions imposed by the EU will play a significant role. Indeed, in March 2022 the European Commission established the Freeze and Seize Task Force to coordinate EU sanctions against Russian and Belarusian individuals and companies. Thanks to the Task Force, EU Member States, Eurojust, Europol, and EU agencies can freeze and confiscate Russian assets. To date, more than €28 billion of private assets belonging to Russian oligarchs and companies have been frozen, whereas over €210

billion of Central Bank of Russia assets are immobilized in the EU. The purpose is to use these assets both as deterrent in future negotiations and as sources of revenue for Ukraine's reconstruction. However, it should be noted that the legal tools to link these confiscations to criminal offence and the financial structures that would make these options possible are still under examination (European Commission, "Holding Russia Accountable", 2023). Furthermore, European institutions are debating on the possible consequences that this new and risky solution could have on the EU's international reputation and accountability. More specifically, the European Central Bank is skeptical about its feasibility. In fact, EU officials currently consider this idea legally too risky, to the extent that since February 2024 new initiatives have focused on the relative application of the windfall profits made on frozen Russian central bank assets (Van Campenhout and Payne).

The Economic track

2.12 International Conferences on Ukraine Reconstruction

In this section, it will be given an overview of some conferences held in the last two years and related to Ukraine's reconstruction projects. Due to relevance reasons, it was decided to limit the analysis to four conferences held from July 2022 to December 2023, selected on the basis of EU degree of participation and sponsorship as well as the importance of what was discussed and decided. Consequently, the discussion will narrow in on the Ukraine Recovery Conference in Lugano in July 2022, the International Expert Conference on the Recovery, Reconstruction and Modernization of Ukraine in Berlin in October 2022, the Ukraine Recovery Conference in London in June 2023, and the green recovery conference in Vilnius in November and December 2023.

2.12.1 Ukraine Recovery Conference, Lugano, July 2022

The Ukraine Recovery Conference held in July 2022 was not the first of its kind. Indeed, since July 2017, the Ukraine Reform Conference had been held almost every year to discuss together with the Government of Ukraine possible strategies to help the country economic and political development. The war then modified the purpose of the international political forum to the extent that also the name was adapted by

changing “Reform” with “Recovery”. Over 1000 people attended the two-day conference, including five heads of state and government, 23 ministers and 16 deputy ministers. A total of 58 international delegations, representing governments and international organizations, participated, including the president of the European Commission Ursula von der Leyen. As aforementioned, the topics discussed focused on Ukraine recovery, in particular: the Recovery and Development Plan of Ukraine; contributions of international partners; social, economic, environmental and infrastructure recovery from damages caused by the war; necessary national reforms. In setting medium- and long-term priorities, the need for an integrated approach was reaffirmed based on the principle of shared responsibilities. Furthermore, it was recognized that an anticipated response is crucial to promptly help Ukraine once the war is over. In this sense, the parties participating to the conference were invited to demonstrate solidarity through funds and commitment, strengthen partnerships and support recovery in specific regions or cities of the country, mainly the most affected by the war (“Ukraine Recovery Conference 2022 - 4-5 July 2022, Lugano (Switzerland)”, 2022).

In line with the spirit of the conference, the European Investment Bank (EIB), the lending arm of the EU, announced the implementation of an EU-Ukraine Gateway Trust Fund to support emergency and long-term investments for Ukraine’s recovery. Indeed, according to the EIB, it is crucial to continue investing in the country to pave the way for its European future. The Trust Fund was thought as a comprehensive instrument combining guarantees, investment grants, and loans to be used to support Ukraine’s economy. It was also opened to EU Member States, third countries, and international partners willing to contribute (European Investment Bank, 2022).

2.12.2 International Expert Conference on the Recovery, Reconstruction and Modernization of Ukraine, Berlin, October 2022

The International Expert Conference on the Recovery, Reconstruction and Modernization of Ukraine was held in Berlin and hosted by the German G7 Presidency and the European Commission. Its main purpose was once again to reaffirm European and international support to Ukraine not only in its immediate needs but also on its journey towards EU access. In particular, the president of the European Commission Ursula

von der Leyen identified three key elements for the successful reconstruction of Ukraine: guaranteeing persistent assistance to Ukraine in every step of the process; implementing comprehensive and inclusive mechanisms; tying Ukraine's reconstruction and modernization to its path towards the EU. In line with previous conferences, it was reaffirmed that recovery efforts should involve multiple stakeholders. This is why the conference brought together experts from different sectors and backgrounds, along with representatives from civil society, the private sector, and the Ukrainian government ("Conference on the Recovery of Ukraine: Federal Government", 2022).

Among the most important contributions, German Chancellor Scholz affirmed that Russia's violation of international law had already led to hundreds of billions of euros in damages. However, he also affirmed that Ukraine is not alone in this war and can rely on the support of the international community. Additionally, President von der Leyen stressed the need to initiate reconstruction immediately, addressing urgent concerns such as rebuilding schools. Additionally, in her view, it is also fundamental to ensure regular financial support for Ukraine to be able to pay teachers, doctors, and pensions. On the other hand, during his speech, Ukrainian President Volodymyr Zelensky stated that Ukrainians feel Europeans; therefore, it is crucial that Ukraine and the EU remained united. He also reaffirmed Ukraine's commitment to European security, its contribution to European food security, and its participation in the Single Market in order to find alternatives to Russian supplies, mainly as regards energy ("Conference on the Recovery of Ukraine: Federal Government", 2022).

Anyhow, the spirit of this conference was summarized in an essay published in the German newspaper *Frankfurter Allgemeine Zeitung* after the conference, in which German Chancellor Scholz and President von der Leyen wrote: "One should be careful about making historical comparisons, but this amounts to no less than the creation of a new Marshall Plan for the 21st century. It is a task that will take generations and must begin now" ("Conference on the Recovery of Ukraine: Federal Government", 2022).

2.12.3 Ukraine Recovery Conference, London, June 2023

One of the most promoted conferences was certainly the London Conference in June 2023. It was organized

within the same framework of the Lugano Conference of the year before; yet the fact that it was organized in the UK and that several EU representatives took part in it was perceived as a good sign of a closer EU-UK partnership after Brexit. Anyhow, the Conference was important mainly because the European Commission, the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), and the International Finance Corporation (IFC) decided to invest over €800 million for the recovery of the Ukrainian private sector within the European Fund for Sustainable Development Plus. It is also important to note that “These agreements are separate to the new Ukraine Facility, which is expected to be operational in 2024”. In other words, this is a further effort the EU is willing to make for Ukraine’s reconstruction (European Commission. “Ukraine Recovery Conference: President von Der Leyen and Executive Vice-President Dombrovskis Showcase Strong EU Support with New €50 Billion Ukraine Facility and €800 Million in Agreements to Mobilise Investment for Ukraine’s Recovery”, June 2023).

An interesting POLITICO’s podcast²³ summarizes the spirit of the conference. Accordingly, the EU is already keeping a close eye on Ukraine mainly for political reasons: not waiting that the war is over before showing support to the country in order to give the impression that the EU will be there until the end. This is certainly a clear strategy that relies also on the presumption that there are still areas in Ukraine that are relatively safe. Therefore, keeping the country alive by boosting money in those areas is major in order to avoid excessive costs in the end. This is why the EU has decided to design a new package worth €50 billion in grants and loans for the period 2024-2027. As the first international donor with sizable support packages, the EU has made itself a world guarantor of democracy, showing that Russian aggression is also against the European security architecture. Furthermore, the EU has recognized the importance of involving the private sector in the process – therefore the EIB project described in the previous paragraph. The main strategy is to attract private investments in order for Ukraine to maintain its economy alive. Certainly, these initiatives are not likely to succeed if Ukraine does not engage in a thorough reconstruction plan aimed at the necessary reforms for EU accession in order to pass the EU extremely strict audit mechanism. However, these are not the only challenges ahead. As aforementioned, the proposal of a Ukraine Facility is one step of a wider

²³ The podcast is part of the POLITICO’s series “EU Confidential” and is available on Spotify.

process: the Commission has proposed a midterm budget review in order to guarantee further €16 billion to Ukraine in grants and loans. These funds would help to balance Ukrainian budget, support Ukrainian hospitals, and encourage private investors. However, the EU budget update needs to be approved upon unanimity by all Member States. Another challenge is the issue of insurance for private investors: as long as the country is at war, EU pilot projects as well as taxpayers are at risk. Therefore, it is hard to convince further stakeholders to invest. One strategy used is to push investors to invest in sectors that are still working and paying taxes despite the war, such as logistics, infrastructure, and farming. Also, the proposal to finance Ukrainian reconstruction using Russian assets raises some doubts: this is something that was never done before, so that case law is not useful as how the frozen billions could be used from a legal perspective. The European Commission seems resolute in its decision to “make the perpetrator pay” and there are some countries that are also pushing forward in this direction; yet, other EU Member States such as Italy, France, and Germany as well as the same European Central Bank seem more realistic in saying that such a gray area should be handled with care. In any case, the fact that there is no agreement on the subject might pose some serious problems in the future. It seems safe to state that it is up to the European Commission to prepare and propose satisfying legislation in this regard (June 2023).

Other challenges arisen during the conference concern what Ukraine wants and needs. Indeed, there is a part of reconstruction that is already in place: millions of Ukrainians have not left the country but are struggling with their access to basic needs. This is why the Government of Ukraine is focusing mainly on logistics to avoid a worse humanitarian crisis. However, it is necessary also to find a way to support resilience in the economic and social spheres, such as infrastructure, energy, water supplies, development, and housing. The idea here is: it does not matter how many times a bridge is bombed and destroyed as long as it is reconstructed every time. Certainly, it is unclear whether this can be considered a good strategy or on the contrary a waste of resources. Moreover, the issue of Ukrainian corruption was addressed: in this sense, it seems that Ukraine is implementing a specific transparent system in which all the data concerning reconstruction projects are open to the public and to citizens (POLITICO Europe, June 2023).

In an article published by POLITICO on the conference, these issues are defined as an “Herculean

task” (Lynch, 2023). However, reconstructing a country almost in its entirety is not supposed to be easy. The next two editions of the Ukraine Recovery Conference will be host in Germany in June 2024 and in Italy in 2025. A desirable outcome would be that a more defined plan for reconstruction is discussed and agreed on the occasion of these two future events.

2.12.4 Ukraine Green Recovery Conference, Vilnius, December 2023

The Ukraine Green Recovery Conference in Lithuania is the most recent high-level conference organized on Ukraine’s reconstruction. It was hosted by the European Commission and took place between November 28 and December 1, 2023. It was organized on the basis of a holistic approach and involved many experts, policymakers, and business actors. Even though not much information is available on the outcome of the event, reading the speakers’ and participants’ list it is clear that the conference had more of a scientific purpose rather than political. Indeed, only one Commissioner participated in the event on behalf of the European Commission, while other two sent a video message, whereas other key international political figures included the President of Lithuania, the Minister of Environment of the Republic of Lithuania, the Minister of Environmental Protection and Natural Resources of Ukraine, and some Ukrainian mayors. The EU explained that the “conference aims to take stock of the challenges ahead and discuss with Ukrainian policymakers, mayors and businesses the strategies and concrete solutions underpinning a green reconstruction and recovery”. In other words, the conference was based on a principle that the Commission is not likely to negotiate: Ukrainian reconstruction and recovery will go hand in hand with sustainability. Otherwise, the country would not find itself in compliance with EU standards once accession talks are on the table. Certainly, the promise of a sustainable reconstruction is also likely to attract more investors and stakeholders. In this regard, the Commission is helping Ukraine align its environmental laws with the EU *acquis* and build administrative structures to enforce and implement this regulatory framework. It is also building coalitions, closely interacting with international partners (such as UNEP, UNIDO, World Bank) and support groups such as the High-Level Working Group on Environmental Consequences from the War (European Commission, “EU and Ukraine Outline Plans for Sustainable Reconstruction in a High-Level

Conference”, November 2023).

The conference was divided into two parts. The first two days were dedicated to a “hybrid policy segment” targeting policymakers and civil society in order to define challenges and key policy measures to support Ukraine’s green reconstruction. Furthermore, the conference was also the occasion to discuss the initial outcomes of the PHOENIX initiative, launched by President von der Leyen in February 2023 during a visit to Ukraine. This initiative seeks to assist Ukraine in rebuilding its cities focusing on high-quality, sustainable, and inclusive practices in collaboration with the New European Bauhaus community. The last two days were dedicated to a “business segment” focusing on practical solutions for a green reconstruction. Systematic barriers to the implementation of an environment-friendly economy and to EU and Ukraine business relationship were also analyzed (European Commission, “EU and Ukraine Outline Plans for Sustainable Reconstruction in a High-Level Conference”, November 2023).

Unfortunately, further data are currently not available on the outcome of the conference. It is fair to wonder whether it was meant to have a wider appeal to the public or was instead a more private event.

Conclusions

In conclusion, this chapter has shown that the EU is highly committed to improving Ukraine's situation. Since the start of the war, the support to Ukraine and Ukrainians amounts to €84.6 billion, including financial, humanitarian, emergency budget and military support to Ukraine from the EU, Member States and the European financial institutions, as well as resources allocated to help Member States meet the needs of Ukrainians fleeing the war. In this sense, refugees, 90% of whom are women and children, received special attention. Notably, Poland, as one of Ukraine's closest neighbors, played a crucial role in the refugee situation, with both state structures and ordinary citizens offering immediate assistance. The EU is also on the frontline in condemning Russian breaches of international humanitarian law and war crimes, meeting the concerns of the international community. At the time being, it is indeed crucial that the international community is aligned with the EU in order to implement a unified approach in face of the next challenges. As for Ukrainian recovery and reconstruction, it was demonstrated that the EU alone could not bear the effort, so that it is major to involve other countries and the private sector to boost investments and fundings. The idea of using Russian frozen assets to sustain the process is certainly appealing: Russia invaded Ukraine illegally, and it would be fair to hold it accountable for its crimes. However, the absence of previous case law in this respect raises fundamental questions as regards the legal sustainability of the initiative. In the next chapter, the current situation will be analyzed, focusing on the status of Ukraine as a candidate country in 2022. It will be offered a critical assessment of the projects envisaged and promises made to understand whether they are sufficient and likely to lead to full integration of Ukraine in a peaceful European order. All these challenges will be examined as regards the diplomatic role the EU is playing in relation to the situation.

CHAPTER THREE

Ukraine's path towards EU membership

Introduction

Since the beginning of the invasion, the EU has considered Ukraine as being part of the EU family. As seen in the first chapter, this was certainly the consequence of the historical process started in 2014 during Euromaidan: Ukraine wanted to be part of the EU and to the European project, and the EU was willing to assist Ukraine in the process, alongside with other ex-Soviet countries. However, in the years prior to Russian aggression, EU action was quite modest compared to what it is doing at the current time: it was given the greenlight to negotiations for the status of candidate country to Ukraine, but Ukraine had to be autonomous in implementing the reforms needed to satisfy the Copenhagen criteria. This approach was not new: every European country that wants to be part of the EU must respect definite principles and reach determinate standards. Otherwise, if a given country is not aligned with EU standards, this could lead to economic and social turmoil, also impacting the other EU countries. This is why nowadays, while reiterating the will to support and assist Ukraine, European leaders stress that there will not be shortcuts for Ukraine and that its access to the EU will have to follow the standard procedure. In fact, it would not be fair for other countries such as the Balkans who have been waiting for years on the antechamber of the EU, committed to improving their situation and effectively implementing resources to do so.

The fact that the EU seems to sympathize with Ukraine more than with other states is influenced by many factors: the shock that Russian aggression caused in the heart of one of the most democratic promoters of the world, hence the moral more than practical commitment to restore democracy and rule of law; the influence of NATO on the European mindset; the practical consequences in case Ukraine wins the war, such as the entry in the EU but also the way the EU project would advance in this case.

EU enlargement policy

3.1 EU bodies

The EU is not like other international organizations. It is certainly different in nature, to the extent that

defining it only as an international organization may be belittling: the EU has intergovernmental features, as well as supranational ones, and is both an economic and political union; it has a daily impact on the lives of its citizens and it would be compelling to imagine a national sector which is not somehow influenced by an EU directive or law. Academics and observers have been debating for decades on how the EU should be or even only on how it should be defined; however, this same ambiguity has made room for continuous progress and transformation to the extent that it is fair to say that the EU is not the same as it was in 2009 before the Treaty of Lisbon or even four years ago before the Covid-19 pandemic.

Before going into detail, it is useful to specify how the EU practically manages enlargement policies and diplomatic relations. There exist two main bodies tasked with these competences: the Directorate-General for Neighborhood and Enlargement Negotiations (DG NEAR) and the European External Action Service (EEAS). The two bodies work very closely together.

The DG NEAR operates within the European Commission and is based in Brussels with a working staff of approximately 1,650 members divided between Brussels and the EU delegations in partner countries. Currently²⁴, the Commissioner in charge is Olivér Várhelyi, whereas the Director-General is Gert Jan Koopman. DG NEAR is therefore responsible for the EU's neighborhood and enlargement policies. Neighborhood policies are not the object of this session; however, just to give an overview, DG NEAR takes care of EU special relationships with its neighboring countries, helping the promotion of EU values, policies, and interests in these regions. As for the enlargement area object of this analysis, DG NEAR collaborates with the countries that want to join the EU in order to assist them in the compliance of the necessary Copenhagen criteria. Therefore, it oversees the Union's bilateral relations with candidate and potential candidate countries as they progress toward EU membership, pushing for early implementation of reforms in areas such as the rule of law, economic governance, and public administration. It also supports the candidate countries during accession negotiations and monitors their progress (European Commission, "European Neighbourhood and Enlargement Negotiations").

The EEAS is the EU's diplomatic service. It is a relatively new body established in 2011 which

²⁴ Ursula von der Leyen's Commission 2019-2024.

operates under the leadership of the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission (HR/VP), currently Josep Borrell Fontelles. It works in synergy with the foreign and defense ministries of the EU Member States, with the European Commission, the European Council and the European Parliament, and other international organizations such as the UN. It is responsible for the EU's diplomatic relations and security policy, with external delegations similar to embassies. It also supports countries with strong ties with the EU in situations of crisis, by providing humanitarian aid and setting specific political goals which could contribute "to building lasting peace in conflict-affected areas." The EEAS is involved in "11 civilian and 7 military missions and operations and is also active during the war in Ukraine" (Prus-Nowacka, Czarkowski, 2023, p.116). In Ukraine, EEAS' main activities focus on humanitarian and material assistance, and diplomatic support for Ukraine, in particular by imposing sanctions on Russia. Even though the EEAS is not officially tasked with enlargement competences, common foreign and security policy alignment is a necessary component of the enlargement process. In particular, EEAS diplomatic support is vital for a country like Ukraine which wants to join the EU but is still at war.

Over the years, enlargements have contributed to EU transformation: seven enlargements have happened so far, with Croatia being the last member to join in 2013. To date, 27 countries are part of the EU, whereas nine are current candidates and one (Kosovo) is a potential candidate. Being part of the EU is certainly appealing and enlargement seems also an inevitable process meaning that the EU is destined to transform even more in the future. Pro-Europeans sustain that common peace and prosperity across the continent is the direct consequence of EU enlargement: this explains why countries such as the Balkans or Ukraine itself are willing to be part of this reality. New states would indeed benefit from higher political stability, stronger security, increased trade access being part of the single market, more freedom for their citizens to live, study, and work anywhere in the EU, increased funding and investment, as well as better social and economic conditions, among other things. On the other hand, for the EU welcoming a new member means accessing more resources without paying customs duties, englobing new specialized workers, increasing opportunities for EU citizens and businesses, bringing even more peace and security to

the European continent, as well as increasing EU democratic influence in the world. It is certainly a win-win situation both for the EU and new member states.

However, it is not easy to join the EU as it may be for other organizations. As mentioned in the first chapter, the accession process must respect both thorough phases and specific criteria, known as the Copenhagen criteria.

3.2. Accession process

The accession process is composed of three main phases. Even before these steps, countries who want to join the EU have usually maintained economic and political relations with the EU for years, also in the framework of the pre-accession assistance programme reserved for potential candidates. However, the real process begins with the submission of a membership application to the Council of EU. In this first step, known as candidacy, the Council asks the European Commission to check whether the applicant is able to fulfill the membership criteria. Once the check is completed, the Commission prepares the recommendations that the Council will use to decide whether the applicant country is granted candidate status or not. It is important to note that this decision requires unanimous approval by all EU member states. If granted, the Council gives the green light to formal negotiations for the candidate country's accession and the second step begins. The phase of membership negotiations may last years, depending on the candidate country's willingness and ability to englobe the *acquis communautaire* in its national system, that is, the EU accumulated legislation, laws, and standards. During the process, the European Commission is tasked with monitoring the candidate state's implementation of these reforms and with keeping the Council and the European Parliament posted on a regular basis. Once this second phase of negotiations is completed, the European Commission expresses its opinion on whether the country is ready to become an EU member state. If the Commission recommendation is positive, an accession treaty is prepared, that is, a document including terms and conditions on the country's EU membership. This treaty is then pending approval by the European Commission, the European Council, and the European Parliament. However, it must also be signed and ratified by all EU Member States in compliance with their own national dispositions and by the candidate

country itself. Only then the country officially joins the EU (European Union, “EU Enlargement,” 2022).

3.2.1 Copenhagen criteria

Not all countries can be part of the EU. Being also a regional organization, the EU can be joined only by European countries (as it is specified in the Treaties) or countries which geographically are not considered European, but which are remarkably close to the continent (as in the case of Cyprus or Turkey, which is a candidate country since 1999. This is certainly the *sine qua non* but not the only requirement. In 1993, the European Council reunited in Copenhagen and established the essential conditions all candidate countries must satisfy to become member states. In 1995, during the Madrid European Council, these accession criteria were further defined and strengthened and today they are integral part of the enlargement process. Their legal basis is found in the TEU: Article 49 sets the conditions and the procedure, and refers also to Article 2; Article 6(1), then, sets the principles. Article 49 states that “Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national parliaments shall be notified of this application. The applicant state shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.” Article 2 states that “the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”. Article 6(1) affirms that “The Union recognizes the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12

December 2007, which shall have the same legal value as the Treaties”. Among the most important requirements, a country wishing to join must respect:

- Political criteria: it must have stable institutions able to guarantee democracy, the rule of law, human rights, and the protection of democracy. Thereafter, authoritarian regimes or regimes in which freedom is limited are incompatible with this idea and cannot be part of the EU without implementing a democratization process which includes the adoption of a proper constitution.
- Economic criteria: it must have an effective market economy able to adapt to the competitive pressure of the EU single market.
- Administrative criteria: it must have the capacity to respect the obligations of EU membership, including the effective implementation of the rules, standards and policies that make up the body of EU law (*acquis communautaire*), and adherence to the aims of political, economic and eventually monetary union.

In addition, the EU has discretionary power in deciding whether it is ready to welcome new members. Indeed, even though enlargement generally leads to major benefits for the EU, the completion of the European integration process remains the priority. Hence, if the EU feels that the inclusion of new members could slow the process, it is more than legitimate to decline a country’s application. These considerations are certainly very political and depend on the historical moment the EU and the potential candidate are living (“Accession Criteria (Copenhagen Criteria) - EUR-Lex”).

For the purpose of this thesis, it is interesting to analyze how Ukraine is dealing with the accession process and criteria, including the historical and political considerations that should be pursued in its respect.

Ukraine’s accession process

3.3. Ukraine’s steps to membership

Russian invasion of Ukraine has paradoxically accelerated the country’s journey towards the EU. Indeed, even though Putin’s aggression was likely motivated by a desire and necessity to distance Ukraine from the West, it had the opposite effect. Already on February 28, 2022, hence four days after the beginning of the

conflict, Ukraine applied for EU membership. On June 17 of the same year, the European Commission published an opinion on Ukraine's EU membership application leaving to the Council to decide on the next steps in compliance with EU law. On June 23, Ukraine was granted candidate status by the European Council, which then asked the European Commission to report to the Council on the fulfilment of the conditions specified in Commission's opinion on membership application. This is part of the regular enlargement package of the European Commission. Recently, in November 2023, the European Commission recommended EU leaders to open negotiations with Ukraine. Thereafter, on December 14, 2023, leaders decided to open accession negotiations with Ukraine and Moldova and to grant candidate status to Georgia. The European Commission commented on social media that this decision is "strategic" adding that the EU has lived up to its promises²⁵. The Council was then invited to adopt the negotiation framework once the conditions contained in the Commission's latest report of 8 November 2023 were fulfilled (Consilium Europa, "EU enlargement policy – Ukraine", 2023).

However, this does not imply that it is all downhill from now on. It is certainly true that already in February 2023 during a European Council meeting the EU leaders honored Ukraine's determination to fulfil the conditions necessary to become an EU Member State. Furthermore, accession negotiations are undoubtedly a great achievement for a country willing to enter the EU (Consilium Europa, "EU enlargement policy – Ukraine", 2023). However, observers believe that Ukraine will not enter the EU before the 2030s.

3.3.1 Ukraine and the Copenhagen criteria

Three main documents can be used to trace the latest developments of Ukraine's journey towards the EU: the European Commission opinion on Ukraine's application for membership of the European Union of June 16, 2022; the European Commission Directorate-General for Neighborhood and Enlargement Negotiations (DG NEAR) Ukraine Report 2023 of November 8, 2023; and the Council of the EU conclusions on Enlargement of December 12, 2023. While summarizing Ukraine's accession process and reaffirming EU support, these documents reflect on how the country is supposed to deal with the fulfilment of the

²⁵ The post can be found on the Instagram official account of the European Commission date back December 14, 2023.

Copenhagen criteria. They also recognize that Ukraine has already proceeded with important reforms that justify the granting of the candidate status.

3.3.2 European Commission, opinion on Ukraine's application for membership of the European Union – June 16, 2022

Before the publishing of the European Commission opinion on Ukraine's application for membership of the European Union, the President of the European Commission Ursula von der Leyen officially visited Kyiv on April 8, 2022, to meet Ukrainian President Volodymyr Zelensky. This was the first ever meeting between the College and the Ukrainian Government. During her visit, she handed the Ukrainian President a "questionnaire" on the political and economic criteria and another one on the EU acquis chapters. Ukraine provided its replies on 17 April and on 9 May respectively. The 'questionnaire' is a formal instrument used to evaluate a country's preparedness for advancing in the accession process, in view of the granting of the candidate status or the opening of accession negotiations. Based on the answers, the European Commission then publishes its opinion on how to proceed with the process. It "includes both simple and complex questions aimed at providing precise information about the country, from the respect for political and economic criteria, to the extent of compliance with EU legislation, as well as information on institutional and administrative capacities necessary for the acceptance and implementation of European Union's legislation in each of the 33 policy areas of the EU acquis" (European Union. "From EU membership application to accession negotiations: frequently asked questions", pp.1-2). The European Commission President affirmed that Ukraine was already closely aligned with the EU and that the accession process would be accelerated as much as possible (European Commission, "Statement by President Von Der Leyen with Ukrainian President Zelenskyy at the Occasion of the President's Visit to Kyiv", 2022). However, this does not mean that it is not necessary that all conditions are respected, since there are many technicalities that must be guaranteed by Ukraine, mainly an ambitious reform programme.

These conditions are well enlightened in the European Commission opinion published on June 16, 2022. Based on the answers to the "questionnaire" and on other important observations and data, the Commission awards Ukraine's resilience as a democracy willing to strengthen its ties with the EU and align

with the *acquis*, in spite of the difficulties due to the conflict in its eastern territories (p.1). In its assessment, the Commission evaluates Ukraine's application based on its ability to meet the criteria outlined by the European Council in Copenhagen in 1993 and Madrid in 1995, with a particular focus on administrative capacity. The opinion also considers Ukraine's commitment to fulfilling obligations under the Association Agreement (AA) and Deep and Comprehensive Free Trade Area (DCFTA), which entered into force on September 1, 2017 (p.2). There appears also a reference on a 2019 constitutional amendment of the Ukrainian Parliament backed by 335 out of 450 Members in which "full membership of Ukraine in the European Union and the North Atlantic Treaty Organization" was defined as a strategic course (p.3). The opinion is then divided in three parts in which the three main Copenhagen criteria for membership are assessed: political criteria, economic criteria, and the ability to assume the obligations of membership (*acquis communautaire*).

Political criteria

As for the political criteria, the assessment evaluates the stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect and protection of minorities. In terms of democracy, Ukraine is in line with Western countries: it has a proper constitution which establishes a parliamentary-presidential democracy; there exists division of powers between the legislative (the Parliamentary Assembly or Verkhovna Rada) and the executive (the Government generally and the President for other important executive powers); rule of law, free elections, human rights are protected by the constitution. However, the only body authorized to interpret the Constitution and assess the conformity of legislation, that is, the Constitutional Court of Ukraine (CCU), is in critical need of reform following specific recommendations from the Venice Commission. Essential to this reform is the implementation of a credible and transparent selection process for appointing CCU judges, including integrity checks. "Relevant legislation is pending in the Parliament" (p.5). Furthermore, according to the opinion, Ukraine needs to strengthen urgent procedures to pass legislation, impact assessments, legislative oversight of the executive, and monitoring of the implemented legislation, mainly in view of the EU *acquis* gradual integration.

Ukrainian public administration has improved since 2014: a legal framework for public administration reform in line with EU standards is in place. However, further improvements at the highest political level are still needed (p.6).

In terms of rule of law, following the Euromaidan revolution in 2014, Ukraine has initiated two phases of judicial and anticorruption reforms (from 2014 to 2016 and from 2020 to 2021) with the purpose of enhancing judicial independence and accountability and establishing anticorruption bodies. “These reforms also had the aim of making the system more efficient and transparent. This need for reforms arose against the background of insufficient independence of the judiciary from the executive and legislative branches, low accountability, elevated levels of corruption and strong influence of oligarchic interests” (p.8). The justice sector is undergoing structural reforms, whereas corruption is still a hot topic in Ukraine, as already mentioned. As such, it has also been a major priority on Ukraine’s reform agenda: increased transparency and preventive measures are resulting in a decreased corruption rate across different sectors. The country has successfully implemented major reforms to prevent corruption and safeguard the state budget, especially in public procurement, public service delivery, energy, banking, and the health sector. “Studies have assessed the actual saving of these measures in the order of six percent of GDP annually” (p.10). Since 2014, anticorruption institutions have been established thanks to the mobilization of the Ukrainian civil society and the international community. Ukraine is also party to key international anticorruption conventions, such as the United Nations Convention against Corruption (UNCAC). However, “Corruption remains a serious challenge that requires continued attention as it imposes significant costs on the state budget, businesses and the population, discourages domestic and foreign investment and undermines the rule of law” (p.9). A new national corruption strategy is still pending adoption by Parliament. Furthermore, high-level officials are rarely investigated and therefore brought to court, probably due to a lack of impartiality within law enforcement agencies. Indeed, “As regards track record of high-level corruption cases, a total of 72 verdicts have been issued by the HACC (High Anti-Corruption Court) since 2019, out of which 39 are final convictions, including against members of parliament, judges, prosecutors, members of local councils and heads of state-owned enterprises”. As for the strong influence of oligarch

interests, “A so-called “Anti-Oligarch law” was signed into law in November 2021, with the strategic objective to limit the excessive influence of oligarchs, by reducing their role in Ukraine’s economic, political, and public life. Implementation of relevant legislation is key” (p.10). As for the fight against crime, in 2019 Ukraine initiated a substantial police reform to enhance public trust and address organized crime. Furthermore, the country ratified the United Nations Convention against Transnational Organized Crime and related protocols but faces outstanding recommendations from Council of Europe’s Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). Anti-money laundering legislation aligns partially with (Financial Action Task Force) FATF standards, requiring further reforms. A national Strategy on Combating Organized Crime was approved in 2020, whereas Action Plan for the Strategy is still under examination. Initiatives like Serious and Organized Crime Threat Assessments (SOCTA) and Regional Organized Crime Threat Assessment Task Forces (ROCTAFs) were launched in 2022. Moreover, Ukraine collaborates with CEPOL, Europol, and EMCDDA, and actively engages with EMPACT and Interpol. Despite increased criminal investigations, challenges persist, including smuggling, illegal logging, and human trafficking. Indeed, “The number of completed criminal investigations related to crimes committed by organised groups and criminal organizations slowly increased in recent years but remains still relatively low” (p.11).

As for human rights and protection of minorities, Ukraine has ratified key international human rights conventions, and its domestic legal and institutional framework generally adheres to European and international standards. However, at that time, the country had not yet ratified the Istanbul Convention on preventing and combating violence against women and domestic violence. As for the legal and institutional setup for fundamental rights, Ukraine has established a framework that generally aligns with European and international standards. “However implementation should be improved and the capacity of the institutions in charge of protection and enforcement of human rights as well as the implementation of existing strategies and action plans remain limited. This sometimes impedes the effective enforcement of human rights”. In 2021, Ukraine adopted a new National Human Rights Strategy 2021-2023 and an Action Plan to further align its public administration structures and procedures with the international framework. Generally,

Ukrainian citizens enjoy freedom of expression, contributing to an interesting public civic space. Media freedom has notably improved, especially with the rise of online media. However, oligarchs still control a big part of national media, in particular the television. Anyhow, the European Commission believes that “Ukraine has found an overall good balance between the preservation of media freedom and measures against pervasive Russian hybrid and massive disinformation attacks, being multiplied by some local media outlets”. As for the fight against discrimination, the Constitution guarantees protection, whereas the Criminal Code contains provisions on hate crimes. However, sexual orientation and gender identity are neither protected nor recognized by the law. As a consequence, “Legislation required in order to align with the EU acquis is identified in the National Human Rights Strategy 2021-2023”. Ukraine is also making gradual progress on its gender equality agenda, “with increased political representation of women (20.5% of parliamentarians elected in 2019 are women) although the gender pay-gap persists with women overall earning 23% less than men on average in 2019” (p.12). as for the protection of minorities, Ukraine has implemented several legal measures to protect child rights, including the ratification of the UN Convention on the Rights of the Child and accession to the three Optional Protocols associated with the Convention. The constitutional framework in Ukraine guarantees the rights of individuals belonging to minority groups. To rectify past deficiencies in the investigation and prosecution of torture and ill-treatment by law enforcement officials, the country established the Department for Procedural Oversight of Criminal Cases of Torture and Other Serious Violations by Law Enforcement within the Prosecutor-General’s Office in October 2019 (p.13).

Economic criteria

As for the economic criteria, the assessment evaluates the existence of a functioning market economy and the capacity to face the competitive pressure and market forces within the Union. In 2020, “Functioning market economy GDP per capita in Ukraine represented 29.8% of the EU average” (p.13). Specifically, the Ukrainian government has implemented important macroeconomic policies. This achievement is noteworthy, considering successful mid-term cooperation with international partners and the country’s

resilience since Russian aggression in 2022. Indeed, despite the challenges due to the war, the government has managed to maintain macroeconomic stability. However, progress in economic and policy developments has been hampered by an inconsistent implementation of structural reforms. This inconsistency is rooted in a lack of political consensus and frequent interference from vested interests, resulting in delays in the reform process (p.13).

The major reason for the lack of investment in Ukraine is related to the persistent weakness in the business environment. Indeed, “In 2019, Ukraine ranked 85th in the global competitiveness index of the World Economic Forum, primarily due to weak institutions, the high prevalence of market dominance and an ineffective anti-monopoly policy”, despite a process of deregulation based on the cancelation of nearly one-fifth of the regulatory acts under review between 2016 and 2020 (p.14). Widespread corruption and the inadequately reformed court system contribute to a low degree of contract enforcement, discouraging entrepreneurship and cross-border business relations. The informal economy’s share, though uncertain, remains significant, potentially reaching one-third of economic activity in Ukraine. Since the 2014-2016 banking crisis, the financial sector has reached more stability thanks to regulatory and supervisory reforms, resulting in a substantial reduction in non-performing loans and adequate recapitalization of banks. However, the dominance of four state-owned banks, holding close to 50% market share, obstructs financial intermediation, with bank loans to the private sector at only 19% of GDP in 2021. Capital markets and non-bank financial intermediation are at an early stage and do not offer viable financing options to companies. Notably, the National Bank of Ukraine took steps to safeguard banks’ liquidity and maintain confidence in the system after Russian aggression (p.14).

Inflexible and unreformed legislation has hindered the functioning of the labor market, with “About 3 million people, or almost 20% of all employed, [...] in informal employment in 2021”. The unemployment rate has remained relatively low at around 9%, and the economic activity rate has not significantly changed since 2014. Research and development expenditure, concentrated in the public sector, remains insufficient to enhance human capital sustainably. Prior to the considerable damage caused by Russian aggression, Ukraine’s physical infrastructure reflected persistently low capital accumulation, with the investment ratio

averaging around 17% of GDP since the Euromaidan revolution. “The destruction caused by the war is immense and amounts to hundreds of billions of Euros”. Post-war, rebuilding efforts must not only restore what existed but also align with the broad reform agenda for Ukraine’s European path, enabling a green and digital transition. The Ukrainian economy has seen little diversification since 2014, remaining concentrated in low-value-added sectors. Manufacturing’s share of GDP declined from 12.2% in 2014 to 10.3% in 2021. Trade, agriculture, and mining were the other major sectors in 2021, accounting for almost 60% of employment. However, they suggest lower labor productivity relative to other parts of the economy. While the overall openness of the economy has contracted, economic integration with the EU has progressed due to the implementation of the Association Agreement/Deep and Comprehensive Free Trade Area (AA/DCFTA) (p.15).

Ability to assume the obligations of membership

As for the ability to assume the obligations of membership, the assessment evaluates Ukraine’s commitments in the Association Agreement and the Deep and Comprehensive Free Trade Area and their implementation, and level of adoption, implementation and enforcement of the acquis outside the AA/DCFTA. The nature of the two agreements was largely discussed in the first chapter of this dissertation. However, it is useful to specify that they contain 21 annexes/appendices delineating specific aspects of the acquis with a detailed timetable for implementation ranging from 2 to 10 years. Therefore, “The Agreement captures thus a substantial part of the EU acquis” (p.16). Throughout the years, Ukraine has certainly put much effort in the implementation of the AA/DCFTA, resulting in increased cooperation and economic integration with the EU. Gradually, further annex updates were included in the AA/DCFTA, covering more recent EU acquis. Ukraine is also aligning with EU competition laws and practices, achieving satisfactory results. A national law on competition is in place, “which contains a standard set of rules comparable to most antitrust acts in the EU” (p.17). Additionally, the Ukrainian competition control authority has recently improved case-handling practices. However, even though “The current State Aids law provides a basis to control State Aid”, further alignment in this sense is still needed. Ukraine also achieved reliable results in

the areas of customs and external relations, the latter well-aligned with EU Common Foreign and Security Policy positions. However, in other areas alignment with the *acquis* is still limited, mainly transport, agriculture and rural development (p.19). Further improvements are therefore expected.

Seven first steps

In the conclusion of the opinion, the European Commission, directly, recommends the Council to give Ukraine the perspective to become an EU Member State and the European Council to grant it the candidate status, as it was on June 23 of the same year. According to the Commission, indeed, “Ukraine has demonstrated the resilience of its institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities”. Its constitutional, legislative, and institutional framework is well in line with modern European and international standards, and it is major that its Government managed to continue working at every level in spite of the Russian invasion. Also, its economy has endured, above all at the macroeconomic level. According to the Commission, "This reflects not only a very strong political determination, but also relatively well-functioning institutions" (p.20). Overall, Ukraine reflects the principles and values belonging to a European state. However, as the opinion has demonstrated, there still exist several areas in which further improvements are necessary in order to proper align Ukraine with the EU. In particular, the Commission recommends seven very technical and precise steps that Ukraine had to take to proceed with the accession process. They are the followings:

1. Enact and implement legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on evaluation of their integrity and professional skills, in line with Venice Commission recommendations.
2. Finalize the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine.
3. Further strengthen the fight against corruption, in particular at high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions; complete the

appointment of a new head of the Specialized Anti-Corruption Prosecutor's Office through certifying the identified winner of the competition and launch and complete 20 the selection process and appointment for a new Director of the National Anti-Corruption Bureau of Ukraine.

4. Ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF); adopt an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine's security environment.
5. Implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation.
6. Tackle the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the EU audio-visual media services directive and empowers the independent media regulator.
7. Finalize the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission and adopt immediate and effective implementation mechanisms (p.21).

Every relative progress was monitored by the Commission, which published the results in the Ukraine Report 2023, as it will be explained in the next session. As in a standard formula, the Commission concluded its opinion by reiterating that the accession process is strictly based on the Copenhagen criteria and that it could be always reversed if the conditions are not met anymore. This is an important specification to be borne in mind as the negotiations proceed, since shortcuts are not permitted, in spite of the special relationship that Ukraine and the EU seems to have developed since the beginning of Russian aggression.

3.3.2 European Commission, Ukraine Report 2023 – November 8, 2023

One year and several months after the publication of its opinion, the working staff of the European Commission (DG NEAR) published its report on the progress achieved by Ukraine which could justify the advancement of the accession process. One month after, based on the results of the report, EU leaders

officially opened accession negotiations with Ukraine. The report traces the progress Ukraine made from June 2022 to June 2023 and is based on data collected from the government of Ukraine, the EU Member States, and European Parliament. In that range, Ukraine has certainly made noteworthy progress on democracy and rule of law: the granting of candidate status in June 2022 has indeed encouraged and accelerated reforms. The report is therefore an update of the Commission's opinion of June 2022.

Political criteria

Ukraine's legal framework continued being based on democratic elections, even though in the considered period there were no elections. However, it is pointed out that the electoral legal framework should be further reformed following the OSCE Office for Democratic Institutions and Human Rights' (ODIHR) recommendations. The Ukrainian Parliament (Verkhovna Rada) continued carrying out its legislative tasks in spite of the war, guaranteeing "an uninterrupted democratic decision-making process". It also managed to decide on important matters such as defense and security questions. As for the legislation related to EU integration, "The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive". In the area of public administration reform, there is no record of substantial reform, "in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the human resources management information system". On the contrary, important achievements were found in the areas of digitalization of service delivery and multi-level governance. As for the latter, decentralization progressed, "with municipalities acting as a pillar of Ukrainian resilience". This trend should be further encouraged, and the Commission recommends that "Local self-government in the liberated territories and those near the frontlines should be gradually restored where the security situation allows it". In the judiciary, Ukraine certainly made substantial progress, in particular as regards justice services and "the implementation of the 2021 reform of the judicial governance bodies focused on integrity and professionalism" (p.4). Notably, the country re-established the High Council of Justice and the High Qualification Commission of Judges following transparent procedures. Overall, "In 2022, most courts maintained a clearance rate (ratio of the

number of resolved cases over the number of incoming cases in a given year) of 100% or even higher”. Transparent preselection of judges in the Constitutional Court was encouraged by a legislation of August 2023 based on the Venice Commission recommendations. However, in this sense, further efforts are needed to introduce more transparent procedures for the selection of management-level prosecutors. Furthermore, “To increase transparency, efficiency and access to justice, Ukraine should also continue its efforts on digitalisation of the judiciary”, and “Systemic measures still need to be taken to advance the reform of enforcement of court decisions, including the enforcement of decisions of the European Court of Human Rights”. As for the rule of law, legal education reform still needs to be pursued. Progress was also observed on the fight against corruption, “in particular with the establishment and consolidation of a comprehensive anti-corruption institutional framework and the gradual building of a track record in investigating, prosecuting and adjudicating high-level corruption cases” (p.5). This was certainly an important prerogative in order to maintain its EU candidate status. Other improvements in this area include: the adoption of the national anticorruption strategy, and the appointment of the new Heads of the Specialized Anti-Corruption Prosecutor’s Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU) on the basis of transparent and meritocratic selection procedures. However, Ukraine should continue encouraging this trend by “building a credible track record of investigations, prosecutions and final court decisions in high-level corruption cases, including the seizure and confiscation of criminal assets” (p.5-6). As the fight against organized crime, Ukraine implemented “a dedicated strategic and institutional framework to fight organised crime and a good level of international cooperation” in particular with EU Member States (p.6). Improvements are still necessary in terms of financial investigations, asset recovery, transparent selection of management and staff, and accountability of the Bureau of Economic Security (agency which fights economic crime). As for fundamental rights, martial law due to Russian invasion continued during the reporting period, but other than some restrictions of rights and freedoms, Ukrainians did not suffer from important limitations of their rights. The main violations of fundamental rights to Ukrainians remained the ones on behalf of Russia, and in this sense the “Ukrainian Parliament Commissioner for Human Rights faces serious challenges with its existing capacity to address the entire range of its responsibilities in a meaningful

manner” (p.7). As for the protection of minorities, the report found that “The number of registered discriminations against minorities, including against LGBTIQ persons and national minorities as well as antisemitic acts, has strongly decreased”. Further efforts are instead needed as regards the rights of national minorities (to be in line with the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023) and the persons with disabilities (to be in compliance with UN Convention on the rights of persons with disabilities). Notably, since the Commission’s opinion of June 2022, Ukraine has ratified “the Istanbul Convention on preventing and combating violence against women and domestic violence in July 2022 and adopted the 2030 state strategy on ensuring equal rights between men and women, which should now be implemented” (p.6). A new media law was also introduced. However, the situation of freedom of media remains precarious, since “media concentration has been observed due to the collapse of the media and advertising market, particularly in the television segment. This has reduced people’s access to pluralistic media in Ukraine” also “The situation of journalists remains precarious”. Furthermore, “A law on personal data protection, aligned with the EU acquis, should be adopted” (p.7).

Economic criteria

In the reporting period and as the Russian war of aggression continued, Ukrainian economy faced serious difficulties, also due to its pre-existing structural issues. The report considers it “between an early stage and some level of preparation towards establishing a functioning market economy”. The main challenges were encountered in the areas of monetary policy, economic governance, and institutional and regulatory conduction. However, Ukrainian authorities managed to maintain a form of stability, to the extent that in 2022 economy contracted by 29.1%, despite worst projections. This was possible also thanks to the maneuvers of the National Bank of Ukraine, which “suspended the hitherto successfully managed inflation-targeting framework, fixed and devalued the exchange rate and raised its main refinancing rate”. Generally, the banking sector benefitted from previous reforms and “remained fully operational and stable with ample liquidity”. However, public finances significantly deteriorated due to the war’s duration and cost, undoing previous fiscal consolidation achievements and reducing the debt stock. Also, the labor market was

considerably impacted due to the ongoing humanitarian crisis and the substantial capital destruction. Ukraine is therefore still in the initial stages of preparation to cope with competitive pressure and market forces within the EU. Investments in research and innovation remained relatively low, to the extent that the “structure of the Ukrainian economy remained concentrated in sectors with low added value” (p.7). As regards its integration in the EU economy, the opportunity for Ukraine is to benefit from the massive international response to support modernization and strengthen competitiveness.

Ability to assume the obligation of EU membership

In the reporting period, Ukraine continued aligning with the EU acquis in many sectors. The main progress was observed in the areas of free movement of capital, intellectual property law, financial services, free movement of goods, right of establishment and freedom to provide services, company law, digital transformation and media, customs union, taxation, education and culture, environment, energy, and Trans-European networks. In particular, satisfactory progress was achieved “in agriculture and rural development, food safety and veterinary (SPS) and phytosanitary policy as well as in the area of fisheries and aquaculture”. Ukraine demonstrated good preparation also in the area of foreign, security, and defense policy, “as it has increased the alignment rate with relevant EU decisions and declarations of the EU’s common foreign and security policy to 93% (2022)” (p.8). In other areas such as competition policy, consumer and health protection, freedom of movement for workers, social policy and employment, enterprise and industrial policy, science and research, economic and monetary policy, regional policy, coordination of structural instruments, financial and budgetary provisions, climate change, transport policy, EU’s trade policy, progress was limited or nonexistent. The conclusion of the report is that Ukraine should put its efforts in building a sustainable and inclusive economy, basing its reforms on the Green Agenda and sustainable connectivity cluster. It will also be important the ability Ukraine will show for recovery and reconstruction during and after the war.

Assessment of the implementation of the seven steps of the Commission’s opinion

In this part of the report, the Commission gives an update on how and whether Ukraine followed the

seven steps suggested in its opinion of June 2022. It should be noted that the following progress were made in only one year and in spite of the ongoing Russian war of aggression. Indeed, even though not all steps were completed yet, overall Ukraine showed good resilience and *bona fides* to comply with the needed changes leading to its European path. In this session, the seven steps will be repeated and associated with the progress made.

According to **Step 1**, Ukraine should have enacted and implemented “legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on evaluation of their integrity and professional skills, in line with Venice Commission recommendations” (p.9). Following a proper reform of the Constitutional Court, as already mentioned, Ukraine managed to complete this step.

Step 2 was related to the finalization of “the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine” (p.9). Since the Ethics Council implemented this procedure, the second step is completed as well.

Step 3 demanded to “further strengthen the fight against corruption, in particular at high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions” and to “complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor’s Office through certifying the identified winner of the competition and launch and complete the selection process and appointment for a new Director of the National AntiCorruption Bureau of Ukraine” (p.9). This step was not completed but some progress was achieved. More specifically, “Ukraine has further developed its track record in fighting corruption”, with 82 indictments against 203 persons sent to court until the end of September 2023. Ukraine also managed to appoint the heads of the Specialized Anti-Corruption Prosecutor’s Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU), as already noted. A comprehensive State Anti-Corruption Programme was adopted in March 2023 and an *ad hoc* IT system, and a Unified Portal for Whistle-blower Reports were launched to control its implementation. Furthermore, “The e-asset declaration system, suspended after the introduction of martial law, was restored and opened to the

public” (p.9-10). The report hence reiterates that Ukraine should further strengthen its fight against corruption by enacting a law “raising the legislative staffing cap for the NABU”, removing “from the law on corruption prevention the provisions restricting the NACP’s powers to continued verification of assets that have already undergone the verification process and limiting NACP’s powers to verify property acquired by declarants before joining the public service, without prejudice to the rules applying to national security during wartime” (p.10).

According to **Step 4**, Ukraine should have ensured that “ensure that anti-money laundering legislation [was] in compliance with the standards of the Financial Action Task Force (FATF)” and that “an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine’s security environment” was adopted. Following in September 2022 the adoption of a new law on ultimate beneficial ownership by the Parliament and the adoption of the necessary implementing legislation “on the registration and verification of beneficial ownership information, identification of the ultimate beneficial owners and liability for violations” by the Government, and in May 2023 the approval of the strategic plan for the reform of the law enforcement sector by the President, Ukraine fairly managed to align its anti-money laundering with the FATF standards (p.10). This step was hence completed.

Step 5 was related to the implementation of an “Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life” to be done “in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation”. This step was not completed but Ukraine is on the right path, since it “has prioritised systemic measures against oligarchs, in line with the Venice Commission recommendations issued in June 2023, [...] updated and continued to implement its Action Plan to reduce the influence of oligarchs, which includes systemic reforms in key areas affected by the vested interests”. Furthermore, “Beside the reform of the judicial governance bodies and the Constitutional Court, adoption of a new media law, implementation of the state anti-corruption programme and the finalisation of the legal framework on the ultimate beneficial ownership, Ukraine has adopted and signed into effect legislation strengthening the Anti-Monopoly Committee of Ukraine and restoring the financial reporting of political parties and the verification functions of the relevant institutions” (p.10-11).

However, a law regulating lobbying is still missing.

Step 6 demanded to “tackle the influence of vested interests by adopting a media law that aligns Ukraine’s legislation with the EU audio-visual media services directive and empowers the independent media regulator” (p.11). Following the adoption of a new media law in December 2022 and the adoption of amendments to the advertising law in the cluster of EU audio-visual media services, this step is considered completed.

According to **Step 7**, Ukraine should have finalized “the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission, and [adopted] immediate and effective implementation mechanisms”. Ukraine managed to adopt a law on national minorities in December 2022, a law “extending the transition period for education in minority languages by one year for pupils who started their education before 1 September 2018” in June 2023, and to register a “draft law in the Parliament to permanently exempt these pupils from the obligations of the Education Law” (p.11). However, since Ukraine did not manage to follow the remaining Venice Commission recommendations on national minorities, state language, media, and education, this step is not considered completed.

Overall, in the reporting period, Ukraine finalized four steps out of seven, while somehow progressing in the remaining three steps. This is certainly an impressive achievement considering the difficult circumstances due to the ongoing conflict. However, if Ukraine really wants the accession process to advance, it should further speed up the relative reforms to demonstrate its readiness to be integrated in the EU family.

3.3.3 Council of the EU, Conclusions on Enlargement – December 12, 2023

On December 12, 2023, the Council adopted its latest conclusions on Ukraine in the framework of the annual progress review, which includes the yearly considerations on enlargement and stabilization of the association process, in order to take account of the progress made by each EU candidate in relation to their European path. In its conclusions, the Council acknowledged the efforts made by Ukraine as far as its candidate status,

sustaining that “The EU stands ready to assist Ukraine further in its reforms and their sustained implementation, including those focused on its EU path, and remains committed to supporting Ukraine’s repair, recovery and reconstruction”. Accordingly, it is considerable that Ukraine is willing to meet EU’s standards and criteria in this moment of distress. Indeed, “The Council commends the substantial progress that Ukraine has made towards meeting the objectives underpinning its candidate status, despite the fact that Ukraine is under attack” (p.26).

As for the accession criteria, the Council noted and encouraged Ukraine’s judicial and administration improvement aimed at guaranteeing the rule of law. Ukraine has implemented legislative and institutional reforms on fundamental rights and freedoms, in particular as the “alignment of Ukraine’s media legislation with the EU audio-visual media services acquis”. As for its notorious corruption issue, Ukraine has certainly made some progress, in particular “in ensuring the independent and effective functioning of the anti-corruption institutions”; however, according to the Council, it further needs to improve its anti-corruption institutions and record of accomplishment on investigations and convictions, above all on high-level corruption cases. Among other important improvements, the Council mentioned that Ukraine has implemented measures concerning “the excessive influence of oligarchs [...], anti-money laundering legislation” in order to align them “with FATF standards [...], the rights of persons belonging to national minorities and looks forward to further steps as recommended by the Venice Commission” (p.26).

Furthermore, the Council recognized “Ukraine’s efforts to enhance energy security and independence of supply” as well as “Ukraine’s strategic commitment to its EU path and its high alignment with the EU Common Foreign and Security Policy positions and restrictive measures” (p.27). Ukraine needs to further engage in the EU single market, on the basis of its Association Agreement and Deep and Comprehensive Free Trade Agreement with the EU. In this sense, it is major that EU’s sectoral cooperation with Ukraine increases.

The Council recognizes that Russian aggression has jeopardized Ukraine’s monetary policy and economic governance. However, in view of the reconstruction process, it is important that the country focuses on the independence of its regulatory authorities, in particular the Central Bank, in order to be able

to properly implement the EU *acquis communautaire* and “to continue this positive trend towards full alignment, including in line with the principles of sovereignty and territorial integrity” (p.27).

3.3.4 General assessment

The three documents have pointed out the progress Ukraine has made in the last years, in particular *vis-à-vis* the advancement of the accession process. They have also shed light on the difficulties and limits with which the country is dealing, due to the ongoing conflict but also to pre-existing structural issues. Years of corruption, high dependence on Russia and oligarchs, ineffective and insufficient legal framework, among other things, cannot be canceled from today to tomorrow. However, it should be considered relevant that Ukraine has accelerated the implementation of its reforms once it was granted candidate status in June 2022. The presumption is that, with the recent opening of the accession negotiations, the country would be even more encouraged to meet the EU’s demands.

This is certainly a tendency Ukraine has shown in the latest years: the closer it is to the EU, the more motivation it has to improve its institutional, political, and economic status. As an example, the Euromaidan revolution of ten years ago – whose history opens this dissertation – was certainly the first highly symbolic point of contact between the EU and Ukraine. The revolution brought Ukraine closer to the EU but also showed it what was at stake and what could be lost – in that case, Crimea. Nevertheless, since 2014 Ukraine has engaged in a substantial progress of reforms. VoxUkraine²⁶ estimates that between January 2015 (one year after the end of the Euromaidan revolution) and June 2022 (when Ukraine was granted EU candidate status), “almost 1,300 reformist legislative acts have been adopted with the most progress in business environment and governance”. More specifically, “Of these legislative acts, 127 tackled corruption, 59 indirectly, i.e. by changing the procedures (the most prominent example is the public procurement reform), opening data or deregulating certain spheres”. Consequently, “Ukraine’s corruption perception score improved from 25 in 2013 to 32 in 2021”, which can be considered a great, even though not ultimate, achievement. Also, since 2014, new institutions trusted with the task of fighting corruption have been

²⁶ VoxUkraine is an independent and impartial analytical platform founded and led by a team of experienced and qualified economists and lawyers, who work in Ukraine and abroad (<https://voxukraine.org/en/>).

established, as the aforementioned documents have broadly shown. This evolution also marks an improvement in public attitude to corruption: “a DIF (2019) survey shows that the five most important reforms for Ukrainian citizens are anti-corruption (63%), healthcare (57%), pension and social security reform (52%), reform of judiciary and prosecution (37%) and lustration (33%)” (Sologoub, 2022). Indeed, Ukrainians will certainly have a prominent role in transforming the country’s society. However, it would be interesting to assess how much efforts Ukrainian civic society is willing to make, considering that winning the war is, at the time being, their main priority.

Another crucial point of contact between the EU and Ukraine which had a positive impact on the country was the entry into force of the AA/ DCFTA in 2017. These agreements “were designed to bring Ukraine closer to the EU (without promising full membership), and some of the clauses were overly complicated given the state of institutional development of Ukraine”. Nevertheless, Ukraine was quite successful in implementing the agreements: it is estimated that, “of 26 AA Chapters, Ukraine implemented 17 at a score 2 or higher (on a scale from 1 to 3)”. Overall, “The Ukrainian government estimates that as of 2021, Ukraine implemented 63% of the AA clauses with the highest progress in political dialogue, humanitarian policy as well as justice, freedom and security and human rights protection, while financial cooperation, labour relations and transport lag behind”. Several difficulties were also encountered in the clusters of anti-corruption and rule of law, which is not surprising. However, the documents have shown that Ukraine is well-aware of its limits and is currently focusing on anti-corruption and rule of law reforms. Thanks to the joint work of the European institutions, “Ukraine’s path for reforms is rather clear” (Sologoub, 2022). Ukraine is indeed well aware that it should prioritize the completion of the judicial reform, reforms in the public service, together with market developments, and further decentralization.

Reconstruction will hopefully happen soon, and Ukraine seems to be inclined to trust the EU to lead it. Throughout the years, the interests of Ukraine and the EU have become increasingly aligned, and since Russian aggression they seem to have become even more intersected. In the reconstruction process, they are likely to be completely the same. This is why, despite the problems outlined in this session, Ukraine is certainly a suitable candidate for joining the EU. The granting of the candidate status has a huge advantage:

“It gives moral support to the Ukrainian people during the war and, more importantly, provides an anchor for further reforms” (Sologoub, 2022). Strategically, it is also a good deterrent against Russia, mainly considering that President Putin was strongly convinced that Ukraine would never become an EU Member State. Furthermore, the lack of a specific admission date gives some relief to both parties: Ukraine, because it perfectly understands that the war must end before it could join the EU, and the EU itself, because it would not be acceptable for its Member States to provide Ukraine with shortcuts.

Overall, the EU would also benefit from Ukraine’s accession, mainly in terms of security. Indeed, “If Ukraine was not currently fighting, Russian tanks would probably already be in Warsaw or Tallinn”. In the long term, Ukraine in the EU would make the European continent more stable and impenetrable. Also, more human capital and entrepreneurial talent would enrich EU labor market, considering that Ukraine “is quite advanced in IT, machine building and other industries that require high-level technical skills” (Sologoub, 2022). The EU would also benefit from more energy and food security, given the great resources of which Ukraine is provided. In fact, Ukraine is the largest country in the European continent and one of the richest in resources: it possesses 21 out of the 30 raw materials needed by the EU and could completely replace Russia’s supplies to Europe and prevent potential energy crises in the future. The country could also serve as an energy storage hub since it possesses the largest underground gas storage facilities in Europe, counting 33 billion cubic meters at the border with Slovakia. Hydrogen is also a potential area of growth for energy (Lynch, 2023). These and other reasons well justify EU’s decision to grant Ukraine candidate status and open accession negotiations, ensuring an ambitious reconstruction plan to Ukraine which would allow EU membership within 10 or 12 years.

EU reforms

So far, this chapter has analyzed what Ukraine should do to officially become an EU Member State. However, it is interesting to understand also the other side of the coin, that is, what the EU should do to respond to this new challenge. More specifically, what should change in the EU and what could actually change.

3.4 Amending the Treaties

Recently, the European Parliament suggested that the Treaties should be amended in order for the EU to cope with new crises and challenges, such as Russian aggression against Ukraine. However, the Treaties are not easy to amend. Indeed, according to Article 48 of the TEU, the Treaties can be amended in accordance with two kinds of procedure: the ordinary revision procedure or the simplified revision procedures. In brief, the former is used to amend key elements of the treaties, for instance increasing or reducing EU competence. In this case, any Member State, the European Parliament or the European Commission can submit to the Council a proposal. The Council then submits it to the European Council and national parliaments are notified. Therefore, the European Council decides whether the proposed amendments are important or not. If the answer is in the positive, the European Council decides to examine it and to convene a convention composed of representatives of the Member States parliaments, of the Heads of State or Government of the Member States, of the Parliament, and of the European Commission. The convention then adopts by consensus a recommendation. Therefore, a conference of representatives of the governments of Member States is convened by the President of the European Council in order to adopt the proposed amendments by consensus. The amendments may only be officially adopted if ratified by all Member States. If the answer is in the negative, the European Council and the Parliament can decide not to engage in the process. The simplified revision procedures include three clauses, whose aim is to accelerate European integration in specific areas. The simplified revision procedure concerns the amendment of EU's internal policies and actions, it avoids the convention and conference of representatives, but amendments always apply only if ratified by all Member States. The passerelle clause concerns two scenarios: the European Council can adopt a decision authorizing the Council to act by qualified majority instead of unanimity, but not in cases with military or defense implications; the European Council can adopt a decision allowing for the adoption of an act following the ordinary legislative procedure instead of a special legislative procedure. However, the passerelle clause is not activated if any national parliament objects. The flexibility clause is based on Article 352 TFEU and is applied to extend the powers of the EU only in cases where this is deemed necessary to better attain one of the objectives of the Treaties. In this case, the Council acts upon unanimity on a

Commission's proposal following the consent of the Parliament. Therefore, in all cases, all EU Member States must unanimously agree on the revision of the treaty provisions concerned ("Revision of EU Treaties | EUR-Lex").

Amendments to the Treaties are rare but not impossible; however, they occur only in extremely specific circumstances, with the latest main reform being the Treaty of Lisbon in 2009. The TEU is then progressively amended when a new country joins the EU, therefore following treaties of accession. Outside these circumstances, examples of amendments are scarce. However, in 2022, following the results of the famous Conference on the Future of Europe²⁷, the European Parliament decided to activate for the first time Article 48 TEU (2)-(5) on the ordinary Treaty revision procedure, calling for a convention of EU reform. At that time, the President of the Commission supported the idea, but the Council decided to wait "until Parliament's Committee on Constitutional Affairs (AFCO) had finished detailing the proposed Treaty changes" (Kotanidis, 2023, p.1). On November 22, 2023, the European Parliament made a resolution on proposals for the amendments of the Treaties, specifically reiterating its call for the reform of the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). The Parliament gave several motivations to justify its resolution, mainly the fact that the current version of the Treaties entered into force in 2009 and "since then the European Union has faced unprecedented challenges and multiple crises, in particular Russia's war of aggression against Ukraine" (A). Furthermore, in its opinion, amending the Treaties is necessary "in the interest of all Union citizens, as these amendments aim to reshape the Union in a way that will enhance its capacity to act, as well as its democratic legitimacy and accountability" (B). The purpose is also to "enable the Union to more effectively tackle geopolitical challenges" (C). Noting that "several countries of the Western Balkans are in various stages of accession negotiations" and welcoming "the granting of candidate status to Ukraine and Moldova on 23 June 2022" (2), the Parliament affirms that the EU's institutional framework, in particular as regards the decision making process, "is barely adequate for a Union of 27 Member States; whereas the prospect of future enlargements

²⁷ The Conference on the Future of Europe was a pan-European democratic exercise involving a citizen-led series of debates and discussions that ran from April 2021 to May 2022 and enabled people from across Europe to share their ideas and help shape EU common future. The Conference generated 326 proposals for EU reform (European Commission, "Conference on the Future of Europe").

makes a reform of the Treaties inevitable” (D).

For the purposes of this dissertation, the main proposed amendments that may have an impact on the EU’s actions towards Ukraine are related to competences, Foreign, Security and Defense Policy, and institutional reform.

As for competences, the EP resolution calls for the further development of “Union shared competences in the areas of energy, foreign affairs, external security and defence” (15). If the relative amendments are approved, EU supranational institutions and EU Member States may collaborate more closely with each other in those areas and appear more united in the global scenario.

As for Foreign, Security and Defense Policy, the European Parliament proposes to establish a proper EU defense union. This is a direction already analyzed in the second chapter of this dissertation²⁸. However, the EU has a small maneuver margin in this sense: it can implement specific instruments, such as the European Peace Facility (EPF), but the lack of proper legislation makes further changes and improvements difficult. Therefore, it would be convenient to pass an amendment of the relative articles calling for “the establishment of a defence union including military units, a permanent rapid deployment capacity, under the operational command of the Union” and for “the development of armaments be financed by the Union through a dedicated budget under parliamentary co-decision and scrutiny”. In this sense, “the competences of the European Defence Agency [would] be adjusted accordingly”. To avoid political turmoil and overlapping of competences, the European Parliament specifies that “clauses with regard to national traditions of neutrality and North Atlantic Treaty Organisation (NATO) membership would not be affected by these changes” (22). This amendment would revolutionize the current understanding of security matters and make the EU stronger and more independent, providing the proper basic legislation to justify such changes. More specifically, a permanent rapid deployment capacity would be a deterrent to ensure security on the border between Ukraine and Russia in case Ukraine wins the war and becomes an EU Member State. However, the path in this direction is certainly long and the relevant details are yet to be defined.

In the same framework, the European Parliament proposes also to take decisions on sanctions,

²⁸ See paragraph on Military assistance.

interim steps in the enlargement process and other foreign policy issues by Qualified Majority voting (QMV²⁹) instead of unanimity, except for decisions concerning military missions or operations with executive mandate (21). This amendment would certainly have a major impact on the accession process of Ukraine as well as on the sanction regime against Russia, since EU Member States would have not the possibility to veto and block relative decisions. Also, this reflects on the proposed amendment in the framework of institutional reforms according to which “the number of areas where actions are decided by qualified majority voting (QMV) and through the ordinary legislative procedure (OLP)” would be increased in order to strengthen the EU’s capacity to act (4). The practical implications are evident. As an example, on December 11, 2023, Hungarian Prime Minister Orbán, who has still strong ties with Russian President Vladimir Putin, affirmed that he would veto EU enlargement talks on Ukraine (O’Carroll, 2023). As already noted, enlargement talks require unanimity by all EU Member States, since all Member States must sign and ratify the treaties of accession before they can enter into force. Therefore, according to the current institutional framework, the veto of one country may block the entire process. The point is that in a Union of 27 states it is increasingly difficult to reach unanimity, considering divergent visions and political implications which are certainly welcome to exist in a democratic space. Convincing Prime Minister Orbán to back off is not the solution, since the problem of the EU is not its heterogeneity, but instead its way to manage such diversity. This proposal could really be the only solution to overcome these kinds of impasse.

Other institutional reforms that would facilitate decision-making in the EU include the establishment of a system reflecting international standards of bicameralism in which the European Parliament would become similar to a second chamber (3), as well as a revolution of the Executive in which the size would be reduced to no more than 15 members “chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation” (7). In particular, this last amendment would accelerate the decision-making process and favor consensus-building; furthermore, the Treaties already provide for a similar system (e.g., the presidency of the Council rotates every six months) and democratic representation would be

²⁹ A qualified majority is reached if two conditions are simultaneously met: 55% of member states vote in favor (15 out of 27); the proposal is supported by member states representing at least 65% of the total EU population (Consilium Europa, “Qualified majority”).

guaranteed by the appointment of undersecretaries chosen among nationals of those Member States not represented in the College.

In this resolution, the European Parliament proposes also to address “division of subjects between the TEU and the TFEU” to facilitate the process of amending EU law and “to examine in which policy areas Union structures could increase the effectiveness of the Union” (9). Indeed, the EU has been assisting Ukraine by implementing new tools (as broadly explained in the second chapter) but without amending its constitutional documents. On the one hand, the EU is managing to support the country somehow. On the other, it is extremely limited in its actions. The presumption is that, in the future, the EU intention to leading Ukraine in its reconstruction process and to well integrate the country in the European family could be hampered by the EU institutional framework itself.

3.4.1 30 years of Copenhagen criteria

The enlargement process was also the object of two joint motions for a resolution on 30 years of Copenhagen criteria presented by some Members of the European Parliament in December 2023. The motions are very alike, and their purpose is to give further impetus to EU enlargement policy, without changing the same nature of the Copenhagen criteria. Indeed, it should be noted that, while admitting that the EU should undergo a process of reform and renovation, EU institutions have never criticized what the accession criteria demand in practice to potential candidates. This is probably due to two main reasons: first, the fact that EU Member States are not inclined to make concessions to other countries and in particular they have reiterated multiple times that there would be no 'shortcuts' for Ukraine; second, the fact that the EU is a very unique and at the same time complex organization relying on specific rules and systems which could be significantly jeopardized by the accession of a country which does not respect the appropriate standards. Indeed, in the motion B9-0501/2023 of December 8, 2023, the European Parliament affirms that it has considered Article 2 and 49 of the TEU and the Copenhagen criteria established in the conclusions of the European Council in 1993, but that the object of the motion is EU enlargement policy. Even though “enlargement has been the most effective EU foreign policy instrument and one of the EU’s most successful policies”, the Parliament

affirms that “its effectiveness has considerably decreased over the last few years owing to a failure on the EU’s part, notably from the Council, to live up to its promises” (E). Furthermore, latest events such as Russia’s war of aggression against Ukraine have “given a new geostrategic meaning to enlargement” while reaffirming EU’s “genuine commitment to enlargement [as] a strategic investment in stability, democracy, security, unity and prosperity in Europe” (G).

After these premises, the European Parliament proposes to consider the European Commission’s purpose to engage in a new long-term policy framework guiding the enlargement process, underlying that “accession to the EU must always be a merit-based procedure and that each candidate country must be assessed on its own merits in fulfilling the Copenhagen criteria, particularly in ensuring full respect for human rights, democracy, the rule of law and respect for and the protection of minorities” (4). In this sense, the European Commission itself and the EEAS should “apply a more credible and merit-based approach, firmly anchored in the Copenhagen criteria” (5). More importantly, the motion analyzes the main obstacles to an effective enlargement process, mainly due to the Council tendency to block “candidate countries’ accession processes by reference to bilateral issues” (as in the example of Ukraine and Hungary aforementioned). Accordingly, amendments to the Treaties should be carried out “in order to apply qualified majority voting in the Council for the interim steps and decisions during the accession process, while retaining unanimity only for the final step of accession”. In its view, the European Parliament criticizes those Member States “which misuse their veto powers during the accession process with the aim of resolving bilateral disputes which are completely unrelated to the Copenhagen criteria”, encouraging other Member States to intervene in such cases. Furthermore, it refers to “the resurgence of anachronistic historical demands by certain Member States” which, in its view, not only hampers the accession process of certain countries but also “considerably undermines the credibility of the EU” (6).

It is fair to say that the motion is intended to make the accession process more credible, predictable, and subject to stronger political guidance. Rule of law, democracy, and economic criteria should remain at the center and be further enhanced. In the case of Ukraine, it is clear that during the process the country will have to change and adapt to EU’s standards. However, on the other hand, also the EU will have to cope with

new challenges and evolve accordingly.

3.5 Foreign policy as the new path for European integration

An interesting suggestion based on a modern vision of the EU suggests that foreign policy is a laboratory of European integration. This vision is particularly rooted in President von der Leyen's political agenda to make the European Commission a "geopolitical commission" keen on managing new challenges in the spirit of multilateralism. Indeed, her political agenda includes the promotion of open and fair trade, setting of global standards, achieving technological sovereignty, and becoming more autonomous in defense matters. She affirmed that the EU could become a powerful international leader only in case it was united and ambitious domestically ("Speech by President-elect von der Leyen in the European Parliament Plenary on the Occasion of the Presentation of Her College of Commissioners and Their Programme", 2019). Certainly, when President von der Leyen was elected and presented her programme, she could not image that her Commission would deal with unprecedented events. Indeed, the latest challenges that have interested the EU, such as the COVID-19 pandemic and Russia's war of aggression against Ukraine, have demanded unprecedented political unity. In this spirit, the European Commission has pushed EU Member States to work closely together showing great political cohesion, at least until Hungary's Orban re-election in April 2022. However, the legal instruments they have implemented are not particularly revolutionary, since, as already noted, they are firmly grounded within the EU's constitutional framework and powers. In the case of Ukraine, unlike previous crises, there were no explicit or implicit Treaty amendments, nor did Member States stretch Treaty provisions beyond their literal interpretation. Consequently, decision-making was predominantly conducted by Member States through established EU channels rather than resorting to external structures beyond the EU Treaties. However, the adoption of sanctions in 2022 implies potential experimentation and a possible shift towards deeper European integration, particularly in using foreign policy as a testing ground for broader EU policy domains. For instance, sanctions have influenced the formulation of a new EU energy policy, aiming to reduce dependency on Russian energy resources. Additionally, this could lead to an expansion of EU competence in criminal law to enforce sanctions effectively, potentially paving the way for the adoption of legislation under QMV to address cross-border

crimes (Lonardo 2022, pp.76-78).

This new direction in EU foreign policy should be strengthened by a clear reform plan addressing key issues. First, an alternative decision-making process to unanimity, as for decisions related to sanctions and to interim phases of the enlargement process, as already broadly discussed. Indeed, the risk is that “Russia can find a “weak link” in the EU and effectively block its decision or cause discord” (Sologoub, 2022). Secondly, a more cohesive fiscal policy to prepare the EU for future perspective of enlargement and debt crises. Thirdly, a more unified EU foreign policy, especially focused on the accession of Balkan states, Moldova, Georgia, and Ukraine. Overall, an EU counting more Member States will require more effective decision-making mechanisms in order to strengthen EU’s international influence. In fact, the EU is based on principles of human rights, fundamental freedoms, and democracy to the extent that countries that want to join the organization must respect these standards. A larger and more integrated EU would contribute to making the world more democratic and secure, on the assumption that democracies are less likely to engage in wars. Inspired by the original idea that putting resources in common makes conflicts worthless, a new EU configuration should be based on a broader reconsideration of the core principles and objectives enshrined in the Treaties. Enhancing foreign policy seems to be the right path to follow.

The elephant in the room

3.6 Zelensky’s 10-point peace plan

During the G20 summit of November 2022, the Ukrainian President Volodymyr Zelensky connected via videocall and urged the world leaders to help restore peace in Ukraine on the basis of his precise 10-point plan. More specifically, President Zelensky demanded for Ukraine:

1. Radiation and nuclear safety, focusing on restoring safety around Europe’s largest nuclear power plant, Zaporizhzhia in Ukraine, which is now-Russian occupied.
2. Food security, including protecting and ensuring Ukraine’s grain exports to the world’s poorest nations.
3. Energy security, with focus on price restrictions on Russian energy resources, as well as aiding Ukraine with restoring its power infrastructure, half of which has been damaged by Russian attacks.
4. Release of all prisoners and deportees, including war prisoners and children deported to Russia.

5. Restoring Ukraine's territorial integrity and Russia reaffirming it according to the U.N. Charter.
6. Withdrawal of Russian troops and cessation of hostilities, restoration of Ukraine's state borders with Russia.
7. Justice, including the establishment of a special tribunal to prosecute Russian war crimes.
8. Prevention of ecocide, need for protection of environment, with focus on demining and restoring water treatment facilities.
9. Prevention of escalation of conflict, and building security architecture in the Euro-Atlantic space, including guarantees for Ukraine.
10. Confirmation of the war's end, including a document signed by the parties involved.

The plan is certainly ambitious and mainly intended to restore a pre-war scenario with important improvements as regards as Ukraine's integration in the European and Atlantic system. On 3 February 2023 at the EU-Ukraine summit in Kyiv, European leaders expressed their support to the plan (Apelblat, 2023). Certainly, EU's support is perfectly in line with its growing partnership and in a sense mentorship to Ukraine. Overall, Zelenskiy has engaged in extensive diplomatic efforts, presenting his plan to leaders such as Biden, French President Emmanuel Macron, and India's Prime Minister Narendra Modi (Jazeera, 2022).

The plan was shortly after rejected by Russia and did not lead to the end of hostilities. In particular, Russia reiterated its refusal to relinquish any territory acquired by force, which constitutes almost 18% of Ukrainian territory, including about 25,000 square miles of land seized since February 2022 (Lewis, 2024). Therefore, there is the hypothetical possibility that Russia will maintain control over roughly one fifth of Ukrainian territories in the aftermath of the war. Consequently, it is fair to understand whether Ukraine would be able to enter the EU without its total independence and sovereignty.

3.7 The case of Cyprus

It may be sustained that in the past the EU has already allowed for a divided country to become a Member State. It was the case of Cyprus, which submitted its application to join the EU in 1998 and was granted full membership in 2004. The afflicted history of Cyprus reached a peak in 1974, when the Island was divided into the Greek Cypriot Republic in the south and the Turkish Republic of Northern Cyprus (TRNC)

(European Union, “Cyprus – EU Member Country Profile”). In 1998, letting the Greek Cypriot Republic join the EU seemed a good strategy to resolve the Cypriot dispute and to increase the Union influence in the eastern Mediterranean. However, twenty years later it is clear that this was a mistake not to be repeated.

In a remarkably interesting article of 2023, Jack Straw analyzes Cyprus’ accession process in the EU from a close perspective, since he was foreign secretary of the UK from 2001 to 2006. In his view, the EU should have suspended Cyprus accession process and allowed only a united island to join. The situation of the island is indeed still precarious: the TRNC populated by a large Turkish Cypriot minority is not recognized at the international level, exception for Turkey; plus, the border between north and south is permanently controlled by a UN peacekeeping force to secure the Republic in case of a Turkish invasion. This is a situation far from ordinary in the EU democratic environment, and which is unlikely to evolve due to the way negotiations were managed in the past. In fact, when Cyprus signed the association agreement with the EU in 1972 and applied for membership in 1990, UN negotiators supported by the international community believed that EU membership could result in a peace settlement likely to solve the Island’s divisions. Even though the reasoning is respectable, the negotiations failed in their main purpose when, dangerously close to Cyprus’ formal accession in 2004, Greek Cypriots voted against the UN peace proposal, whereas Turkish Cypriots were in favor. At that stage, it was impossible to block Cyprus membership at the last minute and the process was finalized anyway. Therefore, every leverage the UN and the EU could have over Greek Cypriots disappeared. Ideally, negotiators should have made clear that only a united Island would be allowed to join the EU and blocked the process otherwise. Their inability to do so resulted in a frozen conflict that is still ongoing. Thereafter, UN attempts to secure a peace agreement and a new constitution between the Turkish and Greek Cypriot communities have failed.

The metaphor with Cyprus is also a useful one since Russia has still today a close relation with the Greek Cypriot Republic. The persevering relationship between these two countries is also the result of the way negotiations were conducted, since the Republic believed to “have carte blanche — not least in relation to Russia; and that any peace deal with the north, however accommodating to Greek Cypriot interests”. Indeed, even though the Republic accounts only for or 0.002% of the European Union’s total population, it

is the third largest foreign direct investor in Russia. More specifically, “The money was mostly Russian capital, which had been hidden offshore in Cyprus to avoid tax and scrutiny and was then reinvested back in Russia”. In 2022, the Republic’s political class was also involved in a scandal following the discovery that the Cyprus Investment Program was used as a scheme to secure EU passports to wealthy foreign nationals with criminal records. In brief, EU citizenship could be purchased for €2.15 million. Between 2007 to 2020, almost 6,800 foreign nationals illegally bought EU citizenship from Cyprus, the vast majority being Russian. Furthermore, Putin himself has recently purchased some properties near Moscow using as a dummy a Cypriot company. This close and dangerous relationship between Cyprus and Russia reached a precarious balance during the Eurozone crisis, in particular between 2012 and 2013 when Cyprus underwent a major banking crisis. In that case, Russia failed to intervene, and the EU had to concede an emergency loan of €2.5 billion to the Cypriot banks to stabilize the Euro area (Straw, 2023). In this dissertation, the importance of EU closeness in situations of distress has been highlighted, as it was the case immediately after the Euromaidan revolution. In the case of Russia’s aggression against Ukraine, it is clear that the EU has learned from the past and is willing to maintain its ties with Ukraine without expecting to intervene only in the case Russia is not able to do so.

Certainly, it should be considered that Ukraine is a vaster and more populated territory than the Island of Cyprus, with a different culture and a different history. However, there exist also many similarities. More importantly, there exists the possibility that a similar mistake is repeated again in the scenario in which in the aftermath of the war Ukraine would not be able to regain control over the territories already occupied by Russia. In that case, the EU and the international community as a whole would have to avoid at every cost that only a part of Ukraine was allowed to join the EU, whereas the other part became a non-recognized and insecure territory under the hegemony of the aggressor. On the contrary, negotiators would have to use every leverage they have over Russia but also over Ukraine itself, in the latter case promising full EU membership only if a secure agreement were reached. Unfortunately, the current Ukrainian President’s rhetoric that emerges from his 10-point peace plan and his following considerations are not inclined to the possibility to compromise with Russia. However, possible scenarios will be better evaluated once the conflict is over, to

the extent that it is fair to say that further research will be necessary once more data are available. For the time being, it could be proposed that in the case Russia occupied part of Ukraine at the end of the conflict, a two-state solution could be envisaged in case the possibility of a unification was rejected. Indeed, at the international level similar conflicts were resolved accordingly, for instance in the cases of Czechoslovakia, which peacefully dissolved in two recognized states in 1993, and Yugoslavia, which gradually disintegrated in six states after years of conflicts (Straw, 2023). The two-state solution could work also in the case of Cyprus and could have an impact on Ukraine in a hypothetical future.

3.8 Guarantees for the future

Russia's aggression against Ukraine has had a major impact on EU's enlargement perspective. Among other things, Russian invasion has certainly emphasized the importance of securing Ukraine's position in the EU for the benefit of the whole European continent. More specifically, "Many EU officials and citizens saw Russia's invasion as their so-called 9/11 moment: a game-changing event that posed a catastrophic risk to their values and way of life" (Besch and Ciaramella, 2023). In this sense, EU leaders are prone to support the idea, as the opening of negotiations with Ukraine in December has demonstrated. Even France, historically one of the Member States less inclined to admit new countries in the EU, now seems to consider Ukraine's accession a priority.

The accession process will be lengthy and transformative for both Ukraine and the EU, requiring extensive reforms to Kyiv and posing challenges to the Union's dynamics.

In the framework of this enlargement round, the EU will face new challenges compared to the past, mainly in terms of defense. This is indeed the first time in history that the EU is considering admitting a country currently at war and which is not part of NATO. This poses a powerful dilemma for the EU, since the protection of its external borders is currently entrusted to NATO. More specifically, Article 42(7) of the TEU, the so-called Mutual Defense Clause, states that "If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power [...] Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation". Thereafter, even though there is not the formal obligation

for a country to be part both of the EU and NATO, NATO remains “the foundation of [Member States] collective defence and the forum for its implementation”.

The EU and its Member States are avoiding this challenging discussion, suggesting that defending Ukraine in the future might not be as daunting as it currently appears. Optimism is rooted in three scenarios. Firstly, there is hope that Ukraine will join NATO before the EU, entrusting NATO with the responsibility to defend Ukraine. Secondly, some Europeans believe that an attack on the EU would prompt the United States to intervene due to the NATO membership of many EU states. Thirdly, others are relying on Ukraine signing a lasting peace agreement with Russia before joining the EU. However, these scenarios are uncertain. Presently, NATO members are hesitant to admit Ukraine until the war concludes, with reluctance to engage in direct conflict with nuclear-armed Russia. Liberation of Ukraine’s territory from entrenched Russian forces remains distant, and the prospects for a peace agreement with President Putin seem equally remote. The EU needs to acknowledge that Ukraine is likely to qualify for membership while still facing acute Russian threats and lacking NATO protection. Currently, the EU is ill-prepared to safeguard its interests in Ukraine and to defend an expanded border against Russian aggression (Besch and Ciaramella, 2023).

Due to the lack of NATO guarantees and to Russia’s strong disapproval of Ukraine as part of the Atlantic Organization, the EU is evaluating the establishment of a European defense union. However, there exists no guarantee that the project will be implemented in time or that it will be implemented at all. Thereafter, the EU should prepare a credible and sustainable plan to ensure Ukraine’s defense capability, during the accession process and after its accession. On the one hand, European officials assert that EU membership provides the best security guarantee for Ukraine. The extensive and ongoing reforms required for Ukraine’s accession will undoubtedly enhance its ability to resist Russian pressure. Over the years, Ukraine should focus on strengthening its judiciary, fostering independent media, combating corruption, reforming its security apparatus, and establishing vigorous public institutions. Furthermore, Ukraine will become more integrated into European energy networks and supply chains, while the EU is also taking steps to bolster Ukraine’s cyber and digital resilience. On the other hand, both the EU and its member states should move beyond merely ensuring Ukraine’s resilience and consider the possibility of defending a new external

border against Russian aggression. It is true that European military forces are already adapting their strategies in response to lessons from the Ukrainian conflict, and European defense industries recognize the potential benefits of collaborating with Ukrainian counterparts to meet Kyiv's and Europe's long-term defense needs; however, there is still a long road ahead.

Until Europe is willing to safeguard its own borders and interests and NATO maintains its stance against admitting Ukraine, the EU's accession process must be accompanied by a credible interim security arrangement empowering Kyiv to defend itself. The involvement of the United States is pivotal, as no other nation can rally Ukraine's numerous partners to provide the necessary weapons and training promptly and on the required scale. Attaining a U.S.-backed interim security arrangement for Ukraine is feasible, irrespective of the war's duration. Such an arrangement holds strategic significance, as it can assist Ukraine in achieving victory even in a stalemate scenario. This victory would position Ukraine as a thriving democracy integrated into Europe and equipped to fend off any potential future Russian aggression. However, Europeans must not become complacent. Significant resources must be allocated over the years, both bilaterally and through the EU, to ensure the effectiveness of an interim arrangement. Despite its robust nature, such a framework cannot guarantee military intervention if Ukraine faces an attack. Therefore, the EU remains responsible for fulfilling this obligation once Ukraine becomes a full member state (Besch and Ciaramella, 2023).

However, as the war persists, the political momentum behind enlargement risks declining. As the domestic costs of enlargement become more apparent to EU member states, even supporters of Ukrainian security interests may begin to waver in their support. Recent tensions between Poland and Ukraine over grain exports exemplify this, indicating larger challenges as the enlargement process intensifies economic and potentially political competition between Warsaw and Kyiv (Besch and Ciaramella, 2023). Certain European officials express concerns that discussing future defense of Ukraine risks complicating an already complex enlargement process. They advocate for addressing this matter later and focusing on conveying support to Ukraine presently. However, disregarding the challenge and relying on hope for external intervention or swift resolution of the war would be irresponsible. Such an approach risks undermining the

EU's commitments to Ukraine and empowers leaders like Hungary's Prime Minister, Viktor Orbán, who recently suggested postponing Ukraine's accession until the war concludes (Besch and Ciaramella, 2023).

If the EU is to proceed with admitting Ukraine, it should not only commit to new defense industrial initiatives but also clarify the significance of Article 42(7) and develop the capabilities to bolster its credibility. Failure to address the security implications of admitting Ukraine may lead to a default hard line, preventing countries with ongoing military conflicts from joining the EU (Besch and Ciaramella, 2023).

Conclusions

European policymakers believe that integrating Ukraine into institutional Europe is crucial for ending Russian aggression and jeopardizing Putin's objective of severing Kyiv's ties to the West. This integration would also boost Ukraine towards economic and social revitalization. Furthermore, Ukraine's EU membership could furnish Europe with significant defense and deterrence capabilities, given Ukraine's experienced Armed Forces in high-intensity land warfare. Certainly, successfully admitting Ukraine could enhance the EU's geopolitical role. Conversely, mishandling the process could undermine Europe's ability to provide security in its neighborhood, dimming prospects for peace in Ukraine. The EU's decision to grant candidate status to Ukraine and open accession negotiations is strategic but also motivated by Ukraine's progress and willingness to meet the objectives enshrined in the Treaties and in the Copenhagen criteria. Despite the difficult circumstances in which the country finds itself due to Russian war of aggression, Ukraine is showing unprecedented resilience and implementing an accurate plan for reforms. The European Commission' and Council's latest reports demonstrate that further improvements are needed to align Ukraine's public services and institutional framework with European standards. In this phase, EU assistance and support is crucial. This could be the only opportunity to show Putin European resilience and to offer the Ukrainian people hope for a peaceful future in the EU.

CONCLUSIONS

From Maidan Nezalezhnosti to Rond Point Schuman

This research conducted a historical, political, and diplomatic analysis to evaluate the relationship between the EU and Ukraine and the relative implications of the Russian war of aggression. One of the main findings was that the aggression against Ukraine has accelerated its integration in the European bloc. Without the Russian threat, the Ukrainian bid for EU accession would likely face different dynamics and considerations. Thereby, the Russian threat can be viewed as both an accelerator and a main causal factor in shaping Ukraine's European path. It has heightened geopolitical tensions and prompted Ukraine to seek closer ties with the EU as a means of security and stability. The evolution of the relationship between the EU and Ukraine is an indicator of this dynamic. Indeed, though intense and sometime harsh, the special link between the country and the EU is the result of various major events, mainly EU enlargements towards former-Soviet East European countries and the Ukrainian divergence from Russia. In fact, more than once Ukrainians have found in the EU a close ally and have sought refuge in the European democratic values, in the will to be part of a bigger reality providing them security and prosperity. Before Yanukovich's refusal to sign the Association Agreement, the EU was always cautious as regards Ukraine's internal dynamics, trying not to being involved in accordance with the international law principle of non-intervention. This was also the attitude that the EU maintained during the 2013-2014 protests, nevertheless condemning the regime's excessive use of force. Conversely, at the latest stages of the Euromaidan revolution, the EU joined the international community and promptly tried to contain the damages and find a solution to the conflict, resulting in Mr. Yanukovich abandonment of his political role. After the revolution, the EU has increasingly approached Ukraine and became more involved in its dynamics, to the extent that the AA/DCFTA were finally signed. However, Russia has continued to find its way to influence and intimidate Ukraine by annexing Crimea and occupying the Donbas in 2014. In the following years, the situation seemed to have reached deadlock; yet, due to the increasing influence of the West on Ukraine, on February 24, 2022, Russia decided to attack Ukraine. Since the attack, the EU is demonstrating unprecedented support towards Ukraine, an evident shift in comparison with its attitude in the years precedent to Russian aggression against the

country. This dissertation demonstrated that the EU is intended to guide Ukraine's recovery and reconstruction efforts. Certainly, the reconstruction of Ukraine is confronted with significant financial, geopolitical, and logistical obstacles. The cost of reconstruction is already estimated at \$411 billion by the World Bank and is expected to rise as the conflict persists. However, the EU and its Member States are willing to mobilize their resources, while sponsoring Ukraine's recovery with other actors, such as other countries' governments, international organizations, and private investors. Since the start of the war, the EU, its Member States, and the European financial institutions have allocated €84.6 billion to Ukraine in financial, humanitarian, emergency budget and military aid. Furthermore, the European Commission is planning a €1 billion project for Ukraine's reconstruction, the first of this kind. However, this research evaluated that the EU needs a more ambitious and precise plan. Furthermore, it recognized that debates persist regarding the allocation of resources and the scale of reconstruction efforts, with particular focus on Ukraine's long-term aspirations. While some observers advocate for a more ambitious approach, taking into account Ukraine's potential path towards EU membership, others emphasize the immediate needs and challenges faced by the country. In any case, immediate action on the recovery project is necessary, even though the war is still ongoing, and it is not possible to estimate the exact damage. In fact, reconstruction efforts in this phase contribute to Ukraine's resistance and signal to Ukrainians, in particular those who still live in the country, that part of the international community sides with them. The EU also believes that accounting Russia responsible for its war crimes is an imperative part of this process. Consequently, it is promoting the establishment of an *ad hoc* tribunal to investigate and prosecute Russia's act of aggression, while trying to use the windfall profits made on frozen Russian central bank assets to finance Ukraine's recovery.

The research emphasized that the current contraposition between Russia and the EU makes clear that this is not only a conflict between two countries but instead a war between an aggressor, who is left deliberately isolated, and one part of the world representing democracy, international rights and values, and the respect for the rule of law. In a sense, this is also a war of influence. The safety of the European continent is indeed strictly dependent on the safety of Ukraine and Ukrainian citizens. The threatened future of Ukraine

is currently one of the main concerns of the Union's foreign policy and domestic policy, in view of the geopolitical and multilateral actions of President von der Leyen's agenda. The concept of a "geopolitical Commission", advocated by President Ursula von der Leyen, emphasizes the EU's role as a global actor with a focus on geopolitical challenges. In this context, Ukraine's accession could be seen as aligning with the EU's broader strategic objectives of promoting stability and prosperity in its neighborhood. President von der Leyen's support for Ukraine's European path underscores the importance of Ukraine's integration to the EU's geopolitical agenda. The fact that the EU seems to sympathize with Ukraine more than with other states is influenced by many factors: the shock that Russian aggression caused in the heart of one of the most democratic promoters of the world, hence the moral more than practical commitment to restore democracy and rule of law; the influence of NATO on the European mindset; the practical consequences in case Ukraine wins the war, such as the entry in the EU but also the way the EU project would advance in this case. This outcome can be attributed to the historical process initiated during Euromaidan in 2014: Ukraine expressed its desire to join the EU and embrace the European project, while the EU signaled its willingness to aid Ukraine in this endeavor, along with other former Soviet countries. However, in the years precedent to Russian aggression, EU actions were relatively modest compared to the present situation. Although negotiations for candidate country status were initiated for Ukraine, the EU required Ukraine to independently implement the reforms necessary to meet the Copenhagen criteria. This approach mirrored standard procedure, as every European country aspiring to EU membership must adhere to specific principles and standards. Failure to align with these EU standards could potentially lead to economic and social instability, affecting not only the aspiring country but also other EU Member States. Therefore, while reaffirming their commitment to support and assist Ukraine, European leaders emphasize that there will be no shortcuts for Ukraine, and its path to EU accession must adhere to standard procedures. This stance is justified by the need to maintain fairness, especially towards other aspiring EU members like the Balkan countries, who have patiently awaited EU membership and diligently worked to improve their situations in accordance with EU standards. Furthermore, concerns regarding corruption within Ukraine have prompted the EU to impose strict criteria for financial aid. The Ukrainian government is expected to align with EU

standards on governance and public administration, with disbursements contingent upon meeting specific benchmarks. Amidst discussions of Ukraine's future lies the prospect of EU membership. The EU's commitment to supporting Ukraine is viewed as a potential precursor to eventual accession to the bloc. However, skepticism lingers among some analysts, particularly regarding the ambition of the EU's plan and the timeline for Ukraine's integration. In this research, the integration of Ukraine into institutional Europe was considered essential for halting Russian aggression and thwarting Russian President Putin's efforts to sever Kyiv's ties with the West. Such integration holds the promise of fostering economic and social rejuvenation in Ukraine. Additionally, Ukraine's potential EU membership could provide Europe with valuable defense and deterrence capabilities, given the country's proficient Armed Forces in high-intensity land warfare. Successfully admitting Ukraine to the EU could also bolster the bloc's geopolitical influence. However, mishandling the integration process risks undermining Europe's ability to ensure safety in its vicinity, thereby dimming prospects for peace in Ukraine. The EU's decision to grant candidate status to Ukraine and initiate accession negotiations is not only strategic but also driven by Ukraine's progress and commitment to fulfilling the objectives outlined in the Treaties and the Copenhagen criteria. Despite the challenging circumstances arising from Russian aggression, Ukraine has demonstrated unprecedented resilience and undertaken significant reform efforts. However, the European Commission and Council's latest reports indicate the need for further improvements to align Ukraine's public services and institutional framework with European standards. In this critical phase, EU assistance and support are paramount. This presents a crucial opportunity to demonstrate European resilience to Putin and offer the Ukrainian people hope for a peaceful future within the EU.

As for the practical implications of Ukraine's accession, the EU would need to address various issues related to voting rights, representation in the European Parliament, and alignment with EU policies. This would involve negotiations and adjustments to ensure Ukraine's smooth integration into the EU framework. The EU has mechanisms in place to accommodate new Member States, including transitional arrangements and phased integration processes. However, the specifics of Ukraine's accession would depend on the negotiation process and the political will of both Ukraine and the EU Member States. Even though it is not

possible to predict the outcome of the war, Ukraine's victory could result in the consolidation of the European values of freedom and democracy at the global level. Conversely, failure to integrate Ukraine in the Union could represent a step backwards in the EU's multilateral aspirations. In the face of formidable global trends, the EU power lies not in altering their course, but in how it chooses to respond. Within EU's decision-making processes, each country holds the power to obstruct any EU position or action, a demonstration of negative power. However, relying solely on such an approach, where every member steadfastly maintains their stance and anticipates unanimity among others, is insufficient for shaping the world or setting agendas. Positive power, conversely, thrives on unity. By fostering cohesion among member states, collective influence can be amplified. Conversely, hindering progress or weakening the EU's capacity to act undermines not only the EU as a whole but also its Member States. In the EU, the initiation of discussions may vary, reflecting the diverse perspectives of its 27 Member States, each with its own distinct history and interests. Yet, what ultimately holds significance is the outcome of these deliberations, a shared vision for action and a commitment to allocating resources accordingly. If the unity of the Council is effectively blended with the capabilities of the Commission and the EEAS, the EU will emerge as a potent force on the global stage, wielding substantial influence. However, this will need profound reforms within the EU system. Firstly, there is a call to amend the Treaties to enhance the EU's ability to address crises. This involves adjusting competences in areas like energy, foreign affairs, security, and defense. Additionally, it was proposed to establish a proper EU defense union, allowing for closer collaboration among member states in defense matters. Key amendments include enabling decisions on sanctions and interim steps in the enlargement process to be made by Qualified Majority Voting (QMV) instead of unanimity, thereby avoiding potential blocks by individual member states. Institutional reforms, such as creating a bicameral system in the European Parliament and reducing the size of the Executive, are also suggested to expedite decision-making processes. Secondly, the EU seeks to uphold its standards in the enlargement process while making it more credible and predictable. This involves maintaining a merit-based accession process for candidate countries, focusing on human rights, democracy, the rule of law, and minority protection. Proposed changes aim to address obstacles in the enlargement process, such as member states blocking accession over unrelated

bilateral issues. Lastly, there is a recognition of foreign policy as a pathway for deeper European integration. EU foreign policy, under President von der Leyen's goal of a "geopolitical commission" aimed at strengthening the EU's strategic autonomy and international influence, is viewed as a laboratory for European integration. While the EU has demonstrated political unity in responding to crises, there is a push for deeper integration in foreign policy, potentially leading to reforms in decision-making processes, fiscal policy, and a more unified approach to EU enlargement, especially regarding accession processes for Balkan states, Moldova, Georgia, and Ukraine. Enhancing foreign policy emerges as a key strategy for the EU to address new challenges and reinforce its international impact. These proposals reflect the EU's commitment to adapt and evolve in the face of changing geopolitical realities.

The journey from Maidan Nezalezhnosti in Kyiv to Rond Point Schuman in Brussels is certainly long and checkered. It also represents a significant chapter in Ukraine's quest for closer integration with the European Union and *vice versa*. The events surrounding Euromaidan served as a catalyst, igniting a wave of pro-European sentiment within Ukraine and setting in motion a series of negotiations aimed at realizing the country's aspirations for EU accession. Throughout this process, both Ukraine and the EU have encountered numerous challenges, ranging from political instability and economic upheaval to geopolitical tensions and bureaucratic hurdles. However, despite these obstacles, the determination and resilience of both parties have remained steadfast. The negotiations leading up to Rond Point Schuman signify a critical juncture in Ukraine's European path, signaling a shared commitment to advancing cooperation and partnership between the two entities. As Ukraine continues to navigate the complexities of EU accession, it must address key issues such as governance reforms, economic development, and regional stability. Similarly, the EU must uphold its principles of democracy, rule of law, and human rights while offering tangible support and assistance to Ukraine in its reform efforts. Looking ahead, the path to Ukraine's accession to the EU remains challenging and uncertain, marked by ongoing geopolitical dynamics and internal reforms. Yet, it is infused with promise and potential, offering the prospect of a brighter future for Ukraine and the broader European continent. It is impossible to estimate exactly how long the symbolic journey towards Rond Point Schuman will take; yet, if the EU and Ukraine continue to walk together, it will take less time.

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