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ABSTRACT – KEYWORDS

Abstract:

This research aims at shedding light on enlargement of the European Union as both a legal and political phenomenon. Indeed, the EU has set a legal framework for its expansion throughout time, firstly based on the 1993 Copenhagen criteria. Despite having been initially conceived as political requirements to prevent access of Communist States to the to the Union, the latter have come to represent objective legal standards and now dictate the terms of negotiations third countries have to follow in order to join the EU. However, enlargement is far from solely being a legal phenomenon: the latter is indeed a relevant political tool of the European Union's foreign policy, used by Brussels to spread its European *acquis communautaire*, its legal order and values throughout its neighbourhood, and reflecting EU interests, normative commitments and justification narratives. The ongoing accession process Ukraine to the EU exemplifies the duality of enlargement. Having been confronted with a brutal war of aggression by the Russian Federation since February 2022, Ukraine has indeed applied for EU membership and has obtained candidate status only after a few months. This revitalisation of the enlargement process, after years of enlargement fatigue, is the proof of the profound political relevance of EU expansion. This thesis hence seeks to explore the intertwining between the legal criteria and the political considerations driving the enlargement of the European Union, through a theoretical framework as well a case study on the ongoing accession process of Ukraine.

Keywords:

Enlargement; European Union; *acquis communautaire*; accession conditionality; democracy; geopolitics; interests; narratives; Eastern Neighbourhood; Ukraine; Treaty reforms.

LIST OF ABBREVIATIONS

AA: Association Agreement

Art.: Article

CEE: Central and Eastern European countries

CCU: Constitutional Court of Ukraine

CFSP: Common Foreign and Security Policy

CIS: Commonwealth of Independent States

CoE: Council of Europe

DCFTA: Deep and Comprehensive Free Trade Agreement

EEAS: European Union External Action Service

EC: European Community

ECJ: European Court of Justice

ECHR: European Convention of Human Rights

ECSC: European Social and Economic Committee

ECtHR: European Court of Human Rights

EEC: European Economic Community

EFTA: European Free Trade Association

ENP: European Neighbourhood Policy

EU: European Union

EUAM Ukraine: EU Advisory Mission for Civilian Security Sector Reform in Ukraine

EUMAM Ukraine: Military Assistance Mission in support of Ukraine

ICC: International Criminal Court

ICG: Intergovernmental Conference

IMF: International Monetary Fund

MEPs: Members of the European Parliament

NATO: North Atlantic Treaty Organisation

NPAA: National Programme for the Adoption of the *Acquis*

OSCE: Organisation for Security and Co-operation in Europe

PCA: Partnership and Cooperation Agreement

QMV: Qualified Majority Voting system

SMEs: small and medium enterprises

TEU: Treaty on the European Union

TFEU: Treaty on the Functioning of the European Union

TPD: Temporary Protection Directive

USSR: Union of Soviet Socialist Republics (Soviet Union)

WTO: World Trade Organisation

INTRODUCTION

This fight for freedom does not just apply to our 27 Member States. The dream of Europe extends to the Western Balkans, to Ukraine, to Moldova and beyond [...] Europe's commitment to these countries will always be stronger. Let there be no doubt, we want Ukraine as part of the European Union. So, we will stand with Ukraine for as long as it takes¹.

Ursula von der Leyen, 2024

With these words, the President of the European Commission Ursula von der Leyen designed enlargement as a political priority of her second mandate during the presentation of her College of Commissioners to the European Parliament, in November 2024. The open and resolute commitment of the EU executive towards the ‘dream of Europe’ of Ukraine, Moldova and Western Balkans is of particular importance in the contemporary political context and reflects the recognition that the European Union’s future is intertwined with that of its neighbours.

On February 28th 2022, Ukrainian President Volodymyr Zelenskyy formally submitted Ukraine’s application for European Union membership, following Russia’s full-scale invasion of the country; shortly after, Moldova and Georgia also submitted their formal request for EU membership. These applications re-opened discussions on enlargement. For years, EU expansion had indeed been regarded with increased scepticism – a phenomenon widely referred to as ‘enlargement fatigue’. This term, widely popularised through the media following the 2004 and 2007 enlargements, refers to the reluctance and unwillingness of a number of EU members to enlarge the Union² – and, more broadly, to the lack of enthusiasm and confidence in the enlargement project³. This scepticism was further fuelled by subsequent crisis, including the 2008 Eurozone financial turmoil, the 2015 refugee crisis and Brexit, which further cast doubt on the prospect of welcoming new members into the EU, leading to an overall stagnation in the enlargement process. As a result of this ‘fatigue’, despite Albania and North Macedonia making notable progress in the implementation of EU requirements, the European Council repeatedly failed to reach consensus on opening accession negotiations⁴. Nonetheless, the events of 2022 marked a dramatic shift in this

¹ European Commission (2024). Speech by President von der Leyen at the European Parliament Plenary on the new College of Commissioners and its programme.

² Szolucha, A. (2010). The EU and Enlargement Fatigue: Why has the European Union not been able to counter enlargement fatigue? *Journal of Contemporary European Research*, 6(1), 1-16.

³ Bonomi, M., & Rusconi, I. (2023). From EU ‘enlargement fatigue’ to ‘enlargement enthusiasm’? Policy Brief, ÖGfE.

⁴ Idem, p.6

tendency: Russia's aggression against Ukraine revived security concerns in Europe and injected new urgency in enlargement debate – with the EU officials describing enlargement as one of the key strategic priorities for stability and security of the EU. The return of war in Europe and the membership applications by Ukraine, Moldova, Georgia and Kosovo hence re-opened the debates and re-fuelled enthusiasm regarding the enlargement of the European Union: defined as a fight for freedom from Russian rule and a dream, enlargement hence gained momentum and returned to the forefront of the European political discourse.

To further deepen the dynamics of EU enlargement, which will be the object of this thesis, we shall first define it. Enlargement is the process through which States join the European Union. To become members of the Union, candidate countries need to carry out comprehensive reforms to comply with the EU legal order, and to abide by Brussels' policies and present and future political objectives. The criteria for membership were officially set out for the first time during the 1993 Copenhagen European Council: at the time, the newly established European Union was preparing for the accession of the newly independent Central and Eastern European countries, formerly belonging to the Soviet Union. Within this delicate framework, the Copenhagen Council marked a turning point: EU Leaders indeed took a firm commitment towards the Eastern enlargement, by formally recognising that “the associated countries in central and eastern Europe that so desire shall become member of the European Union”, and acknowledging EEC countries' EU membership as a full-fledged objective⁵. During the European Council meeting, three fundamental criteria of membership – known as *Copenhagen criteria* – were designated by EU Leaders, notably: political criteria, setting out that candidate countries must adhere to the principles of democracy and rule of law; economic criteria, establishing market economy as a requirement to join the EU and its common market; full compliance and implementation of the *acquis communautaire*, or obligations of membership.

⁵ European Council (1993). Copenhagen European Council Conclusions. Official Journal of the European Union, C 93/1.

Ever since its creation, the European Community/European Union has carried out six rounds of enlargement: on January 1st 1973, Denmark, Ireland and the United Kingdom joined the then European Community of the six founding members. Greece joined in 1981, followed by Portugal and Spain in 1986, and by Austria, Finland and Sweden in 1995. After the collapse of the USSR, the EU opened its borders to the former Soviet republics and carried out the biggest enlargement of its history, with the accession of Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia in 2004, and of Bulgaria and Romania in 2007. Lastly, on July 1st 2013, Croatia became a member of the Union⁶. Ever since, the EU has known its first ‘negative’ enlargement, with the withdrawal of the United Kingdom from the Union through *Brexit*. Nowadays, the European Union is facing another potential upcoming round of enlargement: nine countries have obtained, to this day, the status of candidate to EU membership, i.e. Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia, Türkiye and Ukraine, and enlargement is now among the political priorities of the EU.

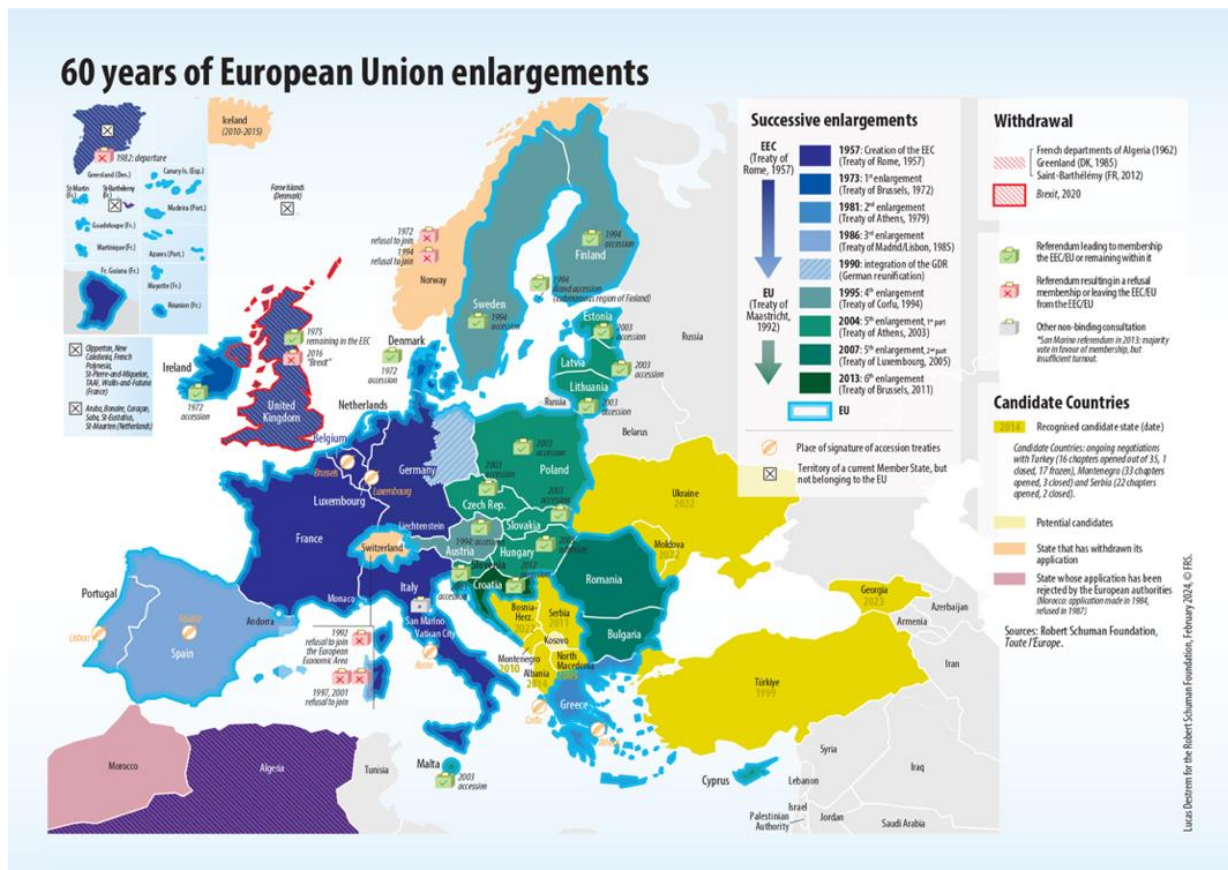


Figure 1: European Union enlargement history and current candidates
Source: Bernard, E. (2024). Twenty years after the largest enlargement ever.
Fondation Robert Schuman.

⁶ European Parliament (n.d.). 40 years of EU enlargement.

Article 49 of the Treaty on the European Union (TEU)⁷ is the legal provision which provides and regulates the enlargement of the EU. The article says that European States respecting the principles expressed in Article 2 TEU, i.e. democracy, rule of law and respect for human rights, as well as the prerequisites dictated by the European Council, may apply to become members of the EU. The article, besides legal criteria, clearly refers to the political aspects of enlargement, starting from its prerequisites. Scholars note the vagueness of the provision, which does not account for the actual Institutions involved, nor for the actual complexity and workings of EU enlargement practice. Kochenov indeed suggests that European enlargement has mostly been regulated by unwritten law and legal practice, which we he defines as *customary enlargement law*⁸. Treaty-makers visibly left discretion concerning the latter, suggesting that enlargement does not solely constitute a legal practice of the EU, but also a political phenomenon, to be dealt with by the European Council.

The EU enlargement policy hence underscores a deeper political meaning. The *acquis* indeed represents a valuable political tool of the EU, as it enables the latter to spread its legal and political order in its neighbours, with the final aim of enlarging its borders. Moreover, the Union enlarges for a variety of reasons: geopolitical and economic interests, but also normative commitments and quest for legitimacy and justice vis-à-vis its neighbours. The political characteristics of enlargement as a phenomenon are evident in the ongoing expansion of the EU: President von der Leyen often defined her first Commission as a ‘geopolitical’ one, and current discourses on enlargement keep being framed by political and normative considerations, going beyond the strictly legal criteria.

In light of the above, we may hence affirm that EU enlargement is a phenomenon presenting an inherent dual nature, constituting both a legal process and a political tool of the European Union’s foreign policy. The aim of this dissertation is hence that of exploring the duality which characterises EU enlargement, by enquiring into the extent to which legal criteria and political factors determine and shape the enlargement of the European Union.

In order to shed light on this complex yet essential duality in understanding the dynamics which shape the enlargement of the European Union, this study adopts a multi-disciplinary approach. It widely draws on the vast academic literature on the topic, which however mainly concerns the 2004 enlargement, and tries to apply the latter on the contemporary context. Besides, it analyses official documents and legislative frameworks, including decisions from the Council of the EU and European Commission reports. This

⁷ See Annex I

⁸ Kochenov, D. (2005). EU Enlargement Law: History and Recent Developments: Treaty-Custom Concubinage?. *European Integration online Papers (EIoP)*, 9(6), 1-23.

comprehensive perspective ensures a full assessment of the legal and political factors influencing the enlargement process, firstly in general terms and with a specific focus on Ukraine.

Hence, Chapter I carries out a legal analysis of EU enlargement framework: by addressing Article 49 TEU, Copenhagen criteria, EU enlargement practice, as well as the enlargement capacity of the Union – the so-called *fourth Copenhagen* criterion, we will delve into the legal and institutional aspects and workings of EU enlargement, which constitute the basis for this research. Secondly, in Chapter II, we will delve into the political mechanisms of enlargement, which will enable us to classify the enlargement of the Union as a political process: on the one hand, Chapter II assesses the *acquis communautaire*'s function, not only as a legal tool of compliance with the Union's legal order, but also as an instrument of great political value, which allows the EU to expand its legal order and principles to its neighbours; on the other hand, the Chapter aims at comprehending why the Union enlarges. Through the assessment of theoretical models, the Chapter hence provides a state of the art on enlargement literature and seeks to understand the multivariate rationales of the enlarging European Union. Finally, Chapter III aims at analysing the specific context of the ongoing enlargement towards Ukraine, which is analysed both in its legal and political aspects. Indeed, for the sake of this research, the case of Ukraine is particularly interesting, as the enlargement under analysis presents a clear political and geopolitical rationale, while it is nevertheless framed by legal criteria. Following an analysis of the Ukrainian path towards the EU, an application of the theories of European enlargement to this case, and the analysis of the European Commission's 2023 and 2024 reports on Ukraine, we will assess the impact of a new round of enlargement on the EU, as well as potential reforms to enhance Brussels' preparedness to absorb new members.

This analysis of enlargement will enable us to fully grasp the workings and rationale of one of the European Union most pivotal foreign policy tool in an international scenario characterised by challenges and uncertainties.

CHAPTER I: A LEGAL ASSESSMENT OF EUROPEAN ENLARGEMENT

Enlargement has always been a cornerstone of the European project, reflecting the vision of its founding fathers, who, ever since the birth of the Coal and Steel Community, envisaged a broader ‘organisation open to the participation of the other countries in Europe’⁹. As the European Community – and then the Union – expanded, the complexity of its enlargement law has grown, making accession to the EU an increasingly multifaceted legal and political undertaking, shaped by evolving institutional dynamics.

To fully seize the institutional amplitude and workings of EU enlargement, in this Chapter we will firstly delve into an in-depth analysis of Article 49 TEU, and explore Copenhagen criteria, as set out by the 1993 European Council. Next, we will examine how the EU Institutions regulate enlargement by concentrating on the accession procedure. Lastly, we will focus on the so-called *fourth Copenhagen criterion*, i.e. the capacity of the Union to absorb new members, besides analysing previous Treaty reforms carried out in light of the EU’s expanding membership. By exploring such legal dimension, this chapter aims at providing a state of the art on the legal dynamics of European enlargement.

Section 1 : A legal framework to the enlargement of the European Union: Article 49 TEU and Copenhagen Criteria

1. Treaty provision on enlargement: Article 49 TEU

At present, admission to the Union is regulated by Article 49 TEU¹⁰, which reads:

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.

⁹ Schuman Declaration (1950)

¹⁰ Schütze, R. (2021). External Policies: an Overview. In: *European Union Law*, 3rd edition, Oxford University Press

This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

This article contains crucially important elements that regulate enlargement process, firstly by establishing the very possibility for the Union to enlarge, which would not be possible in absence of a dedicated Treaty provision. Besides, through the wording ‘may apply’, the article clearly indicates that the question of enlargement lies in the hands of Member States, and that EU is not obliged to accept new members. In light of the above, despite the provision’s pivotal importance, scholars generally agree that it is vague and incomplete, putting forward only the general outline of the enlargement process. The latter is indeed far more complex and detailed in practice than in Treaty provisions, which seem to omit the crucial elements and criteria that candidate States have to satisfy in order to join the Union¹¹. The ‘insufficiency’ of the Treaty on the question of enlargement process, as highlighted by Kochenov, is explained by the political and international nature of enlargement, which complement the legal aspects, dictated by agreements between candidate and EU States.

As for the criteria set out by Article 49, in order to be eligible for EU membership, a candidate must be a *European State* subscribing to *fundamental EU values* expressed in Article 2 TEU, as well as *principles* expressed in Article 6 TEU.

In International Law, a *State* is usually referred to as a body with “a permanent population; a defined territory; a government; and capacity to enter into relations with other States”¹²; hence, to meet the Statehood criterion set out by Article 49(1), candidate bodies need to be considered States under International Law – thus excluding the accession of non-State actors – in full control of its international relations and with a set of goals not contradicting EU objectives¹³.

Moreover, to acquire EU membership, candidate States must be *European*. The definition of ‘Europeanness’ was never straightforward: former Commissioner for Enlargement, Olli Rehn, in his speech to civil society in Belgrade, while assessing this question, affirmed that, while “geography sets the frame [...] it is values that make the borders of Europe”¹⁴. In Rehn’s view, enlargement is hence not solely a matter of geographical borders, but also – and mostly – one of European values. Similarly, the Commission recognised that the term ‘European’, although not clearly defined, combines “geographical, historical and cultural elements, which all contribute to European identity”¹⁵. The combination of geographical and socio-cultural elements implied in the

¹¹ Kochenov, D. (2008). *EU Enlargement and the Failure of EU Conditionality*. Kluwer Law International

¹² Montevideo Convention on Rights and Duties of States (1933). Art. 1

¹³ Kochenov, D. (2008). *op. cit.*, p.27

¹⁴ Rehn, O. (2004). “Values define Europe, not borders”, Speech to civil society, Belgrade.

¹⁵ Commission of the European Communities (1992). Europe and the Challenge of Enlargement. Bulletin of the European Communities, supplement 3/92, p. 11.

provision hence leaves room for quite a broad interpretation, which may be problematic in practice: the article can indeed be understood as stipulating that (1) any State located in the European continent can apply; (2) that any State respecting and integrating European values can apply; (3) or that any State both located in Europe and adhering to European values may apply for membership¹⁶. Considering the strictly geographical approach, we can observe that, on one hand, any State located in Europe may apply for membership. Previous practice of enlargement however proves that even States not strictly being European, geographically speaking, may also apply, as it was the case with the accession of Cyprus in 2004. To shed clarity on geographical criteria, scholars have pointed out the analogy with the Council of Europe (CoE), whose membership also requires being a European State: therefore, we may draw a parallel between the two organisations and affirm that CoE membership geographically defines Europe¹⁷. Moreover, as previously mentioned, ‘Europeanness’ may be assessed under the scope of values and political practices. Considering this approach, the political profile of candidate States was always determining when assessing their membership: for instance, the Treaty for European Coal and Steel Community was open to all ‘free’ European States, thus aiming at precluding access of popular democracies¹⁸. Hence, it seems clear that democracy and adherence to European values of human rights and Rule of Law was always a pivotal requirement, as also endorsed by past enlargement practice: the Association Agreement with Greece was indeed suspended by the Community after the 1967 coup by colonels, even if Greece never stopped being a European State in a geographical sense. The importance of the criterion of democracy is then highlighted by Article 49 itself. To be eligible for Union membership, European States indeed need to respect the founding values of the European Union as set out in Article 2 TEU. Further fundamental principles applicant States must adhere to are mentioned in Article 6 TEU as well¹⁹.

In line with the criteria set out in Article 49, past enlargement practices demonstrates that EU accession condition merge geographical and political considerations. This dual requirement suggests that the concept of ‘Europeanness’ is to be understood as encompassing the geographical dimension of Europe, as well as the democratic values candidate States must uphold. The case *Lothar Matthëus v. Doego Fruchtimport und Tiefkühlkost eG.* (1978)²⁰ is relevant here, as it addressed the question of whether the accession of Spain, Portugal and Greece to the European Communities was possible under Community law. While the ECJ found that it lacked jurisdiction on the matter, the case is nevertheless relevant as the Commission could express its insight on the interpretation of the Article 237(1) EEC – the precursor to Article 49 TEU. The wording used by the Commission

¹⁶ Kochenov, D. (2008). *op. cit.*, p.28

¹⁷ Idem, p.30

¹⁸ Hillion, C. (2004). Copenhagen Criteria and their Progeny. In: *EU Enlargement: a legal approach* (1st ed). Bloomsbury Publishing, p.4

¹⁹ See Annex I

²⁰ Case 93/78, *Lothar Matthëus v. Doego Fruchtimport und Tiefkühlkost eG.*, European Court Reports 1978-02203, EU:C:1978:206.

in *Mattheus v. Doego* clearly emphasises that a State's accession is conditional on being geographically European and having pluralistic democratic institutions guaranteeing the protection of fundamental human rights. The ruling indeed reads:

Article 237 [...] permits the accession of a State to the European Economic Community only if: that State is a European State; and its constitution guarantees, on the one hand, the existence and continuance of a pluralistic democracy and, on the other hand, effective protection of human rights.

The interpretation provided by the Commission reinforces the idea that the very concept of 'Europeanness' depends not only on a State's geographical location, but also on its commitment to democratic governance and human rights. These values, encompassed within the very definition of European identity, are crucial in defining the European political project, which is fundamentally about political integration, besides mere geographical proximity.

Besides Article 49, the criteria for EU enlargement were clearly expressed and summarised in the Conclusions of the 1993 European Council meeting held in Copenhagen, hence acquiring a political dimension. Enlargement was made conditional upon the respect of three main membership criteria, which are commonly referred to as Copenhagen Criteria. Candidate countries hence need to fulfil: (1) political criteria, regarding the stability of and democratic stances of national Institutions, besides the respect for the Rule of Law and human rights; (2) economic criteria, notably the capacity of candidate countries to maintain a functioning market economy, integrate the European internal market and handling the competitive pressure deriving from the latter; (3) a general *acquis*, establishing the capacity of candidates to embrace the general obligations of membership and the adherence to the objective of political, economic and monetary Union²¹. The Copenhagen Presidency Conclusions also highlight that the Union's capacity to absorb new members should be taken into account while assessing enlargement dynamics.

2. The Copenhagen political criteria

The Copenhagen political criteria, sets out the quintessential criteria of European Union membership. The latter is indeed open to European States respecting principles set in current Article 2 and 6 of the Treaty on the European Union, namely: political Institutions guaranteeing democracy and Rule of Law, human rights and fundamental freedoms, respect and protection of minorities. Political conditionality, despite having been explicitly set out in 1993, already constituted well-established conditions for membership, as previously mentioned. For instance, in April 1977,

²¹ Hillion, C. (2004). *op. cit.*, p.13

during discussions about the membership of Portugal, Greece, and Spain in the European Economic Community, the *Common Declaration on Fundamental Rights*²² was issued. The latter emphasised that all Member States should be contracting parties to the European Convention on Human Rights, which acquired particular relevance as, simultaneously, the European Court of Justice was beginning to develop its own body of human rights case law, particularly through the *Internationale Handelsgesellschaft* case. Through the declaration, the presidents of the European Parliament, Council and Commission committed European Institutions to the respect of human rights and made the latter a *conditio sine qua non* for Community membership²³. Hence, the political conditionality, which has become a consistent feature throughout the history of EU enlargement, has been constitutionalised through Article 49 TEU²⁴ – besides the Charter of Fundamental Rights of the European Union – and further emphasised during the 1993 Copenhagen Council. Concerning the political criteria, the Copenhagen Conclusions read:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

Democracy and rule of law are combined in the 1993 Conclusions and in the assessments by the Commission, despite being different concepts. Marktler underlines that several areas encompassing both dimension are included in the Copenhagen political criteria, notably: (1) free, fair and democratic elections, in line with international standards; (2) a functioning national parliament, where minorities are represented, the opposition takes full part in the legislative activities and all stages of the legislative process are carried out with transparency; (3) limited and justified use of legislative procedures mixing legislative and executive power; (4) a functioning executive and an independent, accountable and transparent civil service; (5) a demilitarised executive, including the police, who should serve the rule of law; (6) stable judiciary, being independent, well-staffed, well-trained, well-paid, efficient, respected and accessible to citizens, with judges being specialised in different fields; (7) effective anti-corruption measures. The two other elements mentioned in the Conclusions, also subject to combined evaluation, are human rights and minority protection, assessed by the Commission based on the generally accepted international agreements and conventions on the matter. As for human rights, the Commission broadly considers civil and political rights, economic, social and cultural rights, with particular attention to the following phenomena: (1) human trafficking; (2) police abuses; (3)

²² Joint Declaration by the European Parliament, the Council and the Commission concerning the protection of fundamental rights and European convention for the protection of human rights and fundamental freedoms, 1977.

²³ Hillion, C. (2004). *op. cit.*, p.16

²⁴ Commission Regular Report [COM(2002)700] (2002), p.9: “Since the entry into force of the Treaty of Amsterdam in May 1999, these requirements have been enshrined as constitutional principles in the Treaty on European Union, and have been emphasised in the Charter of Fundamental Rights of the European Union, that was proclaimed at the Nice European Council in December 2000.”

disproportionately long pre-trial detention and carceral conditions; (4) freedom of expression and of religion; (5) right to privacy; (6) equal opportunities for women and men²⁵. Conversely to human rights, the Amsterdam Treaty – which constitutionalised the political conditionality – does not explicitly refer to the protection of minorities as an accession criterion; this aspect was indeed introduced as part of the EU enlargement strategy of the early 2000s, outlined in *Agenda 2000*²⁶, which set the framework for the 2004 accession of Central and Eastern European States. Minority protection was particularly emphasised by the Commission of the time, due to the ethnic diversity of the candidate countries – often more ethnically heterogeneous than the then Member States. We may hence affirm that the inclusion of minority rights as a criterion in the enlargement process was not solely about aligning with European values, but mostly about fostering long-term stability and inclusive democracy in the region, while avoiding ethnic tensions²⁷.

3. The Copenhagen economic criteria

As for economic criteria, the Copenhagen Council sets out two main conditions: membership is conditioned by candidates' functional market economy, as well as the capacity to cope with competitive pressures and market forces within the EU. Defining the concept of market economy, the Commission highlights:

*The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy*²⁸.

Within a liberal economy, it is essential that external trade is liberalised; hence, since the 1990 European Council, the European Communities opened its market to ten CEE States through Association Agreements, which included clauses specifying the perspective of EU membership for those countries²⁹.

The second element of the economic criterion, notably the capacity of applicant States to cope with competitive pressure and market forces, was assessed by the Commission on the basis of the following factors, designated in the 1998 Regular Report: “the existence of a functioning market economy, with a sufficient degree of macroeconomic stability for economic agents to make

²⁵ Marktler, T. (2006). The power of the Copenhagen criteria. *Croatian yearbook of European law & policy*, 2(1), 343-363.

²⁶ European Commission (2000). *Agenda 2000: For a stronger and wider Union*, COM(97)2000

²⁷ Hillion, C. (2004). *op. cit.*, p.11

²⁸ Commission Regular Report COM(2001)700, p.29

²⁹ Deloire, P. (2006). *L'Europe des trente en marche*.

decisions in a climate of stability and predictability; a sufficient amount, at an appropriate cost, of human and physical capital, including infrastructure (energy supply, telecommunication, transport, etc.), education and research, and future developments in this field; the extent to which government policy and legislation influence competitiveness through trade policy, competition policy, state aids, support for SMEs, etc.; the degree and the pace of trade integration a country achieves with the Union before enlargement. This applies both to the volume and the nature of goods already traded with member states; the proportion of small firms, partly because small firms tend to benefit more from improved market access, and partly because a dominance of large firms could indicate a greater reluctance to adjust³⁰. In light of the above, quality of infrastructure in applicant States deems essential to the Commission, since the latter is fundamental to attract domestic and foreign investment.

Hillion and Marktler observe a relevant degree of interaction between the economic criterion and the *acquis* criterion: the higher the degree of economic integration which a candidate State achieves before accession, the easiest it will be to assume the obligations linked to Union membership^{31,32}.

4. The Copenhagen 'acquis communautaire'

Union membership must be carried out in conditions guaranteeing equal treatment to all Member States. The application of the EU's rules by its members is thus quintessential for the functioning of the common market³³. Applicant countries hence have to take on the 'obligations of membership', known as *acquis communautaire*, and encompassing the broad EU rules and objectives. The *acquis* hence refers to the legal, institutional and political framework through which the EU implements its legal order in Member States, and is currently defined by the Commission through 35 chapters³⁴, which are meant at addressing the level of preparedness of candidate countries and their compliance with the EU *acquis*. In its assessment of the *acquis*, the Commission mainly evaluates conditions related to the four 'fundamental freedoms' – notably free movement

³⁰ Reports on progress towards accession by each of the candidate countries, COM(98)712 final, p.7

³¹ Marktler, T. (2006). *op. cit.*

³² Hillion, C. (2004). *op. cit.*

³³ Deloire, P. (2006). *op. cit.*, p.70

³⁴ (1) Free movement of goods; (2) Freedom of movement for workers; (3) Right of establishment and freedom to provide services; (4) Free movement of capital; (5) Public procurement; (6) Company law; (7) Intellectual property law; (8) Competition policy; (9) Financial services; (10) Information society and media; (11) Agriculture and rural development; (12) Food safety, veterinary and phytosanitary policy; (13) Fisheries; (14) Transport policy; (15) Energy; (16) Taxation; (17) Economic and monetary union; (18) Statistics; (19) Social policy and employment; (20) Enterprise and industrial policy; (21) Trans-European networks; (22) Regional policy and coordination of structural instruments; (23) Judiciary and fundamental rights; (24) Justice, freedom and security; (25) Customs union; (26) External relations; (27) Common foreign and security policy; (28) Financial control; (29) External audit; (30) Institutions; (31) Foreign, security and defence policy; (32) Financial and budgetary provisions; (33) Foreign and security policy; (34) Institutions; (35) Other provisions. Source: European Commission (2012). Chapters of the *acquis*.

of goods, free movement of persons, free movement of services and of capital. During accession negotiations, through a comparison between national and Community law, it is assessed whether candidate countries are able to comply with the latter, and whether they are able to assume obligations linked to membership³⁵.

The integration of the *acquis* in candidate countries dates to a long-standing accession condition: dating back to the 1969 Hague Conference of the Heads of State or Government, when discussing the applications of Great Britain, Ireland, Denmark and Norway, Member States agreed to enlarge the Community based on their acceptance of the Treaties and political aims of the Community³⁶. Even before the Hague summit, this vision was already put forward by French Minister of Foreign Affairs Couve de Murville who, concerning the first British application to the then European Communities of 1963, considered that only when London would have accepted the provisions of the Treaty of Rome, it could have joined the Common Market³⁷. Therefore, it is clear that applicant States must meet certain conditions of accession, which encompass a general alignment with community values and rules, as expressed in the Treaties, and that it is their duty to adapt the national legal order to that of the Community/Union. This obligation of 'legal approximation' was established in March 1970 by the Council of Ministers, who concluded that any difficulty encountered by a candidate country in adapting its national legal order should be assessed through the establishment of transitional measures, without amending existing Community rules³⁸. In line with this approach, the wording of Article 49 highlights that applicant States need to carry out adjustments of their own political, economic and legal order to seek compliance with European Treaties. This because the *acquis* is not re-negotiated when the EU enlarges, and only technical changes are carried out – such as the repartition of seats at the European Parliament or voting arrangements in the Council.

As the EU grew bigger, the Copenhagen criteria, and especially the *acquis communautaire*, were modified and implemented: during the 1995 and 2002 European Council meetings, respectively held in Madrid and in Seville, EU Leaders considered that candidate countries should adjust their administrative and judicial structures for the adoption of the *acquis*³⁹, aiming at bringing the latter to the required level and thus facilitating their integration to the Union. A further requirement integrating the notion of *acquis* was conceived during the 1999 Helsinki European

³⁵ Marktler, T. (2006). *op. cit.*, p.355

³⁶ Hillion, C. (2004). *op. cit.*, p.9

³⁷ M. Couve de Murville, French Minister of Foreign Affairs, under President de Gaulle, considered that: '[l]orsque la Grande Bretagne aura la possibilité d'accepter les dispositions du traité de Rome, rien ne pourra l'empêcher d'entrer dans le Marché Commun. Mais c'est à elle, et non à nous, que la charge de la preuve incombe. En d'autres termes, nous ne disons pas: il ne faut pas que le Royaume-Uni entre dans le Marché Commun. Nous disons: est-ce que les conditions sont réalisées?', 1963

³⁸ Hillion, C. (2004). *op. cit.*, p.9

³⁹ Kochenov, D. (2008). *op. cit.*, p.45

Council, notably that of good-neighbourliness⁴⁰: the introduction of the latter aimed both at avoiding bringing regional conflict within the Union and highlight the importance of peaceful dispute settlements and cooperation.

All in all, we have analysed Article 49, which sets a legal framework to the enlargement process, and expanded on accession conditions and enlargement conditionality through the Copenhagen criteria. Having understood the legal framework and the fundamental principles regulating the Union's expansion, we may now inquire on enlargement practices.

Section 2 : Beyond Treaty law and Copenhagen Criteria: EU Institutions and enlargement practice

Enlargement regulation has evolved and constantly grew, together with the Union itself, and new principles and membership criteria have been developed throughout the different waves of enlargement. This constant development was made possible due to the general Treaty provision on enlargement⁴¹, which states the possibility for the Union to enlarge and exposes the core principles of European enlargement law, being however far from establishing a binding enlargement regulation. Kochenov hence suggests that, besides the Treaty provision, enlargement has mostly been regulated by unwritten law and legal practice, which we he defines as *customary enlargement law of the European Union*. Given the absence of literature on European customary law, the author draws an analogy with international customary law, and observes the practice of all past EU enlargements has complied with two of the main principles of international customary law, notably: the *repetitio facti* principle – uniformity, generality and duration, as enlargement has always been carried out following the same main principles and criteria; the *opinio juris sive necessitatis* principle – the belief that an activity is legally binding, as candidate countries follow the legal directions pointed out by the Union and its Member States, which is a sign that, even if unwritten, enlargement law is considered binding by all the actors involved. Therefore, enlargement is subject to a unique 'dual regulation', as it is set out both by the Treaty and by customary law, which constantly interact by means of incorporation of customary legal norms and practices into the relevant Treaty provision⁴².

It is now relevant to assess the main stages of the accession process, which we may divide in three main phases⁴³: (1) pre-accession stage; (2) formal membership negotiations; (3) accession stage and treaty ratification. Kochenov and Gateva developed a detailed chronology of enlargement

⁴⁰ Hillion, C. (2004). *op. cit.*, p.17

⁴¹ Kochenov, D. (2008). *op. cit.*, p.62

⁴² Kochenov, D. (2005). *op. cit.*

⁴³ European Commission (n.d.). Steps towards joining.

practices, based on the institutional procedures carried out within the fifth and sixth waves of EU enlargement. Moreover, in 2019, Commission President Ursula Von Der Leyen declared her ambition to lead a ‘geopolitical Commission’⁴⁴, whose agenda turned around accelerating enlargement and stabilising neighbourhood. This dimension was accelerated in 2022 following the Russian invasion against Ukraine. Faced with such ambitions, the former Commission has adopted several policy reforms concerning enlargement over the 2020-2023 period. Therefore, in this section, looking at the 2020 enlargement methodology, besides Kochenov’s and Gateva’s typologies, we will delve into the three main phases of accession⁴⁵.

1. Pre-accession stage: Institutions involved, Accession Partnerships and control of compliance

While Article 49 outlines the fundamental aspects of enlargement, it does not expand on the preparation of accession⁴⁶, nor does it fully shed light on actual enlargement practice. Hence, to fully comprehend enlargement dynamics, we shall firstly outline the Institutions involved.

Kochenov indeed points out the lack of clarity of the provision, which impedes to fully seize the workings of the enlargements process, since it does not mention all the Institutions involved in the latter, nor their powers. In Article 49, three Institutions are indeed mentioned, i.e. the Council – dealing with applications and acting unanimously, the Commission – having a consulting role, and the Parliament – giving its consent through a majority vote. Enlargement practice however deems more articulated: Kochenov highlights that the European Council is also largely involved in the enlargement mechanisms, as it is the Institution which determined and developed accession criteria and enlargement conditionality, besides taking the very decision to enlarge. Moreover, the Council, besides regulating pre-accession as highlighted by Article 49, is also entitled to change the very enlargement procedure, as it was the case with the introduction of Accession Partnerships through Regulation 622/98⁴⁷. Accession Partnerships determine ‘the areas in which the candidate country needs to make progress in the short and medium term, based on the accession criteria’⁴⁸. Furthermore, the Commission plays a pivotal role as far as enlargement is concerned, as it reports on the progress made by applicant States and drafts the Accession Partnerships and recommendations, thus elaborating concrete policy paths for candidates to prepare their accession to the Union. For this reason, we may affirm that the Commission constitutes the most important

⁴⁴ Stanicek, B., Przetacznik, J., & Albaladejo Roman, A. (2023). Enlargement policy: Reforms and challenges ahead. *EPRS - European Parliamentary Research Service*, European Parliament.

⁴⁵ See Annex II

⁴⁶ Hillion, C. (2004). *op. cit.*, p.13

⁴⁷ Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships.

⁴⁸ Accession Partnerships

and powerful actor within the enlargement process⁴⁹. The Parliament's role is consistent with the provision's wording. Lastly, as for Member States, they negotiate accession within the Conferences for Accession to the European Union, but most negotiations are actually conducted by Union Institutions.

Having looked at the Institutions involved, we may now outline the pre-accession process and the controls of compliance that the latter entails. Pre-accession starts with a formal acknowledgement of the European Council concerning the membership perspective of an applicant country and ends with the launching of accession negotiations. Firstly, any State wishing to join the Union submits an application to the Council, which forwards it to the Commission. The latter compiles a questionnaire for the applicant country, and on the basis of the answers provided the Commission draws up an Opinion – *Avvis* – assessing the compliance of the applicant country with the Union membership criteria. Enlargement practice shows that, following the Commission's *Avvis*, the European Council first grants the applicant the official candidate status, and then launches accession negotiations⁵⁰. Reaching candidacy status may take several years: research shows that current EU Member States took on average 3.5 years from the time of their formal application to the time candidacy was approved. Ukraine and Moldova, current candidates to enlargement, had their applications approved 11 times faster than the average EU Member: they indeed submitted their applications respectively on February 28th and March 3rd 2022, and both countries were granted candidacy status on June 23rd⁵¹.

By stating that “accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required”⁵² and developing accession criteria in its 1993 Copenhagen Conclusions, the European Council went beyond Article 49 and defined a new framework for enlargement, thus institutionalising Copenhagen criteria⁵³ and, consequently, a system of compliance controls for enlarging the Union, which is present as early as in the pre-accession phase. Copenhagen criteria have indeed become a basis to assess progress in candidate countries, and a tool to trigger political, economic and legal reforms aimed at EU membership. Further tools, notably the aforementioned Accession Partnerships, to be developed by the Commission, were then conceived as a guide to reforms for candidate countries to meet the accession criteria. In light of this practice, Hillion interestingly points out that the Commission's role of guardian of the Treaties does not solely apply to EU Member States, but also to candidates, as actors working in the Berlaymont actively promote the

⁴⁹ Kochenov, D. (2008). *op. cit.*, p.59

⁵⁰ Gateva, E. (2015). Conditionality and EU Enlargement: A Conceptual Overview. In: *European Union Enlargement Conditionality*. Palgrave Studies in European Union Politics.

⁵¹ Leppert, R. (2022). How exactly do countries join the EU?. Pew Research Center.

⁵² Copenhagen Presidency Conclusions, p.13

⁵³ Hillion, C. (2004). *op. cit.*, p.12

acquis through the *Avis*, Accession Partnerships and recommendations. Therefore, compliance controls within pre-accession, carried out by the Union Institutions vis-à-vis candidates, have evolved and become increasingly systematised.

It is hence clear that pre-accession has adopted a stricter approach to accession requirements, particularly with regard to the Union *acquis*. It is now established that candidates should adopt the *acquis*, aligning their legal framework accordingly, as part of the pre-accession process⁵⁴. The obligation to approximate extends not only to ‘hard law’, binding legislation, but also to principles established by the case law and practice of the European Court of Justice, including the EU Charter of Fundamental Rights⁵⁵. Hence, taking into account the pivotal importance the Copenhagen criteria assume within the pre-accession process, we may observe their changing nature: despite having been conceived as political requirements in the specific context of the Eastern enlargement, the Copenhagen criteria indeed have come to represent objective legal standards, enabling a control of compliance for membership, within an institutionalised framework of enlargement conditionality, monitored by Union Institutions⁵⁶.

2. Formal membership negotiations

As a country is granted the candidacy status by the European Council, membership negotiations open. This step is by far the longest⁵⁷, and the most important of the accession process, as negotiations are meant at the implementation of the *acquis* by candidates. A screening process on the country’s legislation is carried out by the Commission and consists in an analytical examination of 33 of the 35 chapters of the *acquis*⁵⁸. In line with the Revised Enlargement Methodology of 2020, the latter are gathered in six thematic clusters, notably: (1) fundamentals; (2) internal market; (3) competitiveness and inclusive growth; (4) green agenda and sustainable connectivity; (5) resources, agriculture and cohesion; (6) external relations⁵⁹. The screening is articulated in two phases: firstly, an explanatory session is carried out, where the Commission illustrates its *acquis*’ standards and sheds the light on legislative alignment; secondly, throughout the bilateral session, the candidate country outlines its preparation to adopt and implement the EU *acquis* for each thematic chapter. This phase is essential as it enables the Commission to assess the degree of preparation of candidates, as well as to outline preliminary indications and key priorities

⁵⁴ Gateva, E. (2015). *op. cit.*, p.27

⁵⁵ Hillion, C. (2004). *op. cit.*, p.16

⁵⁶ Idem, p.15

⁵⁷ See Annex III

⁵⁸ See Annex IV

⁵⁹ European Commission (2020). A more credible, dynamic, predictable and political EU accession process - Commission lays out its proposals. Press release.

for future reforms⁶⁰. Based on the screening, the Commission drafts a cluster screening report which includes recommendations and is discussed with Member States in the Council. The latter then, based on the Commission's proposal, unanimously decides whether to open individual chapters and defines relevant benchmarks, i.e. further conditions to be met prior the opening of the chapter. Once the opening benchmarks are fulfilled, the candidate presents its position on specific chapters, and the EU subsequently does the same. The chapters assessed during negotiations correspond to the 35 different areas of the *acquis*. Candidate countries are required to adapt their legal and administrative order to EU legislation in the said areas; each chapter is regularly monitored by the Commission up until a satisfactory condition has been reached, and the chapter is closed⁶¹. Negotiations hence represent a highly asymmetrical phase, which varies upon the issues assessed and the specific level of implementation of the *acquis* in candidate countries⁶².

3. Closing of negotiations and Accession Treaty

Negotiations on individual chapters are closed when every Member State expresses its satisfaction on the candidate's progress in the field under analysis, and the whole negotiation process is complete when each chapter has been closed. Once the negotiations of all chapters are complete, the Commission issues an opinion, and the European Parliament provides the Council with its assent⁶³. The conclusion of accession negotiations is followed by the drafting of the Accession Treaty, which institutionalises the country's membership to the Union and includes the detailed conditions for membership, as well as the deadlines of transitional and financial arrangements. The Treaty is not binding until it is approved by the European Council, the Commission and the European Parliament, and it is signed by all Member States and the candidate country⁶⁴. After signing, the country becomes an acceding country, meaning that it is expected to become a EU member once the Treaty has been ratified. In the interim, the country enjoys an 'active observer status', which enables it to comment on draft EU proposals, communications, recommendations or initiatives. The Treaty is submitted to Member States and to the candidate country for it to be ratified accordingly with constitutional procedures. Once ratified, the Treaty takes effect, and the acceding country becomes a full-fledged European Union Member State.

⁶⁰ European Commission (2022). What is the Screening Process and how does it work?. EU accession filesheet.

⁶¹ European Commission (n.d.). Chapters of the *acquis*/negotiating chapters.

⁶² Gateva, E. (2015). *op. cit.*, p.18

⁶³ *Idem*, p.19

⁶⁴ European Commission (n.d.). Steps towards joining.

4. Focus on the new enlargement strategy: Revised Enlargement Methodology

Having understood the institutional procedures which shape enlargement, we may now delve into the policy reform carried out by Von Der Leyen's first Commission over the period 2020-2023. During the press conference on the revised enlargement methodology, Olivér Várhelyi, the then Commissioner for enlargement highlighted that the main political objective of the latter is to re-establish credible perspectives of EU membership for the Western Balkans, whose progress towards session had been slow⁶⁵.

The Revised Enlargement Methodology⁶⁶, adopted by the Commission on February 5th 2020, includes four principles: (1) credibility; (2) providing a stronger political steer; (3) dynamism; and (4) predictability⁶⁷.

The concept of *credibility* emphasises the EU's focus on fundamental reforms, addressing issues linked to democracy, the rule of law and public administration; this concept hence reflects the importance of substantial and tangible reforms in the said fields as a quintessential criterion for EU membership.

Moreover, a political dimension is underlined by the EU Institution, in the form of a *stronger political steer*: much as accession negotiations currently represent a technical phase, largely carried out by the Commission, the new methodology places a stronger emphasis on the political engagement of Member States, ensuring that enlargement remains a high-priority agenda item. The Commission indeed proposed a set of institutional mechanisms, notably: regular EU-Western Balkans Summits, held on an annual bases, as well as more frequent ministerial sectorial meetings; country-specific IGCs meant at discussing achievements and future reforms, opening new clusters and meeting determined benchmarks; more regular political meetings of the Council for Stabilisation and association and Committee and Subcommittee meetings; lastly, representative of Member States will be invited to monitor closely the accession process⁶⁸.

To infuse *dynamism* into the enlargement process, accession negotiations have been structured into six logically connected thematic clusters, as mentioned in section 2.2, meant to accelerate the process. 'Fundamentals' constitutes the most important and most complex

⁶⁵ European Commission (2020). Remarks by Commissioner Olivér Várhelyi at the press conference on the revised enlargement methodology.

⁶⁶ Stanicek, B. (2020). A new approach to EU enlargement. *EPRS - European Parliamentary Research Center, European Parliament*.

⁶⁷ Cenusa, D. (2023). Upgrading EU Enlargement Methodology: Enhancing Accession Prospects for the New Eastern Candidates. *Eastern Europe Studies Centre*

⁶⁸ Tilev, D. (2020). The new EU enlargement methodology: enhancing the accession process. *Institute for Democracy 'Societas Civilis'*.

cluster to negotiate, as it is the first cluster to be opened and the last to be closed; the other five clusters can be opened depending on the candidate country's degree of preparedness⁶⁹.

Lastly, to pursue *predictability*, a dual approach has been adopted in the new methodology. On the one hand, positive incentives are set out to be offered to candidates demonstrating tangible progress; these include options such as 'accelerated integration' in EU policies. On the other hand, the methodology proposes penalties for stagnation or backsliding of candidate countries: for instance, penalties include reversibility – allowing for the suspension or rollback of negotiations if candidate countries fail to meet the required reforms or backslide – down-warding the allocation of EU funding or, in most severe cases, the complete suspension of negotiations⁷⁰.

All in all, the new methodology aims at reforming the negotiation process, paying particular attention to the rule of law, and at encouraging reforms in candidate countries through the six clusters. The revised methodology also puts forward a 'staged' or 'gradual approach', aiming at providing increased financial assistance and support to candidate countries, conditional on their progress in implementing the *acquis*, while penalising countries who fail implementing reform or backslide. These measures collectively aim to inject a new level of dynamism into the enlargement process, making it more responsive to both geopolitical developments and internal EU priorities. Having analysed EU enlargement practice, we may now deepen a further principle highlighted within the 1993 Copenhagen Presidency Conclusions, i.e. the readiness of the Union to welcome new members.

Section 3 : The *fourth Copenhagen criterion*: the absorption capacity of the Union as a further pre-requisite for enlargement?

As previously mentioned, the 1993 Copenhagen criteria have come to constitute objective legal standards for EU membership. Besides tackling candidate countries, the Copenhagen Presidency Conclusions also highlight that the Union must ensure its capacity to enlarge to new members. The Conclusions indeed read:

*The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries*⁷¹.

⁶⁹ Idem, p.5

⁷⁰ Cenusa, D. (2023). *op. cit.*

⁷¹ Copenhagen Presidency Conclusions, p.13

Absorption capacity, intended as the ability to integrate new members without compromising the Union's functioning and effectiveness, thus seems to represent a further requirement linked to enlargement. Institutional reforms have been a constant in EC/EU's history and indeed became a pressing issue during the negotiations prior to the 2004-2007 enlargements⁷². Article 2 of the Protocol on the institutions with the prospect of enlargement of the European Union, attached to the TEU, indeed emphasises the need of an institutional reform and a review of the Treaties before the membership of the Union reaches twenty:

*At least one year before the membership of the European Union exceeds twenty, a conference of representatives of the governments of the Member States shall be convened in order to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions*⁷³.

In this section, we may briefly analyse previous institutional reforms carried out in perspective of a future enlargement, notably through – partially – the Treaty of Amsterdam and – mostly – the Treaty of Nice. Successively, we shall observe propositions put forward through the independent report on the institutional implications of enlargement, which highlights the idea of enlargement as a time for change and reform, not only for candidates but also for the European Union itself.

1. From Copenhagen to Nice: historical perspectives on reforms driven by enlargement

As it transpires from its Presidency Conclusion, the 1993 Copenhagen Council represents a historical moment of great willingness and determination of the Union to expand to its Eastern neighbours – as highlighted by the formula “countries in Central and Eastern Europe that so desire shall become members”⁷⁴. However, enlargement debates also represented a time of concern about the very capacity of the EU maintain institutional balance and effectiveness while expanding its borders. Debate on Treaty reforms prior to enlargement was already very much active, already when drafting the Maastricht Treaty: on the one hand, Article N(2) of the Treaty on the European Union called for institutional reforms⁷⁵; on the other hand, concern was expressed both by EU

⁷² Edwards, G. (2004). Reforming the Union's Institutional Framework: A New EU's Obligation?. In: *EU Enlargement: a legal approach* (1st ed.). Bloomsbury Publishing, p.23

⁷³ Journal of the European Commission (1997). Protocol on the institutions with the prospect of enlargement of the European Union, Article 2.

⁷⁴ Copenhagen Presidency Conclusions, p.13

⁷⁵ Treaty on the European Union, February 7th 1992, Article N: “1. The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Treaties on which the Union is founded. If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to those Treaties. The European Central Bank shall also be

Leaders and Heads of EU Institutions, like former Commission President Delors, who were concerned about the possible changes in decision-making and the loss of voting strength in the Council. These tendencies put the spotlight on the need for adequate institutional reform: during the 1994 Corfu and the 1995 Madrid European Council meetings, EU Leaders established a Reflection Group whose task was that of setting priorities and drafting on possible reforms for the Union, to be discussed during the 1996 Intergovernmental Conference (IGC). The latter was assigned the mandate of exploring reform paths for the Union, targeting both external and domestic questions: the IGC aimed both at making the Union work better and enhancing its legitimacy vis-à-vis its citizens, and giving it greater capacities for enlargement and external action⁷⁶.

The Treaty of Amsterdam (1997), steeped by the ambitious goals set by the IGC and by the will to strengthen transparency, democracy and solidarity, was regarded by many as deceiving due to its complexity and lack of clarity. The issues at stake included size and composition of the Commission, weighting of votes in the Council, and extension of qualified majority voting⁷⁷: despite the urgency of such debates, EU Leaders only committed to a future extensive review of the Treaties. While some ‘Amsterdam leftovers’ remained to be discussed, accession negotiations were launched with Cyprus, the Czech Republic, Estonia, Poland, Hungary and Slovenia. A further IGC was thus called for, both through the 1999 Report on enlargement and by the 1999 Helsinki European Council: the latter indeed established that the Union, by the end of 2002, should have enlarged to new members that were ready for accession. In light of this statement, it was pressing to deal with the ‘leftovers’ and fully assess changes needed in view of the upcoming wave of enlargement⁷⁸.

The Nice IGC hence opened in February 2000 and was closed on December 10th 2000. The Conference managed to settle the Amsterdam left-overs, and its achievements included: (1) the weighting of votes in the Council, with a new definition of qualified majority, applying a dual majority of votes and population; (2) a new distribution of seats in the European Parliament, with the maximum number of members being increased from 700 to 732; (3) more flexible arrangements for enhanced cooperation; (4) the monitoring of fundamental rights and values in the EU; and (5)

consulted in the case of institutional changes in the monetary area. The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.
2. A conference of representatives of the governments of the Member States shall be convened in 1996 to examine those provisions of this Treaty for which revision is provided, in accordance with the objectives set out in Articles A and B.”

⁷⁶ Edwards, G. (2004). *op. cit.*, p.32

⁷⁷ European Parliament (2024). The Treaty of Nice and the Convention on the Future of Europe. *Historical development of European integration*.

⁷⁸ Edwards, G. (2004). *op. cit.*, p.35

a strengthening of the EU judicial system⁷⁹. Heads of State or of Government considered that, although not representing a comprehensive review of the institutional arrangements, the new Treaty of Nice was sufficiently of a solid basis to face upcoming enlargement. The *fourth Copenhagen criterion* hence appeared to be achieved. However, the first Irish rejection of the Treaty in 2002 raised doubts: many indeed feared that the European Union would not be seen as capable of meeting the conditions to welcome new members, and that, without Nice, enlargement would not be possible. The pressure exercised on the Irish Government ultimately led to a favourable vote to the Treaty by the Irish, and to the ratification of the Treaty of Nice, thus officially paving the way for enlargement.

2. *Enlargement as a time for institutional change?*

During the negotiations for the Amsterdam Treaty, significant concerns were raised on the hypothesis that the accession of new members in the Union may negatively impact the effectiveness of its Institutions⁸⁰. On the invitation of Commission President Prodi, an independent report on the institutional implications of enlargement was published⁸¹. The report, written by Jean-Luc Dehaene, Richard von Weizsäcker and Lord David Simon, underlined the problems of management of a wider Union, and highlighted the need for comprehensive institutional reforms meant at ensuring an effective functioning of the EU as the latter tackled the challenge of the then upcoming Eastern enlargement. Hence, the authors identified several key areas where reforms would be needed to enhance that the Union's smooth workings as the number of Member States increased from 15 to potentially 25. The domains of the proposed reforms were, notably: (1) the Commission, whose President's role and Commissioners' responsibility should be strengthened; (2) qualified majority voting, which should be extended in order for decision-making to remain effective in a wider Union; (3) the weighting of votes should be reassessed; (4) the Council, whose number of formations should be reduced and whose legislative and executive roles should be clarified; (5) the European Parliament, for which a rule on seat allocation for new members should be established; (6) other Institutions, like the Court of Justice, the Court of auditors and the Committee of the regions, should also be subject of further reflections meant at welcoming new members without affecting efficiency; (7) external relations, enhancing the capacity of the EU to act as a unitary actor representing European interests in global negotiations; (8) institutional and legal flexibility in an enlarged Union, promoting closer cooperation among Member States.

⁷⁹ Steunenbergh, B. (2001). Enlargement and Institutional Reform in the European Union: Separate or Connected Issues? *Constitutional Political Economy*. Kluwer Academic Publishers, 12, 351-370.

⁸⁰ Idem, p.351

⁸¹ Von Weizsäcker, R., Dehaene, J., & Simon, D. (1999). The institutional implications of enlargement. Report to the European Commission.

Through the above proposals, the group outlines possible paths of reform to be assessed at the then forthcoming IGC, in order to prepare the Union for enlargement. This approach highlights that enlargement was perceived as a time for change, during which the Union had to respond to ‘a historical challenge’⁸² through reforms.

All in all, we have seen that, after the failure of the Treaty of Amsterdam, there was widespread consensus among EU Leaders on the absolute necessity to reform the institutional workings of the Union, to avoid the danger of immobilism and weakening of the EU decision-making capacity. On this matter, Edwards interestingly points out that the Union and its Member States committed themselves both politically and legally in order to attain future objectives. One most evident case is the completion of the single market in 1992, but also the aim of enlarging the Union to Central, Eastern and Mediterranean European countries can exemplify this tendency: indeed, having begun in Copenhagen as a political commitment, enlargement – and the joined reforms it implied – turned into a legal obligation⁸³.

Moreover, besides a time for institutional reforms, preparation to enlargement seems to represent a moment of policy change: Steunenberg indeed points out that enlargement provides Member States with the possibility to re-negotiate existing policies. Enlargement hence represents a process that is characterised both by *external* and *internal* pressure⁸⁴: while the former is linked to the political efforts of the applicant countries to negotiate and implement the *acquis*, the latter concerns the institutional and policy reforms which take place within the Union itself, to make it enlargement-ready.

These examples shows that enlargement is not solely dependent on the implementation of membership criteria by applicant States, but also on the Union’s internal condition and capacity to absorb new members, which may hence represent a ‘fourth Copenhagen criterion’. The combination of such external and internal factors, political and legal necessity to reform the legal framework creates a powerful force and ultimately enables the European Union to enlarge⁸⁵.

⁸² Idem, p.15

⁸³ Edwards, G. (2004). *op. cit.*

⁸⁴ Steunenberg, B. (2001). *op. cit.*, p.365

⁸⁵ Edwards, G. (2004). *op. cit.*, p.43

CHAPTER II: BEYOND LEGAL CRITERIA: ENLARGEMENT AS A POLITICAL PHENOMENON

As we saw in Chapter I, Member States seem to establish both political and legal objectives for the European Union, meant at the integration of new countries to the EU. This shows the duality characterising enlargement, which is thus deeply rooted in both legal and political considerations. Having assessed the legal requirements behind enlargement, we may now thus explore the political implications and reasons behind the Union's expansion. We will firstly analyse the role of the *acquis communautaire* as a political tool, contributing to promoting European integration and serving as a catalyst for reform in third countries, besides representing a tool for the spreading of the EU's legal order and values. We shall then delve into the political dynamics of EU enlargement: firstly, we may observe different theories explaining the drive of the Union towards enlargement. Secondly, we shall analyse the geopolitical logic of the first Von der Leyen Commission and understand the interests behind the EU enlarging.

Section 1 : The *acquis communautaire* as a dynamic political tool of the Union's External Action

Besides its legal value, the *acquis communautaire* represents a dynamic political tool of the Union, which presents both internal and external applications. Petrov interestingly highlights that the *acquis* may change its scope depending on the political objectives of its application, may they concern accession processes or internal coherence. Hence, the *acquis*, while constituting the basis of the EU legal order, is not merely a legal tool, but also an inherently political one, which has been used by the Union in a wide variety of contexts⁸⁶. In this section, we will hence explore the political use of the *acquis*, both within and outside the Union. We may then study the 'transformative power' of the Union and its *acquis*, which act as a catalyst for the implementation of democratic reforms in candidate countries.

1. The internal and external dimensions of the *acquis communautaire*

As we saw in the previous chapter, the *acquis communautaire* binds both Member States and candidate countries to the EU legal order and political objectives. Hence, the *acquis* represents a relevant tool of the Union within its borders, which ensures internal coherence and loyal cooperation between Member States. The *acquis communautaire* is indeed based on the 'fundamental

⁸⁶ Petrov, R. (2006). The dynamic nature of the *acquis communautaire* in EU external relations. *Revue Européenne de Droit Public*, 18(2), 1-31.

*acquis*⁸⁷, which encompasses the objectives, policies, general principles and rules constituting the core of the legal order of the Union. The *acquis* hence enables a consistent development of European integration while preserving the Union's legal patrimony.

As for external relations of the Union, the scope of the *acquis* is not uniform nor heterogeneous: it indeed varies based on the different objectives of the Union's external action and presents different dimensions and scopes. Petrov indeed identifies two types of *acquis communautaire*, with different scopes: (1) relevant *acquis* within EU external agreements; and (2) accession *acquis*.

The first typology of *acquis* is meant for countries who have no perspective of EU membership but nevertheless have relations with the Union. Brussels indeed aims at creating a friendly legal environment for the promotion of its interests⁸⁸: in this sense, the export of the access is functional both to facilitate market access of European companies in third countries and to promote EU foreign policy agenda beyond its borders. This first means of 'export' of the *acquis* is carried out through the so-called "approximation clauses" in EU external agreements. The latter ensure the compatibility of a third country's legislation with specific areas of EU legislation. This entails that countries that aim at strengthening their partnership with the EU will engage in a process of harmonisation of their legal order with certain European Union legal standards, based on the aims of the agreement⁸⁹. A further mechanism of spreading of the *acquis* in the context of External Agreements is that of promoting a 'sectorial' *acquis*: this notion entails rules, political principles and judicial decisions which regulate EU competences on specific fields.

The second 'accession' *acquis*, or *acquis criterion*, is one of the conditions of membership set out in the Copenhagen criteria, and entails the new members' adherence to the current – and future – European legal standards, judicial decisions, economic pressures and political objectives, as detailed in Chapter I. Despite its legal character, the accession *acquis* remains a dynamic concept, which has changed throughout different enlargement rounds, and may change depending on the status and steps of negotiations: during the pre-accession stages intermediate *acquis* priorities are developed, leading to the perspective of full implementation of the Copenhagen criteria, thus drawing individual patterns of adoption of the *acquis* for candidate countries. During pre-accession, every candidate indeed adopts a National Programme for the Adoption of the *Acquis* (NPAA), which focuses on national specificities and objectives. The pre-accession *acquis* eventually induces to full compliance with the third Copenhagen criterion, meaning that candidates are expected to implement the full scope of the 35 chapters of the *acquis*. This implies that acts enacted by Union Institutions and founding Treaties are binding upon new Member States, as well as principles and political objectives of the latter. New Member States are expected to integrate EU External

⁸⁷ Petrov, R. (2007). The External Dimension of the Acquis Communautaire. *EUI Working Papers MWP*.

⁸⁸ Idem, p.18

⁸⁹ Ibid., p.19

Agreements with third States and adjust their positions vis-à-vis international organisations which have agreements with the EU, as well as several international conventions⁹⁰ and Council of Europe conventions – since the adherence to the European Convention of Human Rights is per se part of the *acquis*. Lastly, new Member States shall adhere to the objective of “an ever closer Union among the people of Europe”⁹¹, and hence commit to the process of political integration previously undertaken by the other Member States: concretely, this entails that new Member States are expected to observe and implement principles and guidelines deriving from previous declarations and resolutions issued by the Council or the European Council⁹². Not only does the fulfilment of the accession *acquis* encompass its implementation, but also the countries’ capacity to enforce it within their own legal system: the European Council and the Commission repeatedly stressed the need to implement frameworks of technical structures, adapted to ensure the effective implementation of the *acquis*. For instance, in 2005, the Commission published a “Guide to the main administrative structures required for implementation of the *acquis*”: the document points out that candidate countries need to pursue comprehensive domestic reforms to ensure the correct functioning of their own legal system according to the principle of the *acquis* – which is functional to the latter’s application⁹³.

Henceforth it is clear that the *acquis*, besides representing legal standards determining accession, is a sophisticated, dynamic – and political – tool of the Union’s external policy. Besides encompassing a full integration of EU law with its wider normative framework, it also entails comprehensive reforms of the national judiciary, and, most importantly, the alignment of candidate countries with the political objectives of the Union and European integration. Petrov hence suggests that the main objective of the aforementioned external applications of the *acquis* is aimed at establishing a ‘friendly environment’ within the Union’s neighbours and commercial partners, which cannot but confirm its political connotation⁹⁴. Following Petrov’s reasoning, we may now inquire on the ‘export’ of EU legal norms in third and candidate countries, asking ourselves whether the *acquis* could serve as impetus for reform and political change in candidate countries.

⁹⁰ Convention on the Customs Treatment of Pool Containers, the Convention on Mutual Assistance and Co-operation between Customs Administrations, the Convention on Civil Aspects of International Child Abduction and the Rome Convention on the law applicable to contractual obligations. Cfr. Petrov (2007), p.13

⁹¹ Expressed in Article 1 TEU (see Annex I)

⁹² Petrov, R. (2007). *op. cit.*, p.14

⁹³ *Idem*, p.17

⁹⁴ *Ibid*, p.24

2. 'Transformative power': the European Union and its *acquis* as a catalyst for democratic reform in candidate countries

As previously mentioned, the *acquis* is widely used by the Union in its external relations, in order to promote a favourable legal framework within its neighbours and partners – depending on its relations with the latter and on its political aims.

Ever since the Treaty of Maastricht, the EU has openly included development and consolidation of democracy as a core objective within its development cooperation and Common Foreign and Security Policy⁹⁵. Since the early 1990s, indeed, the creation of the European Union has been synonymous with efforts to support former soviet European countries in their democratic and economic transition. While analysing the early 2000s enlargement negotiations with Central and Eastern European (CEE) countries, Grabbe hence argues that the Union's role can be described as twofold. On the one hand, the EU acts as 'aid donor', as, through the *acquis*, it proposed a path of transition, based on democratisation and transformation of the former socialist economy, from which CEE countries benefit. On the other hand, it can be argued that, through its guiding of CEE countries towards accession, the Union adopts a 'club membership' approach, as it creates incentive for reform and judges candidates' process based on its own models⁹⁶.

To encourage the adoption of the constitutional principles of good governance and democratic consolidation within candidate States, Brussels has drawn on positive conditionality – 'reinforcement by reward' – and capacity building – 'reinforcement by support'⁹⁷ – eventually aiming at their accession to the EU. The final goal of membership can be regarded as the core of the EU's 'transformative power'⁹⁸: it hence seems that the EU may be able to affect and be a catalyst for political change in candidate countries through different mechanisms of democracy promotion. The latter should be understood as "all direct, non-violent activities by a State of an International Organisation that are intended to bring about, strengthen, and support democracy in a third country"⁹⁹, thus excluding any kind of physical violence or coercion. Lavenex and Schimmelfennig analyse three ideal-typical models of democracy promotion carried out by Brussels in its external action¹⁰⁰: (1) linkage, tackling the pre-conditions of democracy and supporting the democratic civil society; (2) leverage, fostering democratic reform via conditionality; (3) governance, promoting

⁹⁵ Lavenex, S., & Schimmelfennig, F. (2011). EU democracy promotion in the neighbourhood: from leverage to governance? *Democratization*, 18(4), 885–909

⁹⁶ Grabbe, H. (2002). European Union Conditionality and the *Acquis Communautaire*. *International Political Science Review*, 23(3), 249-268.

⁹⁷ Börzel, T. A. (2016). Building member states: how the EU promotes political change in its new members, accession candidates, and eastern neighbors. *Geopolitics, History, and International Relations*, 8(1), 76-112.

⁹⁸ Idem, p.79

⁹⁹ Lavenex, S., & Schimmelfennig, F. (2011). *op. cit.*, p.888

¹⁰⁰ Summarised in Table 1 (see Annex V)

policy-specific cooperation with third countries. While linkage has been a constant methodology of EU external policies, used for instance in the 1980s to promote democracy in Latin America, the leverage model developed in the 1990s after the end of the Cold War; lastly, the governance model has been used since the early 2000s, at the launch of the European Neighbourhood Policy (ENP).

- (1) Linkage aims, on the one hand, at ‘directly’ supporting democracy, through support for the civil society and political opposition group; support may be material – with infrastructure or funds being provided to civil society organisations – or educational – organising seminars helping the said organisation improve their strategy and operations. On the other hand, the EU can provide ‘indirect’ support through transnational exchanges with democratic States: rather than through short-term calculations, this type of support is of longer-term nature, and aims at transforming the environment and socio-economic structures of third countries. Lavenex and Schimmelfennig observe that the more the EU directly supports pro-democratic civil society organisations and indirectly supports the modernisation of the society through trade, aid, educational programmes and investment, the more this model of democratic promotion will be effective. However, this paradigm deems effective solely in cases where countries are open to transnational exchanges and enable some degree of autonomy to the civil society. Hence, the more accessible and freer the latter is, the better democratisation through linkage will be carried out.
- (2) Leverage seeks to influence governmental Institutions and aims at enhancing democratisation within the latter. In order to initiate institutional change, the EU uses political conditionality, i.e. a bargaining process based on cost-benefit calculations. Through conditionality, the EU encourages – sometimes costly – reforms and adoption of democratic practices in exchange of rewards such as aids, trade agreements, and, ultimately, membership. In cases where the benefits exceed the costs after a government has launched democratic reforms in a third country based on the conditions dictated by the Union, the leverage model deems effective. Hence, the model’s success depends on the political costs of democratic reforms: if the reforms encouraged by the EU are not perceived as a threat to the State’s integrity not to the government’s power, domestic costs will be low; conversely, the latter are high when the Union’s standards are perceived as threatening to the national sovereignty or the security.

- (3) The governance model aims at indirectly promoting democracy mainly through the inclusion democratic principles – related to the *acquis communautaire* – in sectorial cooperation agreements between the Union and third countries’ administrative bodies. Such principles relate to the general framework of public policy and public administration, encompassing transparency, accountability and participation¹⁰¹. This model mainly applies the Union’s external governance: for instance, countries within the European Neighbourhood Policy commit themselves to implement the EU *acquis* in national policies and legislation. Democratic governance is indirectly promoted, as the principles of the *acquis* are tailored for liberal democracies; the *acquis* hence serves as a political tool for democratisation and exporting the EU’s model of governance in third countries.

After having looked at the ideal types of democratisation, we may question the targets and objectives behind of such actions. As for targets of democracy promotion, the EU may use different channels of influence depending on the targeted domestic actors: the Union may indeed choose either intergovernmental interaction – hence dealing with State actors – or through transnational processes – addressing societal actors. Through the former mechanism, the EU seeks to alter the cost-benefit calculation of the third State; instead, the latter is used to target non-State actors and empower them vis-à-vis their governments in encouraging political reforms. Börzel interestingly argues that, through the promotion of the rule of law and the strengthening of democratic government structures, Brussels aims “to build non-members into member States”¹⁰². The EU indeed seeks to transform the domestic political structures of its neighbours, mainly through principles embedded in its *acquis*, to foster security, stability, and prosperity, ultimately aiming at membership for some countries, besides promoting its instruments through international presence. The *acquis* hence acquires a pivotal importance to the advancement of the EU foreign policy, as it constitutes an instrument through which the EU exports its models of economic and political cooperation, regional integration and supranational governance¹⁰³. This external governance of the Union is defined by Magen as “transformative engagement”: this notion encompasses bilateral agreements structures – such as the pre-accession process of Central and Eastern European countries in the early 2000s, the Stabilisation and Accession Process in Western Balkans, the Euro-Mediterranean partnership – which aim at initiating economic, political and social changes in targeted countries through regularised cooperation, dialogue and monitoring in various policy fields.

¹⁰¹ Lavenex, S., & Schimmelfennig, F. (2011). *op. cit.*, p.895

¹⁰² Börzel, T. A. (2016). *op. cit.*, p.84

¹⁰³ Magen, A. (2007). Transformative engagement through law: the *acquis communautaire* as an instrument of EU external influence. *European Journal of Law Reform*, 9(3), 361-392.

All in all, we have seen that, through the *acquis communautaire*, the Union is able to export its norms and principles, most notably democracy and the rule of law, in third countries. This happens via a variety of mechanisms of targeting of both candidate countries and civil society. The *acquis*, whose nature is simultaneously legal and political, hence proves being a paramount tool of the Brussels' foreign policy, which is able to initiate change and create a friendly environment in the EU's neighbourhood, hence proving its transformative power.

Section 2 : Evolving logics of EU enlargement: theoretical foundations, historical perspectives and contemporary shifts

Understanding what drives the European Union to enlarge is essential to grasp its broader political project, and to understand enlargement as a political phenomenon. Enlargement has historically been shaped by a wide variety of strategic, economic, normative and identity considerations, and has often been justified through different theoretical lenses. Scholars like Moravcsik and Vachudova, and Piedrafita and Torreblanca have developed a theoretical framework behind the Union's expansion; their analysis thus seems essential in order to comprehend such political dynamics.

This section hence examines the evolving rationales behind Union enlargement, further shedding light on the latter's political implications. We shall firstly outline a theoretical framework to the expansion of the Union, assessing different logics. Secondly, we will delve into an historical analysis of the 1981 EC enlargement to Greece, motivated by democratic concerns, followed by a reflection on the ongoing enlargement, marked by a shift towards more of a political – and geopolitical – approach, in response to Russia's war of aggression against Ukraine.

1. Logics and narratives of European Union enlargement: a theoretical framework behind the EU's enlargement policy

Moravcsik and Vachudova point out that, at the time of the 2004 Eastern expansion of the Union, Member States were promoting accession as the latter was considered as beneficial, both geopolitically and economically, in the long term¹⁰⁴. The authors challenge theories about the idealistic rationale of EU enlargement, claiming that, while idealism may

¹⁰⁴ Moravcsik, A., & Vachudova, M. A. (2003). National Interests, State Power, and EU Enlargement. *East European Politics and Societies*, 17(1), 42-57.

partly explain the decision to enlarge, national interests and and considerations about power play a more relevant role: indeed, it is shown that in terms of material benefits, enlargement would bring 100 million new customers to the internal market, and that the EU countries would gain approximately ten billion euros in the long term – which outweighed the costs of enlarging. Next to economic benefits, the authors underline that the European Union would gain significant geopolitical stabilisation, and a status of great geopolitical actor¹⁰⁵.

Piedrafita and Torreblanca¹⁰⁶ outline three approaches to explain the logic of EU Eastern enlargement, and the interests behind the latter: (1) a rationalist logic of *consequentiality*, which highlights material interests and profit maximisation; (2) a logic of *appropriateness*, based on values and shared history; (3) a logic of *justification*, which sees enlargement as a deliberative process in which actors exchange arguments and seek to justify their policies. These frameworks remain useful today, in light of the ongoing enlargement negotiations; we may hence deepen the latter typology.

a. Logic of consequentiality

From a rationalist perspective, grounded in the logic of *consequentiality*, the Union can be seen as a profit-maximising actor, expanding to serve strategic and economic considerations. The early 2000s Eastern enlargement may partly exemplify this logic, as it can be viewed as an advantageous decision in which the Union maximised its interests, as also highlighted by Moravcsik and Vachudova: on the one hand, expansion is indeed aimed at promoting the interests of Member States in Central and Eastern Europe, and, on the other, at turning the European Union into a relevant geopolitical actor on the international scene. By integrating Central and Eastern European countries, the EU extended its sphere of influence and its legal order and solidified its geopolitical position in the Cold War era. Enlargement also brought supplementary economic benefits, most notably the increase in trade and capital flows and the overall growth of the EU's GDP. Through its Eastern enlargement, the Union, rather than improving its efficiency in policy-making, enhanced its power as a geopolitical actor and as an economic force, following an interest-based reasoning.

¹⁰⁵ Idem, p.50

¹⁰⁶ Piedrafita, S., & Torreblanca, J. I. (2005). The three logics of EU enlargement: interests identities and arguments. *Politique européenne*, 15(1), 29-59.

b. Logic of appropriateness and sociological institutionalism

While such instrumentally oriented considerations are significant, enlargement can only be partially explained by such a cost-benefit analysis. A logic of *appropriateness* indeed suggests that State preferences are shaped by common identities, norms, values and historical responsibilities, which determine the path to follow. Thus, States establish a notion of ‘We’ and bonds of solidarity. Enlargement may be interpreted in this sense, rather than merely as an interest and gain logic: indeed, following the collapse of the Soviet Union, the discussions on enlargement on enlargement concerned ‘the right thing to do’¹⁰⁷ rather than benefits and cost implied. Schimmelfennig indeed argues that mere economic and political interests cannot account for such a costly and ambitious enlargement: EU Member States, confronted to normative arguments, committed themselves to enlarge to countries sharing the EU’s liberal values. It is this rhetoric, according to scholars, which ultimately sustained enlargement, rather than simply interests¹⁰⁸.

Hence, according to this logic, actors do not solely consider what is better for them, but also what they are expected to do, i.e. the norms they should apply. This approach relates to historical and sociological institutionalism: while the former highlights the role of past institutional commitment in defining State behaviour, the latter focuses on the effect of norms and principles, which are interiorised by members of institutions. In this perspective, March and Olsen define an institution as a “relatively stable collection of practices and rules defining appropriate behaviour for specific group of actors in specific situations”¹⁰⁹: consequently, institutionalisation encompasses the emergence of specific practices and norm within an institution, which come to shape the identity and behaviours of its members. Hence, solely reasoning in terms of interests would ignore the substantial role of identities and normative frameworks, which are shaped by institutions themselves and which impact actors’ behaviour. Within the logic of appropriateness, actors are viewed as ‘rule-based’, meaning that they act following a specific identity or role, and attaching the obligations and implications of that role or identity to a specific situation¹¹⁰: as a result, although self-interest characterises political action, the authors argue that the latter is often based on the normatively appropriate behaviour, articulated in duties, obligations, roles and rules¹¹¹. Sedelmeier and Schimmelfennig further build on March and Olsen’s conceptualisation,

¹⁰⁷ Idem, p.44

¹⁰⁸ Schimmelfennig, F. (2001). The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union. *International Organization*, 55(1), 47-80.

¹⁰⁹ March, J.G., & Olsen, J.P. (1998). The Institutional Dynamics of International Political Orders. *International Organization*, 52(4), 943-969.

¹¹⁰ Idem, p.951

¹¹¹ March, J.G., & Olsen, J.P. (1984). The New Institutionalism: Organizational Factors in Political Life. *The American Political Science Review*, 78(3), 734-749.

applying sociological and constructivist institutionalism to EU enlargement: applicants and members define each other's identity and their relations on the basis of the norms and principle which define the European Union as a community¹¹².

The Eastern enlargement can exemplify a logic of appropriateness: at the beginning of the 1990s, Irish Prime Minister Haughey indeed affirmed the Union's "enormous load of responsibility towards Eastern Europe". This perspective highlights that the Union's identity and solidarity influenced the decision to enlarge the EU to new members. Once that established, Member States proceeded to strengthen cooperation, through Association Agreements which combined economic liberalisation and political conditionality, which reiterated and reinforced the Union's identity as a space of democracy, rule of law and human right. Following a first phase of enhanced cooperation, the initial commitment of EU Leaders towards enlargement was expressed, as previously highlighted, during the 1993 Copenhagen Council, and once again common values were stressed as driving force of the enlargement process. The relevance of common values is ultimately confirmed by the discussions concerning Turkey's accession to the EU: despite being similarly classified as Estonia and Latvia by Freedom House in terms of political rights and civil liberties in 1992, and even surpassing Romania in the latter categories, Turkey never attained the candidate status, while Bucharest was promised accession by 2007. This discrepancy shows the strong normative dimension of enlargement: the Union and its Member States indeed prioritised enlargement to Eastern European countries, on the grounds of historical affinities and stronger bonds of solidarity.

c. Logic of justification and European narratives

Finally, beyond strategic interests and normative commitments, enlargement also has a strong deliberative dimension, as it is shaped by political debate by a logic of *justification*. Piedrafita and Torreblanca indeed highlight that, starting from the very decision to enlarge, the expansion has been a product of arguments and debates, rather than sole calculations or identity-driven motivations. For instance, starting from 1992, as Eastern European countries faced problems in their democratic transition, criticism arose on the inconsistency of the EU's association policy. The Commission hence asked for more effective and tangible political action; despite the lack of consensus among Member States on the degree of readiness – of both the Union and candidates – to enlarge, in the Copenhagen Council EU Leaders found consensual conditions and officially launched the expansion. The justification

¹¹² Schimmelfennig, F., & Sedelmeier, U. (2002). Theorizing EU enlargement : research focus, hypotheses, and the state of research. *Journal of European Public Policy*, 9(4), 500-528.

of the need of enlargement has been largely supported by value-based arguments, rather than economics: although costly in the short-term, the prevailing narrative was that enlargement would be good for the Union in the long run. Moreover, the whole process itself was structured around the implementation of the criteria and the *acquis*, reinforcing the idea that the timing of negotiations and the overall process was primarily about meeting the necessary political, economic and legal conditions to enlarge rather than meeting immediate economic benefits. Within the logic of justification, actors are considered rational not only when they act according to their interests or normative commitments, but also when they can explain and justify their action; legitimacy of a behaviour, in this case, comes from the idea of justice – rather than efficiency or identity¹¹³. Member States, when enlarging the EU, have not only defended their own interests, but have also felt the need to justify their actions on the grounds of common values and norms accepted by all members of the community¹¹⁴.

To complete the analysis of the logic of justification carried out by Piedrafita and Torreblanca, which highlights the mechanisms of justification behind the legitimisation of EU enlargement, it is interesting to further explore the Union's tools to justify its actions, i.e. narratives. In *The European Union in search of narratives: disenchanted Europe?* François Foret addresses the narratives which the EU has used – and uses – to legitimise itself vis-à-vis its citizens. The author identifies three dominant narratives within the EU's legitimisation efforts, i.e. *Europe of rights*, *Europe of values* and *European way of life*. These three approaches have been used by Brussels to legitimise European integration and create a feeling of attachment and loyalty to the EU¹¹⁵. The 'Europe of rights' narrative has become the *leitmotiv* of European integration, as the EU has put forwards its identity as a community of norms able to reshape national States and cultures¹¹⁶. Both legal and political narratives are encompassed within this formula, which sees the European Court of Justice as one of its main actors: despite being the judicial body of the EU, the ECJ is indeed often described as a 'cosmopolitan entrepreneur', using judgments to push for further integration and hence having a 'polity-cal' function, meaning that it contributes to shape the EU polity and the representation of Europe. Foret indeed underlines that the ECJ produces narratives which characterise the Union as a 'community of law' 'funded on values'; this emphasises the EU as both a legal and political project and makes human rights one of the cornerstones of European legitimisation¹¹⁷. Secondly, the 'Europe of values' narrative relies on less strict legal

¹¹³ Piedrafita, S., & Torreblanca, J. I. (2005). *op. cit.*

¹¹⁴ Idem, p.53

¹¹⁵ Foret, F. (2025). The "Europe of rights" narrative: binding, uniting, dividing. In: *The European Union in search of narratives: disenchanted Europe?* Routledge Studies on Government and on the European Union.

¹¹⁶ Idem, p.81

¹¹⁷ Ibid., p.81-82

elements, and rather on the idea of the EU as a normative and ethnocultural community¹¹⁸. European values, set out in Article 2 TEU, have been the focal point of the EU's quest for legitimisation during the 2004-2007 Eastern enlargement – as well as the 2008 financial crisis¹¹⁹. These events raised the need to justify European integration not solely as a matter of pragmatic interests, but also through normative discourses, as also highlighted by Piedrafita and Torreblanca: through values, the European Union has justified and carried out its enlargement policy, upholding the sense of Europeanness and unity. Lastly, the 'European way of life' narrative can be viewed, on the one hand, as a more concrete reference to social and cultural practices, less abstract than legal standards of human rights protection or values. Nonetheless, on the other hand, Foret underlines that, while certain values may be universal, a European way of life only concerns Europeans, by definition. This rather vague concept is hence analysed by the author as a "celebration of a potential set of cultural norms likely to create a sense of belonging to the EU"¹²⁰. Importantly, this narrative also has acquired controversial links with migration and has been cherished by the European far-right parties as a way to 'save European civilisation from flows of migrants'¹²¹. From its launch in 2019, this narrative has been progressively reduced and connected to rhetorics on European values – and hence not fundamentally altering the perceptions of citizens on the EU, i.e. that of a space characterised by important national socio-economic differences among its Member States¹²².

Foret's study hence further upholds the logic of justification, highlighting how the European Union employs narratives based on its legal framework, model and normative commitments while seeking to justify policies, including enlargement, and legitimising integration.

All in all, EU enlargement is best understood through a combination of an interest-based logic, normative commitments to the Union's values and justifications. While approach-based consequentiality and cost-benefit calculations explain that enlargement was carried out with the objective of turning the Union into a relevant geopolitical actor encompassing former USSR, we have seen that expansion remains largely defined by values, identity and justice in its configuration. The Eastern enlargement was indeed dominated by

¹¹⁸ Foret, F. (2025). The "Europe of values" narrative: a broad and empty church on the market square? In: *The European Union in search of narratives: disenchanted Europe?* Routledge Studies on Government and on the European Union.

¹¹⁹ Idem, p.131

¹²⁰ Foret, F. (2025). "European way of life" narrative: legitimization through shared everyday experiences? In: *The European Union in search of narratives: disenchanted Europe?* Routledge Studies on Government and on the European Union.

¹²¹ Idem, p.179

¹²² Ibid., p.180

considerations attaining both to interest-maximisation and respect of EU principles, framed by a rationalist process of justification. Besides interest-driven considerations, enlargement hence is a peculiar political process: enlargement is indeed shaped by a continuous process of arguing about the course of action which best comply with EU principles – and, ultimately, with the objective of “creating an ever-closer union amongst the peoples of Europe”¹²³ – followed by a justification of the decisions adopted, based on their compliance and justice in light of those principles¹²⁴. The enlargement processes cannot only be explained through utilitarian reasons, based on the benefits of expansion, but also on the values promoted by the EU and the consistency with whom they are applied¹²⁵.

Having outlined a general theoretical framework to EU enlargement, we may now analyse two enlargement processes, i.e. the one to Greece in the 1980s and today’s enlargement debates. Hence, in each enlargement process, different economic, strategic and normative perspectives interact, shaping the evolving identity and political role of the Union towards its neighbourhood.

2. Past perspectives on enlargement logics: enlargement to Greece as a process of democratisation

The Southern enlargement of the European Communities represented one of the most relevant events in European politics of the 1980s, as it constituted a turning point for the economic and political structures of both the Union and its new Member States ¹²⁶, i.e. Greece, Portugal and Spain. Greece became the tenth EC Member State in 1981, following the end of the Papadopoulos’s military junta’s authoritarian government and the country’s democratisation.

The EC had signed an Association Agreement with Greece in 1961, which provided for the customs union between the two actors at the end of a 22-year transitional period, as well as the harmonisation of agricultural and taxation policies; besides, the Agreement also foresaw Greece’s eventual accession to the European Community¹²⁷. This process of gradual integration ceased in 1967, when a group of army colonels led by Colonel Georgios Papadopoulos took power through a coup and established an authoritarian regime in the form of a military junta. The authoritarian development of Greece confronted the EC: either

¹²³ Article 1, Treaty on the European Union (See Annex I)

¹²⁴ Piedrafita, S., & Torreblanca, J. I. (2005). *op. cit.*, p.51

¹²⁵ *Idem.*, p.53

¹²⁶ Salm, C. (2021). The European Parliament and Greece’s accession to the European Community. *EPRS – European Parliamentary Research Service, European Parliament*.

¹²⁷ CVCE.eu. Second enlargement: Greece. In *Historical events in the European integration process (1945-2000)*.

integrate authoritarian Greece into the European Communities – implying renouncing its own political values – or isolating Athens despite its strategic geographic importance. Following European Parliament’s pleas to freeze the Association Agreements – on the grounds that the latter did not solely encompass economic deals, but also political conditions intended to prepare Greece’s accession to the EC – obligations on trade and customs duties were kept active, but the Commission eventually halted negotiations on futures perspectives and harmonisation until Greece returned to democracy, despite the country’s strategic importance for the EC. Salm indeed highlights that the EC’s freezing relations with Athens, due to the latter authoritarian backsliding, encouraged the creation of a ‘Third Europe’, constituted by the right-wing authoritarian governments of Spain, Portugal and Greece, outside of both the democratic integrated Europe and the Soviet Bloc. The ‘Third Europe’ was crucially important to the European Community for its location, as it constituted a geographical gateway to politically and economically relevant regions in Africa and the Middle East¹²⁸.

On July 24th 1974, in the aftermath of the collapse of the military junta linked to the Turkish invasion of Cyprus, Constantinos Karamanlis was recalled in Athens with the specific aim of restoring democracy¹²⁹. Karamanlis turned to Europe almost immediately after the beginning of his mandate – for the purpose of distancing Greece from the United States and NATO, scholars say. On August 22nd 1974, Greece formally requested the reactivation of the 1961 Association Agreement, following its suspension during the Colonels’ regime. The European Community hence became associated with liberal democratic values: scholars indeed point out that the freezing of the Agreement gave rise to an identification of the phenomenon of European integration with the defence of democratic values¹³⁰; Karamanlis indeed often emphasised the support of the EC to achieving democratisation. This idea was reiterated in the 1974 Greece’s memorandum to the European Economic Community, which identified the latter with the upholding and protection of democratic values.

The European Parliament reacted quickly to the political developments in Athens, and discussed the conditions that Greece would have to fulfil to entirely unfreeze the Association Agreement:

¹²⁸ Salm, C. (2021). *op. cit.*, p.2

¹²⁹ Karamouzi, E. (2015). A strategy for Greece: Democratization and European integration, 1974-1975. *Cahiers de la Méditerranée*, (90), 11-24.

¹³⁰ Idem, p.6

- *Considering that the criteria which should govern the re-establishment of the Association between the European Community and Greece are primarily political in nature;*
- *Considers that the positive attitude concerning an early return to parliamentary democracy already shown by the Greek Government justifies the immediate ‘defreezing’ of the economic and commercial aspects of the Association, under conditions to be arranged by the Council of Association;*
- *Considers that pending the appointment of a new Greek parliamentary delegation following elections, exploratory talks should be held, in the near future, between a Delegation of the European Parliament and a Delegation of the former Greek Parliament;*
- *Considers therefore that the following should be the criteria to be fulfilled by the Greek Government before the Association can be resumed in full: the holding of free parliamentary elections; the full restoration of the rule of law and human rights¹³¹.*

These conditions – outlined by the European Parliament rapporteur on the Greek situation Peter Corterier – highlighted the importance of the democratisation in the resuming of relations between the EC and Greece and were of fundamental importance as they were likely to contribute to Greek democratisation itself¹³². The demand for a rapid re-integration emerged both from the European Parliament and Athens: on the one hand, on the Greek side, a fast unfreezing of the Association Agreement was synonymous with economic benefits, essential in the process of democratisation. Athens hence emphasised its commitment to revive the Agreement and resume negotiations on the harmonisation of Greek agricultural policy with the Common Agricultural Policy. On the other hand, European Institutions expressed their solidarity with the newly democratised Greece, and pursued integration in order to enhance the country’s efforts towards democratisation: on August 19th 1974, the then-President of the European Parliament Cornelis Berkhouwer visited Athens and publicly endorsed Greek’s endeavours towards democracy in the name of the Parliament¹³³.

Pursuing its democratisation, Athens thoroughly balanced domestic affairs and policies towards the EC: the perspective of integration with Western Europe was indeed always a focal point of Karamanlis domestic policy, as exemplified by his decision to pave the legalisation of the Greek Communist Party (KKE) – which had been outlawed in 1947 as a result of the civil war. With regard to this decision, in an interview Karamanlis explained that “[t]he legalisation of the KKE was a necessary measure in order to equate ourselves [the Greeks] with the democratic countries of the West. If I hadn’t done it, we would not have been able to convince our European

¹³¹ Corterier, P (1974). Report drawn up on behalf of the Political Affairs Committee on the association between the EEC and Greece. Working Documents 1974-1975, Document 237/74, 13 September 1974. [EU European Parliament Document].

¹³² Salm, C. (2021). *op. cit.*, p.4

¹³³ Karamouzi, E. (2015). *op. cit.*, p.7

partners of the sincerity of our efforts to restore democracy in Greece”¹³⁴. The European Community rapidly acknowledged – and acted upon – Greek efforts for democratisation: while the country yet had to conduct proper elections, on September 17th 1974 the Association Agreement was restored, and ten days later Greece was readmitted to the Council of Europe.

Karamanlis won the 1974 elections, and, following a referendum, a Republic was established in Greece. On June 11th 1975, the new constitution was approved, and Greece formally applied for membership of the European Community. Accession negotiations started in 1976 and were completed in 1979, followed by the signing of the Treaty of Accession on May 28th 1979. The Greek Parliament ratified the Act of Accession in June of the same year, and Greece became a member of the EC on January 1st 1981. Athens was granted a period of five years to adapt its economy to EC standards; however, for some domains considered particularly sensitive, a seven-year transitional period was allowed. Despite the rather negative assessment of Greek economy by the Commission, the support of the European Community to a full democratisation the country determined such a rapid enlargement¹³⁵.

All in all, we have seen that Greek accession to the European Community was the product of a shared dedication to democratisation – both on the part of Athens, seeking to solidify its democratic transition and its economy, and the EC, which viewed enlargement as a means to promote and entrench democratic values and institutions in a country emerging from authoritarian rule. The suspension of cooperation between Athens and Brussels following the coup in 1967 also exemplifies the EC’s adherence to its own values, even when strategic interests – given Greece’s strategic geographic position – would have dictated otherwise. Moreover, Greece’s integration to European Community also illustrates the process of Europeanisation, assessed in Section 1 of this Chapter: through the application of European standards on democracy and aiming at membership, the country underwent significant institutional transformations, aligning its governance and economic policies to the EC.

The Greek case hence resonates with Piedrafita and Torreblanca’s model, and highlights that enlargement is not only a geopolitical strategy of the Union, but also a normative project characterised by a commitment towards European values and identity and aimed at shaping the political and institutional landscape of new Member States, thus

¹³⁴ Massip, R. (1982). The Distinguished Greek [Greek translation of Karamanlis: un Grec hors du commun], Athens, Sideris, p. 120. Cited in: Karamouzi, E. (2015). A strategy for Greece: Democratization and European integration, 1974-1975. *Cahiers de la Méditerranée*, (90), 11-24.

¹³⁵ CVCE.eu. Second enlargement: Greece. In *Historical events in the European integration process (1945-2000)*.

following a logic of appropriateness. Having analysed a past enlargement policy aiming at democratisation, we may now assess the framework of the current EU enlargement policy.

3. Revised Enlargement Methodology and the 'geopolitical' Von der Leyen I Commission: a 'stronger political steer' and new strategic interests

In her speech to the European Parliament on November 27th 2019, President Ursula von der Leyen claimed that she would lead a 'geopolitical' Commission¹³⁶. This emphasis on foreign policy will be detailed throughout her mandate, which has seen numerous challenges for the EU External Action, i.e. the demands for enlargement of Western Balkans, the will to assert the role of the Union as a global actor, and Russia's war of aggression against Ukraine. Enlargement has thus become one of the focal points of the past – and current – Commission agenda, which strives for European integration of both Western Balkans and the 'Eastern Trio' – i.e. Ukraine, Moldova and Georgia. This section hence aims at exploring the current enlargement strategy of the European Commission, and the geopolitical imperatives driving this policy shift, before detailing the case of Ukraine in Chapter III.

On February 5th 2020, the European Commission issued a Communication¹³⁷ to the European Parliament, the Council, the European Economic and Social Committee (ECSC) and the Committee of the Regions on *Enhancing the accession process* and defining *A credible EU perspective for the Western Balkans*. The Commission unequivocally reaffirmed its commitment to advancing the accession process for the Western Balkans, describing it as a geo-strategic investment of paramount importance to the 'Union's very own political, security and economic interest'¹³⁸. This declaration highlighted a shift in the Union's policy and justification for enlargement, moving from its traditional emphasis on economic benefits and democratic institutional reforms towards a more explicit geopolitical rationale. Since 2020, the Von der Leyen I Commission has consistently framed enlargement within its geo-strategic and geopolitical value, following the pattern of the rationalist logic of consequentiality.

To translate this political intention into reality, the Commission introduced its Revised Enlargement Methodology¹³⁹, which has been perceived by scholars as a new political

¹³⁶ European Commission (2019). 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.

¹³⁷ European Commission (2020). Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions: *Enhancing the accession process – A credible EU perspective for the Western Balkans*.

¹³⁸ European Commission (2020). *Enhancing the accession process – A credible EU perspective for the Western Balkans*, p.2

¹³⁹ Detailed in Chapter I, Section 2.4

framework to enlargement rather than an actual technical process¹⁴⁰. As highlighted above, one of the key features of the new methodology is its ‘stronger political steer’: by emphasising a more engaging and politically driven strategy, the Commission thus aims at making enlargement more credible, predictable and dynamic, and at reinforcing the EU’s commitment to its neighbouring regions. This seeks to address long standing criticisms that the accession process is slow-moving; indeed, any ambiguity and criticism regarding the accession process may create instability and detachment from the EU among its neighbours, a so-called ‘de-Europeanisation’ – as it was partially already the case in Serbia and Bosnia and Herzegovina¹⁴¹.

The EU’s enlargement policy has hence been reinforced under Von der Leyen I Commission, and its renewed commitment towards Western Balkans has been paired with efforts of European integration towards Ukraine and Moldova since the Russian aggression against Ukraine of 2022. EU leadership has indeed expressed optimism about future enlargement: in her 2023 State of the Union Speech, President von der Leyen expressed her vision of a Union with ‘30+’ member countries, encompassing the six Western Balkans, as well as Moldova and Ukraine. Similarly, former President of the European Council Charles Michel highlighted the need to view enlargement no longer as a ‘dream’, but rather as the concrete future of the EU, to be achieved by 2030 – with the necessary internal reforms¹⁴². According to Cenusa, the centrality of enlargement in the Commission agenda is meaningful, and signifies a reshaping of the Union’s borders, which encompass both Western Balkans and the ‘Eastern Trio’. In this context, enlargement is no longer solely about fostering democratic transformation and economic convergence, but also about consolidating Brussels’ geopolitical sphere of interests and enhancing the overall stability and security of the continent.

All in all, the first Von der Leyen Commission marked a shift in the EU’s policy on enlargement and has demonstrated ambition in improving the latter through a renewed methodology. The enlargement policy of the European Union has indeed been redefined through a distinctly geopolitical lens, recognising the accession of new members as both a strategic imperative and a normative project. This geopolitical shift in the Union’s enlargement policy is evident in the case of Ukraine, whose bid for membership has gained unprecedented momentum since Russia’s 2022 full-scale invasion. Drawing upon the theoretical framework

¹⁴⁰ Tilev, D. (2020). The new EU enlargement methodology: enhancing the accession process. *Institute for Democracy ‘Societas Civilis’*

¹⁴¹ Cenusa, D. (2023). Upgrading EU Enlargement Methodology: Enhancing Accession Prospects for the New Eastern Candidates. *Eastern Europe Studies Centre*.

¹⁴² Idem, p.3

set out in Chapters I and II, the following Chapter hence analyses Ukrainian enlargement trajectory.

CHAPTER III: EU ENLARGEMENT BETWEEN LAW AND POLITICS: A CASE STUDY ON UKRAINE

On February 28th 2022, the Ukrainian President Volodymyr Zelenskyy formally applied for EU membership. This moment marked a shift in the priorities and policies of the EU, as enlargement re-gained momentum due to the full-scale Russian aggression against Ukraine. This final chapter hence aims at understanding how political and legal criteria are intertwined in the case of Ukraine, and how the latter determined the progress Ukraine is making in its path of European integration.

Given the political urgency of this enlargement, this final Chapter aims at setting the historical background of EU-Ukraine relations, and then to analyse both the political aspects of Kyiv's accession to the EU, as well as its legal compliance with the EU *acquis*. Finally, the Chapter assesses the capacity of the EU to welcome new members, as well as the reforms Brussels should undertake in order to be 'enlargement-ready'.

Section 1 : Ukraine's accession pathway to the EU

1. Overview of EU-Ukraine relations between 1994 and 2022: PCA and AA/DCFTA

Following the collapse of the Soviet Union (USSR) and the national referendum held on December 1st 1991, Ukraine gained independence. The political relations between the European Union and the newly independent Ukrainian State began in 1994 through signing the Partnership and Cooperation Agreement (PCA). At the time, both parties were indeed eager to strengthen bilateral cooperation and ties. On the one hand, for the EU, Ukraine constituted a major economic partner, besides a politically strategic one: due to its strategic position, Kyiv was seen as a key regional player having a significant impact on the security and prosperity of the European continent. Besides, Ukraine was essential in terms of economic interest, due to the imports of natural gas and its vast agricultural capacity¹⁴³. On the other hand, European integration has been one of Kyiv's priorities at the moment of its independence from the USSR. Despite its close diplomatic and economic ties with Russia until 2014 – consistently with the 1997 Russian-Ukrainian Friendship Treaty, which had established a relation of 'mutual respect and confidence, strategic partnership, cooperation', as well as 'sovereign equality, territorial integrity' and 'good-

¹⁴³ Spiliopoulos, O. (2014). The EU-Ukraine Association Agreement as a framework of integration between the two parties. *Procedia Economics and Finance*, 9, 256-263.

neighbourliness' between Moscow and Kyiv¹⁴⁴ – Ukraine has also viewed the European Union as a relevant strategic partner, with whom it immediately sought to deepen relations¹⁴⁵. Following its independence, however, Ukrainian politics has not been solely marked by pro-EU stances, and shifts in foreign policy have been a constant in Ukrainian political history: while during Kravchuk's presidency (1991-1994) foreign policy was explicitly pro-Western and pro-EU, following presidencies were characterised by pro-Russian narratives and policies. During Yuschchenko's mandate (2005-2010), Ukraine's alliance with the EU and NATO was strengthened, however, following the election of Yanukovych, the country's foreign policy went back to pro-Russian stances¹⁴⁶.

The PCA entered into force in 1998 and acted as the basic legal framework for the relations between Kyiv and Brussels. The agreement's aim was that of approximating Ukraine's existing and future legislation to that of the EU in specific areas and hence strengthening ties between the two parties – however, through a minimalistic approach¹⁴⁷. Article 51 of the PCA indeed claimed that Ukraine 'shall endeavour to ensure that its legislation be gradually made compatible with that of the Community', hence lacking precise standards of implementation and leaving ample margin of *manœuvre* to Ukrainian authorities. The PCA provided for the 'priority areas' of legislative action, notably: customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers at the workplace, financial services, rules on competition, public procurement, protection of health and life of humans, animals and plants, the environment, consumer protection, indirect taxation, technical rules and standards, nuclear laws and regulations, transport¹⁴⁸. The launch of the European Neighbourhood Policy (ENP) in 2004¹⁴⁹ – meant at fostering security and stability in the Union's Eastern and Southern neighbours – gave new impetus to EU-Ukraine relations: the ENP Action Plan was indeed adopted in 2005 with Kyiv, laying down economic and political priorities for reform, and the idea of renegotiating a new bilateral framework to replace the PCA was established as a long-term objective.

In 2006, the Commission announced its intention to negotiate 'deep and comprehensive free trade agreements' (DCFTAs) with its neighbours¹⁵⁰, among which Ukraine, with whom negotiations on a new Association Agreement (AA) started in 2007. After the completion of

¹⁴⁴ Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation (1997). Art. 1-2-3-4 (see Annex VI).

¹⁴⁵ Shyrokykh, K. (2018). The Evolution of the Foreign Policy of Ukraine: External Actors and Domestic Factors. *Europe-Asia Studies*, 70(5), 832–850.

¹⁴⁶ Idem, p.834

¹⁴⁷ Van der Loo, G., Van Elsuwege, P., & Petrov, R. (2014). The EU-Ukraine Association Agreement: assessment of an innovative legal instrument. *EUI Department of Law Research Paper*, (2014/09).

¹⁴⁸ Art. 51(2), EU-Ukraine PCA

¹⁴⁹ EEAS (2021). European Neighbourhood Policy.

¹⁵⁰ Van der Loo, G., Van Elsuwege, P., & Petrov, R. (2014). *op. cit.*, p.5

Ukraine's integration to the World Trade Organisation (WTO) in 2008, negotiations between Kyiv and Brussels on the establishment of a DCFTA started – which would represent a key component of the AA¹⁵¹. As for the Association Agreement, a political agreement was reached in December 2011, and the AA was finalised in March 2012. Then, in May 2013, the Commission adopted the proposals for Council Decisions on the signing and the conclusion of the EU-Ukraine Association Agreement – including its DCFTA¹⁵². From the perspective of EU law, the agreement is based on Article 217 TFEU, as it establishes an 'association involving reciprocal rights and obligations, common action and special procedure'.

The agreement was however not immediately signed in 2013, due to shortcomings in Ukraine in terms of rule of law and law enforcement systems, which had yet to be aligned to European standards¹⁵³. At the eve of the Eastern Partnership Summit in Vilnius, the Ukrainian government, led by the pro-Russian Yanukovich, eventually decided to suspend the process of the signature of the AA/DCFTA, on the grounds of ensuring the national security of Ukraine and resuming trade relations with the Russian Federation as well as the other Commonwealth of Independent States (CIS) countries. Economic pressures from Russia had indeed increased as the Summit was approaching: in August 2013, Moscow introduced an embargo on products coming from Ukraine – which was interpreted by many as a warning signal, implying that, following the ratification of the EU-Ukraine AA/DCFTA, Ukrainian products would significantly be limited on the Russian market¹⁵⁴. The withdrawal from the signing of the agreement sparked massive civil protests in Kyiv, known as *Euromaidan Revolution*, on November 21st-22nd 2013, in support of political and economic integration with the European Union. *Euromaidan* events were followed by the dismissing of President Yanukovich on February 22nd 2014, by the establishment of an interim government led by Prime Minister Yatsenyuk and the appointment of Turchynov as President of the country.

In the meanwhile, Russian military personnel with no insignia seized important buildings in the Ukrainian Crimea region, marking the beginning of Russian unlawful occupation of Crimea. On March 1st 2014, the Federation Council of Russia authorised the use of armed forces on the Ukrainian territory, in clear breach of the UN Charter and of previous regional agreements – notably, Article 2 of the aforementioned 1997 Treaty on Friendship, Cooperation and Partnership with Ukraine¹⁵⁵. On March 16th 2014, a referendum was held in Crimea and on 18th March, the Russian Federation signed a Treaty with the authorities of Crimea and of the City of Sevastopol,

¹⁵¹ Spiliopoulos, O. (2014). *op. cit.*, p.257

¹⁵² European Commission (2013). Signature of Association Agreement with the EU will depend on Ukraine's performance. Press release, IP/13/436.

¹⁵³ Van der Loo, G., Van Elsuwege, P., & Petrov, R. (2014). *op. cit.*, p.5

¹⁵⁴ Kononczuk, W. (2013). Ukraine withdraws from signing the Association Agreement in Vilnius: The motives and implications. *Analyses – Centre for Eastern Studies*.

¹⁵⁵ See Annex VI

institutionalising the Russian annexation of the region with immediate effect¹⁵⁶. The validity of the referendum has not been internationally recognised: in the European Council Conclusions of March 20th 2014, EU Leaders expressed their support to Ukrainian people and to ‘their right to choose their own future’, denounced the unlawfulness of the referendum held in Crimea and denounced the region’s illegal annexation, besides affirming their determination to sign the Association Agreement¹⁵⁷.

The signature of the political provisions of the EU-Ukraine AA/DCFTA indeed took place on March 21st 2014, and, on April 16th the Parliament and the Council adopted a Regulation 374/2014 “on the reduction or elimination of customs duties on goods originating from Ukraine”¹⁵⁸: thanks to the latter, Ukraine could benefit from the EU’s unilateral trade preferences, in accordance with the schedule set in the AA and prior to the application of the whole Agreement¹⁵⁹. Despite this division, the political and economic part of the AA/DCFTA remain part of the same and single legal instrument: Van der Loo, Van Elsuwege and Petrov argue that the partial signature of the political clauses of the Agreement may be considered as a political gesture to underline the commitment of both Kyiv and Brussels to shared values. The partial signature indeed did not result in the entry into force of those clauses, nor in their provisional application: it was only after the signature of the entirety of the Agreement on June 27th 2014 that the ratification procedure was launched. The EU-Ukraine AA is a mixed agreement, meaning that it has both the Union and its Member States as contracting parties¹⁶⁰. Article 486 of the AA thus provides for the possibility of provisional application of the agreement – prior to its actual ratification – which, given the agreement’s political significance, was agreed upon by the Council on a significantly wide range of areas, including: General Principles (Title I); Financial Cooperation (Title VI); almost the entire DCFTA (Title IV); Institutional, General and Final Provisions (Title VII); several provisions concerning political dialogue, Justice, Freedom, Security, economic and sectoral cooperation. The latter provisions could be applied on provisional basis to the extent that ‘they cover matters within the Union’s competence’, including the Common Foreign and Security Policy (CFSP)¹⁶¹. The AA formally entered into force on September 1st 2017, and the DCFTA has provisionally applied since January 1st 2016¹⁶².

¹⁵⁶ European Commission (2014). ENP Country Progress Report 2013 – Ukraine.

¹⁵⁷ European Council (2014). Conclusions on Ukraine approved by the European Council, 20 March 2014.

¹⁵⁸ Regulation (EU) No 374/2014 of the European Parliament and of the Council of 16 April 2014 on the reduction or elimination of customs duties on goods originating in Ukraine.

¹⁵⁹ Petrov, R., Van der Loo, G., & Van Elsuwege, P. (2015). The EU-Ukraine Association Agreement: a new legal instrument of integration without membership? *Kyiv-Mohyla Law and Politics Journal*, 1(2015), 1-19.

¹⁶⁰ Schütze, R. (2021). External Powers. In *European Union Law*, 3rd edition, Oxford University Press.

¹⁶¹ Van der Loo, G., Van Elsuwege, P., & Petrov, R. (2014). *op. cit.*, p.6-7

¹⁶² European Commission. Ukraine: EU trade relations with Ukraine. Facts, figures and latest developments.

After 2017, Ukraine strengthened its ties to the EU and the West: in 2019, an amendment to the Ukrainian constitution was passed, setting NATO and EU membership as a strategic foreign and security policy objective. In 2020, the Ministers of Foreign Affairs of Poland, Lithuania and Ukraine held a trilateral meeting to discuss regional integration, and established the so-called *Lublin Triangle*, meant at bringing Kyiv closer to the European Union, NATO, as well as other regional organisations like the Visegrad Group – composed by Poland, Czech Republic, Slovakia and Hungary¹⁶³.

It is hence clear that, overall, since 2014, Ukraine has pursued European integration through the Association Agreement, implementing political and economic reform to align with EU standards. However, the 2022 full-scale invasion of Ukraine by the Russian Federation marks a decisive turning point, as Kyiv pushed for closer ties with the EU.

2. February 24th 2022 as 'a defining moment in the history of Europe': Russian aggression against Ukraine and the new impetus for Eastern enlargement

In November 2021, tensions between Russia and Ukraine arose as Ukrainian President Zelensky denounced the massive deployment of Russian troops near the Ukrainian border, as well as in the Black Sea. Russia subsequently issued formal security demands to appease the crisis with Ukraine, including a legally binding guarantee that Kyiv would never join NATO. As NATO placed troops on its Eastern borders, Russia launched the largest military exercise since the end of the Cold War near the Belarus-Ukrainian border. On February 21st 2022, Russian President Vladimir Vladimirovich Putin recognised the independence of the Donetsk People's Republic and the Luhansk People's Republic and then proceeded with a full-scale invasion of Ukrainian on February 24th. The latter was labelled by the Kremlin as a 'special military operation' meant to 'denazify' the country and protect the Russian-speaking population of the Donbass region against the oppression of Kyiv¹⁶⁴. On the same day, the Heads of States and Government of the European Union strongly condemned Russian military actions, defining them as 'aggression'. The EU reacted strongly to the invasion of Ukraine by adopting the heaviest sanctions in its history against Russia, and by providing financial and military support to Kyiv. Indeed, on February 28th 2022, the Council adopted two assistance measures for the Ukrainian armed forces under the European Peace Facility, for the total amount of €500,000,000, meant at financing the provision of military supplies

¹⁶³ Bornio, J. (2020). Lithuania, Poland and Ukraine inaugurate the 'Lublin Triangle'. *Eurasia Daily Monitor*, 17(115).

¹⁶⁴ Lonardo, L. (2022). *Russia's 2022 War against Ukraine and the Foreign Policy Reaction of the EU. Context, Diplomacy and Law*. Palgrave Macmillan.

to Kyiv, including lethal equipment¹⁶⁵. Besides economic measures, the EU also implemented the Temporary Protection Directive, granting Ukrainian nationals the temporary right to live and work in the European Union¹⁶⁶. February 24th hence marks a ‘defining moment in the history of Europe’¹⁶⁷, which sparked discussion and gave new impetus to the Eastern enlargement.

On February 28th 2022, four days after the invasion, Ukraine applied for EU membership, which was followed by an intervention of President Zelensky at the European Parliament on March 1st 2022. Ukrainian application gained support from several Member States – notably Bulgaria, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia and the Czech Republic – who advocated for an accelerated integration of the country in the European Union¹⁶⁸. Similarly, the European Parliament acted promptly in support of Kyiv: on March 1st it indeed recommended granting Ukraine candidate status for membership, with an overwhelming majority of 637 votes in favour¹⁶⁹. The Council then invited the Commission to consider Ukraine’s application, and on her visit to Kyiv on April 8th 2022, Commission President Von der Leyen presented the membership questionnaire to Zelensky, marking a remarkable step in the accession process.

On June 17th 2022, the European Commission announced its commitment to grant candidate status to Ukraine¹⁷⁰ in COM(2022)407, by stating that:

Ukraine is a European State which has given ample proof of its adherence to the values on which the European Union is founded. The Commission therefore recommends to the Council that Ukraine should be given the perspective to become a member of the European Union.

*Ukraine has demonstrated the resilience of its institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities.*¹⁷¹

Moreover, in the latter Communication, the Commission designated seven further areas for implementation of reforms, in perspective of EU membership, notably:

¹⁶⁵ Council Decision (CFSP) 2022/338 of 28 February 2022 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.

¹⁶⁶ Bosse, G. (2023). The EU’s Response to the Russian Invasion of Ukraine: Invoking Norms and Values in Times of Fundamental Rupture. *Journal of Common Market Studies*, 62(5), 1222-1238.

¹⁶⁷ Lonardo, L. (2022). *op. cit.*

¹⁶⁸ Charlish, A., & Sytas, A. (2022). Presidents of 8 EU States call for immediate talks on Ukrainian membership. *Reuters*.

¹⁶⁹ European Parliament Resolution 2022/2564 of 1 March 2022 on the Russian aggression against Ukraine.

¹⁷⁰ European Commission (2022). European Commission (2022). Communication from the Commission to the European Parliament, the European Council and the Council: Commission Opinion on Ukraine’s application for membership of the European Union, COM(2022)407 final.

¹⁷¹ Idem, p.20

The Commission, therefore, recommends that Ukraine be granted candidate status, on the understanding that the following steps are taken:

- *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;*
- *finalise 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;*
- *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 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 Anti-Corruption Bureau of Ukraine;*
- *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;*
- *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;*
- *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;*
- *finalise 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.*¹⁷²

The Commission's recommendation was endorsed by the European Council, which, on June 23rd, formally attributed to Ukraine the status of candidate for EU membership. On November 8th 2023, the Commission adopted the 2023 *Enlargement Package*¹⁷³, providing a detailed assessment of the progress made by Western Balkans countries, as well as a recommendation to open accession negotiations with Ukraine and Moldova in light of the reforms pursued by both Kyiv and Chisinau. The Commission pointed out that, despite the ongoing war, granting candidacy status created a 'powerful reform dynamic'¹⁷⁴ in Ukraine. The report indeed highlights that Kyiv made 'substantial progress' in implementing the seven aforementioned step and carried out further reforms, aligning

¹⁷² Ibid., p. 20-21

¹⁷³ European Commission (2023). Commission adopts 2023 Enlargement package, recommends to open negotiations with Ukraine and Moldova, to grant candidate status to Georgia and to open accession negotiations with BiH, once the necessary degree of compliance is achieved.

¹⁷⁴ Idem, p.1

with the EU *acquis*. For instance, the Commission highlights that Ukraine established a transparent pre-selection system for the Constitutional Court judges and reformed the judicial governance bodies, strengthened its institutional framework, taken positive steps in a wider and systemic effort to address the influence of oligarchs¹⁷⁵. The European Council concurred with the Commission, and agreed to launch accession negotiations on December 14th 2023.

On March 1st 2024, the *Ukraine Facility* strategy entered into force: the latter support mechanism, covering the 2024-2027 period, provides up to €50 billion in financial support, and aims at bolster Ukraine's resistance and recovery, besides facilitating its path towards EU membership¹⁷⁶. Its main objectives thus are supporting recovery and reconstruction, mobilising investment and mitigating the humanitarian impact of the war for Ukrainian civil society. The Ukraine Facility is articulated in a three-pillar structure:

- (1) *Pillar I - 'Ukraine Plan'* entails financial assistance to Ukraine, for a total amount of €38.27 billion – comprising both grants and loans. This is meant at addressing the financial needs of Ukraine and maintain macro-financial stability. A precondition for this support is that Ukraine continues to uphold democratic mechanisms, including a multi-party parliamentary system, rule of law and guarantee respect for human rights, in conformity with the EU *acquis*.
- (2) *Pillar II - 'Ukraine Investment Framework'* consists of an investment framework equipped with €9.3 billion, meant at mobilising private and public investment for the country's recovery and reconstruction.
- (3) *Pillar III - 'Assistance programme'*, amounting to €4.76 billion, aims at providing technical assistance and support measures to support Kyiv's alignment with the EU legal framework. It hence includes capacity-building initiatives and assistance in implementing reforms necessary for EU accession¹⁷⁷.

All in all, we have seen that, following the full-scale invasion of Ukraine by Russia, the European Union has been actively supporting Kyiv, both for what concerns its war efforts and its perspective of membership to the EU. Ukraine's accession process is ongoing, with the timeline for full EU membership contingent upon the successful implementation of required reforms and the outcomes of ongoing negotiations. Continued efforts will be necessary to address the remaining areas. In summary, since February 24, 2022, Ukraine has made significant strides toward EU membership, reflecting a profound shift in its geopolitical orientation and a steadfast commitment to European integration.

¹⁷⁵ Ibid., p.1

¹⁷⁶ European Commission (2024). *Ukraine Facility*.

¹⁷⁷ Idem.

Section 2 : Analysing enlargement to Ukraine through the three logics of enlargement

As previously mentioned, in December 2023, EU Leaders agreed on the opening of accession negotiations with Ukraine, which were formally launched at the first Intergovernmental Conference of June 2024¹⁷⁸. Ukraine's case is both unique and significant, as it exemplifies the EU's current approach towards a 'geopolitical' enlargement and integration, intertwining the legal framework with political strategies. However, enlargement dynamics may be analysed under different logics – notably under the scope of values and deliberation, as previously highlighted. This section aims at understanding the inherently political dimension of the Ukrainian enlargement, through the application of Piedrafita's and Torreblanca's model of the Three Logics of EU Enlargement to Ukraine's accession dynamics¹⁷⁹.

1. Logic of consequentiality: enlargement to Ukraine as a geopolitical tool and opposed to past 'transformative' enlargements

Following the logic of *consequentiality*, enlargement is primarily examined as a rational decision-making process, rooted in strategic and geopolitical considerations. Within this framework, actors are seen as profit- and power-maximising, and consequently EU's decision to enlarge can be analysed as a calculated response to both internal and external factors influencing the Union's geopolitical landscape. Hence, we may firstly consider the rational interests behind the enlargement to Ukraine.

Ukraine's accession is deeply intertwined with the EU's broader geopolitical strategy, and geopolitical concerns have played a dominant rule in the renewed impetus for enlargement of February 2022. The EU henceforth expedited the obtention of candidate status of Ukraine, Moldova and Georgia, in the context of security and geopolitics¹⁸⁰: as highlighted in Chapter I, while candidate status is usually granted after three years, Ukraine and Moldova secured candidacy within six months¹⁸¹. While geopolitical concerns have always been at the core of EU enlargement – for instance, Baltic States have sought to obtain EU and NATO membership in 2004 due to safeguard their independence and security, as well as

¹⁷⁸ European Commission (2024). Ukraine's path towards EU accession.

¹⁷⁹ Piedrafita, S., & Torreblanca, J. (2005). *op. cit.*

¹⁸⁰ Cenusa, D. (2023). Upgrading EU Enlargement Methodology: Enhancing Accession Prospects for the New Eastern Candidates. *Eastern Europe Study Center*.

¹⁸¹ Idem, p.3

reduce Russian influence¹⁸² – the ongoing enlargement has already marked a great shift in EU policy on the matter, which is seen by Member States and scholars as a geopolitical imperative.

Seen under a logic of consequentiality, the ongoing EU's enlargement reflects Brussels' security ambitions and can hence be defined as 'geopolitical', opposed to past 'transformative' enlargements¹⁸³¹⁸⁴. The latter is anchored in the principle of *Europeanisation* – referring to a process in which candidate countries and third States implement EU norms and rules into their respective legal system, ultimately complying with the EU's *acquis* as established by Copenhagen criteria¹⁸⁵. Transformative enlargement is hence inward-looking, and focused on domestic change as a catalyst of the accession process: indeed, as a State implements liberalisation and democratisation in line with EU requirements, the EU starts to consider it as a potential new member; thus, this process is slow, gradual, conditional – and meritocratic, as all countries seeking membership must undergo the same process of Europeanisation and ultimately meet the same criteria¹⁸⁶. Conversely the author defines a geopolitical enlargement as being international and outward-looking, besides motivated by the need of the EU to respond to a security threat. In this context, the EU aims at strengthening its strategic capacities, expanding its sphere of influence and increasing its power by adding more States to its alliance. Domestic Europeanisation of potential members is henceforth overshadowed by the need to stabilise neighbouring countries and EU borders, as well as ensuring territorial consolidation. Democratic transformation is a secondary goal of this kind of enlargement, which mainly aims at responding to an external threat – such as the Russian aggression towards Ukraine. Geopolitical enlargement underscores an international geopolitical competition; given this, enlargement driven by a geopolitical logic is necessarily fast-moving – leaving little room for conditionality¹⁸⁷.

Schimmelfennig also points out that the two logics may co-exist, and the emphasis on either Europeanisation or geopolitics depends on the international environment, the domestic situation in the EU and in neighbouring countries. Indeed, the more threatened by external factors the EU neighbourhood is, the less the EU will be able to afford a transformative approach to its enlargement policy. Moreover, if the domestic situation of the EU is permissive, Brussels will be able to pursue a transformative approach, while, if enlargement is domestically contested, the latter will be most likely carried out only in

¹⁸² Osypchuk, A., & Raik, K. (2023). The EU's Geopolitical Enlargement – Ukraine's Accession Will Make the EU a Stronger Security Actor. *JOINT Brief*, 30, 1-7.

¹⁸³ Schimmelfennig, F. (2025). Geopolitical Enlargement. *European Union's Geopolitics: The Lackluster World Power*, 79-98.

¹⁸⁴ See Annex VII

¹⁸⁵ Schimmelfennig, F. (2025). *op. cit.*, p.81

¹⁸⁶ Idem, p.82

¹⁸⁷ Ibid., p.83

situations of geopolitical or security threat. Lastly, democratisation efforts in neighbouring countries often entail a transformative approach to enlargement; conversely, autocratic tendencies often imply the emergence of geopolitical enlargement¹⁸⁸.

Taking a closer look at EU past enlargement practice, applying Schimmelfennig's ideal-type may effectively suggest a growing use of the logic of consequentiality – and hence of geopolitical enlargements, rather than transformative ones. The geopolitical dimension of enlargement was particularly highlighted by the Commission in the context of the revision of the enlargement methodology in 2020, which openly designated enlargement as a *geostrategic investment*¹⁸⁹; however, in the case of Western Balkans, the geopolitical reasons did not significantly impact the process of enlargement to the region, which has stagnated. It is with the war against Ukraine, in 2022, that the enlargement process received a new impetus – behind which stands a clear geopolitical approach: Kyiv has attained a relatively low degree of Europeanisation – even compared to Moldova and Georgia. Data of the *Varieties of Democracy Project* indeed shows that both Chisinau and Tbilisi have attained a higher level of liberal democracy than Ukraine¹⁹⁰. It is hence clear that the EU has not only followed a transformative approach, but has rather acted following a logic of consequentiality: the Russian war on Ukraine resulted in a serious external threat for Brussels, which made competition between the West – with the EU and NATO as main-players – and Russia re-emerge. Ukraine has hence become pivotal for the ongoing enlargement process, not for its outstanding degree of Europeanisation but rather because it is the most threatened and most geopolitically relevant country in the EU's neighbourhood¹⁹¹.

All in all, while the ideal-types of geopolitical and transformative enlargement are not necessarily mutually exclusive, reasoning through a logic of conditionality would suggest that EU enlargement is carried out with a profit-base approach and hence driven by a geopolitical rationale rather than a transformative one. Adopting this perspective, enlargement to Ukraine can hence be seen as a response of the European Union to a security threat, notably Moscow's war against Ukraine – and potential risks for Member States' and other neighbours' national integrity and security.

¹⁸⁸ Ibid., p.83

¹⁸⁹ Communication from the Commission to the European Parliament, the Council, the European Social and Economic Committee and the Committee of the Regions: Enhancing the accession process – A credible EU perspective for the Western Balkans, COM(2020)57 final, p.1

¹⁹⁰ See Annex VII.

¹⁹¹ Schimmelfennig, F. (2025). *op. cit.*, p.87-90.

2. Logic of appropriateness: enlargement to Ukraine as a product of European Union's shared norms and identity

The EU has always described itself as a community of values, emphasising democracy, the respect for human rights and rule of law as its core principles – as also stipulated by Article 2 TEU. Indeed, while the EU's response to Russian aggression against Ukraine has been widely characterised as a geopolitical awakening, both by scholars and, partially, by the EU itself – to the extent that EU High Representative/Vice President Joseph Borrel has called the “belated birth of a geopolitical EU”¹⁹² – Bosse argues that a mere profit-base approach fails to seize the more complex reality of EU action and enlargement, which is embedded in norms and values rather than solely in defence concerns. Having assessed strategic consideration, consistently with a logic of justification, we may now analyse a logic of *appropriateness*, examining enlargement to Ukraine through the lens of the EU's normative commitments.

Piedrafita and Torreblanca's logic of appropriateness deems useful to analyse the Union's actions and stances towards Ukraine. As detailed in Chapter II, this approach highlights that members of an organisation internalise shared norms, rules and identities, which determine behaviour beyond mere rationalist interests. The behaviour of actors is hence shaped by the identity of the community they belong to, and by the expected norms, rules and roles which the organisation represents¹⁹³. The authors see collective decisions, rather than considerations of efficiency, as widely influenced by identities, seeking to develop a sense of ‘we-ness’, mutual solidarity and bonds¹⁹⁴.

Besides strategic considerations, discourses on values and normative arguments have indeed been omnipresent when assessing enlargement, both past and present, as highlighted above. In this sense, the ongoing process of enlargement to Ukraine perfectly exemplifies this model. For instance, On May 9th 2023, Europe Day, Commission President von der Leyen visited Kyiv and, in her speech, claimed that:

Kyiv as the capital of Ukraine is the beating heart of today's European values. Ukraine is on the front line of the defence of everything we Europeans cherish: our liberty, our democracy, our freedom of thought and of speech. Courageously, Ukraine is fighting for the ideals of Europe that we celebrate today. In Russia, Putin and his regime have destroyed these values. And now, they are attempting

¹⁹² Bosse, G. (2022). Values, rights, and changing interests: The EU's response to the war against Ukraine and the responsibility to protect Europeans. *Contemporary Security Policy*, 43(3), 531–546.

¹⁹³ Piedrafita, S., & Torreblanca, J. (2005). *op. cit.*, p.33

¹⁹⁴ Idem, p.34

*to destroy them here in Ukraine. Because they are afraid of the success you represent and the example you show. And they are afraid of your path to the European Union*¹⁹⁵.

Von der Leyen's stances are clearly based on the idea of European identity and values – of *liberty, democracy, freedom of thought and freedom of speech* – with an overwhelming presence of the 'We', implying the concept of community. This extract, as well as similar statements by the Commission President on Ukraine, often portrayed Ukraine's armed struggle against Russia as a fight for European values. strong sense of community, a 'we-ness' which justifies the Union's action.

Bosse highlights the extent to which EU's policy towards Ukraine is fundamentally shaped by norms, rather than purely materialistic calculations: while geopolitical interests and strategic considerations undoubtedly play a role, the EU's response to Russian full-scale invasion of Ukraine has also been grounded in its normative commitments and shared values¹⁹⁶. In her analysis, Bosse assesses two specific examples – notably the decisions of imposing sanctions against Russia and implementing the Temporary Protection Directive (TPD), allowing which allowed Ukrainian nationals to reside, work and access healthcare in the Union for three years without the need to apply for asylum procedures. These emergency measures, which were followed by the commitment of the EU's Institutions to grant Ukraine membership, exemplify a relevant degree of solidarity and legal flexibility and demonstrate that the EU's actions are not solely driven by pragmatic concerns but also by a collective adherence to fundamental principles. Therefore, we may affirm that a norm-based approach can be employed while assessing the Union's external action and decision-making, particularly in the case of Ukraine. Bosse indeed underlines that EU's policy towards Ukraine since 2022 has been based on shared norms: on the one hand, concerning sanctions and TPD, the EU invoked the responsibility to protect Ukrainian civilians against war crimes. Moreover, Brussels' rapid and wide response to the war, including the EU's commitment towards Ukrainian accession, is currently framed within a discourse of "European solidarity and collective identity"¹⁹⁷. The notion of 'We' is thus widely used in this context: discourses by both EU officials and Member States have widely characterised Ukraine as 'one of us', as a European country whose destiny is within the Union. This rhetoric and these policies reflect a broader shift in how EU identity and enlargement are understood: historically, EU membership has been framed primarily in terms of legal and institutional convergence with

¹⁹⁵ European Commission (2023). Press statement by President von der Leyen with Ukrainian President Zelenskyy. Press release.

¹⁹⁶ Bosse, G. (2022). *op. cit.*

¹⁹⁷ Idem, p.541

acquis communautaire. However, the rhetoric surrounding Ukrainian accession suggests that the conditions of European identity are now being redefined. The war has highlighted the fact that European identity is not just a question of legal frameworks or economic readiness but also of shared sense of community, belonging and values¹⁹⁸.

Similarly, Börzel explains that the Union's cohesive policy in support of Ukraine is linked to identity politics and Europeanisation. Indeed, both EU Leaders saw the aggression not only as a threat to the UN-based security order, but also to liberal values¹⁹⁹. For French President Macron “[d]emocracy is being called into question before our eyes and provides an opportunity for Europe, to become a ‘power of peace’”; in her 2022 State of the Union address, President von der Leyen claimed that Putin's war is not only against Ukrainian sovereignty, but is also a “war on our energy, a war on our economy, a war on our values and a war on our future. This is about autocracy against democracy”. Similarly, Polish Prime Minister Morawiecki claimed that “[t]oday, Ukrainians are fighting not only for their own freedom. Since February 24th 2022, they have also been fighting daily for the freedom of all Europe” and Italian Prime Minister Giorgia Meloni held that “[t]he Ukrainian people are defending the values of freedom and democracy on which our civilisation is based, and the very foundations of international law”²⁰⁰. These claims show the coming together of European Member States around their own constitutive values, which have constituted the impetus for providing solidarity and opening the membership path to Kyiv.

All in all, both the favourable stances of European Leaders vis-à-vis Ukraine and the EU's support of the country's accession path – despite being still at war and having a long way to go to undertake accession reforms – suggests that normative commitments, expected behaviours, identity, and collective memory now play an increasingly basic role in motivating the EU's enlargement logic. As a result, Ukraine's candidacy may represent a turning point in EU enlargement policy, putting at the forefront, alongside the traditional accession criteria and profit-maximising geopolitical considerations, the criterion of sense of community and shared destiny – the ‘we-ness’ evoked by Piedrafita and Torreblanca – shaped by the norms and values which European Union itself embodies.

¹⁹⁸ Ibid., p.541

¹⁹⁹ Börzel, T. (2023). Ukraine: Just another crisis? *Journal of Common Market Studies*, 61(1), 14-30.

²⁰⁰ Idem, p.25

3. Logic of justification and narratives of European integration: Ukrainian enlargement as a justice-seeking process

Lastly, in their assessment, Piedrafita and Torreblanca use a logic of *justification* to explain EU enlargement, according to which “States seek to reach an agreement through the assessment of arguments deemed legitimate by all parties involved”²⁰¹. The focus hence lays on the features of institutional setting which push actions to find consensus on principles and norms, and to comply with them in absence of coercion. Rather than efficiency and power, or norms and identity, States will hence seek justice in their decisions, made through public deliberation²⁰². This logic indeed emphasises the deliberative nature of EU decision-making, including with regard to enlargement, which is a process based on justification and legitimacy through argumentation.

We may hence observe that the ongoing accession process of Ukraine, besides being analysed through the lens of geopolitical interests or shared values, has been characterised by a public justification process: the EU Institutions and Member States have actively framed the decisions to grant Kyiv candidate status and to open negotiations as both a moral imperative, dictated by the idea of justice and of ‘the right thing to do’, and a process justified by objective progress made by Kyiv in the implementation of EU requirements.

Moral commitments to justice by the EU may hence have determined its attitude towards Ukraine. Indeed, according to Piedrafita and Torreblanca, within this logic actors seek to establish a system of cooperation, its core being the upholding of justice, fundamental rights, democracy and rule of law²⁰³. Brussels has justified the progress made by Kyiv in its accession process through a narrative of attachment to democracy, rule of law and human rights, and through its identity as a space where those principles are at the core of the political system; following Piedrafita and Torreblanca’ reasoning, this has strengthened the legitimacy of the EU Institutions’ enlargement stances. This approach is also consistent with Foret’s ‘Europe of rights’ and ‘Europe of values’ narrative, which highlight the legitimacy of European integration through legal standards of protection of human rights and rule of law, as well as normative discourses. Besides, the ‘European way of life’ narrative can also be employed to analyse EU enlargement towards Ukraine. In February 2023, President Zelenskyy intervened in the extraordinary plenary session of the European Parliament, and

²⁰¹ Piedrafita, S., & Torreblanca, J. (2005). *op. cit.*, p.58

²⁰² Idem, p.34-35

²⁰³ Ibid., p.58

affirmed that Kyiv was not only fighting for freedom and self-determination, but also for the ‘European way of life’, threatened by Moscow²⁰⁴²⁰⁵.

Moreover, on January 14th 2025, the newly appointed EU Commissioner for enlargement Marta Kos claimed that “there will be no geopolitical discount. The enlargement process remains merit-based”²⁰⁶. The EU Institutions have indeed sought to underline the merit-base dynamic of the enlargement process, which primarily depends on “the objective progress made by each of the partners [...] Democracy, the rule of law and fundamental values will continue to be the cornerstones of the EU's enlargement policy”²⁰⁷. Besides normative commitments and interests, the EU executive has also justified Ukraine’s accession process by appealing to procedural fairness and legal consistency; the European Commission’s reports on Ukraine have hence provided consistency, credibility as well as objective justifications for the continuation of enlargement process. Besides geopolitical considerations, the EU is hence promoting an enlargement that is nevertheless based on transformative efforts, based on the assessment of the implementation of the *acquis* and compliance with EU standards.

All in all, we may affirm that enlargement to Ukraine can be explained through multiple dynamics, following Piedrafita and Torreblanca’s model. On the one hand, enlargement of the European Union is undoubtedly dictated by strategic interests, which are particularly evident in the case of Ukraine: in response to the security threat represented by the belligerent behaviour of Moscow, the EU seeks to protect its Eastern Neighbours and expand its sphere of influence on the latter – in a logic of profit- and power-maximisation. On the other hand, beyond the geopolitical concerns, enlargement to Ukraine is embedded into normative considerations: analyses by Bosse and Börzel show that the constitutive European values of upholding of democracy, rule of law and human rights, besides a sense of community, solidarity and shared destiny have determined the Brussels’ policy towards Kyiv; European identity, in contraposition with the Russian one, has thus been another relevant feature in determining the EU’s commitment to the Ukrainian enlargement. Lastly, following a logic of justification, EU decision-makers also seek for justice in their decisions, which are hence not solely determined by security concerns or norm-conformity: due to moral

²⁰⁴ European Parliament (2023). President Zelenskyy says Russia is a grave threat to the European way of life. Press release.

²⁰⁵ Foret, F. (2025). The “European way of life” narrative: legitimization through shared everyday experiences? In: *The European Union in search of narratives: disenchanted Europe?* Routledge Studies on Government and the European Union

²⁰⁶ Davalou, L., & Rogal, A. (2025). EU Commissioner Kos says enlargement will remain based on merit rather than geopolitics. *Euronews*.

²⁰⁷ European Commission (2024). Commission adopts 2024 Enlargement Package.

commitments – partially linked to EU identity and set out by the Treaties – and objective assessments of Ukraine’s progress, enlargement is hence justified.

Section 3 : Getting ready for Ukrainian enlargement: evaluating Kyiv’s compliance with the EU *acquis* and navigating institutional challenges

On November 27th 2024, Commission President Ursula von der Leyen presented the new College of Commissioners to the European Parliament and explicitly emphasised the EU’s will to work towards enlargement, supporting candidate countries towards their ‘dream of Europe’²⁰⁸. Besides the political aspects of the ongoing enlargement – largely connected to geopolitical and normative considerations by Brussels, as previously highlighted – the Commission President highlighted that:

*We will get ready with the reforms that we need on our side. And we will support these countries every step of the way on their merits-based process until they are ready to join our Union.*²⁰⁹

This statement underscores that the European Union nevertheless wants to foster a meritocratic and Europeanisation-based enlargement process. Von der Leyen’s statement hence reflects a dual approach to the EU’s enlargement: on the one hand, the European Union executive signals a clear political commitment to integrate Ukraine into the EU; on the other hand, it acknowledges that both the Union and Ukraine must undergo reforms to facilitate a successful accession process. In order to understand the point at which both Ukraine and the European Union stand, this section will analyse Commissions’ 2023 and 2024 reports on Ukraine, as well as the potential impact of Ukrainian accession to the EU and discussions on future reforms of the Union with the perspective of ‘30+’ members.

The European Commission’s reports offer essential insights on the Kyiv’s readiness for EU membership, evaluating fundamental dimensions of Europeanisation – among which democracy, rule of law, economic stability and preparedness, besides alignment with the EU policies and *acquis communautaire*.

In addition to evaluating Ukraine’s progress, it is equally important to consider the impact of Ukrainian membership for the EU, as well as the EU’s internal readiness for enlargement – considered by scholars as a sort of implicit ‘fourth Copenhagen criterion’. As

²⁰⁸ European Commission (2024). Speech by President von der Leyen at the European Parliament Plenary on the new College of Commissioners and its programme.

²⁰⁹ Idem

detailed in Chapter I, enlargement has historically been contingent not only on candidate countries fulfilling accession criteria, but also on the Union's institutional preparedness to welcome new members. This concern, particularly evident during the Eastern enlargement of the early 2000s when institutional reforms were met in order to accommodate new Member States, has become once again relevant: as the European Union anticipates expanding beyond 30 members, discussions on enhancing governance efficiency, voting mechanisms and financial redistribution have gained renewed urgency.

Overall, this final section aims at assessing whether Ukraine and the EU are ready for enlargement. This pivotal question is central to ongoing discussions on a possible Ukrainian membership to the Union, which represents a core priority of the von der Leyen II Commission. Considering both Ukrainian and European preparedness to enlargement, both in terms of acquired achievements and future challenges, is hence essential in order to seize the complexity of the ongoing enlargement process and to grasp the legal and political challenges it entails.

1. Ukraine 2023-2024 Commission Reports, Cluster 1: democracy and rule of law advancements

Russian full-fledged aggression against Ukraine has led the country to formally apply for Union membership in March 2022, and having then been granted candidacy as early as June 2022. Alongside its candidate status, the European Commission issued various recommendations for Ukraine, notably concerning the reform of the judiciary, law enforcement, fighting money laundering, enhancing the media legislative framework and strengthening national minority protection²¹⁰. Ukraine was then included, for the first time, in the Commission's annual Enlargement Package²¹¹. The Ukraine Report 2023 firstly accounts for the advancement made by Kyiv concerning the Commission's Opinion COM(2022)407 final, which, as previously mentioned, had established seven steps for reform addressed to Ukraine. The Ukraine Report 2024 points out the country's advancements and shortcomings. We will now hence assess the European Commission's 2023 and 2024 enlargement reports on Ukraine, respectively covering the periods from June 2022 to June 2023, and from June 15th 2023 to September 1st 2024. Our analysis will now focus on Cluster 1 – the 'fundamentals' of the accession process – notably the functioning of democratic institutions, rule of law and fundamental rights.

²¹⁰ Jacímović, D. (2023). New Approach to EU Enlargement. *European Liberal Forum*.

²¹¹ Idem, p.13

a. Cluster 1: Democracy and Public Administration Reform

In its assessment of the democratic situation in Ukraine, the European Commission considered elections, Parliament, gender balance, political parties, EU integration governance and civil society as elements of its analysis – within the context of the martial law, entered into force on February 24th 2022 and remained in place since then. The latter allows for certain restrictions in terms of individual rights and freedoms: while the overall application of restrictions has been proportionated, in 2024 the Commission underlined a disproportionate travel restriction for representatives of the parliamentary opposition, and pressure on civil society organisations²¹². The Commission indeed remarks that members of the opposition were subject to restrictions regarding travelling abroad.

The application of martial law implies the prohibition of new elections; however, a comprehensive work of reform of the electoral code is progressing on May 27th 2024, a draft law implementing OSCE recommendations on balanced representation of women and man in Parliaments was registered²¹³. Moreover, Ukraine is strengthening its legislative process: the Parliament is exercising its power and has been active in the overall reform process of the country; the Commission highlights that the Ukrainian Parliament should improve its methodological and procedural framework for impact assessment of draft legislation and *ex post* legislative evaluation²¹⁴. The Commission noted that a lack of full transparency of the Parliament's workings, as journalists were admitted to the chamber with some limitations; however, parliamentary deliberations are regularly published. While the share of female members of the Parliament has increased, the Commission notices structural barriers to female active participation due to the persistency of traditional gender norms.

The law on political parties was amended in August 2023 to improve the legal framework for State funding and State supervision of parties' activities; however, no significant changes were recorded by the Commission concerning parliamentary control, which is limited to meetings between parliamentary groups and ministers – hence remaining 'suboptimal' for EU standards²¹⁵.

As for Ukraine's European integration, institutions in charge of monitoring EU integration were put in place, and, following the European Council decision on opening negotiations with Kyiv, the phase of screening started in July 2024. A Ukrainian delegation for accession negotiations was appointed, as well as deputy ministries responsible for European integration. The Commission underlines that there is broad consensus on the fact that Ukrainian EU integration is one of the country's priorities.

²¹² Ukraine 2024 Report, SWD(2024)699 final, p.22

²¹³ Idem, p.22

²¹⁴ Ibid., p.22

²¹⁵ Ibid., p.23

Concerning governance, the Commission remarks that, despite the war, Kyiv presents an effective model: six ministers were indeed replaced, and there were changes in the composition of the government. The government's focus mainly laid on strengthening security and defence, implementing reforms finalised at EU integration, ensuring macroeconomic stability, supporting economic recovery. Moreover, the Commission recommends the setup of a transparent mechanism for financing the recovery and reconstruction needs of local authorities²¹⁶.

Civil society, according to the Commission's evaluation, contributes to the resilience of the whole Ukrainian society, besides representing a key element of Ukrainian democracy. While martial law has imposed restrictions on civil society organisations, the latter can continue their activities. Ukraine has strategic documents on civil society engagement, including most notably the 2021-2026 national strategy for promoting civil society development of September 2021²¹⁷. While the existing legal framework guarantees rights to the freedom of expression, peaceful assembly and association, since 2023, the Commission reports increasing pressure being placed on civil society organisations and investigative journalists, including threats and intimidations against journalists, media professionals and civil activists; in light of this, government officials and the National Police and Security Service launched enquiries and mechanisms to protect actors from such pressures. Lastly, Ukraine has expanded its public funding programme for civil society organisations, meant at fostering civil society engagement; the Law on public consultation was adopted in June 2024, which however will not enter into force until one year following the end of the martial law.

Moreover, through its 2022-2025 Public Administration Reform strategy, Ukraine has made some progress in the latter field throughout 2023: its public administration has indeed proved resilience despite the ongoing conflict, continuing to provide service for the public and for businesses²¹⁸. The Commission underlines that the accession to the EU will need a strengthening of Ukrainian public administration, and thus delivered some recommendations to Kyiv, who should particularly: advance its salary reform by adopting legislation aimed at reaching a transparent and fair remuneration framework; adopt legislation to improve the existing procedures on merit-based recruitment; make progress in the use of the unified Human Resources Management Information System – aiming to provide a digital platform for HR transactions across governmental institutions for the purpose of transparency and accountability²¹⁹; complete the implementation of the law on administrative procedures.

²¹⁶ Ibid., p.24

²¹⁷ Ukraine 2023 Report, SWD(2023) 699 final, p.15

²¹⁸ Ukraine 2024 Report, SWD(2024)699 final, p.5

²¹⁹ Ukraine 2023 Report, SWD(2023) 699 final, p.18

Within the Public Administration Reform, the Public Financial Management reform strategy and action plan for 2022-2025 is subject to regular monitoring. While its legal basis and institutional foundation have been established, the Commission highlights that capacity tools need to be implemented²²⁰.

b. Cluster 1: Rule of law, judiciary and fundamental rights

Both rule of law and respect for human rights are at the core of EU's funding values. The Commission henceforth assessed the functioning of the judiciary, anti-corruption measures and fundamental rights, including freedom of expression, and qualifies Ukraine as having 'some level of preparation' in those fields. In its 2023 Report, the Commission recognised some level of preparation in the functioning of the judiciary, with good progress having been made since the implementation of a 2021 reform of judicial bodies which re-established the High Council of Justice (HCJ) and the High Qualification Commission of Judges (HQCJ). However, the military aggression against Kyiv has posed major challenges to the country's judicial apparatus: with twelve members of judicial staff killed and several court buildings destroyed, a large number of case files were lost. Despite this, Ukrainian Institutions have shown resilience, as they continued to provide service to citizens and implemented reforms²²¹.

Regarding the functioning of the judiciary, progress has been made throughout 2023 and 2024. The reform of the two key judicial governance bodies, the HCJ and the HQCJ, has been carried out, focusing on strengthening the institutions' integrity and public trust in the judiciary. Moreover, in December 2022, a reform of the selection of the Constitutional Court of Ukraine (CCU) judges was adopted and is being carried out. The Ukrainian constitutional and legal framework provides for the independence of the judiciary from the legislative and executive branches; despite such guarantees, the risk of internal and external interference in the work of the judiciary nevertheless persists, and further efforts are needed in this regard²²². Besides, the Ukrainian judiciary is suffering from severe underfunding: the financial resources allocated to the judiciary only covered 51.4% of overall funding needs; this already precarious situation has been exacerbated by the war, as in 2022 costs for local and appellate courts were cut by more than 10%, and further cuts to other judicial institutions amounted to 15-20% compared to the 2022 allocations²²³. At the end of 2022, the Commission reports the presence of 4,643 judges in Ukraine, thus amounting to an average of 11 judges per 100,000 inhabitants

²²⁰ Idem, p.18

²²¹ Ibid., p.20

²²² Ibid., p.24

²²³ Ibid., p.26

– the European average corresponding to 22.2 judges per 100,000 inhabitants in the same year; in 2024, the judiciary continues to suffer from lack of staff, with more than 2000 vacancies to be filled²²⁴. Moreover, the Bar in Ukraine appears in need of reform: Law on the latter should be aligned with the applicable European standards and good practice. Particularly, the self-governance system of the Bar should be improved and made more transparent. The process for admission to the profession indeed remains weak and open to corruption risks – undermining its credibility and independence.

Ukraine has a high number of judgments of the European Court of Human Rights (ECtHR) pending execution among the parties to the European Convention of Human Rights (ECHR). Structural reforms are still required, in particular related to judgment of the ECtHR targeting, among others, judicial independence, unreasonable length of court proceedings, poor prison conditions. To deal with the non-enforcement of the court's decisions, Ukraine issued a special strategy in September 2020, most of whose actions still need to be carried out²²⁵.

In the domain of prevention and fight against corruption, Ukraine also presents some level of preparation and has shown some progress, particularly through the implementation of a comprehensive anti-corruption institutional framework and the building of a track record concerning corruption cases. After receiving candidate status, Kyiv has further strengthened its anti-corruption framework: new legislative, strategic and institutional instruments were developed, including the national anti-corruption strategy of June 2022. This work, mainly conducted by the Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau of Ukraine, led to an enhanced effectiveness of the anti-corruption framework, which needs to be further monitored and supported²²⁶.

As for fundamental rights, Ukraine generally complies with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. However, Ukraine get has to ratify some relevant international conventions, such as the Rome Statute of the International Criminal Court: in August 2024, the draft law on the ratification of the Rome Statute was adopted. Moreover, the European Convention on preventing and combatting violence against women and domestic violence (Istanbul Convention) has been ratified but has yet to be consistently implemented. Despite the ongoing conflict, overall efforts have been noticed by the Commission concerning the alignment of Ukrainian legislation on this matter with the EU *acquis* and international legislation. Throughout 2023 and 2024, the European Court of Human Rights has found breaches mainly concerning the protection of property, the right to a fair trial, the right to

²²⁴ Ukraine 2024 Report, SWD(2024)699 final, p.31

²²⁵ Ukraine 2023 Report, SWD(2023) 699 final, p.28

²²⁶ Idem, p.31

liberty and security of persons and the prohibitions of torture; Ukraine will hence need to ensure the enforcement of ECtHR judgments and resolve systemic issues related with law enforcement and human rights protection²²⁷.

With regard to respect for human rights, the Commission sheds light on the prison system and conditions of detention in the country, which are designated as ‘issues of concern’ by the Commission. The latter indeed observes that, despite a diminution of the prison population in recent years, structural problems remain: the latter are primarily linked to poor healthcare services, use of violence by prison guards, and poor material conditions of detention – as already highlighted by the European Court of Human Rights, the Council of Europe Committee on Ministries and the European Committee for the Prevention of Torture. Despite the national strategy on human rights of 2021 and the strategy for reforming the prison system of 2022, structural malfunctioning has not been addressed; moreover, the recommendations issued by the European Committee for the Prevention of Torture to transfer the responsibility of medical care from the Ministry of Justice to the Ministry of Health have not been implemented²²⁸. Following the beginning of the war, Ukrainian population has been victim of violations of international humanitarian and human rights law, which resulted in killings, torture, sexual and gender-based violence, extrajudicial executions, besides lack of basic services such as heating and sanitation²²⁹.

Lastly, Ukraine presents an in-between status between some and moderate degree of preparation for what concerns freedom of expression. The Commission reports some progress in strengthening the legal framework, especially through the adoption of the Law on media: Ukraine has hence improved its position from 106th to 79th place in the *Reporters without Borders* global ranking of freedom of media²³⁰. On June 26th 2024, the government adopted a framework for the ‘re-establishment of a pluralistic, transparent and independent media Space after the end of martial law’, meant at fostering the access to public information and combat disinformation in the post-war recovery. However, violations of freedom of speech continue to be recorded in Ukraine, especially in the Russian-controlled regions; in the government-controlled territories, harassment and intimidation of journalists have been noticed, and two cases of strategic lawsuits against journalistic investigations were reported. Internet freedom is also being endangered by Russian cyberattacks, hacking and disinformation²³¹.

²²⁷ Ukraine 2024 Report, SWD(2024)699 final, p.36-37

²²⁸ Ukraine 2023 Report, SWD(2023) 699 final, p.41

²²⁹ *Idem*, p.39

²³⁰ *Ibid.*, p.43

²³¹ Ukraine 2024 Report, SWD(2024)699 final, p.39

All in all, our assessment of the Commission's 2023 and 2024 reports enables us to understand the Ukrainian advancements for what concerns democracy, rule of law and fundamental rights – belonging to Cluster 1 'Fundamentals' of the enlargement reports. While substantial reforms have been implemented, we can see that the Commission highlights the need of further strengthening of institutions and reforms to align with the Union *acquis*.

2. 2023-2024 Commission Reports, Cluster 1, 5 and 6: the economic readiness of Kyiv and its alignment with EU policies

Among the fundamental membership criteria, the 1993 Copenhagen Conclusions designate a *marketing economy* and the *capacity to cope with the competitive market forces within the Union*²³². It is hence essential to consider the economic criteria, which encompasses within Cluster 1 of the EU *acquis*. We will successively look at Cluster 5, with a specific focus on Chapter 11, concerning agricultural policies, and at Chapters 30 and 31 Cluster 6, dealing with foreign relations and foreign, defence and security policy.

a. Cluster 1: Functioning market economy and capacity to cope with competitive market forces within the EU

The Commission considers Ukraine to be between an early state of preparation and some level of preparation for what concerns the establishment of a functioning market economy²³³. Ukraine has however demonstrated a strong commitment in implementing reforms and aligning with the EU and International Monetary Fund (IMF) standards of economic governance: Ukraine indeed met all quantitative performance criteria and structural benchmarks of the IMF Extended Fund Facility programme in September 2024, and the Ukrainian government adopted the Ukraine Plan, a reform agenda for 2024-2027 meant at fostering economic growth potential in the medium term. Ukrainian authorities started reapplying market principles in 2023.

Ukraine's economy is showing resilience despite the ongoing war: after the decrease of 29% in 2022, Ukrainian real GDP expanded by 5.3% in 2023, supported by international aid and a robust agricultural output. Graph 1²³⁴ shows that investment expanded, and that private consumption grew by 6.1%; net exports have also massively increased from 2022 to 2023. However, Russian attacks on energy infrastructure in early 2024 undermined about 50% of Ukrainian energy production capacity. After reaching a record surplus in 2022, the

²³² Copenhagen Presidency Conclusions, p.13

²³³ Ukraine 2024 Report, SWD(2024)699 final, p.8

²³⁴ See Annex IV

current account shifted to a 5.2% deficit in 2023, as shown by Graph 2²³⁵: this is primarily linked to a growing trade deficit and declining income – caused driven by a reduction in international grants²³⁶. As for inflation, after a peak in 2022, the latter diminished throughout 2023 and reached pre-war level in 2024: this decline is due to lower food prices due to strong yields in 2023, as well as a tight monetary policy and the cessation of monetary financing. Lastly, public finances significantly deteriorated in 2023, as the fiscal deficit widened to 20.3% of GDP. Moreover, as Ukraine lacks access to international debt markets and relies solely on domestic financial markets and foreign assistance for its financing needs, public debt increased to 84.4% of GDP in 2023. In August 2024, an agreement was concluded to restructure private debt with bondholders, hence making a step towards ensuring the sustainability of Ukrainian public finances²³⁷. Overall, the Ukrainian macroeconomic policy's main objective is maintaining stability despite the ongoing war: fiscal policy has been adjusted to support war efforts, by increasing expenditure in defence and decreasing it in other areas.

In terms of the capacity to cope with competitive pressures and market forces within the Union, Ukraine finds itself in an early stage of preparation and has made limited progress in this area. In order to assess this pivotal requirement, the Commission's report assesses education and innovation, physical capital, sectoral and enterprise structure, and economic integration with the EU.

Reflecting the large share of displaced children, the share of GDP dedicated to education has diminished in 2023, and online learning prevails to this day. The Ministry of Education and Sciences adopted a strategic plan for 2024-2027, meant at improving early childhood education, vocational education and digitalisation.

As for quality of infrastructure, the reconstruction needs of the country are being assessed by the government, in particular in the field of energy generation. Continuous Russian attacks to energy infrastructure, reconstruction needs remain high. Moreover, digital connectivity has been a key priority of the country: internet providers have indeed managed to maintain service and repair damaged infrastructure. Ukraine is hence above the average, within Eastern Partnership, for e-government service for small and medium enterprises (SMEs) and support for their digitalisation in the 2024 OECD SME Policy Index²³⁸.

2022 and 2023 marked a relevant market shift from agriculture and industry to services: agriculture's share of GDP indeed fell from 12% in 2021 to 7.5% in 2023. Ukrainian export continues however to rely on agricultural products, accounting for 65% of exports –

²³⁵ See Annex IV

²³⁶ Ukraine 2024 Report, SWD(2024)699 final, p.53

²³⁷ Idem, p.54

²³⁸ Ibid., p.57

despite several issues such as loss of farmland, soil damage and destruction of machinery. Industrial production is dominated by energy, basic metal and mining; as for services, digital services constituted 12% of total exports in 2023. The Commission highlights that Ukrainian industrial base is mainly constituted by SMEs, which employ 74% of Ukrainian workforce and generate 64% of addend value in the economy²³⁹.

Lastly, with regard to economic integration within the European Union, the report shows that the openness of Ukrainian economy – measured by the trade-to-GPT ratio – has declined from 87% in 2022 to 78% in 2023 as a result of the war. While the EU-Ukraine Solidarity Lanes provided support and alternative transport routes, as well as the new Black Sea route, which have improved export volumes, the disruption linked to the war has significantly affected exports. In this complicated economic context, the EU remains Kyiv's privileged economic partner – taking about 65% of Ukrainian export and accounting for more than 50% of import²⁴⁰, as shown in Graphs 4a and 4b²⁴¹: since 2022, the European Union indeed has carried out a full liberalisation of trade with Ukraine through the adoption of temporary trade measures, and represents the largest provider of foreign direct investment in the country.

At the end of the day, this economic assessment has enabled us to evaluate Ukraine's market economy and capacity to cope with market forces within the Union. On the former, in the 2024 enlargement report, the Commission recommends enhancing the sustainability and transparency of public finances, and implementing policies meant at fostering macroeconomic and financial stability; continuing market deregulation efforts; tackling the labour shortages in the economy. Concerning the latter, Brussels suggests continuing measures to support the repair and rebuilding of infrastructure, particularly that related to energy generation capacity; facilitating investment by establishing a transparent and comprehensive framework for management of public investment; improving the quality of education and training. Despite its visible progress, Ukraine indeed presents shortages in both its market economy and capacity to cope with the Union market²⁴².

In light of the above findings, we may briefly evaluate Ukraine's compliance with the EU's policies on both agriculture and foreign relations, to try to acquire a broader outlook of Kyiv's compliance with the EU *acquis*.

²³⁹ Ibid., p.58

²⁴⁰ Ibid., p.58

²⁴¹ See Annex IX

²⁴² Ukraine 2024 Report, SWD(2024)699 final, p.8-9

b. Cluster 5, Chapter 11: Agriculture and rural development

As highlighted in part 2.1, despite the development of services, agriculture still represents a relevant share of Ukrainian GDP, and importantly accounts for most of the country's exports. It is hence important to assess its level of preparedness and compliance in this field, compared to the Union's *acquis*.

According to the European Commission, Ukraine finds itself in an early stage of preparation for what concerns agriculture and rural development. Although Kyiv made some progress in further aligning its agricultural policy with EU standards, further reforms need to be carried out. Indeed, legislative alignment continues on the common market organisation, and a Law on the association of agricultural producers is being assessed in the Parliament. On organic farming, the Commission underlines the need for further alignment with EU standards, especially concerning the monitoring and control of organic production²⁴³. In the 2024 report, The Commission specifically highlights the need to: adopt and implement the Strategy for Agriculture and Rural Development up to 2030, thus continuing the alignment with the *acquis*; develop a farm sustainability data network; implement the Synthetic Aperture Radar (SAR)²⁴⁴.

c. Cluster 6, Chapters 30-31: External relations and foreign, security and defence policy

The Commission denotes a good level of preparation in both the field of external relations and foreign, security and defence policy; in both fields, Kyiv is pursuing political dialogue and enhancing its security and military cooperation with Brussels, besides presenting significant convergence with the European Union standards and the Common Foreign and Security Policy (CFSP).

In the field of external relations, Ukraine continues to coordinate its positions and policies with the EU common commercial policy and with the WTO standards. Moreover, Ukraine has 66 bilateral investment treaties in force, and has notified to the WTO preferential bilateral trade agreements with 17 partners – i.e. the European Free Trade Association (EFTA), the CIS, Montenegro, Macedonia, Georgia, Azerbaijan, Uzbekistan, Tajikistan, Turkmenistan²⁴⁵. The European Commission points out that Ukraine should continue to closely coordinate with the EU on international trade negotiations, aiming at ensuring that Ukraine's commitments are compatible with those of the Union. Lastly, while Kyiv has a legal

²⁴³ Idem, p.88

²⁴⁴ Ibid., p.19

²⁴⁵ Ministry of Foreign Affairs of Ukraine (2019). Free Trade Agreements (FTA).

framework to provide humanitarian aid, it has yet to develop its development cooperation policy in line with the relevant EU framework²⁴⁶.

Ukraine continues intense political dialogue with the EU and its Member States with regard to foreign and security policy, as it was confirmed during the 2023 EU-Ukraine Foreign Affairs Ministers meetings in Kyiv. The institutional framework meant at enabling Ukraine's participation in the EU CFSP and Common Security and Defence Policy (CSDP). On the latter, Kyiv weeks involvement in EU defence initiatives, besides civil and military crisis management; military cooperation between Ukraine and EU Member States was enhanced within the framework of the European Peace Facility, as well as through the EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine) and the EU Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM Ukraine). While the former is meant at strengthening the capacity of Ukrainian Armed Force, to defend the country's territorial integrity and counter any possible further Russian military offensives²⁴⁷, the latter is a non-executive mission of the EU whose goal is achieving an efficient, trusted and accountable civilian security sector²⁴⁸. Ukraine also is pursuing its alignment with EU restrictive measures, meant at implementing EU sanctions.

Ukraine has ratified non-proliferation and disarmament agreements, and has intensified its diplomatic relations with both global partners of the EU – in Africa, Middle East, Latin America and Indo-Pacific – and international organisations – including the UN, the Council of Europe, OSCE, the Organisation for Black Sea Economic Cooperation, besides aspiring to become a member of NATO and increasingly cooperating with the ICC to strengthen the investigation of international crimes²⁴⁹.

To conclude, assessing the 2023 and 2024 Commission's enlargement reports on Ukraine provided a clearer understanding of the country's compliance with some fundamental aspects of the EU *acquis*, the foundation of European integration. Despite significant progress in its implementation, Kyiv must still undergo further reforms to guarantee a better functioning of its democratic institutions, improve efficiency and transparency of its judiciary and strengthen its anti-corruption framework and its economic preparedness. To evaluate Ukraine's alignment with EU policies, we also examined specific areas of compliance. While Kyiv presents a good level of alignment and preparation for what concerns both external relations and foreign, security and defence policy, further implementation of the *acquis* is needed in the field of agricultural development. This analysis

²⁴⁶ Ukraine 2024 Report, SWD(2024)699 final, p.92

²⁴⁷ EEAS (n.d.). EUMAM Ukraine.

²⁴⁸ EEAS (n.d.). European Union EUAM Ukraine.

²⁴⁹ Ukraine 2024 Report, SWD(2024)699 final, p.92-93-94

underscores that, despite the broader geopolitical context which undeniably shapes Kyiv's accession process, the European Union remains committed and is pursuing a transformative model of integration, where compliance with the *acquis* is necessary.

When assessing these reports, we shall also bear in mind that Ukraine is facing major challenges in its path towards EU membership, foremost among them being the ongoing war: while representing the reason for Ukrainian membership application and accelerated integration, it has been made clear that EU membership for Ukraine necessarily implies the end of hostilities²⁵⁰. Kochenov and Basheska highlight that a second issue is the complex negotiations framework: the screening negotiations, as established by the 2020 Renewed Enlargement Methodology, are articulated on 6 clusters and 33 chapters, which necessarily set the country for a long-term accession²⁵¹. Thirdly, the authors point out that the domestic situation of Ukraine represents per se a challenge for European integration, as the war significantly undermines Kyiv's capacity to reform its legal and institutional framework in compliance with the *acquis*, both in political and material terms²⁵².

Eastern enlargement is widely perceived and described by EU officials themselves as a necessity and is often framed by scholars as a 'war spillover effect'²⁵³. In Neo-functionalism, a key theory of European integration, the 'spillover effect' explains how integration in one policy area creates pressure for integration in further domains, or how that supranational actors push for deeper integration in order to pursue their interests²⁵⁴; neo-functionalists thus see European integration as a 'self-sustaining process', as a result of the spillover effect²⁵⁵. Applying this concept to Ukraine, we may affirm that the ongoing war has produced a 'political' spillover, accelerating and deepening collaboration between Kyiv and Brussels increase at an unprecedented speed and generating a sense of urgency for Eastern enlargement. However, while this momentum is significant, scholars highlight that EU enlargement needs to be framed into a clear, transparent and merit-based framework, providing credible solutions for European integration to both Ukraine – and other candidate countries – and Member States^{256,257}. Therefore, building on this spillover effect, as the EU navigates the renewed momentum of enlargement – particularly in light of Ukraine's full-

²⁵⁰ Kochenov, D., & Basheska, E. (2025). Ukraine and the EU Enlargement: What Is the Law and Which Is the Way Forward? *EJRN 2025 (forthcoming)*

²⁵¹ Ukraine 2024 Report, SWD(2024)699 final, p.17

²⁵² Idem., p.19

²⁵³ Rabinovych, M. (2025). Could the spillover effects of war strengthen EU enlargement? *European Consortium for Political Research (ECPR)*.

²⁵⁴ Hatton, L. (2011). Theories of European Integration. *CIVITAS Institute for Civil Society*.

²⁵⁵ Idem., p.1

²⁵⁶ Rabinovych, M. (2025). *op. cit.*

²⁵⁷ Jacimović, D. (2023). New Approach to EU Enlargement. *European Liberal Forum*.

scale invasion, associated devastation and human losses – it is essential to assess the latter's impact on the European Union as a whole.

3. The potential institutional impacts of the accession of Ukraine on the European Union

As the EU anticipates enlargement and commits to granting Ukraine European membership, it is essential to question the potential future impact of Ukrainian accession to the Union, on both Brussels' institutional architecture and internal balance of power.

Ukrainian accession may indeed have an impact on the EU's institutional architecture, as it was the case for previous enlargement rounds; however, given the size of Ukraine – which would make it the fifth largest Member State – this impact would be particularly meaningful. Blockmans indeed highlights that, since in the current rules on qualified majority voting a Council decision must be approved by 55% of the Member States representing at least 65% of the total EU population, Ukrainian vote share would represent 9% of the total in the Council, meaning that the voting shares of other Member States would decrease – for instance, that of Germany would shift from 18.59% to approximately 16%²⁵⁸. Similarly, the seating arrangement of the European Parliament would have to change, in order not to over-number the Treaty limit of 750 members (MEPs) plus the President: this entails that either the maximum number of MEPs should be enlarged – through a Treaty amendment – or that the seats of other States should be reduced. Ukrainian membership would also evidently entail the country gaining positions in the other EU Institutions; while the addition of one Commissioner, one auditor and one judge would not lead to any malfunctioning of the said Institutions, the enlargement to more than ten new states would probably do. If the EU were to enlarge to both the Eastern Trio and Western Balkans, it would probably have to rearrange its institutional and representational frameworks²⁵⁹.

As for the internal balance of power, it is well-established that further enlarging the European Union, leaving the institutional mechanisms as they currently are, would further slow the European decision-making process, as with more countries in the Council – where Member States can exercise their veto-power – it would be increasingly difficult to find consensus. Looking back to the early 2000s, Blockmans emphasises that the Eastern enlargement to CEE countries changed the balance of power in the EU, especially concerning

²⁵⁸ Blockmans, S. (2023). The Impact of Ukrainian Membership on the EU's Institutions and Internal Balance of Power. Policy Paper, RKK/ICDS.

²⁵⁹ Idem, p.4

the realm of security and migration; Western Europe countries indeed perceived the centre of gravity of the EU's positions shifting towards the East, which could not but be accentuated by an eventual enlargement to Ukraine, Moldova and Western Balkans²⁶⁰.

While Russia's war against Ukraine initially strengthened the cohesion of EU Member States, divisions arose, as Baltic States opposed French and German attempts to maintain dialogue with Russia in 2022: Eastern and Baltic States are now increasingly favourable to extend qualified majority voting even to CFSP domains, in opposition to the 'old' Member States. These divisions are likely to be accentuated by the accession of new Eastern European States, who would strengthen the group of Member States calling for tougher EU stances against Putin's Russia²⁶¹. Moreover, some Member States fear that the new Eastern members would gain more political weight than Southern Member States, thus further pushing the latter to the 'periphery' and potentially enhancing the feeling of being 'left alone' by the EU – as already claimed, for instance, by Italian Prime Minister Meloni, who insisted that Italy was left alone by Brussels to rescue migrants in the Mediterranean²⁶².

Hence, assessing EU enlargement necessarily implies reflecting on the potential impacts on the latter on current Member States. While Brussels has always claimed that enlargements are a *positive-sum game*²⁶³, ultimately beneficial to the Union, it is clear that enlargement of the EU towards Ukraine – and potentially Moldova and Western Balkans – will have deep consequences on the Union's decision-making, institutional architecture and balance of powers. Hence, important debates on internal reforms prior to expansion are currently underway to address potential risks of inefficiency and mitigate eventual disengagement of current Member States from the EU.

4. 'Sailing on High Seas' and making the European Union enlargement-ready? Foreseeing reforms for a 30+ Union

As the EU prepares for a new phase of enlargement, scholars claim that Brussels should balance its commitment to support candidates with the need for internal reforms, to maintain its Institutions' functionality in an expanded Union. European Leaders have indeed renewed their commitment to enlargement, with Ukraine and Moldova joining the candidate countries, which now amount at nine – i.e. Albania, Bosnia and Herzegovina, Georgia, Moldova, Montenegro, North Macedonia, Serbia, Türkiye and Ukraine. Despite this strong political

²⁶⁰ Ibid., p.5

²⁶¹ Ibid., p.5

²⁶² InfoMigrants (2023). Italy 'left alone' to rescue migrants at Sea, PM Meloni says.

²⁶³ European Commission (n.d.). GROWING TOGETHER: enlargement – a positive sum game.

will, scholars argue that the EU is not ready to welcome new members²⁶⁴, as its institutional mechanisms were not designed for a group of more than 30 countries. In order to assess this urgent matter, the French and German governments invited twelve independent experts – referred to as *Group of Twelve* – to work on potential institutional reforms aimed at maintaining the EU’s capacity to act, protecting fundamental values and bringing it closer to citizens²⁶⁵.

The context of the ongoing enlargement indeed profoundly differs from that of the early 2000s: in a situation of war and stringent geopolitical needs, the pressure to move rapidly and cohesively is higher. However, governments have acknowledged the fact that proceeding with enlargement to ten new Member State – who would enjoy veto rights – without prior institutional reforms would seriously hinder the EU’s capacity to make decisions. Therefore, while recognising enlargement as a key foreign policy priority of the European Union, the report *Sailing on high seas: Reforming and enlarging the EU for the 21st Century*, issued in 2023 by the Group of Twelve, aims at proposing reforms to the EU legal framework, institutional system and procedures in order to increase the Union’s efficiency, capacity to act and democratic legitimacy²⁶⁶, foreseeing its enlargement.

In light of the multiple geopolitical and internal challenges which the EU faces, the authors claim that the European Union should improve its functioning and achieve three core aims, notably: strengthening the rule of law and democratic legitimacy; increasing its capacity to act and implement decisions across all policy areas; getting the institutions enlargement ready²⁶⁷. We will hence delve into their proposal to understand how the European Union should prepare for enlargement.

On the first point, notably strengthening and protecting the rule of law, the authors claim that the rule of law not only represents a fundamental element of the EU legal order, but also a constitutional principle upon which the EU’s functioning is based: EU policies, including those related to the internal market, judicial cooperation and recognition of judgments, are indeed based on the premise that national courts are independent, and that Member States are democratic. While Article 7 TEU²⁶⁸ allows for the suspension of rights derived from the Treaties in case of serious and persistent breach of the Union’s values as set out in Article 2, its effects have not proved to be far-reaching, thus limiting the EU’s ability to enforce rule of law and hence undermining Brussels’ credibility vis-à-vis citizens, national governments and the international community. The authors hence recommend

²⁶⁴ Costa, O., Schwarzer, D., Berès, P., Gressani, G., Marti, G., Mayer, F., Nguyen, T., Von Ondarza, N., Russack, S., Tekin, F., Vallée, S., & Verger, C. (2023). *Sailing on high seas: Reforming and enlarging the EU for the 21st Century. Report of the Franco-German Working Group on EU Institutional Reform*.

²⁶⁵ Idem, p.11

²⁶⁶ Ibid., p.10

²⁶⁷ Ibid. p.14 (see Annex X for the ‘triangle of three core aims’).

²⁶⁸ See Annex I

improving ways to enforce the EU's fundamental principles, as well as supporting governments and civil society in candidate countries in order to ensure the upholding of democracy and rule of law. They highlight the importance of strengthening the EU's instruments to protect rule of law, through both budgetary conditionality and Article 7 TEU. As for the former, the authors recommend turning the Budgetary Conditionality Regulation – drafted to protect EU budget rather than rule of law – into an instrument to sanction breaches of the rule of law and other fundamental values as set out by Article 2 TEU; broadening the scope of the Regulation could be done through Article 352 TEU, or through an amendment to Article 7²⁶⁹. For instance, the Group of Twelve observes that making the NextGenerationEU funds conditional upon respecting the rule of law has proven effective and hence suggest that all future EU funds are allocated with a similar model of conditionality²⁷⁰. Not only would this measure contribute to rule of law enforcement but also ensure that EU spending to be coherent with the Union's fundamental values. Secondly, the authors claim that the unanimity condition put forward in Article 7(2) TEU – according to which the European Council, acting unanimously, determines the existence of a breach of the values referred to in Article 2 – should be turned into a four-fifths majority. Moreover, it is underlined that Article 7 should include automatic sanctions in cases where, five years after the proposal to trigger the procedure has been issued, the breaches to Article 2 still exist. Lastly and importantly, the authors highlight that in the event that a country show a persistence of violations, that country can no longer be a Member State of the Union²⁷¹.

On addressing institutional challenges, the authors identify five areas of reform, i.e. (1) making the EU institutions enlargement-ready; (2) decision-making in the Council; (3) EU-level democracy; (4) powers and competences; (5) EU resources.

- (1) As previously highlighted, the expansion of the Union to ten new Member States will impact the Institution's composition and balance: as for the European Parliament, the authors hence recommend keeping the number of MEPs to 751, in order to enable an efficient deliberation, as well as adopting a new system of seat allocation in order to reduce current demographic distortions. As for the Council of the EU, the authors propose extending the current trio-format to a quintet of presidencies, each spanning half an institutional cycle, in order to enable longer-term agenda-setting. They also propose to either reduce the size of the College of Commissioners, in order to allow for more operational efficiency and coherence, or to introduce a hierarchical structure inside

²⁶⁹ Costa, O., et al. (2023). *op. cit.*

²⁷⁰ Idem, p.18

²⁷¹ Ibid., p.19

the College, distinguishing between ‘Lead Commissioners’ and ‘Commissioners’, working on the same portfolio and switching role at the middle of the mandate²⁷².

(2) Decision making in the Council is also a relevant point assessed by the Group of Twelve, who notably proposes the extension of Qualified Majority Voting system (QMV), in order to promote dynamism and coalition-making. Indeed, the authors point out that 80% of decisions taken through QMV still meet consensus. The extension of QMV is depicted as ‘one of the prerequisites for a strong EU’: the experts hence underline that all policy decisions should be transferred from unanimity to QMV, and accompanied by co-decision with the European Parliament, to strengthen their democratic legitimacy. The Group of Twelve points out that, with regard to enlargement, voting negotiation chapters should be carried out through QVM. In order to make QMV more acceptable, a ‘sovereignty safety net’ should be included – modelling it after Article 31(2) TEU²⁷³, which allows Member States to voice national interests in the decisions of the CFSP already concerned by qualified majority. Moreover, the authors highlight that the calculation of QMV voting shares should be re-balanced – adjusting the current system to 60% of Member States representing 60% of the population²⁷⁴.

(3) Thirdly, the Group of Twelve stresses the importance of strengthening the democratic legitimacy of EU decision-making. To improve democratic legitimacy, the authors point out that Member States should harmonise the conditions under which the election of the European Parliament take place, in order to facilitate a true transnational electoral space; moreover, the authors, while rejecting the ‘lead candidate system’ for the election of the Commission President, highlight the need for the Parliament and the Council to find agreements on how to appoint Commission President, in order to avoid institutional conflict, through a binding inter-institutional agreement. Thirdly, the authors observe the need to address the democratic deficiencies of the EU, notably through the development of existing participatory instruments for citizens – like the Citizen’s Panels – and make the latter part of EU decision-making, besides used to prepare for enlargement through the involvement of citizens, youth movements, civil society organisations at debates on accession. Furthermore, in order to enhance transparency and good governance, the authors recommend the creation of a new Office for Transparency and Probity,

²⁷² Ibid., p.20-22

²⁷³ Se Anenx I

²⁷⁴ Costa, O., et al. (2023). *op. cit.*, p.23-25

charged with the supervision of the actors working within and for the Union Institutions²⁷⁵.

- (4) The fourth element of institutional reform concerns powers and competences: if a change in Treaties was foreseen, the Union should apply lessons learnt in previous crisis and strengthen provisions on how to deal with unpredicted developments, competence-wise. Policy areas susceptible to be subject of a transnational crisis, the authors highlights, should be reviewed to determine whether the emergency measures put forward by the Treaties are sufficient²⁷⁶.
- (5) Lastly, the authors describe the reform of the EU policies and the implied redistribution of funding as a domestic political challenge for Brussels, which cannot but be amplified by enlargement. The latter will hence have a relevant impact on EU budget, which should grow both in nominal size and in terms of a proportion of GDP. The authors indeed point out that the enlargement and reconstruction of Ukraine, coupled with other EU policies such as the green transition, will require a substantial increase in the Union's budget²⁷⁷.

In the third section of the report, the authors assess how to 'deepen and widen' the European Union, and firstly address possible Treaty changes meant at enhancing EU governance. Relevant reforms – such as the shift from unanimity to QMV at the Council or extending policy areas – could be possible without actual amendments to the Treaties, which are lengthy procedures; however, for reasons of democratic legitimacy and transparency, the authors recommend a Treaty revision.

Moreover, the authors underline the importance of flexibility tools to enhance the EU's capacity to act. In the past, differentiation has allowed non-EU members to participate in EU individual policies: external differentiation hence relates to enlargement and could be used as a tool for European integration, for instance by creating a special 'association status' with the EU²⁷⁸. Therefore, despite the limits of differentiations, the Group of Twelve claims that Member States should make use of the existing tool which allow for flexibility and differentiation of European integration. Differentiation may hence apply in some policy areas, while respecting the rule of law and other fundamental principles, and in the framework of Treaty reform: the authors indeed highlight that Member States could be exempted from

²⁷⁵ Idem, p.26-31

²⁷⁶ Ibid., p.31-32

²⁷⁷ Ibid., p.32-34

²⁷⁸ Ibid., p.39

applying new areas of EU competences. Based on the idea of differentiation, the authors develop a model for the future of European integration, in four distinct status²⁷⁹. First, in the ‘inner circle’, the members of the Eurozone and Schengen area participate in a form of deeper integration; second, the ‘EU’, which encompasses present and future Member States bound by the same political objectives and by the principles set out by Article 2; third, the ‘associate members’ would not participate in deep political integration, but would still be bound by EU common principles and values, and the core area of participation would be the single market; fourth, the ‘EPC’ would not include any form of binding integration nor access to the single market, but rather focus on cooperation and geopolitical convergence in areas of mutual interests, such as security, energy or environmental protection. Economic interactions with EPC countries could be organised around Free Trade Agreements in specific policy areas, in order to enhance field-specific cooperation²⁸⁰.

Lastly, the authors claim that the European Union should be ready for enlargement by 2030: the new political leadership should hence commit to this goal by launching the reform process required prior to enlargement. The authors highlight the importance of a merit-based approach and hence promote a ‘regatta’ model of accession by breaking down enlargement into smaller groups of countries. As for accession, it is underlined that the discussions on membership should take into account several elements: firstly, regardless of any flexibility, compliance with the ‘fundamental’ cluster should be considered as a precondition for membership; in addition, geopolitical considerations should be taken into account, as well as the ‘conflict resolution’ principle, meaning that countries with lasting military conflicts or having a territorial conflict with EU Member States cannot join the Union for security and stability reasons. Democratic legitimacy should be encouraged during the entire process, through regular dialogue between the European Parliament and national institutions of Member States and candidates. Moreover, the Union should follow four principles while carrying out the accession process, notably: *equality* principle, underscoring that the accession procedure and the requirements should be equal for all candidate countries; *systematisation* principle, meaning that a more structured methodology for sectorial integration would be needed; *reversibility* principle, according to which, even when a certain degree of integration is achieved, it must be possible to reverse that tendency if fundamental EU principles are no longer met; *QMV* principle, encompassing not only the candidate’s progress, but also the EU’s capacity to take decisions on opening and closing new chapters, or on advancing negotiations independently from particular national interests. In this logic, new steps should be approved by Member States through QMV, to avoid one Member State

²⁷⁹ See Annex XI

²⁸⁰ Costa, O., et al. (2023). *op. cit.*, p.41

blocking the process for national reasons – even if the actual accession would still require unanimity²⁸¹.

To conclude, the 2023 report by the Group of Twelve covers a broad spectrum of issues linked to the institutional implications of European enlargement and tackles the challenges which the EU must overcome to be prepare for expansion. Indeed, much as enlargement of the Union is acknowledged as a ‘geostrategic imperative’²⁸², the authors stress the urgency of carrying out deep and far-reaching institutional reforms before welcoming new Member States. Without such reforms, the decision-making capacity and workings of the European Union could thus be compromised, leaving it ill-equipped to address future challenges. The report hence serves a valuable instrument of guidance for navigating the potential path of the EU to reform, emphasising that the 2024-2029 institutional cycle will be a pivotal – and decisive – one for the Union. During this time, EU decision-makers should introduce changes to the Treaties and to the EU institutional framework to prepare it for enlargement. Finally, the Group of Twelve invites to think about the ‘cost of non-action’: in a context of persisting external and internal challenges, choosing not to reform the Union, or not to integrate countries which have proved a strong commitment to its values, will not but weaken the European Union.

²⁸¹ Idem, p.45

²⁸² Ibid., p.47

CONCLUSION

All in all, this dissertation has shed light on the legal and political aspects of the enlargement of the European Union, which are intertwined and both come into play in the EU's decision to enlarge its borders.

While enlargement is undoubtedly based upon a legal process of compliance of candidate countries with the EU *acquis*, we have seen that the relevant provision regulating enlargement, i.e. Article 49 TEU, leaves room for discretion of Member States and does not account for the complete enlargement practice. In light of the above, enlargement law can hence be defined as customary law, as enlargement practice is not clearly set out by the relevant provision but rather carried out by the EU Institutions. Despite Article 49's shortcomings in assessing enlargement institutional functioning, European enlargement is now embedded in legal requirements, defined through the chapters of the *acquis*, encompassing a wide range of policy areas with whom candidate States need to harmonise their national legislation²⁸³. The lack of precision on enlargement's workings clearly suggests that enlargement goes far beyond assuring States' compliance with the EU *acquis* – which remains essential: besides the latter, enlargement indeed represents a relevant tool of the foreign policy of the European Union²⁸⁴, governed by several logics and based on the idea of Europeanisation of the EU's neighbourhood. With regard to the latter, Börzel argues that the EU aims “to build non-members into member States” through the promotion of democracy, rule of law and European values – in other words, through its *acquis*, which acquires a pivotal importance to the advancement of the EU foreign policy²⁸⁵. With regard to the former aspect, we have seen that European enlargement can be motivated – and was legitimised by EU Institutions – in various ways, which complement each other. To analyse enlargement logics, this dissertation has drawn on Piedrafita and Torreblanca's ‘Three logics of EU enlargement’ and was completed by Foret's study on European narratives of legitimation. This assessment has enabled us to understand that different phenomena can account for the enlargement of the EU. On one hand, we could highlight the material and strategic interests that the Union undoubtedly pursues when enlarging, following a logic of consequentiality: enlargement has indeed been defined as a positive-sum game for the EU, as expansion necessarily implies a widening of the internal market, both in terms of industries and customers, as well as a way to expand its sphere of influence. On the other hand, the authors observe that EU enlargement is also widely based on normative commitments

²⁸³ European Parliament (2023). Enlargement policy: reforms and challenges ahead.

²⁸⁴ Schimmelfennig, F. (2025). *op. cit.*

²⁸⁵ Magen, A. (2007). *op. cit.*

of the Union and its Member States, which are inherent to the EU itself and hence shape the norms and behaviours of its members. Through these principles, drawn from sociological institutionalism, we have understood that institutions are shaped and act upon their moral commitments, hence providing further grounds for enlargement²⁸⁶. Furthermore, a logic of justification can also explain EU enlargement, meaning that, besides normative commitments and material interests, EU decision-makers seek for justice and legitimation on policy decisions, including enlargement: in this framework, Foret's 'Europe of values', 'Europe of rights' and 'European way of life' narratives appear as relevant tools to legitimise and motivate European enlargement²⁸⁷.

From our theoretical analysis, we have understood that enlargement is hence both a political and legal tool of the EU. This is particularly evident and relevant in the case of Ukraine, which we have studied in Chapter III: the launch of a full-scale war of aggression against Kyiv in 2022 has indeed revitalised enlargement process at EU level, which had long stagnated, and Ukraine was granted candidate status at a record speed. For the sake of our analysis, it is relevant to assess the EU ongoing enlargement towards Ukraine to understand how legal and political factors interact and shape enlargement dynamics. Therefore, this dissertation has applied Piedrafita and Torreblanca's model to frame theoretically the enlargement to Ukraine and has analysed the European Commission's 2023 and 2024 Ukraine enlargement reports, assessing the country's compliance with the 'Fundamentals' clusters and with other important EU policy areas. Despite the relevant progress demonstrated by Ukraine, the country still must undergo comprehensive reform to fully meet the EU *acquis*. Given the significant challenges the country is facing, it is hence clear that enlargement to Ukraine has a deep political – and geo-political – meaning for the European Union: as mentioned above, Commission President von der Leyen indeed often defined her Commission as a 'geopolitical' one, and defined enlargement as a strategic priority of the European Union. Scholars also underline the increasingly important geopolitical dimension which the enlargement process has acquired, and is acquiring, since 2022: Petrov and Hillion for instance observe that, so far, this enlargement has been carried out 'through war'²⁸⁸. This means that the Union has granted candidacy as an act of political support to Ukraine, without a rigorous application of conditionality: 'accession through war' hence entails that the EU is taking a different and more favourable approach for the treatment of the membership application, as the Kyiv is fighting for European values – as provided by articles 2 and 21 TEU²⁸⁹. Similarly, Schimmelfennig claims that Russian military threats have revitalised

²⁸⁶ Piedrafita, S., & Torreblanca, J. (2005). *op. cit.*

²⁸⁷ Foret, F. (2025). *op. cit.*

²⁸⁸ Petrov, R., & Hillion, C. (2022). "Accession through war": Ukraine's road to the EU. *Common market law review*, 59(5), 1289-1300.

²⁸⁹ Idem, p.1291

enlargement as a geopolitical tool²⁹⁰. As detailed above, pursuing a geopolitical enlargement rather than a transformative one could imply lower standards than those expected by the *acquis*, due to the urgency of membership for some countries. However, the EU executive is advocating for a merit-based, classic accession process, resembling more to the concept of transformative enlargement, which however entails a longer process of negotiations. The last section of this thesis assesses the important question of the EU's readiness for a new round enlargement and a '30+' European Union. This would indeed significantly affect – and undermine – EU decision-making capacity and effectiveness, given the strict unanimity rules at the Council, besides creating imbalances of power within the Institutions. The European Union is hence probably not yet ready to enlarge its borders in its current institutional configuration, just like Ukraine appears to be unfit for an immediate accession, mostly due to the ongoing war and also due to lack of full compliance with the *acquis*. So, which perspectives for the future of EU enlargement?

Even if governed by a 'classic', transformative, merit-based approach, enlargement to Ukraine will not be a standard accession process: despite the undisputed importance and urgency of enlargement in the contemporary context, for the 'Eastern Trio' countries, and for Ukraine in particular, complying with the EU *acquis* will be a demanding journey, unlikely to be completed in the immediate future, given the ongoing war. Hence, ultimately, while enlargement constitutes a cornerstone of the current foreign policy of the EU, it cannot be achieved rapidly nor without deep structural considerations. The integration of new members – to the extent of creating a European Union of 36 members in times of geopolitical urgency – requires a balanced approach, acknowledging differentiated accession pathways for candidate countries and ensuring that both candidates and The European Union undergo the necessary reforms to be fully prepared for membership. Indeed, as Schimmelfennig highlights, while enlarging would secure the EU neighbourhood, admitting new candidates with lower levels of Europeanisation would not but further complicate EU decision-making. In this sense, pursuing differentiated integration, or staged accession – i.e. partial membership, which allows candidates to participate in selected EU policies, temporarily excluding them from policies that would be most negatively affected by an expansion of membership, and enabling them to pursue a deeper Europeanisation – appears to be a relevant and plausible strategy: it would indeed be a way to gradually integrate new members and allow for gradual and flexible integration, while mitigating the trade-offs necessarily implied by geopolitical enlargement²⁹¹. Simultaneously, it is imperative for the European Union to pursue a far-reaching process of institutional reform, as highlighted by the Group

²⁹⁰ Schimmelfennig, F. (2025). *op. cit.*

²⁹¹ Idem, p.96

of Twelve: without adapting its Institutions, decision-making processes, and financial frameworks, the Union indeed risks undermining its own stability, effectiveness and internal cohesion.

Drawing upon other historical examples and the specialised literature, this research ultimately shows that, in order to be conflict free, enlargement should be both ambitious and realistic: it should indeed represent a strategic path, corresponding to the political priorities of the European Union, while preserving its legal and political integrity, and answer to the ‘dream of Europe’ of candidate countries. Successful paths to accession should thus ensure that both new potential members and the Union are ready for this step. As the Schuman Declaration reminds us, “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”. When it leads to successful institutionalisation, enlargement, too, follows this logic – i.e. progress through pragmatic steps that strengthen both the European Union and its future members.

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Annex I: Consolidated Version of the Treaty on the European Union (extracts)

TITLE I – COMMON PROVISIONS

Article 1 (ex article 1 TEU)

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called ‘the Union’, on which the Member States confer competences to attain objectives they have in common.

This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union (hereinafter referred to as ‘the Treaties’). Those two Treaties shall have the same legal value. The Union shall replace and succeed the European Community.

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. 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 (ex Article 6 TEU)

1. The Union recognises 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.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

Article 7 (ex Article 7 TEU)

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the European Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. Before making such a determination, the Council shall hear the Member State in question and may address recommendations to it, acting in accordance with the same procedure.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may determine

the existence of a serious and persistent breach by a Member State of the values referred to in Article 2, after inviting the Member State in question to submit its observations.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of the Treaties to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under the Treaties shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.

5. The voting arrangements applying to the European Parliament, the European Council and the Council for the purposes of this Article are laid down in Article 354 of the Treaty on the Functioning of the European Union.

Article 31 (ex Article 23 TEU)

1. Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously, except where this Chapter provides otherwise. The adoption of legislative acts shall be excluded.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.

2. By derogation from the provisions of paragraph 1, the Council shall act by qualified majority: –when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article 22(1),

–when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request from the European Council, made on its own initiative or that of the High Representative,

–when adopting any decision implementing a decision defining a Union action or position,

–when appointing a special representative in accordance with Article 33.

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.

3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2.

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

5. For procedural questions, the Council shall act by a majority of its members.

TITLE VI – FINAL PROVISIONS

Article 49 (ex Article 49 TEU)

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.

Annex II: Chronology of Enlargement events

Table 1 – The main steps in the accession process

STEP 1	Country submits membership application to Council (EU Member States).
STEP 2	Commission submits opinion on the application.
STEP 3	EU Member States decide unanimously to grant the country candidate status.
STEP 4	Once the conditions have been met, the accession negotiations are opened, with the agreement of all Member States.
STEP 5	Commission proposes a draft negotiating framework as a basis for the talks. Member States must agree on this negotiating framework before accession negotiations can formally begin.
STEP 6	During the negotiations, divided into clusters and chapters, the country prepares to implement EU laws and standards. In each case, all EU Member States must agree that all requirements have been met.
STEP 7	Once negotiations on all areas are finalised, the Commission gives its opinion on the readiness of the country to become a Member State.
STEP 8	Based on this opinion, EU Member States decide unanimously to close the negotiation process. The European Parliament must also give its consent.
STEP 9	All EU Member States and the candidate country sign and ratify an accession treaty, which enables the country to become an EU Member State.

Data source: [European Commission](#), 2022.

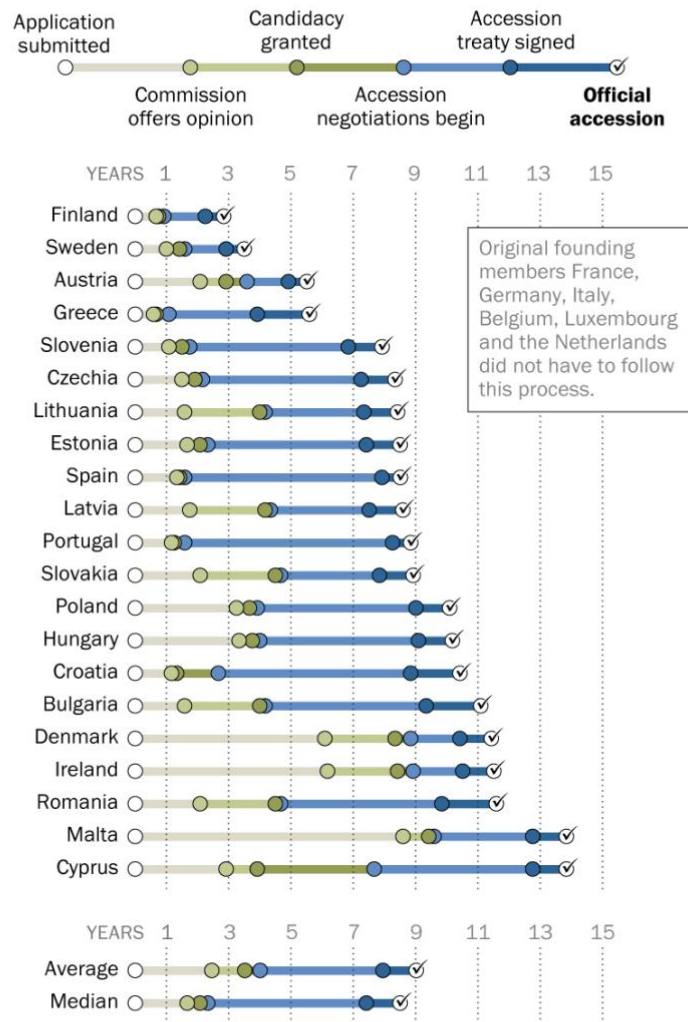
Figure 2: The main steps in the accession process

Source: European Parliament (2023). Enlargement policy: reforms and challenges ahead. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/757575/EPRS_BRI\(2023\)75757_5_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/757575/EPRS_BRI(2023)75757_5_EN.pdf)

Annex III: timeline for EU accession

A look at the typical timeline for EU accession

Amount of time each step took current member countries to join the European Union, in years



Notes: From 1967-1992, the European Communities (EC) served as the legal predecessor of the EU. Total length of the accession process for each country calculated using the exact dates of application submission and official accession; all other calculations based on the first day of the first event to the first day of the month of the second event. See "How we did this" for more.
Sources: European Union archives, EUR-Lex, the University of Luxembourg's Centre Virtuel de la Connaissance sur l'Europe (CVCE), University of Pittsburgh's Archive of European Integration, news articles.

PEW RESEARCH CENTER

Figure 3: The typical timeline for EU accession

Source: LEPPERT, R. (2022). How exactly do countries join the EU?. Pew Research Center.
<https://www.pewresearch.org/short-reads/2022/07/26/how-exactly-do-countries-join-the-eu/>

Annex IV: Clusters of negotiating chapters



Source: [European Commission](#) 2022.

Figure 4: EU *acquis* clusters

Source: European Parliament (2023). Enlargement policy: reforms and challenges ahead. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/757575/EPRS_BRI\(2023\)75757_5_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/757575/EPRS_BRI(2023)75757_5_EN.pdf)

Annex V: Three models of democracy promotion

Table 1. Three models of democracy promotion.

	Linkage	Leverage	Governance
Target	Society	Polity	Sector
Outcome	Democratic culture	Democratic institutions	Democratic governance
Channel	Transnational	Intergovernmental	Transgovernmental
Instruments	Socialization	Conditionality	Socialization

Source: LAVENEX, S., & SCHIMMELFENNIG, F. (2011). EU democracy promotion in the neighbourhood: from leverage to governance? *Democratization*, 18(4), 885–909.

Annex VI: Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation, 1997 (extracts)

Article 1

The High Contracting Parties, as friendly, equal and sovereign States, shall base their relations on mutual respect and confidence, strategic partnership and cooperation.

Article 2

The High Contracting Parties, in accordance with the provisions of the Charter of the United Nations and their obligations under the Final Act of the Conference on Security and Cooperation in Europe, shall respect each other's territorial integrity and confirm the inviolability of their common borders.

Article 3

The High Contracting Parties shall base their relations with each other on the principles of mutual respect, sovereign equality, territorial integrity, the inviolability of borders, the peaceful settlement of disputes, the non-use of force or threat of force, including economic and other means of pressure, the right of peoples to control their own destiny, non-interference in internal affairs, observance of human rights and fundamental freedoms, cooperation among States, and conscientious fulfilment of international obligations and other universally recognized norms of international law.

Article 4

The High Contracting Parties believe that good-neighbourliness and cooperation between them are important factors in improving stability and security in Europe and the whole world.

They shall engage in close cooperation with a view to strengthening international peace and security. They shall take the necessary measures to promote general disarmament, the creation and consolidation of a system of collective security in Europe, and the strengthening of the peacekeeping role of the United Nations and the improvement of the effectiveness of regional security mechanisms.

The Parties shall endeavour to ensure that all controversial issues are settled exclusively by peaceful means and shall cooperate in preventing and settling conflicts and situations that affect their interests.

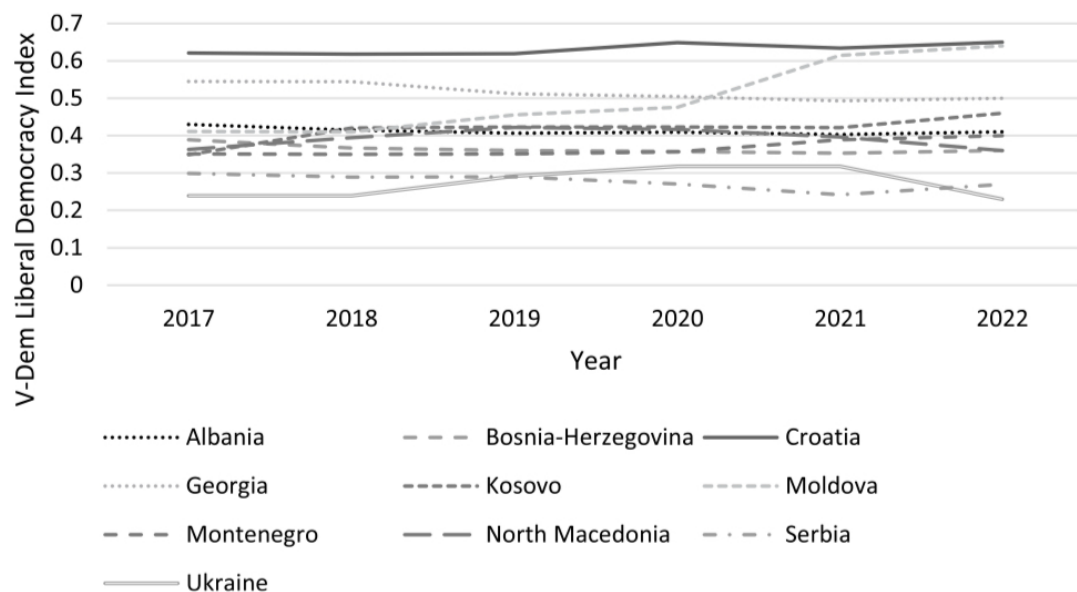
Annex VII: 'Transformative' enlargement versus 'Geopolitical' enlargement

Table 1 Two EU enlargement logics

	Transformative enlargement	Geopolitical enlargement
Paradigm	Europeanisation	Geopolitics
Purposes	Domestic transformation; regulatory and institutional alignment	International demarcation; strategic alignment
Goals	Liberal-democratic consolidation; market and policy integration	Territorial consolidation; regime stabilisation; denial of foreign control
Methods	Gradual and slow process; conditionality; “regatta”	Fast process; assistance; “en bloc”
Conditions	Europeanisation progress	External security threat

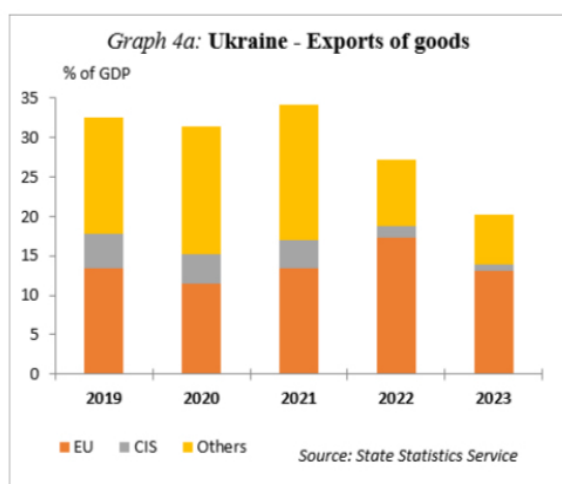
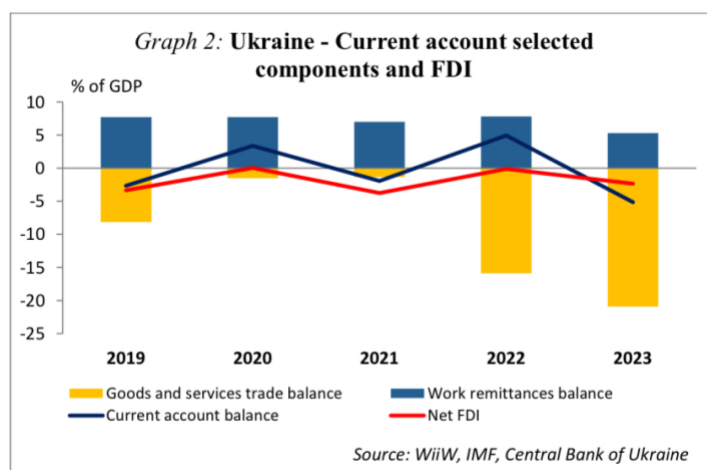
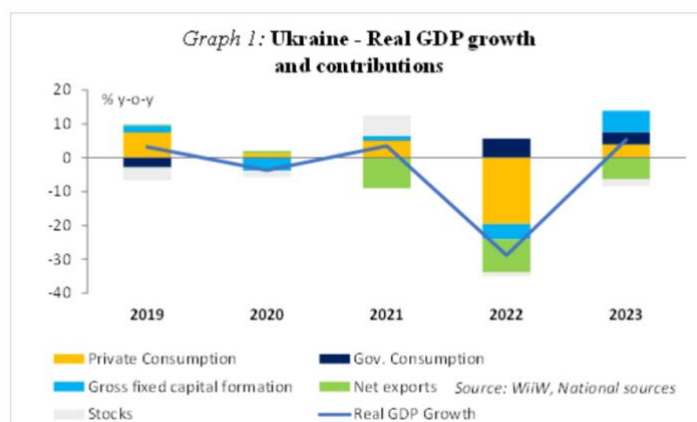
Source: SCHIMMELFENNIG, F. (2025). Geopolitical Enlargement. *European Union's Geopolitics: The Lackluster World Power*, 79-98.

Annex VIII: Liberal democracy in the Western Balkans and the Association Trio



Source: Annual values of the liberal democracy index of the Varieties of Democracy project.
 In: SCHIMMELFENNIG, F. (2025). Geopolitical Enlargement. *European Union's Geopolitics: The Lackluster World Power*, p. 87.

Annex IX: Ukrainian real GDP growth, Current account components and FDI, exports and imports



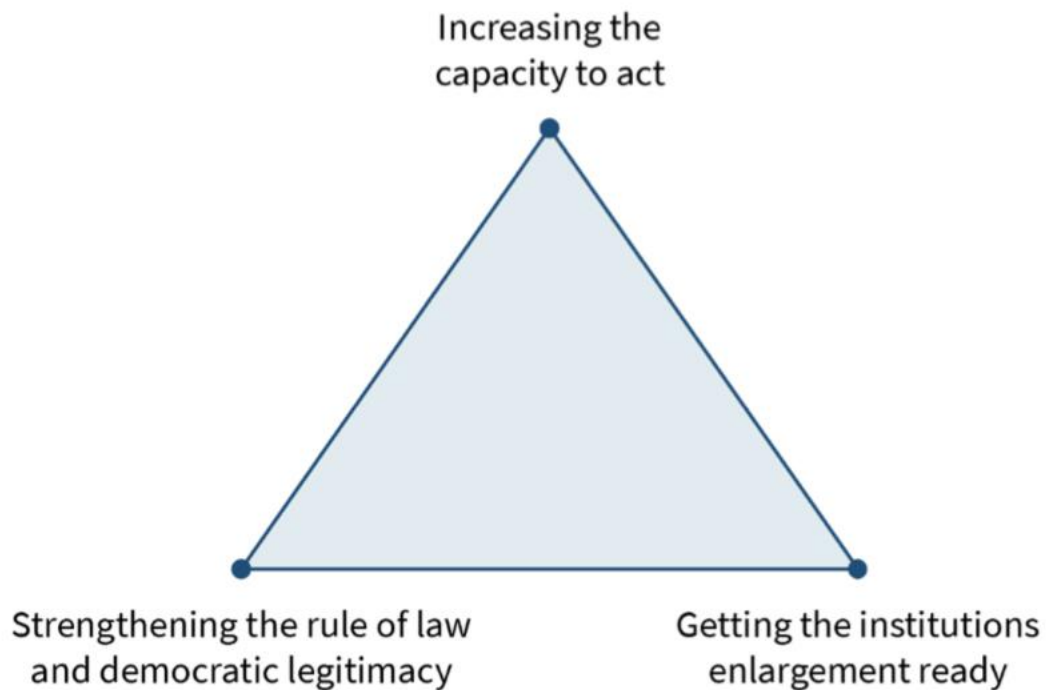
Figures 5, 6, 7: Ukrainian macroeconomic situation

Source: European Commission, Ukraine 2024 Report, SWD(2024)699 final.

Annex X: triangle of three core aims for EU institutional reforms

Figure 1

The triangle of aims for EU institutional reform



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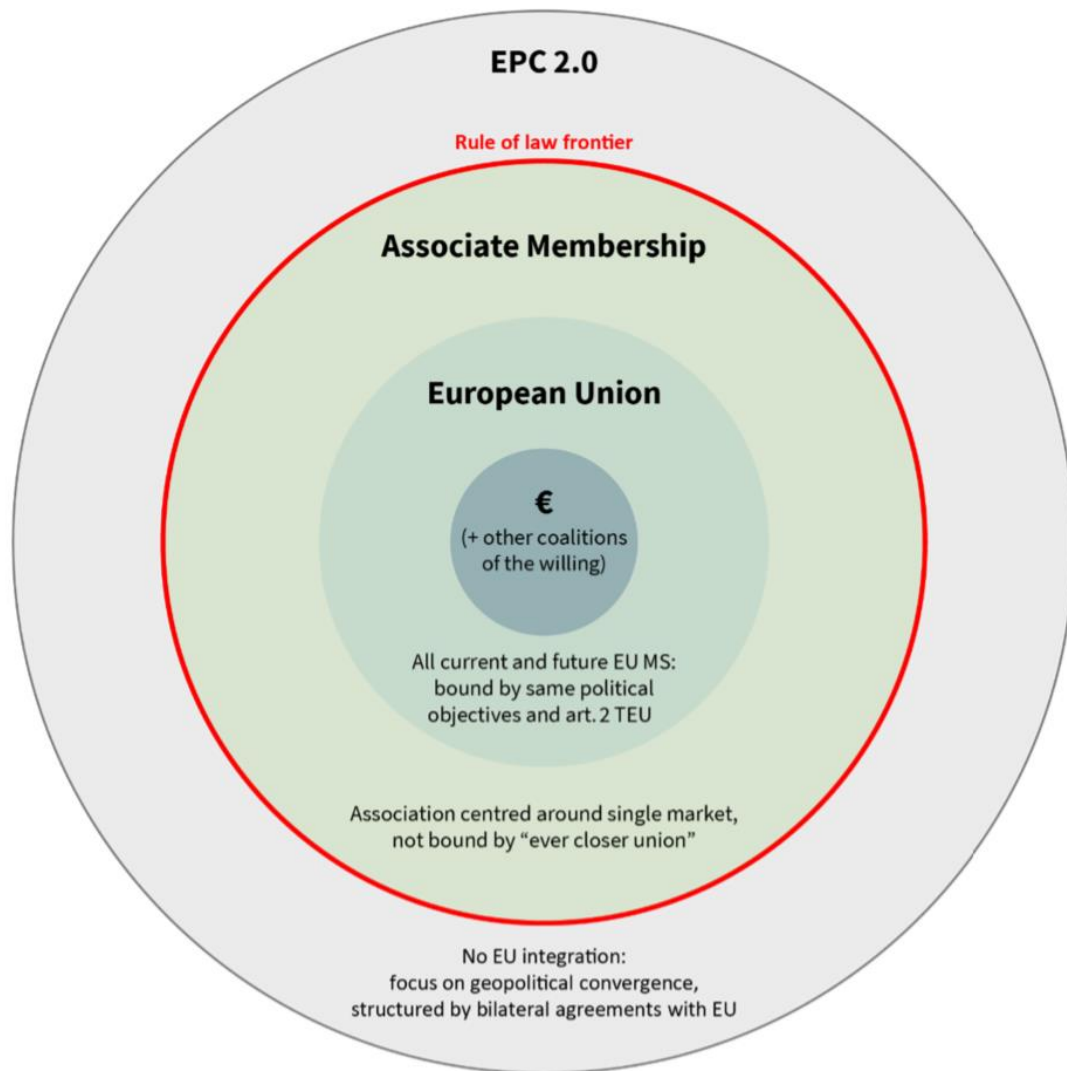
Figure 8: Triangle of aims for EU institutional reforms

Source: COSTA, O., SCHWARZER, D., BERÈS, P., GRESSANI, G., MARTI, G., MAYER, F., NGUYEN, T., VON ONDARZA, N., RUSSACK, S., TEKIN, F., VALLÉE, S., & VERGER, C. (2023). *Sailing on high seas: Reforming and enlarging the EU for the 21st Century. Report of the Franco-German Working Group on EU Institutional Reform.*

Annex XI: four circles of European integration

Figure 3

European integration in four concentric circles



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Figure 9: Circles of European integration

Source: COSTA, O., SCHWARZER, D., BERÈS, P., GRESSANI, G., MARTI, G., MAYER, F., NGUYEN, T., VON ONDARZA, N., RUSSACK, S., TEKIN, F., VALLÉE, S., & VERGER, C. (2023). *Sailing on high seas: Reforming and enlarging the EU for the 21st Century. Report of the Franco-German Working Group on EU Institutional Reform.*

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