

*An Analysis of Ukraine's EU Membership prospects  
following Russia's 2022 invasion*

GSPIA Student Name: **Sofiya Stevens**

Student ID: 8597985

Supervisor: Professor Patrick Leblond

Submitted in fulfillment of the requirements for the degree of:

*Master of Arts in Public and International Affairs*

University of Ottawa

November 29, 2022

## Table of Contents

Abstract.....	3
1. Introduction .....	4
2. The European Union’s Perspective .....	7
2.1. The Three (Official) Pillars of EU Membership: Requirements for Ukraine to Satisfy .....	9
2.2. The Fourth (Unofficial) Pillar: Integrating Ukraine into the EU and its Institutions.....	12
3. Ukraine’s Perspective on EU Accession .....	17
3.1. Gap #1: Rule of Law (Reform of the judiciary, public administration, and democracy).....	21
3.1.1. Law Enforcement .....	26
3.1.2. Human Rights.....	28
3.1.3. Next Steps .....	29
3.2. Gap #2: Macroeconomic Policy .....	32
3.2.1 Next Steps .....	37
3.3. Gap #3: Consumer Protection.....	38
3.3.1. Next Steps .....	39
3.4. Gap #4: Company Law .....	40
3.4.1. Next Steps .....	41
3.5. Gap #5: Intellectual Property Rights .....	41
3.5.1. Next Steps .....	43
3.6. Gap #6: Transport .....	43
3.6.1. Next Steps .....	44
3.7.1. Gap #7: Anti-Corruption – The Underlying Structural Challenge .....	45
3.7.2. Civil Society .....	56
3.7.3. Next Steps .....	59
4. Conclusion.....	64
Annex .....	69
References .....	70

## Abstract

Ukraine became a candidate of the European Union (EU) in record time during an active war. This paper examines the likelihood that Ukraine will join the EU in the near future as most Ukrainians anticipate. Based on a literature review, such as recent EU publications, reports and news articles, this paper argues that Ukraine needs to address a fundamental structural challenge (namely, corruption) before it can realize the EU accession requirements; otherwise, the accession journey is guaranteed to be a long one, despite the record start. As an important consideration, this paper relies mostly on information available prior to the start of Russia's invasion on 24 February 2022.

**Key words:** Ukraine; European Union; accession; reform; Russian invasion

## 1. Introduction

*“Today the European Commission is setting out a path to help a new Ukraine rise from the ashes of war, just as [the] Union emerged from the rubble of 1945.”<sup>1</sup>*

Ukraine has wanted to join the European Union (EU) since the collapse of the USSR in 1991, after which it gained sovereignty and political freedom to choose its own path. Ukraine’s orientation towards the West began to gradually manifest itself in pro-EU demonstrations starting with the Orange Revolution in 2004, which was primarily against electoral fraud and corruption.<sup>2</sup> The EU became “a stand-in symbol for the rule of law and good governance and the protests were a demand for those basic elements of democracy.”<sup>3</sup> The next significant revolution, known as *Euromaidan*, erupted in 2014 when Ukrainians overthrew the pro-Russian Ukrainian President, Victor Yanukovich, for his last-minute refusal to sign the EU-Ukraine Association Agreement (AA),<sup>4</sup> “which symbolised for many Ukrainians a path towards the European Union.”<sup>5</sup> Contrary to his predecessor, the new Ukrainian President, Petro Poroshenko, signed the Agreement in 2014, thereby binding Ukraine and the EU closer together by formally promoting stronger political ties and economic relations.<sup>6</sup> The 2014 revolution led to Russia’s annexation of Crimea and occupation of Donbass by pro-Russian separatists,<sup>7</sup> eventually resulting in Russia’s

---

<sup>1</sup> European Commission (2022).

<sup>2</sup> European Commission (2022a, 2).

<sup>3</sup> U.S. Commission on Security and Cooperation in Europe (2017, 2).

<sup>4</sup> The Association Agreement (AA) includes the Deep and Comprehensive Free Trade Area (DCFTA) – the economic part which helps to align key sectors of the Ukrainian economy with EU standards, by offering a framework for economic development that would harmonize laws and regulations. In this paper, the Agreement will be considered in its entirety, unless stated otherwise.

<sup>5</sup> European Commission (2022b).

<sup>6</sup> European Commission (2022c).

<sup>7</sup> For context, “the policy of EU integration prevails throughout Ukraine, except for the pro-Russian Eastern Region of Donbass” (Vošta et al. 2016). Russia annexed the Crimean Peninsula from Ukraine in 2014. Since then, Ukrainian separatists supported by Russia have controlled the southeastern Ukrainian regions of Donetsk and Luhansk. In addition to Crimea, Ukraine now faces new territorial violations as Russian President Vladimir Putin signed a decree granting Russian citizenship to four Russian-occupied regions in Ukraine: Donetsk, Luhansk, Kherson, and Zaporizhzhia. The separatist regions are outside the control of the Ukrainian government. By destabilising Ukraine in this way, Russia is trying to prevent fast progress on Ukraine’s EU negotiations and other Western partnerships (Zemelyte 2022).

war against Ukraine, which began on 24 February 2022 in violation of territorial integrity and international law, and with no end in sight at the time of writing.

Just four days after the start of the war, Ukraine applied for EU membership on 28 February 2022. The Council of the European Union asked the European Commission to provide its Opinion on Ukraine's EU membership application on 7 March. To help inform the Commission's evaluation, Ukraine submitted a completed questionnaire on EU membership within ten days of receipt on 18 April.<sup>8</sup> On 17 June, the European Commission delivered its assessment in support of Ukraine's candidacy. On 23 June, the European Council approved the Commission's recommendations by granting candidate status to Ukraine, alongside its neighbour Moldova. The European Commission issued seven recommendations as a list of conditions that need to be addressed before Ukraine can proceed to accession negotiations.<sup>9</sup> In short, they include "judicial reform, tackling corruption, reducing oligarchic power, improving minority legislation, and tackling vested media interests."<sup>10</sup>

To a substantial extent, Ukraine's ability to fulfil the obligations of EU membership is predicated on the commitments in the Association Agreement, which captures "an unprecedented amount" of the EU's rules and standards,<sup>11</sup> formally known as the "EU acquis".<sup>12</sup> In fact, "Ukraine has already adopted roughly 70 per cent of the EU acquis," with "an overall satisfactory track record of implementation."<sup>13</sup> Although the war has provided Ukraine with a unique opportunity to become a candidate of the EU in record time,<sup>14</sup> the accession process takes

---

<sup>8</sup> Brzozowski (2022).

<sup>9</sup> European Commission (2022b).

<sup>10</sup> Hall (2022).

<sup>11</sup> European Commission (2022b).

<sup>12</sup> EU acquis may be defined as "the body of common rights and obligations that is binding on all EU Member States" (European Commission).

<sup>13</sup> European Commission (2022b).

<sup>14</sup> Morcos (2022).

several years, if not decades, unless the membership criteria are lowered. In French President Emmanuel Macron's words, "Ukraine would not have been able to apply for its EU candidate status under normal circumstances."<sup>15</sup> By potentially setting false expectations, the EU "is walking a tightrope between demonstrating solidarity with Kyiv without veering into favoritism,"<sup>16</sup> because of pressures from existing candidate countries to be admitted before Ukraine. Ukraine is counting on EU membership as a symbol of a European future and has explicitly stated that it will not accept anything short of membership,<sup>17</sup> with a 2022 poll showing that almost 70 per cent of Ukrainians expect to join the EU *within the next five years* [emphasis added].<sup>18</sup> Because there is no way to predict how or when the war will end, it is just as difficult to determine how long it could take Ukraine to become an EU member but "a period from ten to twenty years *after the war ends* [emphasis added] would be realistic."<sup>19</sup> By way of comparison, "even the shortest accession process took between three and almost five years in the case of Austria, Finland, and Sweden in 1995."<sup>20</sup>

Russia's 2022 invasion serves as the driving force behind Ukraine's ability to become an accession candidate in record time. To be sure, "the EU has never granted candidate status to a country in the midst of a full-scale war,"<sup>21</sup> and "steps that usually take months or even years have been taken in just a few days or weeks for Ukraine."<sup>22</sup> What is the probability of Ukraine acceding to the EU within the next five to ten years? While it is true that Ukraine has gained momentum with respect to EU membership because of the war, the expected five-year deadline

---

<sup>15</sup> Hall (2022); Augry (2022).

<sup>16</sup> Campbell (2022).

<sup>17</sup> Wheeldon (2022).

<sup>18</sup> Matthijs (2022).

<sup>19</sup> *ibid.*

<sup>20</sup> Morcos (2022).

<sup>21</sup> Gray (2022).

<sup>22</sup> Morcos (2022).

is very ambitious because, realistically, Ukraine faces several structural challenges that make it very difficult to satisfy the accession criteria. In fact, Ukraine “has undergone several major attempts at reform” before, but without a “transformative breakthrough,”<sup>23</sup> because of deeply rooted problems that need to be addressed first. If Ukraine can realize the political and economic reforms required to become a member of the EU, mainly with the help of EU’s resources and broader international support, then it stands a chance at membership sooner than later, but most likely not as fast as most Ukrainians expect.

The purpose of this paper is, thus, to identify the major structural challenges on both EU and Ukrainian sides that make it highly unlikely that Ukraine will join the EU within a five-to-ten-year timeframe. To develop this (realistic) picture, the paper first looks at the European Union’s perspective on Ukraine’s admission prospects, starting with an overview of the enlargement process in general, including the EU’s demands as they pertain to Ukraine, followed by some of the major challenges to Ukraine’s accession from EU’s vantage point. The next section examines Ukraine’s perspective on EU accession by focusing on where Ukraine was on the accession criteria before the war and what needs to be done after the war for it to obtain membership. The conclusion brings together these two perspectives to look at how Ukraine’s reform progress may be facilitated or made more difficult by its post-war reconstruction, assuming financial and technical support from the EU and other allies.

## 2. The European Union’s Perspective

This section describes the EU’s enlargement process in general as well as its specific requirements or conditions for accepting Ukraine as a member. It also analyses the main challenges the EU faces in preparing for Ukraine’s accession. Before examining the changes

---

<sup>23</sup> Haring et al. (2022).

required for Ukraine to satisfy the EU's conditions for accession, it is important to first understand where the EU stands on enlargement in general and with respect to Ukraine.

Ukraine is at the third of six total stages of the EU accession process: 1) formal membership application; 2) candidate status; 3) *pre-accession*; 4) negotiations; 5) ratification; and 6) integration.<sup>24</sup> There are currently seven EU candidate countries, including Ukraine, that have access to pre-accession funding and assistance from the EU. At the pre-accession stage, the EU is helping Ukraine “prepare for future EU integration,”<sup>25</sup> by recommending a priority list of seven conditions that must be fulfilled before proceeding to accession negotiations, which includes: 1) “enact[ing] and implement[ing] legislation on a selection procedure for judges of the Constitutional Court of Ukraine, 2) finalis[ing] the integrity vetting of the candidates for the High Council of Justice members,” 3) fighting against corruption and 4) money laundering, 5) “implement[ing] Anti-Oligarch law” intended to limit the influence of oligarchs in the country, 6) “adopting a media law that aligns Ukraine’s legislation with the EU,” and 7) finalising the legal protection of national minorities, with an expectation to report back on Ukraine’s pre-accession progress toward the EU *acquis* by the end of 2022.<sup>26</sup>

After pre-accession, next is the negotiations stage, “the most challenging”<sup>27</sup> one, which can only begin once Ukraine carries out the seven outlined priorities, and only following unanimous agreement on a negotiation framework intended to guide 35 policy areas, also known as negotiation chapters, which have been divided into the following themes: fundamentals; internal market; competitiveness and inclusive growth; green agenda and sustainable

---

<sup>24</sup> Vidotto et al. (2022).

<sup>25</sup> *ibid.*

<sup>26</sup> European Commission (2022a, 20, 21).

<sup>27</sup> Morcos (2022).

connectivity; resources, agriculture, and cohesion; and external relations.<sup>28</sup> What is more, “a candidate can only conclude a chapter when *all* [emphasis added] EU members agree it has ticked the necessary boxes.”<sup>29</sup> To progress in the enlargement bureaucratic course, a unanimous vote of all Member States is required each time.<sup>30</sup> Towards the end, “once negotiations and reforms have been completed, an Accession Treaty is finalized, which needs to be ratified by all existing EU Member States and the country itself before [it] can join the EU.”<sup>31</sup>

### 2.1. The Three (Official) Pillars of EU Membership: Requirements for Ukraine to Satisfy

While mostly symbolic in nature, candidate status sends a positive signal to prospective external investors. In Ukraine’s case, it “amounts to a first seal of approval” and an even stronger signal to Russia “that the EU won’t be intimidated by Moscow.”<sup>32</sup> The European Commission submitted its positive Opinion in favour of granting candidate status to Ukraine using the following EU eligibility criteria established in Copenhagen (1993), which stipulate that “accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions required.”<sup>33</sup> The three pillars that accession to the EU requires are:

**Political:** the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;

**Economic:** the candidate country has a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; and

---

<sup>28</sup> European Commission (2022d).

<sup>29</sup> Gray (2022).

<sup>30</sup> European Commission (2022d).

<sup>31</sup> European Parliament (2022).

<sup>32</sup> Gray (2022).

<sup>33</sup> European Commission (2022a, 1).

**Administrative / Ability to assume membership** (EU acquis): the candidate country must be able to integrate all existing EU rules and standards into its national law.<sup>34</sup>

At this stage, other than the seven pre-accession conditions, a comprehensive list of benchmarks specific to Ukraine's membership progression based on the three accession pillars does not exist yet because this will come with the launch of accession negotiations, after the Member States unanimously vote on a framework designed to guide accession negotiations with Ukraine. For this reason, the analysis in the paper's next section looks instead at Ukraine's implementation of the Association Agreement as a point of reference, given the strong parallels between the Agreement and EU accession.

The EU is presented with an opportunity to accelerate the accession process for Ukraine, given "the political momentum and [geopolitical] urgency created by Ukraine's bid."<sup>35</sup> The long and bureaucratic process has not stopped Ukrainian President Volodymyr Zelenskyy from trying to harness international goodwill so as to change popular beliefs about the rigidity of the enlargement policy by imploring the EU "for Ukraine's immediate accession via a new special procedure."<sup>36</sup> In fact, "eight EU governments have supported Zelenskyy's appeal for an expedited process."<sup>37</sup> Whether Ukraine is indeed on a special and fast track<sup>38</sup> toward membership remains to be seen because there are six other candidates in line, but the 27 EU Member States<sup>39</sup>

---

<sup>34</sup> Vidotto et al. (2022).

<sup>35</sup> Morcos (2022).

<sup>36</sup> Brzozowski (2022).

<sup>37</sup> Matthijs (2022).

<sup>38</sup> Jack (2022).

<sup>39</sup> The 27 EU Member States are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

certainly mobilized quickly to grant Ukraine candidacy after Zelenskyy's personal plea for immediate membership.<sup>40</sup>

There is currently an appetite within the Union to open the door wide in the name of protecting European values and projecting Europe's sphere of influence. To be sure, EU public opinion seems to accept overwhelmingly Ukraine's bid for membership and the EU's response to the war in Ukraine. Based on the Eurobarometer survey of April 2022, between 66 and 71 per cent of EU-27 citizens are in favour of Ukraine joining the EU.<sup>41</sup> After all, Ukrainians are fighting to "defend European values of democracy, fundamental rights and freedoms."<sup>42</sup> Given the existential threat to democracy, Ukraine's bid "to ensure peaceful coexistence of all Europeans,"<sup>43</sup> has fostered favourable-to-membership conditions, as it nostalgically serves as a reminder of the origin of the European Project – peace and security in Europe. While there were EU members that were initially skeptical about granting candidate status to Ukraine, "they were morally unable to explicitly oppose,"<sup>44</sup> given Ukraine's war situation. In this tide of "rhetorical entrapment,"<sup>45</sup> which is akin to groupthink, Zelenskyy has successfully "appeal[ed] to the normative foundations of the EU as a peace community"<sup>46</sup> by persuading all 27 EU members to demonstrate that they are on Ukraine's side by voting in support of its EU candidacy. In terms of optimistic precedents, even though some feel the Union moved too quickly in ratifying Cyprus's membership before it successfully completed a peace agreement with Turkey,<sup>47</sup> the existence of such an accession example signals to Ukraine

---

<sup>40</sup> Jack (2022).

<sup>41</sup> European Commission (2022e).

<sup>42</sup> Paul et al. (2022).

<sup>43</sup> Kucharczyk (2022).

<sup>44</sup> Schimmelfennig (2022).

<sup>45</sup> Schimmelfennig (2001).

<sup>46</sup> Lippert (2022, 7).

<sup>47</sup> Morcos (2022).

that the EU has accepted a country with unsettled borders and occupied territory before, meaning its own contested borders should not be a reason to refuse closer association.

## 2.2. The Fourth (Unofficial) Pillar: Integrating Ukraine into the EU and its Institutions

While it is true that the EU is supportive of Ukraine, there is a fourth, unofficial but equally important, accession pillar that must also be considered: EU's ability and willingness to integrate Ukraine notwithstanding where Ukraine stands on the accession criteria. To be specific, other than the candidate's role in the enlargement process, "the European Union itself must fulfil one criterion,"<sup>48</sup> referred to as its institutional absorption capacity, meaning there are indeed four pillars that accession to the EU requires. The fourth pillar often gets dismissed because, unlike the previous three, which are dependent on the candidate country, this one is solely dependent on EU's capacity to integrate new members while maintaining its institutional balance.

Realistically, the Union may not be in a position to welcome and absorb new members at this time because "[it] is still struggling to come to terms with the increase in membership from fifteen to twenty-seven countries."<sup>49</sup> Understandably, there is enlargement fatigue within the EU, defined as "the unwillingness of some of the Union members to admit new countries,"<sup>50</sup> with the last enlargement expansion dating back nine years (2013) for Croatia.

Balancing the interests of both the Member States and candidate countries, opposition to future enlargement tends to focus on the underlying consequences of increasing membership. For one, there is a significant impact on the balance of power within European institutions. In fact, "the population size of each country determines the number of elected officials that country has

---

<sup>48</sup> Marktler (2006, 345).

<sup>49</sup> Faucompret (2008, 185).

<sup>50</sup> Szolucha (2010, 2).

in the European Parliament.”<sup>51</sup> Relatedly, a country’s demographics determine its voting power in the Council of the European Union.<sup>52</sup> With a pre-war population of about 41 million people, which would make it the fifth-largest EU member, Ukraine’s membership would change the distribution of seats in the European Parliament and decrease the voting share of existing members,<sup>53</sup> inevitably impacting the bloc’s current power dynamics. To illustrate, “Poland and Ukraine would then have about the same voting weight as Germany.”<sup>54</sup> Other than Ukraine’s sizeable potential representation in the Council and Parliament, the EU is reluctant to admit candidates such as Ukraine for its problematic profile. To be sure, Ukraine is considered “a very poor country.”<sup>55</sup> By way of comparison, Ukraine’s GDP per capita is “below half that of Bulgaria,”<sup>56</sup> with Bulgaria being one of the poorest EU members.<sup>57</sup> If Ukraine becomes an EU member, it will “pull resources that would otherwise go to *other poor* [emphasis added] Member States.”<sup>58</sup>

Because reforms are harder to achieve once inside the EU, the Union “has always been reluctant to offer membership to comparatively poor European countries [such as Ukraine] with weak bureaucracies and less-stellar records on democracy and the rule of law.”<sup>59</sup> The EU has had a series of rushed accessions before; for example, with respect to Bulgaria and Romania, which have continued to suffer from relatively high levels of corruption.<sup>60</sup> Understandably, “the European Union optimistically thought membership would be a catalyst for progress—instead, once in the Union, the political incentive to push for difficult reforms and compromises

---

<sup>51</sup> Vidotto et al. (2022).

<sup>52</sup> *ibid.*

<sup>53</sup> von Ondarza (2022).

<sup>54</sup> *ibid.*

<sup>55</sup> Duff (2022).

<sup>56</sup> *ibid.*

<sup>57</sup> Rognsvåg (2022).

<sup>58</sup> Schimmelfennig (2022).

<sup>59</sup> *ibid.*

<sup>60</sup> Bouanchaud (2022).

evaporate[s].”<sup>61</sup> Based on the European Commission’s most recent “report on the state of the judiciary, media freedom and corruption in Member States,” there are other examples of democratic backsliding within the Union, such as in Hungary and Poland,<sup>62</sup> which have undermined the EU’s ability to satisfy the fourth accession pillar. According to the report’s findings, “the European Commission is insufficiently enforcing the rule of law in Europe,”<sup>63</sup> thereby underscoring the EU’s unresolved internal problems. Not surprisingly, “the EU wants more rigorous conditions, because it worries that previous countries it has let in have weak rule of law,”<sup>64</sup> which therefore creates additional expectations of candidate countries because of unfavourable prior experience. As a result of the mismatch of expectations, this line of thinking is akin to a vicious cycle because “candidate countries increasingly doubt the European Union will accept them as members,” which in turn “saps political momentum within candidate countries to push for politically difficult domestic reform,” – and this “lack of progress [inevitably] makes the European Union see little prospect for enlargement.”<sup>65</sup> EU membership represents an incentive for countries to live up to EU’s demanding standards; however, the more this goal becomes elusive, the higher the chance that reform progress may go backwards. There is a risk that providing Ukraine with a swift accession candidate perspective without delivering as quickly on the rest of the bureaucratic enlargement process could come to feel like false hope, most certainly for the overwhelming majority of Ukrainians who expect membership within the next five years.

---

<sup>61</sup> Morcos (2022).

<sup>62</sup> Toygur (2022).

<sup>63</sup> Sanchez Nicolas (2022).

<sup>64</sup> Schimmelfennig (2022).

<sup>65</sup> Morcos (2022).

For nationalist reasons, some EU members, such as Greece and Bulgaria, have used their vetoes to block the opening of negotiations for candidate countries like North Macedonia.<sup>66</sup> There is worry that some EU members might veto Ukraine's EU accession progress because there have been "prior objections [in the past] by enlargement sceptics, such as Denmark and the Netherlands, who changed their minds at the last minute."<sup>67</sup> Although many parts of Ukraine's Association Agreement with the EU had been provisionally applied<sup>68</sup> since 2014, the 2016 Dutch referendum delayed its full entry into force because it is designed as a mixed agreement, meaning the Union could ratify it only after all the Member States had done so on a national level.<sup>69</sup> The ratification of the EU-Ukraine Association Agreement was put to a non-binding referendum in the Netherlands on 6 April 2016 after collecting more than the 300,000 signatures required to trigger a public vote.<sup>70</sup> Even though the turnout of the non-binding referendum was low (it was above the required 30 per cent margin), a majority voted against the act to approve the Agreement.<sup>71</sup> Corruption and the continuing separatist unrest in the eastern part of the country were among the main reasons for Dutch no-voters to refuse closer association with Ukraine.<sup>72</sup> To remove their objections, the Union adopted a legally binding addendum to provide an interpretation of the Agreement on the Member States to ensure common understanding of the scope of the EU's commitments; this interpretation made clear that the Agreement was not a promise to Ukraine for full membership. This legally binding declaration allowed the Dutch Parliament to ratify the Agreement before the EU formally concluded it on 1 September 2017.

---

<sup>66</sup> Schimmelfennig (2022).

<sup>67</sup> Rettman (2022).

<sup>68</sup> Many political and sectoral parts of the Agreement have been provisionally applied since 1 September 2014, while its trade part, the DCFTA, has been provisionally applied since 1 January 2016. The aim of provisional application is to bridge the temporal gap between signature and ratification of an agreement i.e., ratification may take three to four years (Van der Loo 2017).

<sup>69</sup> Van der Loo (2017).

<sup>70</sup> Rankin (2016); Escritt (2015).

<sup>71</sup> Van der Loo (2017).

<sup>72</sup> Rankin (2016); European Council (2016).

There is, therefore, a significant risk that Ukraine's accession process will follow Turkey's membership path. Having been accepted as a candidate country in 1999, Turkey's accession negotiations only started in 2005 – six years after obtaining candidate status – and then were “frozen in 2018 in response to growing democratic backsliding.”<sup>73</sup> Candidacy does not guarantee an automatic start to accession negotiations – far from it as Turkey's case clearly demonstrates, especially because “steps towards the EU can be reversed if the underlying conditions are not met anymore.”<sup>74</sup> In terms of meeting EU's demands, Turkey no longer qualifies because it has been “backsliding in the areas of democracy, rule of law and fundamental rights.”<sup>75</sup> Judging by Ukraine's momentum thus far in its accession journey, along with the growing sense of urgency related to its membership bid, it is highly unlikely that it will face a similar fate to that of Turkey, which has the longest candidacy history, but it is important to keep the possibility in mind nonetheless.

There is currently a reluctance within the EU for bold institutional reforms that could facilitate the enlargement process for Ukraine. Despite the recent COVID pandemic crisis and the war in Ukraine, not all EU members are interested in institutional reform given that a third of EU countries oppose launching “a procedure promoted by the European Parliament to change the bloc's treaties,”<sup>76</sup> which would ultimately make the European Union more agile and flexible. Within the context of the ongoing war, the use of qualified-majority-voting (QMV)<sup>77</sup> instead of unanimity could serve to expedite Ukraine's accession process because there would no longer be a need for consensus. To illustrate with a case where reaching consensus has been challenging,

---

<sup>73</sup> Morcos (2022).

<sup>74</sup> European Commission (2022b).

<sup>75</sup> European Commission (2022f).

<sup>76</sup> EURACTIV (2022).

<sup>77</sup> Definition: “A qualified majority is reached if two conditions are met: 55% of Member States vote in favour - in practice this means 15 out of 27; and the proposal is supported by Member States representing at least 65% of the total EU population” (Council of the European Union 2022).

the Union's energy dependence on Russia has sowed division among Member States, as witnessed by Hungary's veto over EU sanctions against Russian oil.<sup>78</sup> As such, "adding additional EU members without reforming the internal structure of the European Union, especially the unanimity principle for key decisions, could make the European Union increasingly unworkable."<sup>79</sup> Because QMV is not likely to happen with respect to the accession process in the foreseeable future, Ukraine needs to work harder in terms of convincing all 27 EU Member States that it is ready for membership at every step of the enlargement process.

Before proceeding to the accession negotiations, which is the fourth step in the enlargement process, the EU has outlined a list of seven initial reforms that will ultimately help Ukraine meet the three accession pillars, before launching formal negotiations to discuss thirty-five policy chapters. Only if the EU lowers its enlargement standards would Zelensky's immediate membership plea be possible. Although EU public opinion is favourable to Ukraine's accession, there is no appetite for amending the EU's treaties to help ease the rigidity of the enlargement process. Realistically, there are four accession pillars that need to be addressed; three of which are under Ukraine's control and one of which is dependent on the EU's structure. Even if Ukraine demonstrates that it is ready by meeting its three pillars, the EU may refuse to admit it unless the bloc's internal problems are resolved first.

### 3. Ukraine's Perspective on EU Accession

After analyzing the EU's perspective on Ukraine's candidacy, it is time to look at Ukraine's perspective on the EU accession process. Using the three-pillar accession conditions that candidates must fulfil, this section examines where Ukraine stands vis-à-vis those demands by

---

<sup>78</sup> Morcos (2022).

<sup>79</sup> *ibid.*

relying on the main implementation ratings of the EU-Ukraine Association Agreement (AA). After a brief description of Ukraine's implementation progress thus far (mainly presenting Ukraine's pre-war situation), the analysis focuses on the most important gaps Ukraine needs to address and the underlying root causes for these gaps. To get a realistic picture of Ukraine's ability to join the EU within the next five to ten years, it is necessary to explore the fundamental structural challenges that Ukraine faces in implementing the EU's accession requirements. These challenges make the three pillar reforms difficult to realize within a short timeframe, but not impossible, given the EU's and other international support that will presumably be made available to Ukraine for its post-war reconstruction.

To assess if Ukraine can integrate all existing EU rules and standards, formally known as the EU acquis, into its national law, it is helpful to look at the AA, which has been in effect for over seven years now, because it covers "a substantial part of the EU acquis."<sup>80</sup> In fact, the dynamic aspect of the Agreement has been leveraged through regular updates to cover more recent EU acquis than originally contained in the Agreement.<sup>81</sup> In other words, the AA chapters are practically the same as the EU accession acquis, so "*it is as if* [emphasis added] Ukraine has already opened all chapters"<sup>82</sup> by embarking on the fourth stage of the enlargement process, namely negotiations. In sum, of 26 AA chapters, Ukraine has implemented 19 at a score of two or higher in a three-point scale, where two signals moderate preparedness for EU membership.<sup>83</sup> In justification for its EU candidacy status, in general, Ukraine has a satisfactory track record of implementation.<sup>84</sup>

---

<sup>80</sup> European Commission (2022a, 16).

<sup>81</sup> *ibid.*

<sup>82</sup> Emerson et al. (2022, 5).

<sup>83</sup> *ibid.*

<sup>84</sup> European Commission (2022a, 17).

Although Ukraine has made significant progress in implementing the AA, with many chapters advancing reasonably well as indicated in [Table A1](#) in the Annex,<sup>85</sup> there are seven specific chapters that scored below average with “limited approximation to the acquis,”<sup>86</sup> which need to be addressed to enhance Ukraine’s ability to assume EU membership. As Table 1 below demonstrates, the seven AA chapters that need improvement have been categorized based on the three official EU accession pillars, thereby relating each gap with a corresponding pillar. Written in the following order, these chapters are: 1) Rule of Law; 2) Macroeconomic Policy; 3) Consumer Protection; 4) Company Law; 5) Intellectual Property Rights; 6) Transport, and 7) Anti-corruption. As indicated in Table 1, anti-corruption is considered outside the three accession pillars because it is a structural issue that contributes to Ukraine’s general reform lag by affecting elements in all pillars.

Table 1: The Main Challenges or Gaps to Ukraine’s EU Accession

Underlying Challenge	Official Accession Pillars	7 Gaps: AA Chapters with a score rating lower than average score of 2
<b>Anti-corruption</b>	Political	<ul style="list-style-type: none"> <li>• Rule of Law</li> </ul>
	Administrative*	<ul style="list-style-type: none"> <li>• Transport</li> </ul>
	Economic	<ul style="list-style-type: none"> <li>• Macroeconomic Policy</li> <li>• Consumer Protection</li> <li>• Company Law</li> <li>• Intellectual Property Rights</li> </ul>

\*The 19 chapters that have been assessed as satisfactory fall under the administrative pillar.

According to the European Commission’s Opinion on Ukraine’s application for membership of the European Union (henceforth Opinion), Ukraine generally satisfies the political pillar that accession to the EU requires because Ukraine is “well advanced in reaching the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for

<sup>85</sup> Emerson et al. (2022, 6).

<sup>86</sup> European Commission (2022a, 17).

and protection of minorities.”<sup>87</sup> To be sure, Ukraine’s parliamentary-presidential democracy “mobilized itself to respond quickly to the EU questionnaire on its membership application”<sup>88</sup>; what had taken most candidate countries years took Ukraine less than two weeks,<sup>89</sup> especially considering that it is in a state of war. Ukraine’s government continues its ability to function by demonstrating its institutional strength and resilience in war conditions.<sup>90</sup> In line with the political pillar, Ukraine’s constitution “provides for the fundamental principles of a democratic state, including the rule of law, free elections and the protection of human rights.”<sup>91</sup> Ukraine has advanced on some political AA chapters, such as electoral democracy, which improved substantially after the Euromaidan revolution,<sup>92</sup> scoring a rating of 2.5 on a maximum of 3, thereby signifying general compliance with EU standards. For example, Petro Poroshenko’s transfer of authority to Volodymyr Zelenskyy and their respective parties was a democratically correct transfer of both presidential and parliamentary power.<sup>93</sup> Although Ukraine’s electoral system has undergone several amendments, there are still “some irregularities, including widespread vote-buying, misuse of incumbency, and the practice of exploiting all possible legislative loopholes that contribute to inequalities among competitors,”<sup>94</sup> which is why Ukraine has not received a score of three in this area. The OSCE Office for Democratic Institutions and Human Rights (ODIHR), formerly the Office for Free Elections, has provided Ukraine with a positive evaluation based on the most recent 2019 parliamentary elections but has also offered some recommendations that are being implemented.<sup>95</sup> Despite the advancement in certain

---

<sup>87</sup> European Commission (2022g).

<sup>88</sup> European Commission (2022a, 2).

<sup>89</sup> Brzozowski (2022).

<sup>90</sup> European Commission (2022a, 2, 5).

<sup>91</sup> *ibid*, 5.

<sup>92</sup> Emerson et al. (2021, 18).

<sup>93</sup> *ibid*, 4.

<sup>94</sup> Freedom House (2021).

<sup>95</sup> European Commission (2022a, 6).

political chapters, there is still room for improvement because realistically “pre-war Ukraine would definitely not have fulfilled the political criteria,”<sup>96</sup> mainly because of its implementation of the rule of law, one of the seven chapters where Ukraine is underperforming.

### 3.1. Gap #1: Rule of Law (Reform of the judiciary, public administration, and democracy)

As noted in [Table A1](#) in the Annex, Ukraine obtained a 1.5 rating on its implementation of the rule of law, mostly due to inconsistent progress in judicial reform. The World Justice Project Rule of Law Index of 2020, which indicates that “the quality of the rule of law and Ukrainian judicial system remains at a low level,”<sup>97</sup> confirms that the rule of law is considered “the weakest component of democratic governance in Ukraine.”<sup>98</sup> On paper, “Ukraine is a democratic state that adheres to the principles of the rule of law, human rights and fundamental freedoms.”<sup>99</sup> In practice, however, “Ukraine has been an unstable democracy,”<sup>100</sup> because it does not have an independent judiciary or an impartial law enforcement to ensure respect for fundamental democratic principles. The rule of law requires the separation of powers in order to provide checks and balances against the arbitrary use of power by any single branch of government, but this democratic principle has not been properly implemented in Ukraine.<sup>101</sup> Since its independence, Ukraine “has existed under an *inconsistent* [emphasis added] constitutional order that has at times given more power to the Parliament and at times the President.”<sup>102</sup> In general,

---

<sup>96</sup> Lippert (2022, 3).

<sup>97</sup> Di Matteo et al. (2021, 91).

<sup>98</sup> Emerson et al. (2021, 28).

<sup>99</sup> *ibid*, 17.

<sup>100</sup> *ibid*.

<sup>101</sup> Emerson et al. (2021, 18).

<sup>102</sup> U.S. Commission on Security and Cooperation in Europe (2017, 7).

Ukraine is struggling with its judicial reform due to a lack of financial resources, technical expertise, and public trust in the political system.<sup>103</sup>

Ukraine's initial attempts (i.e., 2015-2020) at judicial reform have been recognized as mistakes by the present government because "the lack of an overall framework of reform and the haste in the implementation of the reforms have produced numerous legal problems and false starts."<sup>104</sup> Without careful deliberation before implementation, Ukraine initially attempted to downsize and massively replace all judges following its 2016 constitutional amendments,<sup>105</sup> inevitably resulting in staffing shortages. To strengthen the rule of law, Ukraine launched long-awaited judiciary reforms in 2016, aiming to advance merit-based judicial selection, but "the process of reforming the recruitment of judges was effectively blocked" in 2020.<sup>106</sup> Clearly, the unstable environment in Ukraine has not been favourable to judicial reform. To provide an environment that is stable for judicial reform, an independent and properly staffed Constitutional Court of Ukraine (CCU) is required.<sup>107</sup> The CCU is the only authority that determines whether legislation complies with Ukraine's constitution.<sup>108</sup> As a result of the staffing shortage, the CCU "has been slow" to hear appeals concerning the implementation of legislation for judicial reform,<sup>109</sup> which is why the EU insists on the establishment of a trustworthy, open, and integrity-checking selection process for appointment of judges to the CCU. Ukraine already has relevant legislation in place, but it is pending in the Parliament.<sup>110</sup>

---

<sup>103</sup> Di Matteo et al. (2021, 85-6).

<sup>104</sup> *ibid*, 63.

<sup>105</sup> *ibid*, 63, 80.

<sup>106</sup> Emerson et al. (2021, 5).

<sup>107</sup> Di Matteo et al. (2021, 89).

<sup>108</sup> European Commission (2022a, 5).

<sup>109</sup> Di Matteo et al. (2021, 89).

<sup>110</sup> European Commission (2022a, 5).

The Ukrainian government is unable to properly staff its judiciary because “the body responsible for selection procedures was dissolved at the end of 2019.”<sup>111</sup> Consequently, “the judiciary is currently seriously understaffed,”<sup>112</sup> which “prevents trials from concluding within a reasonable time and leads to a lack of effective remedy for victims of serious crimes.”<sup>113</sup> The appointment of experienced legal professionals would unquestionably improve the efficiency of the court system where backlog is currently the biggest problem,<sup>114</sup> because ideally “the handling of cases should be speedy, with judges assisted by auxiliary staff.”<sup>115</sup> To put the staffing shortage in perspective, Ukraine has 13 judges per 100,000 inhabitants compared with a European average of 21.<sup>116</sup>

The Ukrainian judicial system lacks funding and resources. The current lack of judges, particularly competent ones, may be attributed to the “unreasonably low” wages that “are unlikely to attract the best and brightest of legal practitioners.”<sup>117</sup> In a similar vein, “the judiciary, police and public administration have largely been perceived as the most corrupt institutions in the country,”<sup>118</sup> where the apparent vulnerability to accept bribes is partially a result of the low incomes in those areas.<sup>119</sup> An independent judiciary is intended to act as an institutional check on the executive and legislative branches of government, but “the recurring problem in new democracies and countries transitioning to rule of law systems [such as Ukraine] is that the political branches attempt to enhance their power (for personal gain) by co-opting the

---

<sup>111</sup> European Commission (2022a, 8).

<sup>112</sup> *ibid.*

<sup>113</sup> *ibid.*, 13.

<sup>114</sup> *ibid.*, 8.

<sup>115</sup> Marktler (2006, 351).

<sup>116</sup> European Commission (2022a, 9).

<sup>117</sup> Di Matteo et al. (2021, 85).

<sup>118</sup> Emerson et al. (2021, 29).

<sup>119</sup> U.S. Commission on Security and Cooperation in Europe (2017, 26).

power of the courts.”<sup>120</sup> Judges in Ukraine must be protected from outside forces that have made it difficult for anti-corruption measures to be effectively enforced;<sup>121</sup> this issue is covered in more detail later when the underlying structural challenges are discussed towards the end of this section.

One of the most important challenges Ukraine needs to address is re-establishing public trust in the judiciary by fostering a rule of law culture.<sup>122</sup> At the moment, Ukrainians have “overwhelmingly negative” opinions of judges,<sup>123</sup> viewing them as “tools of the wealthy and powerful.”<sup>124</sup> Unfortunately, certain judges with questionable integrity have been selected,<sup>125</sup> and, as a result, faith in judges remains low. For instance, there are some judges who are known to have “prevented corruption investigations from proceeding,”<sup>126</sup> thereby undermining the rule of law in Ukraine. Likewise, “judges have stymied corruption investigations into high-profile officials, including within the judiciary.”<sup>127</sup> Based on pre-war data (2021), the European Court of Auditors finds that the biggest barrier to foreign investment in Ukraine is a lack of trust in the judiciary.<sup>128</sup> Additionally, there has been a decline in public confidence in basic institutions including the National Police of Ukraine, the Security Service of Ukraine, and the Public Prosecutor’s Office, based on public opinion surveys conducted in 2016 and 2020.<sup>129</sup>

---

<sup>120</sup> Di Matteo et al. (2021, 68).

<sup>121</sup> *ibid*, 74.

<sup>122</sup> A rule of law culture is a legal culture, which may be defined as “the attitudes and expectations of the public with regard to the law” (Di Matteo et al. 2021, 89). In fact, “it is only when trust and acceptance of the judiciary as an equal and independent branch of government, with unchallengeable power to review and strike unconstitutional acts can civil society be re-cultured” (*ibid*).

<sup>123</sup> Di Matteo et al. (2021, 74).

<sup>124</sup> *ibid*, 72.

<sup>125</sup> European Commission (2022a, 8).

<sup>126</sup> Freedom House (2021).

<sup>127</sup> Freedom House (2022).

<sup>128</sup> European Court of Auditors (2021, 11).

<sup>129</sup> *ibid*, 37.

Fighting corruption requires an impartial judiciary, as well as impartial government prosecutors. A quality court system is reliant on the objectivity and skill of government prosecutors, which is just as critical as the strengthening of the judiciary.<sup>130</sup> There were few corruption investigations in the past because of close ties between prosecutors and government officials. Not surprisingly, prosecutors have been hesitant to bring accusations of corruption.<sup>131</sup> An independent judiciary would significantly strengthen anti-corruption initiatives in Ukraine.

In addition, the European Commission finds that Ukraine's public administration framework "is mostly in place," but "not yet fully implemented,"<sup>132</sup> which is why Ukraine needs to maintain the fiscal capacity to implement and enforce legislation.<sup>133</sup> Work is now underway on a new public service compensation structure that would aid in retaining and luring talented and competent individuals.<sup>134</sup> Ukraine was about to approve a significant law on administrative procedures just before the war broke out.<sup>135</sup> Unfortunately, some of the implementation progress has been delayed because of the ongoing war.

Ukraine has still not ratified the Rome Statute of the International Criminal Court (ICC), which, if ratified, would serve as an example of its ability to transpose existing EU legislation into national law and strengthen its domestic justice system and rule of law. This legislative measure would "send a strong message to the international community and to the people of Ukraine that [it] is committed to bringing perpetrators of international crimes to justice, and that the suffering of victims will not be ignored."<sup>136</sup> In other words, full membership in the ICC would provide recourse to justice and put accountability for serious international war crimes at

---

<sup>130</sup> Di Matteo et al. (2021, 94).

<sup>131</sup> *ibid.*

<sup>132</sup> European Commission (2022a, 6).

<sup>133</sup> *ibid.*, 7.

<sup>134</sup> *ibid.*

<sup>135</sup> *ibid.*

<sup>136</sup> Coalition for the ICC and Member organization (2019, 1).

the top of the domestic agenda.<sup>137</sup> The ICC does not represent a threat to national sovereignty because “states carry the primary responsibility to investigate, prosecute, and bring perpetrators of the most serious international crimes to justice,” which is why it is considered a “court of last resort.”<sup>138</sup> Although Ukraine signed the Statute in 2000, it still has not been ratified and implemented despite Ukraine’s commitment under Article 8 of the Association Agreement, which reads, “the Parties shall cooperate in promoting peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court (ICC) and its related instruments.”<sup>139</sup>

### 3.1.1. Law Enforcement

Due to a lack of impartiality, the law enforcement environment in Ukraine does not have a credible reputation: “in practice, individuals with financial resources and political influence can escape prosecution for wrongdoing.”<sup>140</sup> In other words, police officers may at times turn a blind eye to “groups of top officials and wealthy businessmen [who] seem to enjoy low levels of accountability and high levels of illicit privileges, while others cannot have certain rights protected.”<sup>141</sup> As mentioned in the European Commission’s Opinion, a strategy on combatting organized crime was approved at the national level in 2020.<sup>142</sup> In practice, however, the action plan “is under development and further approval.”<sup>143</sup> Low pay is a concern here as well, similar

---

<sup>137</sup> Coalition for the ICC and Member organization (2019, 1).

<sup>138</sup> Council of the European Union (2022a).

<sup>139</sup> Coalition for the ICC and Member organization (2019, 2).

<sup>140</sup> Freedom House (2022).

<sup>141</sup> Emerson et al. (2021, 28).

<sup>142</sup> European Commission (2022a, 11).

<sup>143</sup> *ibid.*

to the judiciary. In fact, the police is under-resourced given that it “continues to suffer from low level of equipment and expertise to conduct complex financial investigations.”<sup>144</sup>

With respect to the economic dimension of crime, Ukraine is missing “a comprehensive framework for the fight against financial crime and money laundering,”<sup>145</sup> as well as a national strategy on asset recovery.<sup>146</sup> Currently, the country’s anti-money laundering legislation resembles relevant international standards to an extent “but there are still outstanding recommendations,” dealing with “virtual assets, ultimate beneficial ownership, and supervision of non-banking businesses and professions.”<sup>147</sup> Although an Asset Recovery and Management Agency exists, it has been missing a permanent leader since 2019.<sup>148</sup> Moreover, Ukraine’s security environment is of particular concern because it is geographically located<sup>149</sup> at the intersection of Central and Eastern Europe, which has been subject to the illegal trade of goods, including timber, arms, drugs, and human beings.<sup>150</sup> Policing such a large territory shared among seven other countries is challenging because its porous borders are used as a transit point for illegal activity, making it prone to border crime. Over the years, there has been a relatively modest increase in the number of completed criminal investigations involving smuggling.<sup>151</sup> Smuggling prevention efforts depend on effective judicial and law enforcement changes; otherwise, corruption may resurface.

---

<sup>144</sup> European Commission (2022a, 11).

<sup>145</sup> *ibid.*

<sup>146</sup> *ibid.*

<sup>147</sup> *ibid.*

<sup>148</sup> *ibid.*

<sup>149</sup> To illustrate, “Ukraine’s borders (land and sea combined) extend for a total of 7,445 km. The Ukrainian-Russian border runs approximately 1,500 km,” and the remainder is shared with six neighbouring countries: Belarus, Hungary, Romania, Moldova, Poland, and Slovakia. “In addition, Ukraine has 3,000 km of coastline along the Black Sea and the Sea of Azov” (Gonzales 2004). In fact, “generally the region around Ukraine is known for corruption and trafficking crimes” (Hoff et al. 2022).

<sup>150</sup> European Commission (2022a, 11).

<sup>151</sup> *ibid.*

### 3.1.2. Human Rights

In 2022, Ukraine was deemed “partly free,”<sup>152</sup> according to Freedom House. Among the main human rights issues, many cases “relate to violations of the right to an effective remedy, length of criminal proceedings, ill treatment including poor detention conditions, length of pre-trial detention and right to liberty and security.”<sup>153</sup> Even though Ukraine’s constitution provides protection against discrimination, “sexual orientation and gender identity are not acknowledged as protected grounds in antidiscrimination legislation.”<sup>154</sup> Because “legislation required in order to align with the EU acquis is identified in [Ukraine’s] National Human Rights Strategy 2021-2023, but remains to be implemented,”<sup>155</sup> Ukraine does not fully adhere, in practice, to the EU’s norms of diversity, tolerance, and solidarity amongst different ethnic groups. Put differently, “how Ukraine protects its minorities: Greek, Bulgarian, Hungarian and especially Russian-speaking – will be a key dimension in how the country evolves to meet European standards.”<sup>156</sup> Although existing laws guarantee equal treatment of various segments of the population, these protections are inconsistently enforced because various minority groups, such as the LGBT+ community, are discriminated against in practice, receiving “police protection or justice for attacks against them when there is intense pressure from civil society or international observers.”<sup>157</sup>

As a major step forward in protecting all women and girls, Ukraine’s Parliament ratified the Istanbul Convention on 20 June 2022, which aims to prevent all forms of domestic violence against women and girls; however, a recent report suggests “that getting help during the

---

<sup>152</sup> Freedom House (2022).

<sup>153</sup> European Commission (2022a, 12).

<sup>154</sup> *ibid.*

<sup>155</sup> *ibid.*

<sup>156</sup> Bouanchaud (2022).

<sup>157</sup> Freedom House (2021).

escalation of conflict in 2022 has proven difficult for survivors.”<sup>158</sup> In 2020 alone, “the national police received over 200,000 reports of domestic violence.”<sup>159</sup> As Ukraine progresses on its gender equality agenda, “it is essential that the Ukrainian government treat the ratification of the Istanbul Convention [meaningfully,] not merely as a box to be checked on the path to EU membership, but rather as a set of obligations that must be upheld both *during and after* [emphasis added] the war.”<sup>160</sup> These obligations include investigating claims, holding offenders accountable, “while also ensuring that survivors can access life-saving services after an act of violence.”<sup>161</sup> Children are another vulnerable group in Ukrainian society. In fact, “Ukraine has one of the highest rates of institutionalisation of children in the world.”<sup>162</sup> Moreover, the support for persons with disabilities, accounting for over five per cent of the population, “remains under-resourced and a de-institutionalisation process needs to be implemented to transition towards community-based care of persons with disabilities.”<sup>163</sup>

### 3.1.3. Next Steps

With respect to the EU’s rule-of-law accession criterion, Ukraine should focus on the judiciary: “independent, well-staffed, well-trained, well-paid, efficient, respected and accessible to citizens.”<sup>164</sup> Moving forward, Ukraine should finalize its 2020-2022 judicial reform “that would lead to systemic changes, if fully implemented.”<sup>165</sup> In order to advance the reform movement, salary increases for judges and police are required and their education and training improved.<sup>166</sup>

---

<sup>158</sup> Lehmann et al. (2022).

<sup>159</sup> *ibid.*

<sup>160</sup> *ibid.*

<sup>161</sup> *ibid.*

<sup>162</sup> European Commission (2022a, 13).

<sup>163</sup> European Commission (2022a, 13).

<sup>164</sup> Marktler (2006, 351).

<sup>165</sup> European Commission (2022a, 8).

<sup>166</sup> Di Matteo et al. (2021, 89).

Long-term investments in legal education and professional development would address the current shortage of qualified candidates.<sup>167</sup> As mentioned in the pre-accession requirements, the EU demands that Ukraine put in place legislation to improve the hiring process for judges in light of the current lack of fair and impartial courts. To ensure that selection is based on merit, not political connections, all judges should be required to take part in fair and transparent competitions.

Ukraine should keep advancing public administration reforms to elevate careers in the public service. Additionally, Ukraine should implement an efficient domestic accountability mechanism for the prosecution of those suspected of committing war crimes in order to comply with the Rome Statute, “including incorporating provisions to investigate and prosecute genocide, crimes against humanity, and war crimes effectively before its national courts.”<sup>168</sup> With respect to law enforcement, numerous organizations have documented instances of improper behaviour by law enforcement officials with trust in reforms remaining low.<sup>169</sup> Regarding human rights, as suggested by the European Commission, Ukraine must complete the legislative framework protecting national minorities and establish efficient implementation methods,<sup>170</sup> because it has not yet bridged “the ethnic, religious and linguistic divisions of its heterogeneous society.”<sup>171</sup>

The Ukrainian government should create effective checks and balances across state institutions and could engage in judicial exchanges, which would enable Ukrainian and European legal experts to work together to align Ukraine’s judicial standards with that of the EU.<sup>172</sup> A

---

<sup>167</sup> Di Matteo et al. (2021, 94).

<sup>168</sup> Coalition for the ICC and Member organization (2019, 2).

<sup>169</sup> European Court of Auditors (2021, 36-7).

<sup>170</sup> European Commission (2022a, 13).

<sup>171</sup> Lohsen (2022).

<sup>172</sup> Di Matteo et al. (2021, 89); U.S. Commission on Security and Cooperation in Europe (2017, 26).

hiring panel that is largely made up of worldwide specialists, for instance, could be one way that the global community can provide direction and aid.

Even though the Commission has been actively supporting judicial reform in Ukraine, including the creation of institutions to fight corruption, Ukraine still has a significant number of judges, prosecutors, and members of judicial governance bodies whose integrity must be vetted.<sup>173</sup> As will be explained later, there is an interdependent link between judicial reform and anti-corruption measures where “the existing environment in Ukraine puts the sustainability of anti-corruption institutions at risk, as they still rely on the unreformed judicial, prosecution and law-enforcement sectors.”<sup>174</sup>

The implementation of judicial reform in Ukraine is still currently in its early stages. By way of comparison, Western countries have had centuries to develop a culture that views judicial independence as untouchable.<sup>175</sup> The foundation of the rule of law will not be secure in Ukraine until its people accept the integrity of the judiciary as the defender of individual rights and a barrier against political corruption. Once established, an independent judiciary needs to be kept in check via moral and financial pressure by outside observers,<sup>176</sup> namely by Ukraine’s civil society. Although there are financial limitations, the Ukrainian government needs to properly finance the judicial system to lower corruption and draw in foreign investment.<sup>177</sup> Table 2 below provides a concise overview of where Ukraine stands on the various elements required for an effective rule of law system.

---

<sup>173</sup> European Court of Auditors (2021, 5).

<sup>174</sup> *ibid.*

<sup>175</sup> Di Matteo et al. (2021, 95).

<sup>176</sup> Di Matteo et al. (2021, 73).

<sup>177</sup> *ibid.*, 68.

Table 2: Status Report on Rule of Law Elements (Independent Judiciary) in Ukraine

Element	Status	Shortcomings	Improvements Needed
Constitutional Framework	Amended	Amended too late	Additional amendments
Non-Political Evaluators	Best Practices (non-political appointees & international experts)	Somewhat untested	To be Determined
Qualifications	Anti-Corruption standards (integrity) but low competency criteria	Shortage of qualified candidates	Long-term investment
Quality of Appointment Process	Framework in place	Hastily conducted	Deliberative process
Transparency	Video-taping available online	Uneven	Complete transparency
Judicial Salaries	Acknowledged	Not funded	Minimum: staged funding
Funding	Insufficient	Insufficient	Full funding
Judicial Training	Acknowledged	Pre-planning	Piggyback Training offered internationally
Legal education	Some quality law schools	Uneven	Require LLM to practice; curricular changes; English training
Independent and anti-corruption prosecutor	Transition (prosecutor recently discharged)	No established process to select independent prosecutor	Amendments to law needed; development of career prosecutors willing to investigate corruption
Ethics; judicial code	Recognized need	Transition	Training needed

Source: Di Matteo et al. (2021, 93).

### 3.2. Gap #2: Macroeconomic Policy

The Ukrainian government has an adequate track record of implementing generally successful macroeconomic policies, notably given that it has maintained macroeconomic stability throughout the war. An important caveat regarding Ukraine's potential ability to meet the economic criteria required for accession is included in the Commission's Opinion: "it should be borne in mind that the high degree of uncertainty related to the ongoing war and its evolving impact affect the predictive power of this assessment, which is largely based on available (pre-

war) data.”<sup>178</sup> On the macroeconomic policy chapter in the Association Agreement, Ukraine achieved a 1.5 rating out of 3, indicating it is somewhat prepared with respect to EU macroeconomic standards. The rationale behind the low rating is Ukraine’s market vulnerability, given its continued financial dependence on the EU and the International Monetary Fund (IMF).<sup>179</sup>

Following its independence from the Soviet Union, Ukraine slowly improved its economic policies, which led to a gradual increase in output.<sup>180</sup> The 2008–09 global financial crisis, the war with Russia in 2014, COVID–19, and now the war with Russia again in 2022 have all been shocks serving to slow economic progress in Ukraine, but steady recovery has been made possible by reform initiatives funded by the IMF and the EU.<sup>181</sup> Structural changes have been implemented unevenly, often due to a lack of political consensus and frequent interference from vested interests, serving to slow down economic and policy improvements.<sup>182</sup> For example, Ukraine has struggled to improve public financial accountability.<sup>183</sup>

The current significant influx of foreign aid meant to preserve Ukraine’s macroeconomic stability during the war will not be enough on its own because “Ukraine’s promising economy has always underperformed.”<sup>184</sup> In 2020, Ukraine’s GDP per capita represented a little under a third of the EU average.<sup>185</sup> It is currently hard to predict how Ukraine’s GDP will change as the war evolves, but “with hostilities taking place across the whole country, the economic situation has deteriorated rapidly” with “GDP expected to fall by 30 to 50 per cent this year” while tax

---

<sup>178</sup> European Commission (2022a, 13).

<sup>179</sup> Emerson et al. (2021, 4).

<sup>180</sup> *ibid*, 167.

<sup>181</sup> *ibid*, 8.

<sup>182</sup> European Commission (2022a, 13).

<sup>183</sup> *ibid*.

<sup>184</sup> Haring et al. (2022).

<sup>185</sup> European Commission (2022a, 13).

revenues have already decreased within a range of 50 to 80 per cent.<sup>186</sup> What is more, “chronically low levels of domestic and foreign investment account for the rather subdued real economic growth of around 3 per cent per year in the four years before the pandemic and the subsequently persistent relative gap to the standards of living in the EU.”<sup>187</sup> Clearly, Ukraine was not in its best economic shape before the start of the war.

Russia’s 2022 invasion poses new issues with respect to inflation, which had been substantially lowered over the last five years to 2.7 per cent in 2020 before hitting 9.4 per cent in 2021.<sup>188</sup> To be sure, “Ukraine is currently running a budget deficit and has a financing gap on its monthly payments, which should be bridged to avoid a government default.”<sup>189</sup> According to this line of reasoning, “if Ukraine does not receive financial bailouts, the government might resort to printing money, which would fuel rampant inflation.”<sup>190</sup> To avoid exacerbating inflationary pressure and keep Ukraine financially afloat, a “RebuildUkraine” reconstruction platform, co-led by Ukraine and the European Commission, has been established to identify the funding priorities as a means of ensuring Ukraine’s survival.<sup>191</sup> Through a combination of grants and loans,<sup>192</sup> this governance body strategically ensures that “investments will go hand in hand with reforms that that will support Ukraine in pursuing its European path.”<sup>193</sup> For example, as mentioned earlier in the first gap, to improve the rule of law and address the underlying issue of corruption, police and judges will require higher levels of compensation. The Ukrainian government’s budget will therefore need to reflect this moving forward.

---

<sup>186</sup> European Commission (2022h, 1).

<sup>187</sup> European Commission (2022a, 14).

<sup>188</sup> *ibid.*

<sup>189</sup> Shea (2022).

<sup>190</sup> *ibid.*

<sup>191</sup> European Commission (2022h, 4).

<sup>192</sup> Bergmann et al. (2022, 5).

<sup>193</sup> European Commission (2022).

Since 2014, the EU is Ukraine's main trading partner, "accounting for more than 40 per cent of its total trade in goods in 2021"; in turn, "Ukraine has been the EU's 15th largest trading partner," accounting for roughly 1 per cent of all EU trade.<sup>194</sup> As one of the major producers and exporters of agricultural products worldwide, Ukraine has space for improvement in the areas of agriculture and rural development since the existing approximation to the EU acquis is minimal.<sup>195</sup> To aid Ukrainian farmers, the EU has outlined an action plan to build "Solidarity Lanes" to ensure Ukraine can export grain while simultaneously ensuring it can import important goods from humanitarian relief to animal feed and fertilisers.<sup>196</sup> As part of the EU's pre-accession economic support during the war crisis, the EU has suspended import duties on all Ukrainian exports to the EU for one year – an unprecedented temporary trade liberalisation of "zero tariff, zero quota access to the EU market."<sup>197</sup>

Even before Russia's 2022 invasion, as a factor of the country's economic well-being, the quality and content of education in Ukraine should have been improved to better meet the demands of the labour market,<sup>198</sup> which contributes to issues with skills mismatch.<sup>199</sup> In fact, investment in research and development is still insufficient to sustainably increase human capital.<sup>200</sup> Conflict, especially an ongoing war, represents one of the greatest risks to education with over 350,000 children already without access to education.<sup>201</sup>

The Ukrainian energy system has undergone several changes since the 2014 conflict to align with EU's energy market and progressively decrease reliance on Russia, given that Ukraine

---

<sup>194</sup> Balazs (2022).

<sup>195</sup> European Commission (2022a, 19).

<sup>196</sup> European Commission (2022i).

<sup>197</sup> European Commission (2022j).

<sup>198</sup> European Commission (2022a, 15).

<sup>199</sup> Emerson et al. (2021, 9).

<sup>200</sup> European Commission (2022a, 15).

<sup>201</sup> European Commission (2022k).

serves as a major energy transit corridor<sup>202</sup> into the EU for Russian gas.<sup>203</sup> The ongoing war with Russia has reinforced Ukraine's efforts to synchronise with EU's energy grid.<sup>204</sup> In line with EU's Green Deal,<sup>205</sup> Ukraine needs to reduce its energy dependence on fossil fuels. The EU's objective is for 40 per cent of its energy to come from non-fossil sources by 2030, and Ukraine met 10 per cent of this target before the start of the war.<sup>206</sup> Put differently, "prior to the war, only 10 per cent of Ukraine's power output was generated through renewable energy, while half of the electricity supply came from nuclear energy."<sup>207</sup> Recent investments have been made in the production of power using different renewable energy sources like solar and wind energy.<sup>208</sup> Ukraine has connected its electrical network with the Union's synchronous electricity grid (ENTSO-E), "which was planned for 2023 but accelerated to March 2022 in response to the war as a measure of security and solidarity in energy supplies."<sup>209</sup> After Ukraine's energy system joined the European ENTSO-E, the energy space unified, paving the way for regional cooperation and collective security.<sup>210</sup>

Although Ukraine has connected to the EU transmission grid, it has large deposits of oil, gas, and coal on which it continues to heavily rely.<sup>211</sup> As "one of the world's largest producers of

---

<sup>202</sup> Ukraine and Belarus are the two key energy transit nations. Ukraine has profited from both the reduced gas costs for its imports as well as the compensatory payments for Russian shipments to Europe. Reliance on Russian gas and Ukraine's status as a transit country have served as instruments of Russian pressure (Kleinschnitger et al. 2022, 308).

<sup>203</sup> Kleinschnitger et al. (2022, 305-6).

<sup>204</sup> *ibid*, 308.

<sup>205</sup> "Decarbonisation, minimisation of carbon emissions and transition to alternative energy sources—the central elements of the Green Deal—will be the basis for a number of fundamental transformational transitions, measures for regulatory adaptation and the introduction of protection mechanisms. As a political framework, this European agenda is a response to the challenges of global climate change, environmental pollution and, in light of its initiatives, the positioning of the European Union as a world leader" (Koval et al. 2022, 2).

See more at: [A European Green Deal | European Commission \(europa.eu\)](https://ec.europa.eu/euro-press/press-releases/2022/06/22-06-2022-01).

<sup>206</sup> Shea (2022).

<sup>207</sup> Bergmann et al. (2022, 6).

<sup>208</sup> Kleinschnitger et al. (2022, 308).

<sup>209</sup> Emerson et al. (2022, 7).

<sup>210</sup> Koval et al. (2022, 2).

<sup>211</sup> Kleinschnitger et al. (2022, 306).

nuclear energy,”<sup>212</sup> nuclear energy accounts for more than half of the country’s energy production with plans to increase the share of “green” energy to shift the energy balance in favour of low-carbon energy sources with the help of technology.<sup>213</sup> To improve its energy infrastructure and lower its high energy usage, Ukraine will continue to need financial assistance from the EU.<sup>214</sup>

### 3.2.1 Next Steps

Primarily because of ineffective institutions, strong market dominance, and a poor anti-monopoly policy, Ukraine was ranked 85 out of 140 countries on the World Economic Forum’s global competitiveness index in 2019,<sup>215</sup> where the higher the ranking, the less competitive the country. Ukraine’s economy has historically underperformed and has not been able to fully recover following successive economic challenges caused by the COVID-19 pandemic and the ongoing conflict with Russia. The EU should continue to financially support Ukraine, more than it has following the 2014 conflict, to close a huge fiscal imbalance brought on by Russia’s 2022 invasion, which has already resulted in billions of euros in economic losses because of lower production and trade. As of mid-September 2022, the EU has mobilized 7.2 billion euros in macro-financial support to assist the Ukrainian government in balancing its financial situation and addressing its urgent budgetary needs.<sup>216</sup> The EU has also suspended import duties on all Ukrainian exports to the EU for one year, thereby lowering the transaction costs for the Ukrainian government in its business dealings with the EU. Even before the war, Ukraine did not invest enough in education, but will now need to allocate additional funds to caring for its

---

<sup>212</sup> Kleinschnitger et al. (2022, 306).

<sup>213</sup> Koval et al. (2022, 2).

<sup>214</sup> Kleinschnitger et al. (2022, 307).

<sup>215</sup> European Commission (2022a, 14).

<sup>216</sup> Bergmann et al. (2022, 3).

displaced youth. Ukraine's energy market, as one of the biggest in Europe, needs to be decarbonized and integrated into the European energy system to ensure the security of Ukraine's energy supply, which is why the EU has synchronized Ukraine's electrical network with the Continental European Grid. It would be a lost opportunity to just reinstate the previous economic paradigm without supporting Ukraine's green energy transition.<sup>217</sup>

### 3.3. Gap #3: Consumer Protection

In the AA chapter on consumer protection, Ukraine and the EU essentially commit to “cooperate in order to ensure a high level of consumer protection and to achieve compatibility between their systems of consumer protection.”<sup>218</sup> Established in 2016 to enhance the oversight of product safety and consumer protection, the State Service on Food Safety and Consumer Protection (SPSA) is the principal state body in charge of carrying out the consumer rights protection policy in Ukraine.<sup>219</sup> Although some product safety measures have progressed, overall adoption is being held up or delayed.<sup>220</sup> As a result, there has not been much progress made in carrying out obligations related to consumer protection.<sup>221</sup> In other words, “the progress in the implementation of commitments aimed to strengthen consumer protection rights in Ukraine has been stalled.”<sup>222</sup> Ukraine's main challenge is to strike a balance between consumer rights protection on the one hand and a decreased administrative burden on enterprises on the other, including the removal of incentives that encourage corruption in government control functions.<sup>223</sup>

---

<sup>217</sup> Shea (2022).

<sup>218</sup> Emerson et al. (2021, 253).

<sup>219</sup> *ibid*, 257.

<sup>220</sup> *ibid*, 9.

<sup>221</sup> *ibid*.

<sup>222</sup> Emerson et al. (2021, 256).

<sup>223</sup> *ibid*, 259.

There was a ban applied on governmental inspections of business owners in 2016–17.<sup>224</sup> Businesses applauded this decision, but representatives of organizations that defend consumer rights slammed it, claiming that consumer safety was being jeopardised.<sup>225</sup> By the end of 2019, Ukraine agreed to align its legislation with the EU acquis; however, only 42 per cent of the harmonization work had been completed by that point.<sup>226</sup> For example, “the legal changes related to marketing, contracts, consumer rights enforcement and cooperation are still to be adopted and implemented.”<sup>227</sup>

### 3.3.1. Next Steps

As noted in [Table A1](#) in the Annex, further work remains in this area because the implementation of commitments has been slow. Although more work is required to harmonize legislation, Ukraine’s top priority in this chapter of the Agreement is to maintain proper governmental control over the application of consumer protection requirements by the SPSA and other relevant bodies.<sup>228</sup> In addition to proper implementation and enforcement, the government should support civil society’s involvement in protecting consumer rights, with several NGOs involved already,<sup>229</sup> seeing as Ukraine achieved its highest implementation rating (score of 3 out of 3) on the civil society provision of the Association Agreement, according to [Table A1](#) in the Annex.

---

<sup>224</sup> Emerson et al. (2021, 256).

<sup>225</sup> *ibid.*

<sup>226</sup> *ibid.*

<sup>227</sup> *ibid.*

<sup>228</sup> *ibid.*, 258.

<sup>229</sup> *ibid.*

### 3.4. Gap #4: Company Law

The Association Agreement includes a brief chapter on company law, corporate governance, accounting, and auditing to promote Ukraine's transition to a fully operational market economy and to foster a secure environment for investment.<sup>230</sup> Discussions are ongoing between Ukraine and the EU over revisions to the sections on corporate governance, accounting, and auditing.<sup>231</sup> Most of the EU's regulations are adhered to by Ukrainian law.<sup>232</sup> While some safeguards were established when the Association Agreement was signed, others were put into effect by later legislation.<sup>233</sup> Ukraine's Parliament updated the law on company registration in 2014 and 2015, making it easier to register firms.<sup>234</sup> In 2015–17, important changes were made to Ukrainian corporate law.<sup>235</sup> In the beginning of 2018, separate legislation on (private) limited liability firms was approved.<sup>236</sup> Shareholder rights, public company disclosure requirements, and merger regulations underwent significant adjustments to bring them closer to EU regulations.<sup>237</sup> 2018 saw significant revisions to the accounting legislation, and a new auditing law took effect in October of that year.<sup>238</sup> Most of the provisions of the accounting and auditing directives appear to be implemented by these accounting and auditing laws.<sup>239</sup>

The complete application of EU mergers and acquisitions rules as well as corporate officer liability are the two main outstanding concerns in the Association Agreement.<sup>240</sup>

Ukraine's Parliament was debating a new version of legislation that would address the

---

<sup>230</sup> Emerson et al. (2021, 260).

<sup>231</sup> *ibid*, 264.

<sup>232</sup> *ibid*, 265.

<sup>233</sup> *ibid*.

<sup>234</sup> *ibid*.

<sup>235</sup> *ibid*.

<sup>236</sup> *ibid*.

<sup>237</sup> *ibid*.

<sup>238</sup> *ibid*, 266.

<sup>239</sup> *ibid*.

<sup>240</sup> *ibid*.

outstanding concerns and enable electronic remote voting for shareholder meetings.<sup>241</sup> In June 2020, the first reading of this proposed law was adopted.<sup>242</sup>

#### 3.4.1. Next Steps

In the area of company law, Ukraine has made gradual legislative progress by transposing EU regulations into national standards. Many of the remaining important provisions were recently applied following an update to company law, where some elements had already been integrated.<sup>243</sup> Full compliance with EU company law will improve the business climate in Ukraine and help create a transparent corporate environment that provides owners and creditors with the necessary level of protection.<sup>244</sup> Only after judicial reform, which addresses the first gap, can reform in this area be put into practice.

#### 3.5. Gap #5: Intellectual Property Rights

There is still a limited degree of adherence to the EU *acquis* in the sphere of intellectual property rights (IPR), as seen in [Table A1](#) in the Annex, where Ukraine achieved a score of 1.5 out of 3, representing limited implementation of the Association Agreement's IPR provisions. Ukraine is a member of the World Intellectual Property Organization (WIPO) and other major international organizations that deal with IPR, such as the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS).<sup>245</sup> With respect to EU standards, newly adopted (i.e., 2019-20) IPR-related laws close some gaps with significant changes to the national intellectual property (IP) system, such as the launch of the High Court for Intellectual Property

---

<sup>241</sup> Emerson et al. (2021, 266).

<sup>242</sup> *ibid*, 265.

<sup>243</sup> *ibid*.

<sup>244</sup> *ibid*.

<sup>245</sup> *ibid*, 140.

Matters, geographical indications (GIs),<sup>246</sup> trademarks, patents and industrial designs and customs enforcement, but more action is needed.<sup>247</sup> The creation of the High Court for Intellectual Property Matters was intended as part of Ukraine’s judicial reform; however, because the judiciary is still undergoing reform, the selection process of judges to the IP court has been impeded:<sup>248</sup> “the establishment of the [IP] court depends on the success of the judicial reform as a whole.”<sup>249</sup> According to the Agreement’s provisions, Ukraine is expected to fully harmonize its IPR legislation with the EU acquis by 2023, primarily to address piracy and counterfeiting.<sup>250</sup>

The benefits of aligning Ukraine’s IPR standards with the EU’s are increased innovation and creativity, job creation, competition, serving to attract foreign investment and foster international trade.<sup>251</sup> The key challenges in this area are non-transparent operation of collecting societies,<sup>252</sup> which has been addressed by recent legislation, unlawful software use by government organizations, data protection and counterfeit products, as well as online and offline copyright infringement.<sup>253</sup>

---

<sup>246</sup> “Geographical indications (GIs) are a distinct type of intellectual property right that protects products originating in specific regions and possessing particular qualities or a reputation linked to the territory of production. The particularity of GIs as a tool of intellectual property is that they reflect a specific region of production, so that the protected products take on the value of the region’s specific characteristics” (Ben Khelil 2021).

<sup>247</sup> Emerson et al. (2021, 7).

<sup>248</sup> *ibid*, 134-5.

<sup>249</sup> *ibid*, 139.

<sup>250</sup> *ibid*, 140, 7.

<sup>251</sup> *ibid*, 140, 129.

<sup>252</sup> A collective society may be defined as “an organization that administers the rights of several copyright owners. It can grant permission to use their works and set the conditions for that use” ([Collective Societies | Copyright Board of Canada \(cb-cda.gc.ca\)](https://www.cb-cda.gc.ca)). Collective societies are responsible for collecting IPR-related revenues for their holders, who are often individuals or small businesses that do not have the resources to protect their IPR on their own. They pool their IPR together into an organization that works to protect the IPR (copyrights, GIs, trademarks, etc.) and collect the revenues associated with their use. For example, the Copyright Board of Canada conducts audits of universities to make sure that copyrights are not infringed by professors in assigning copyrighted texts to students i.e., it is illegal for a professor to provide a PDF copy of a book to students, since it prevents the author and publisher of the revenues that would arise if the students bought the book (Professor Patrick Leblond).

<sup>253</sup> Emerson et al. (2021, 7, 140).

The European Commission claims that Ukraine’s major systemic issues with IP enforcement and protection have a negative impact on EU companies.<sup>254</sup> To illustrate, implementing the Agreement’s GI rules has proven difficult because several Ukrainian food and alcoholic beverage manufacturers continue to use protected GIs, thereby violating EU rules.<sup>255</sup> Moreover, even after new legislation was passed in 2018, Ukrainian collective societies continue to be a subject of concern because they have not been well regulated and have failed to compensate legal owners with the royalties they are entitled to.<sup>256</sup>

### 3.5.1. Next Steps

Ukraine’s new national IPR system should focus on transparency and enforcement to satisfy the EU acquis. Ukraine should not delay IPR reform “if Ukraine’s innovation development is to be stimulated and the country’s negative reputation in this field left behind.”<sup>257</sup> It will be expensive and difficult for Ukraine to adopt the EU’s new Copyright Directive<sup>258</sup> given the ongoing challenges with IPR enforcement; therefore, as a starting point, it is important to learn from the enforcement implications of the new Directive in the EU to adopt best practices prior to full approximation by Ukraine.<sup>259</sup>

### 3.6. Gap #6: Transport

As seen in [Table A1](#) in the Annex, Ukraine achieved one of the two lowest implementation scores of 1 (indicating only some level of EU preparation) on the transport chapter of the AA.

The Agreement outlines the specific criteria and guidelines the EU has established for

---

<sup>254</sup> Emerson et al. (2021, 7, 136).

<sup>255</sup> *ibid*, 139.

<sup>256</sup> Emerson et al. (2021, 136).

<sup>257</sup> *ibid*, 140.

<sup>258</sup> European Commission (2021).

<sup>259</sup> Emerson et al. (2021, 133).

intermodal, inland waterways, rail, and road transportation, which Ukraine will gradually implement.<sup>260</sup> The transport sector is one of the areas where reform progress is very slow, according to the online monitoring tool for the implementation of the Association Agreement.<sup>261</sup> For example, Ukraine's Parliament has not yet met any of the demands.<sup>262</sup> Consequently, Ukraine's transport reform only advanced by roughly 24 per cent.<sup>263</sup> The pace of motorization in Ukraine is outpacing the construction of public roads, and the state of the roads' operational quality is subpar.<sup>264</sup> Ukraine has fewer roadways than Western nations, and the average speed on its roads is two to three times slower.<sup>265</sup> Ninety per cent of the roads have not received maintenance in over 30 years.<sup>266</sup> Even before the present massive war damage,<sup>267</sup> Ukraine's physical infrastructure was already in a chronically poor state.<sup>268</sup>

### 3.6.1. Next Steps

In general, the Agreement's commitments to align Ukraine's transport sector based on EU rules have made little headway thus far. As of July 2020, Ukraine had not yet fully harmonized its automotive legislation with the EU acquis.<sup>269</sup> Since "only a third of the relevant EU acquis has been implemented" in this area, Ukraine and the EU should act on reforming the transport sector.<sup>270</sup> It will be crucial to rebuild better after the war, with a clear connection to the wider reform agenda on Ukraine's membership path, in addition to restoring what was already there.

---

<sup>260</sup> Emerson et al. (2021, 195).

<sup>261</sup> *ibid*, 187.

<sup>262</sup> *ibid*.

<sup>263</sup> Emerson et al. (2021, 187).

<sup>264</sup> *ibid*, 188.

<sup>265</sup> *ibid*.

<sup>266</sup> *ibid*.

<sup>267</sup> According to the EU Relief and Reconstruction for Ukraine Report, which was published in May 2022, the European Commission estimated the size of the war damage "already in the hundreds of billions of euros, with more than EUR 100 billion in damage to physical infrastructure alone" (European Commission 2022h).

<sup>268</sup> European Commission (2022a, 15).

<sup>269</sup> Emerson et al. (2021, 188).

<sup>270</sup> European Commission (2022a, 18).

For the economy to continue operating and to produce much-needed trade-based revenue, it is essential to rebuild logistics and transportation networks.<sup>271</sup>

### 3.7.1. Gap #7: Anti-Corruption – The Underlying Structural Challenge

*“Since the country achieved independence in 1991, the problem is not that a well-functioning state has been corrupted by certain illegal practices; rather, those corrupt practices have constituted the rules by which the state has been run.”<sup>272</sup>*

Corruption is at the core of all the other gaps, which is why it must be addressed first and foremost. It is important to situate Ukraine within a historical context to understand why corruption represents a structural impediment to reform. Ukraine emerged from the collapse of the Soviet Union as a financially bankrupt state, which produced a climate where political and commercial actors that were largely motivated by short-term goals of rapid wealth growth could prey on the state without consequences.<sup>273</sup> Ukraine’s reform journey has experienced many failures over the past three decades because successive governments have failed to create operational governmental institutions since its independence.<sup>274</sup> Following largely ill-defined privatisations<sup>275</sup> in the early 1990s, a small number of businesspeople took over the legislature, executive branch, and judicial system, passing laws that benefited them and their political allies rather than laying the groundwork for long-term social and economic development.<sup>276</sup>

Ukraine’s corruption is the result of oligarchs whose primary focus is self-enrichment. Ukrainian oligarchs have a history of stealing money using a variety of means. They skewed public procurement, stole government subsidies (specifically in the energy sector), engaged in

---

<sup>271</sup> Bergmann et al. (2022, 5).

<sup>272</sup> U.S. Commission on Security and Cooperation in Europe (2017, 6).

<sup>273</sup> *ibid*, 14.

<sup>274</sup> Chromiec et al. (2015, 3).

<sup>275</sup> Additional context: “Systems of dependence between oligarchs and politicians started to emerge, whereby politicians, in exchange for the financial support offered by businessmen, would turn a blind eye to the widespread violations that took place during privatization” (Gain 2021; Matuszak 2021).

<sup>276</sup> Chromiec et al. (2015, 3).

insider privatisation and massive tax evasion, and extracted unauthorised profits from state-owned businesses.<sup>277</sup> The word “reform” has evolved to mean new methods for robbing the government of funds, destroying the rule of law, and hiding corruption.<sup>278</sup> Due to their clout in the legislature, media, judiciary, criminal justice system, and other state institutions, oligarchs have the power to thwart legislative initiatives, undermine their implementation, or exert pressure on the government to revoke or weaken laws once the attention of foreign donors wanes.<sup>279</sup> As a result, these institutions have stronghold corrupt positions for more than 30 years without radical reform.

The root of Ukraine’s enduring corruption lies in the resilience and power of its oligarchs, who have taken control of the state by removing non-corrupt political parties and vying with one another to syphon off the nation’s wealth.<sup>280</sup> Oligarchic rule in Ukraine has resulted in corrupt systems marked by pervasive conflicts of interest.<sup>281</sup> This corrupt system based on oligarchic influence was made possible by the lack of reforms during the early years of Ukraine’s independence, which led to insufficient economic liberalization and a weakened rule of law. Oligarchs see business and politics as inseparable and are associated with many of Ukraine’s political parties in some capacity.<sup>282</sup> In fact, Ukraine’s oligarchs often wield their power “through corrupt MPs, members of government, law enforcement officers and judges.”<sup>283</sup> The oligarchic system of government, which has come to characterize Ukraine, notwithstanding changes in oligarchs’ names and wealth, is the main obstacle standing in the way of deep reforms

---

<sup>277</sup> Chromiec et al. (2015, 7).

<sup>278</sup> *ibid*, 3.

<sup>279</sup> *ibid*, 10.

<sup>280</sup> U.S. Commission on Security and Cooperation in Europe (2017, 1).

<sup>281</sup> European Court of Auditors (2021, 17).

<sup>282</sup> U.S. Commission on Security and Cooperation in Europe (2017, 7).

<sup>283</sup> Verlanov (2020).

and the main reason why prior reforms have been largely unsuccessful.<sup>284</sup> The inability to escape the vicious cycle that supports and upholds the oligarchy and its political connections is the key factor contributing to its persistence.<sup>285</sup>

According to Transparency International, which is a multinational anti-corruption coalition fighting corruption, there are three types of corruption that Ukraine suffers from: 1) grand corruption; 2) political corruption<sup>286</sup> and 3) petty corruption.<sup>287</sup> The primary challenge to Ukraine's rule of law and economic progress is grand corruption, which is "the abuse of high-level power that benefits the few and causes serious and widespread harm to individuals and society."<sup>288</sup> Despite repeated EU measures to strengthen the rule of law and reduce corruption, the outcomes are still insufficient: "judicial reform is experiencing setbacks, anti-corruption institutions are at risk, trust in such institutions remains low, and the number of convictions resulting from grand corruption is small."<sup>289</sup>

The political system in Ukraine has been under the control of the oligarchs, who support politicians by providing campaign funding and media coverage in exchange for favourable legislation, removal of judicial scrutiny as well as control of appointments to state-owned businesses, regulatory agencies, and ministries.<sup>290</sup> Oligarchs rely on their "nodes of resistance"

---

<sup>284</sup> U.S. Commission on Security and Cooperation in Europe (2017, 7).

<sup>285</sup> Wilson (2016, 5).

<sup>286</sup> Definition: "Manipulation of policies, institutions, and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status, and wealth. In Ukraine, the parliament has been the center of political corruption" (U.S. Commission on Security and Cooperation in Europe 2017, 5).

<sup>287</sup> Definition: "Everyday abuse of entrusted power by public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies. This is true of most state administration in Ukraine" (U.S. Commission on Security and Cooperation in Europe 2017, 5).

<sup>288</sup> European Court of Auditors (2021, 4).

<sup>289</sup> *ibid.*

<sup>290</sup> Chromiec et al. (2015, 7).

(i.e., tools at their disposal within the state) to help them advance their objectives.<sup>291</sup> The unreformed justice system serves as the best example, where every oligarch is represented to some extent.<sup>292</sup> Reforming the judiciary and fighting corruption are intertwined objectives, meaning that if court cases are constantly heard by corrupt judges, then anti-corruption initiatives and institutions will de facto prove futile and ineffective.<sup>293</sup>

Ukraine was ranked 122nd out of 180 countries and territories in Transparency International's 2021 Corruption Perceptions Index.<sup>294</sup> Fighting corruption continues to be a top reform priority for Ukraine because its corruption perception score is 32 (100 for "very clean" to 0 for "highly corrupt"),<sup>295</sup> thus indicating that Ukraine is more corrupt than clean. If the judicial, prosecutorial, and law enforcement sectors remain unreformed, Ukraine's current climate poses a threat to the viability of institutions tasked with fighting corruption.<sup>296</sup> In other words, the largest barrier to Ukraine's development continues to be the lack of a just and impartial judiciary because it discourages foreign investment and corrupts all other facets of Ukrainian society, fostering a culture of impunity that fosters the growth of oligarch groups.<sup>297</sup> For example, with respect to foreign investment, according to the European Court of Auditors' 2021 Report, "the unlawful takeover of business or property is a serious problem in Ukraine and a major risk for investors."<sup>298</sup>

Ukraine has a lengthy history of corruption, which includes both petty and grand corruption. Grand corruption serves as the foundation for pervasive petty corruption.<sup>299</sup> Petty

---

<sup>291</sup> Wilson (2016, 7).

<sup>292</sup> *ibid.*

<sup>293</sup> U.S. Commission on Security and Cooperation in Europe (2017, 25).

<sup>294</sup> Transparency International (2021).

<sup>295</sup> *ibid.*

<sup>296</sup> European Court of Auditors (2021, 4).

<sup>297</sup> Verlanov (2020).

<sup>298</sup> European Court of Auditors (2021, 58).

<sup>299</sup> *ibid.*, 10.

corruption is perceived as nearly unavoidable by a sizable portion of the population.<sup>300</sup> People frequently use the argument that affluent individuals and high-ranking officials engage in far more extensive corruption to excuse their own involvement in smaller-scale corruption.<sup>301</sup>

People in severely corrupt systems put the blame on the system for forcing them to take part in corruption, thus understanding that they are in a social trap-like situation. The longer this social trap situation continues, the more it becomes ingrained in institutions until it becomes the self-perpetuating norm.<sup>302</sup>

Regardless of the scale, corruption costs Ukraine tens of billions of dollars every year in lost revenue.<sup>303</sup> The message of Figure 1 below is that corruption in Ukraine has been characterized as “state capture” by influential political and business elites that are deeply ingrained in the country’s public institutions and economy, thus appearing at the very top in the power diagram. At odds with EU values, grand corruption stifles competition, impedes economic growth, and undermines democracy.<sup>304</sup>

As Figure 1 below demonstrates, grand corruption in Ukraine “is based on informal connections between government officials, members of parliament, prosecutors, judges, law enforcement agencies, managers of state-owned enterprises (SOEs) and politically connected individuals/companies.”<sup>305</sup> The unlawful cash flows of oligarchs, such as their overseas money-laundering, have frequently been the subject of investigations performed by investigative journalists.<sup>306</sup> Tax evasion through offshore accounts costs at least one billion euros annually.<sup>307</sup> It is these vested interests – oligarchs who have captured the state by extending their ‘arrows’ of

---

<sup>300</sup> European Court of Auditors (2021, 7).

<sup>301</sup> *ibid*, 7-8.

<sup>302</sup> U.S. Commission on Security and Cooperation in Europe (2017, 7).

<sup>303</sup> European Court of Auditors (2021, 8).

<sup>304</sup> *ibid*, 4.

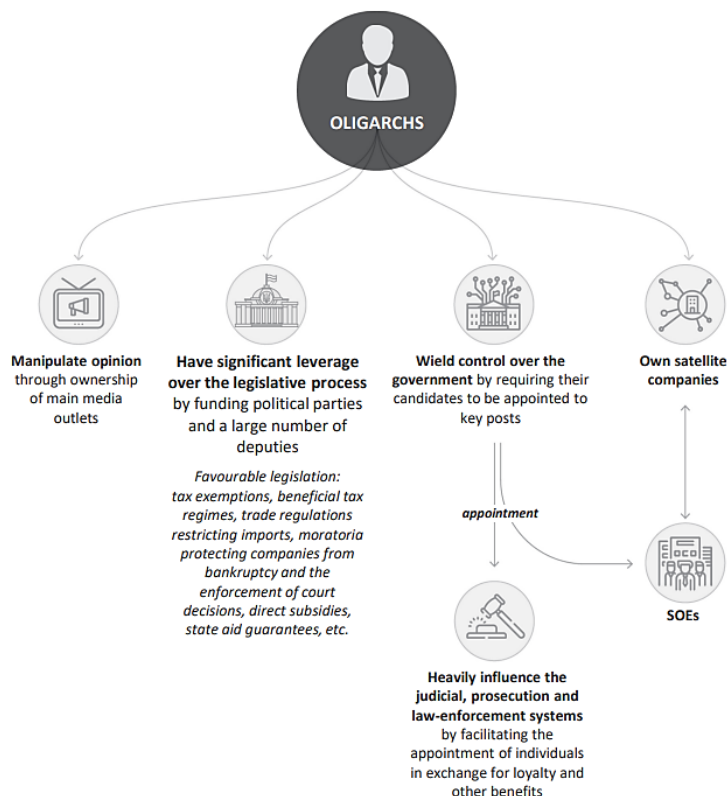
<sup>305</sup> *ibid*, 8.

<sup>306</sup> *ibid*, 10.

<sup>307</sup> *ibid*.

influence, as illustrated in the diagram below – who have opposed structural reforms in Ukraine.<sup>308</sup>

**Figure 1 – Ukrainian system facilitating grand corruption**



Source: European Court of Auditors (2021, 9).

Notwithstanding the different types of corruption, the interconnectedness of the oligarchy and the corrupt political class is the structural impediment to reform.<sup>309</sup> The oligarchy's dominance stems mostly from the extreme wealth concentration in its control. The 50 richest people in Ukraine were estimated to own almost half of the country's GDP just before the Euromaidan protests started, "compared to less than 20 per cent in Russia and less than 10 per cent in the US."<sup>310</sup> Along the same vein, the top five Ukrainian earners controlled \$21.6 billion,

<sup>308</sup> European Court of Auditors (2021, 10).

<sup>309</sup> Wilson (2016, 3).

<sup>310</sup> *ibid.*

which was 16.4 per cent of the country's GDP in 2014. In contrast, the five wealthiest people in Germany held 2.5 per cent of the country's GDP that same year,<sup>311</sup> which is almost eight times smaller in scale. A select few hold most of the country's political and financial power, given that many businesses have oligopolistic or monopolistic statuses.<sup>312</sup> In fact, a small number of people control whole economic sectors in Ukraine, including the steel, oil, and chemical sectors.<sup>313</sup> Oligarchs also control major media outlets, allowing them to sway public opinion and stifle debate. They own the top television networks, which set the content agenda and, thus, help block the development of free media.<sup>314</sup> It would be much harder for the oligarchic class to influence the Ukrainian government if these monopolies were broken up.

The main problem preventing deep anti-corruption reforms is vested interests, specifically oligarchic influence. Legislative de-oligarchization<sup>315</sup> has made tremendous strides, but implementation has lagged.<sup>316</sup> The European Commission has found that “the number of high-level officials brought to justice for corruption remains limited,” and that “investigations of corruption sometimes lack impartiality and law enforcement agencies experience political interferences.”<sup>317</sup> These political interferences should not come as a surprise considering that oligarchs actively participate in politics by funding elections and controlling media coverage.<sup>318</sup> Since de-oligarchization tackles the main factor fostering corruption, it may serve as a litmus test or a benchmark for the country's broader reform process.<sup>319</sup>

---

<sup>311</sup> Chromiec et al. (2015, 10).

<sup>312</sup> European Court of Auditors (2021, 56).

<sup>313</sup> Verlanov (2020).

<sup>314</sup> U.S. Commission on Security and Cooperation in Europe (2017, 30).

<sup>315</sup> This legislation defines an oligarch “as a person with significant economic and political weight in society, including influence on media” (European Commission 2022l, 5).

<sup>316</sup> Chromiec et al. (2015, 7).

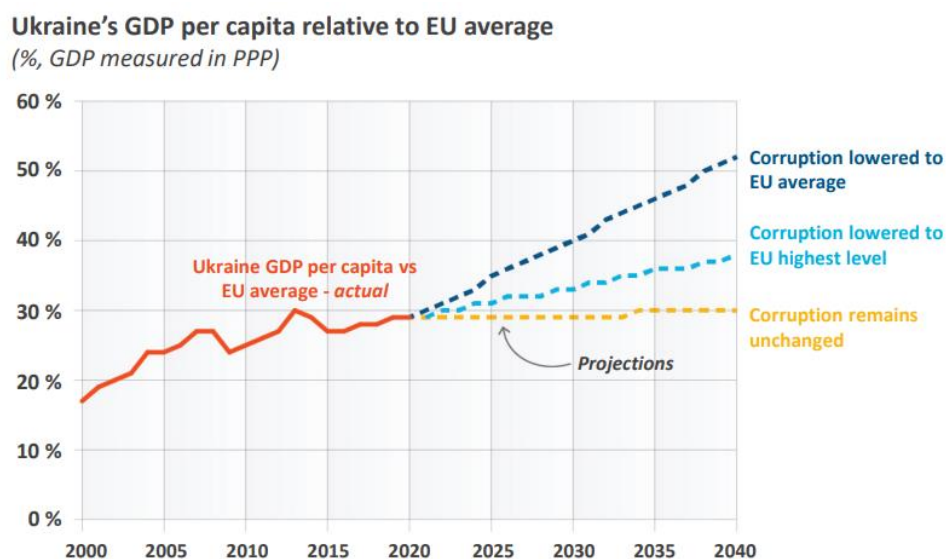
<sup>317</sup> European Commission (2022a, 10).

<sup>318</sup> Chromiec et al. (2015, 10).

<sup>319</sup> *ibid*, 7.

The message of Figure 2 below is that a connection exists between a decline in systemic corruption and an enhanced quality of life brought about by economic growth,<sup>320</sup> measured in terms of Ukraine's GDP per capita. Real change in Ukraine cannot occur until vested interests are challenged.

Figure 2: Reducing corruption helps to speed up economic convergence with the EU (IMF study)



Source: European Court of Auditors (2021, 12).

Legislative advancement has not been accompanied by prompt implementation.<sup>321</sup> There have only been a few high-profile oligarchs, politicians, or public officials found guilty of corruption thus far.<sup>322</sup> This is partly due to the prosecution and judiciary making slow progress in reform implementation, despite being the government's reform priorities: e.g., delays in removing prosecutors and judges that have ties to political or business patrons.<sup>323</sup> Inevitably, the failure to prosecute or punish prominent criminals has damaged public trust.<sup>324</sup> As indicated by

<sup>320</sup> European Court of Auditors (2021, 12).

<sup>321</sup> Chromiec et al. (2015, 8).

<sup>322</sup> *ibid.*

<sup>323</sup> *ibid.*

<sup>324</sup> European Court of Auditors (2021, 17).

repeated legislative revisions, delayed or distorted bylaws, and other circumstances that limit the successful implementation of reforms, “the sustainability of the European Commission’s interventions and support for reforms is constantly under threat.”<sup>325</sup> According to the European Court of Auditors, there is a disconnect between legislation and implementation in Ukraine because an act’s approval is deemed as the completion of the activity, even if the legal framework is either partially or never put into practice.<sup>326</sup>

The anti-corruption institutions that the EU assisted in establishing continue to struggle to provide the desired outcomes.<sup>327</sup> The National Anticorruption Bureau (NABU) oversees allegations of grand corruption against public officials.<sup>328</sup> When senior officials’ income profiles do not line up with their spending, NABU launches pre-trial investigations and submits legal complaints.<sup>329</sup> Based on NABU’s findings, “there has been progress in terms of open investigations,” and its ability to look into complex cases has significantly improved.<sup>330</sup> Although political backing from the EU has helped to maintain NABU operational and autonomous, the Bureau is continuously threatened by opponents who use tactics like making false charges.<sup>331</sup> One organization cannot be relied upon to overhaul the entire system, not even the new anti-corruption body NABU, because it serves as only one link in the institutional chain.<sup>332</sup> To illustrate, “the outcome of NABU’s investigations relies on factors such as prosecutors and the forensics bureau validating evidence.”<sup>333</sup> Without a systemic cure, Ukraine

---

<sup>325</sup> European Court of Auditors (2021, 33, 34).

<sup>326</sup> *ibid*, 34.

<sup>327</sup> *ibid*, 46.

<sup>328</sup> U.S. Commission on Security and Cooperation in Europe (2017, 8).

<sup>329</sup> Chromiec et al. (2015, 8).

<sup>330</sup> European Court of Auditors (2021, 49).

<sup>331</sup> European Court of Auditors (2021, 49).

<sup>332</sup> *ibid*, 50.

<sup>333</sup> *ibid*.

will always resort back to its normal state of systemic corruption, akin to a vicious cycle that continues to keep the old system in place.

Oligarchs represent Ukraine's internal enemy (Russia being its external one).<sup>334</sup> The Ukrainian government resorted to oligarchs for assistance in 2014.<sup>335</sup> By neglecting some of the most important lessons from 2014, Ukraine may sacrifice its future to satisfy its immediate needs.<sup>336</sup> Ukraine's richest individuals are exploiting the current crisis by presenting themselves "as patriotic defenders" to protect their personal wealth and influence.<sup>337</sup> For instance, the richest Ukrainian oligarch "steel magnate Rinat Akhmetov, whose company Metinvest owns two steel plants in Mariupol, has pledged to rebuild the city once the Russian occupation is over."<sup>338</sup> Oligarchs are making substantial payments to the war effort because it is an opportunity to influence and control the ultimate reconstruction of the country while also attempting to repair their reputation. The wealthiest citizens of Ukraine are almost unanimously supporting the government in the current conflict with Russia, despite President Zelenskyy's de-oligarchization 2021 effort "to limit the excessive influence of oligarchs, by reducing their role in Ukraine's economic, political, and public life."<sup>339</sup> In fact, Ukraine is "the only EU partner in eastern Europe" to have passed a law to reduce the influence of oligarchs in politics and the economy, but this will not result in progress if it is not put into practice.<sup>340</sup> While it is true that Ukraine should not reject financial assistance following the war, it can only succeed in insulating political processes and public opinion from oligarch blackmail if it keeps them out altogether.

---

<sup>334</sup> U.S. Commission on Security and Cooperation in Europe (2017, 16).

<sup>335</sup> Lohsen (2022).

<sup>336</sup> *ibid.*

<sup>337</sup> *ibid.*

<sup>338</sup> *ibid.*

<sup>339</sup> *ibid.*; Freedom House (2022).

<sup>340</sup> Deutsche Welle (2022).

Following the draft of a recent bill, the Ukrainian Parliament would permit those accused of corruption to be immune from criminal responsibility provided the harm is completely made up for while martial law is in effect.<sup>341</sup> Corrupt actors, including some of Ukraine's most well-known oligarchs, would be afforded the opportunity to get away with paying pennies for crimes they committed prior to the start of the war, especially because it has been challenging for prosecutors to determine the entire scope of funds stolen in some of the worst corruption cases.<sup>342</sup>

As the past eight years have demonstrated, oligarchs have the ability and motivation to thwart reforms designed to eradicate corruption and speed Ukraine's transition to a fully functional market economy and democratic polity.<sup>343</sup> Ukraine's oligarchs stand to lose greatly from the creation of equal playing fields and an independent judiciary.<sup>344</sup> In the past, several oligarchs attempted to sabotage Ukraine's relationships with its international partners, including the EU and the IMF, while also spreading anti-Western sentiments with the help of their media channels.<sup>345</sup> Oligarchs may again obstruct Ukraine's road to Euro-Atlantic integration if they use the crisis to further their control over the country's politics and economy to preserve their own power and wealth.<sup>346</sup> As a result, anything less than changing the entire system is ineffective because any improvements would be doomed to failure; an overpowering and persistent culture of power abuse negates isolated measures.<sup>347</sup>

---

<sup>341</sup> Lohsen (2022).

<sup>342</sup> *ibid.*

<sup>343</sup> *ibid.*

<sup>344</sup> Verlanov (2020).

<sup>345</sup> *ibid.*

<sup>346</sup> Lohsen (2022).

<sup>347</sup> Wilson (2016, 2).

### 3.7.2. Civil Society

The creation of a free and reliable civil society in Ukraine with unparalleled self-organization was sparked by the Euromaidan.<sup>348</sup> After the 2014 revolution, civil society still serves as a counterweight to the oligarchs.<sup>349</sup> Ukrainian journalists continue to act as anti-corruption watchdogs, with an unmatched capacity for exposing corruption through publications like *Dzerkalo Tyzhnia*.<sup>350</sup> Since 2014, the greatest improvement has been the increase in available resources that journalists and civil society have for exposing corruption. The creation of specialized anti-corruption bodies, such as the National Anti-Corruption Bureau, was made possible in large part by the efforts of Ukrainian civil society and the international community.<sup>351</sup> In fact, a Civil Oversight Council composed of public activists is responsible for monitoring NABU's operations.<sup>352</sup>

The driving force behind Ukraine's democratic transition is civil society. The EU-Ukraine Civil Society Platform (CSP) was established as part of the Association Agreement between the European Union and Ukraine, allowing civil society groups on both sides to keep track of the implementation process and make suggestions for the appropriate authorities.<sup>353</sup> Civil society organizations are a great resource for the government and a key player in the delivery of local services because of their knowledge of required improvements.<sup>354</sup> Civil society tracks the progress of reforms and, in the event of errors or delays, alerts international partners, runs media campaigns, and plans demonstrations.<sup>355</sup> Every effort should be made by the

---

<sup>348</sup> Sybikowska (2021).

<sup>349</sup> Lohsen (2022).

<sup>350</sup> U.S. Commission on Security and Cooperation in Europe (2017, 28).

<sup>351</sup> European Commission (2022a, 10).

<sup>352</sup> Herron (2020, 41).

<sup>353</sup> European Commission (2022a, 3).

<sup>354</sup> *ibid*, 6.

<sup>355</sup> Chromiec et al. (2015, 11).

international community and the Ukrainian government to strengthen the ability of civil society, particularly independent media, to hold public officials accountable.<sup>356</sup>

Oligarchic vested interests continue to impede reform efforts. To be sure, “oligarchs would not be working so hard to stop Ukraine’s civil society if they were not profoundly active and effective.”<sup>357</sup> Despite the presence of an open public space, vested interests have threatened and pressured civil activists, which in some cases has resulted in violence.<sup>358</sup> Even though investigations have been intensified and such violent attacks are condemned by the government, more work must be done to guarantee that such crimes are not committed without repercussions.<sup>359</sup>

A free media environment is essential for fighting corruption because it can reveal corrupt activities and put pressure on the government to enact changes.<sup>360</sup> Information may be severely distorted or even prevented from reaching the population because of the oligarchs’ significant control over the media market.<sup>361</sup> It should be encouraged for civil society organizations to monitor bias and commercial content on media platforms; independent media should have more support and financing since they can help the reform process.<sup>362</sup> It is important to strengthen non-oligarchic media outlets with the aid of personnel, expertise, and financial resources.

The history of the ProZorro system sheds light on the potential power of Ukrainian civil society to bring about social change.<sup>363</sup> Independent of the government, civil society activists

---

<sup>356</sup> U.S. Commission on Security and Cooperation in Europe (2017, 33).

<sup>357</sup> *ibid*, 29.

<sup>358</sup> European Commission (2022a, 6).

<sup>359</sup> *ibid*.

<sup>360</sup> U.S. Commission on Security and Cooperation in Europe (2017, 29).

<sup>361</sup> Chromiec et al. (2015, 19).

<sup>362</sup> Wilson (2016, 11); Chromiec et al. (2015, 19).

<sup>363</sup> U.S. Commission on Security and Cooperation in Europe (2017, 11).

created ProZorro in partnership with Transparency International.<sup>364</sup> Pro-Zorro, a globally-recognized electronic system for public procurement, was developed to improve the procurement process, which was formerly secretive in nature.<sup>365</sup> All public procurement in Ukraine must, by law, take place through this online platform,<sup>366</sup> which translates from Ukrainian as “transparent.”<sup>367</sup> In other words, the ProZorro system enables a transparent handling of public purchases.<sup>368</sup> Such online systems help mitigate corruption and build accountability, generating annual savings equal to one per cent of GDP.<sup>369</sup>

Financial institutions in Ukraine can perform their inspections using the “politically exposed persons” platform, which gathers data from several registers, including asset declarations.<sup>370</sup> The ProZorro and “politically exposed persons” platforms, which were both created by civil society, established the groundwork for monitoring reforms and educating the public about unfair business practises and power abuses.<sup>371</sup> The Commission should encourage the digitization of the most significant public registers to improve the transparency of public records, safeguard property rights, and examine how public funds are spent.<sup>372</sup> In Ukraine, advancements in e-government can reduce corruption, rent-seeking, and regulatory capture by ultimately giving Ukraine’s civil society, particularly independent media, a voice, thereby enhancing the accountability of public officials.<sup>373</sup>

---

<sup>364</sup> U.S. Commission on Security and Cooperation in Europe (2017, 11).

<sup>365</sup> European Commission (2022a, 10).

<sup>366</sup> U.S. Commission on Security and Cooperation in Europe (2017, 10).

<sup>367</sup> Wilson (2016, 8).

<sup>368</sup> Chromiec et al. (2015, 12).

<sup>369</sup> European Commission (2022a, 10).

<sup>370</sup> European Court of Auditors (2021, 41).

<sup>371</sup> *ibid*, 55.

<sup>372</sup> *ibid*, 58.

<sup>373</sup> U.S. Commission on Security and Cooperation in Europe (2017, 29).

The Commission has supported independent journalists and civil society activists in their efforts to expose fraud and ensure transparency.<sup>374</sup> As a crucial ally in the reform process, civil society activists should receive more financial and political support, including plans for securing long-term funding for key civil society players and for promoting coordination among different civil society groups to foster synergies, improve information exchange, and prevent duplication.<sup>375</sup> The EU should exert political pressure on the Ukrainian government to involve civil society in the decision-making and reform monitoring processes; making financial support a condition of civil society involvement would be a practical step in that direction.<sup>376</sup> In addition, the Commission should assist civil society in creating routine monitoring systems (like a scoreboard) for regularly measuring the effectiveness of anti-corruption reforms as a means of increasing transparency and deterrence.<sup>377</sup> Moving forward, civil society should be involved in overseeing how international funds designated for Ukraine's economic recovery are being spent.<sup>378</sup>

### 3.7.3. Next Steps

The end of the 1990s saw the emergence of a system dominated by representatives of large business, known as oligarchs. They have succeeded in establishing oligopolies or monopolies in numerous economic sectors of Ukraine during the past 30 years.<sup>379</sup> The majority owe their success to the discounted privatization of state-owned enterprises.<sup>380</sup> Their political clout grew along with their wealth because they supported political parties, lawmakers, and officials, and as

---

<sup>374</sup> European Court of Auditors (2021, 5).

<sup>375</sup> Chromiec et al. (2015, 19).

<sup>376</sup> *ibid.*

<sup>377</sup> European Court of Auditors (2021, 55).

<sup>378</sup> Lohsen (2022).

<sup>379</sup> Matuszak (2021, 1).

<sup>380</sup> *ibid.*

a result, legislation and regulations that benefited their interests were implemented.<sup>381</sup> Oligarchs have a huge impact on politics by contributing to a variety of political parties financially and by advocating for the nomination of loyal supporters to influential positions.<sup>382</sup> The mass media is the oligarchs' greatest asset because it gives them the power to impose their political agenda on news coverage and to advance their preferred candidates.<sup>383</sup> The oligarchical stronghold on the major television networks prevents Ukraine's media from becoming truly independent.<sup>384</sup>

Since Ukraine's independence, the EU has been one of the largest international donors, making it an important external force driving Ukraine's reform process.<sup>385</sup> The EU has provided both financial and political support for the post-Euromaidan reform agenda.<sup>386</sup> To be sure, "the EU's assistance includes the provision of technical expertise; macro-financial assistance and loans; unilateral trade measures; development assistance and budget support as well as the mobilization of finance for investment projects."<sup>387</sup> Countries and organizations who are providing financial support for Ukraine's reconstruction should promote effective anti-corruption practices to strengthen the rule of law and increase foreign investment.<sup>388</sup> The EU's ability to tie financial support to reform progress gives it considerable economic clout; civil society is in favour of conditionality, where "the more assistance and cooperation that is made conditional, the better."<sup>389</sup>

---

<sup>381</sup> Matuszak (2021, 1).

<sup>382</sup> *ibid.*

<sup>383</sup> *ibid.*

<sup>384</sup> U.S. Commission on Security and Cooperation in Europe (2017, 30).

<sup>385</sup> Chromiec et al. (2015, 13).

<sup>386</sup> *ibid.*

<sup>387</sup> *ibid.*

<sup>388</sup> Lohsen (2022).

<sup>389</sup> Wilson (2016, 10).

The major barrier to efficient governance is corruption.<sup>390</sup> The main force in Ukraine's fight against corruption is its civil society, which includes independent media.<sup>391</sup> The government's efforts to fight corruption have met resistance and seen failures.<sup>392</sup> Police reactions to attacks on journalists, civil society activists, and members of minority groups are often insufficient.<sup>393</sup> Every effort should be made by the international community and the Ukrainian government to strengthen the ability of civil society, particularly independent media, to hold public officials accountable.

It is important to maintain NABU's independence and authority over all prominent corruption cases in Ukraine.<sup>394</sup> As a key law enforcement organization, NABU should be empowered to investigate and prosecute corrupt, illegal activities, thereby enhancing transparency and reducing the oligarchs' ability to influence Ukrainian politics.<sup>395</sup> Political involvement with NABU's operations should immediately result in the suspension of recovery funding.<sup>396</sup>

Ukraine should avoid repeating the same mistakes. To be sure, the Ukrainian government appealed to oligarchs for support in 2014, which ultimately came at the cost of placing self-interested players in charge<sup>397</sup> – at the centre of the political and economic systems. The problem with returning to the status quo is that it would mean sustaining a vicious cycle in which the system continues to reproduce itself because public officials supported by oligarchs would continue to resist important reforms like improving the judiciary.<sup>398</sup> To be sure, "Ukraine

---

<sup>390</sup> Freedom House (2022).

<sup>391</sup> U.S. Commission on Security and Cooperation in Europe (2017, 33).

<sup>392</sup> Freedom House (2022).

<sup>393</sup> *ibid.*

<sup>394</sup> U.S. Commission on Security and Cooperation in Europe (2017, 27).

<sup>395</sup> *ibid.*

<sup>396</sup> Lohsen (2022).

<sup>397</sup> *ibid.*

<sup>398</sup> Wilson (2016, 6).

has long suffered from corrupt and politicized courts, and reform initiatives meant to address the issue have stalled or have fallen short of expectations.”<sup>399</sup> In other words, Ukraine has made numerous attempts to reform its courts, but each effort has been unsuccessful due to the corrupt system’s strong opposition, which benefits from dubious justice.<sup>400</sup> Ukraine needs tools that complement one another and create synergies.<sup>401</sup> For example, financial disclosure functions better in an environment of open media and e-government is more effective in an environment of increased internet usage.<sup>402</sup> Fundamentally, Ukraine needs focused reforms that would disrupt the cycle of inertia that upholds the current system.

Oligarchs are at the centre of the system. Unless oligarchic interests are addressed and weakened, then Ukraine will never become an EU member because it will be challenging for the EU to justify its accession and defend its membership. As part of the nation’s war effort, the Ukrainian government has taken control over five important businesses that had previously been owned by oligarchs.<sup>403</sup> By seizing oligarchic property, Ukraine has started to address, albeit a year later, Zelenskyy’s de-oligarchization legislation to some extent, which was intended to limit the power of the country’s richest people, paradoxically because of the ongoing war.<sup>404</sup> Seizing the momentum, Ukraine should prevent a return to the status quo where oligarchs would reclaim control over public institutions and resources, in part by supporting the development of civil society’s capabilities. Moving forward, Ukraine should adopt its newly drafted national anti-corruption strategy, which is still pending Parliament’s approval.<sup>405</sup> Likewise, Ukraine should commit to implementing the outstanding recommendations made by several international anti-

---

<sup>399</sup> Freedom House (2022).

<sup>400</sup> Haring et al. (2022).

<sup>401</sup> Wilson (2016, 10).

<sup>402</sup> *ibid.*

<sup>403</sup> Olearchyk (2022).

<sup>404</sup> *ibid.*

<sup>405</sup> European Commission (2022a, 9, 10).

corruption bodies such as the Group of States against Corruption (GRECO).<sup>406</sup> The tendency for reforms to be passed but not put into practice should be considered as a risk; after the implementation of any reform, ongoing monitoring is required.<sup>407</sup>

Ukraine scored below average on seven of the Association Agreement's 26 chapters. When categorized by EU accession pillar, there is one that falls under the political pillar: rule of law; four that fall under the economic pillar: macroeconomic policy, consumer protection, company law, and intellectual property rights; and one that falls under the administrative pillar: transport, including the implementation of 19 chapters that have been assessed as satisfactory. As the seventh gap, corruption represents an underlying challenge to all the other gaps and a structural impediment to Ukraine's reform efforts in general, meaning the system will continue to reproduce itself until this is addressed despite intermittent progress. Realistically, Ukraine would not have met the political pillar before the war because it still cannot be referred to as a solidified and stable democracy. Reforming the rule of law is a precursor to economic development given the interdependence of the accession pillars; yet, with respect to the economic pillar, there has been a track record of Ukrainian failures to implement structural macro reforms, because efforts to help Ukraine reform and escape the cycle of oligarchic capture and rent seeking have largely fallen short. Addressing corruption as the fundamental barrier to EU membership is crucial to accelerate economic integration with the Union, as is assisting Ukraine's financial stability during the war. Ukraine achieved its highest rating on the civil society chapter of the Agreement because there is a strong civil society in Ukraine that actively supports and monitors reforms; as a result, it is crucial to denounce any attempt to undermine it.

---

<sup>406</sup> European Commission (2022a, 9).

<sup>407</sup> U.S. Commission on Security and Cooperation in Europe (2017, 25).

## 4. Conclusion

Ukrainians expect their journey to EU membership to be as quick as their journey to candidate status, insisting that “[it] should not take decades.”<sup>408</sup> Although Ukraine’s candidacy was approved in record time (4 months) due to the political pressure brought on by the country’s war, that does not imply that it will immediately be granted membership status. The most illustrative case of the longest candidacy is Turkey; it first asked to join in 1987, was named a candidate in 1999, and started negotiations in 2005, which are currently in deadlock.<sup>409</sup> The duration between submitting a membership application and being admitted may easily be ten to twenty years for countries, such as Ukraine, that have significant acquis-related backlogs and governance issues.<sup>410</sup> Even if Ukraine’s accession journey proceeds as quickly as Croatia’s did—the last member to join, it will still take about ten years.<sup>411</sup> Equally important, there is enlargement fatigue within the EU as a result of unfavourable prior experience; Romania and Bulgaria are two instances of countries that underwent reform with the EU in mind but have performed considerably below expectations since joining.

While there are specific membership criteria that Ukraine must meet before becoming an EU member, the Union must also be willing and ready to integrate Ukraine. Even though the EU came together quickly to grant Ukraine candidacy in response to Russia’s invasion, as the war drags on and the economic effects on European countries become more severe, it is likely that the European unity may begin to fray. For example, the fact that Hungary opposed oil sanctions on Russia indicates how difficult it is for Europe to remain united economically because of the conflict. Representing a challenge outside of Ukraine’s control, unanimity is the fundamental

---

<sup>408</sup> Deutsche Welle (2022).

<sup>409</sup> Bouanchaud (2022).

<sup>410</sup> Lippert (2022, 3).

<sup>411</sup> Sapir (2022, 213).

tenet of the EU accession process from beginning to end, meaning the 27 Member States have several opportunities to exercise individual vetoes, such as approving the start of accession negotiations. For its part, Ukraine must implement seven reforms as part of the pre-accession stage of the accession process to demonstrate that it has reached a minimum level of readiness in preparation for accession negotiations.

The implementation of the Association Agreement, which regulates every aspect of Ukraine's relationship with the EU, has been far from perfect as the previous section demonstrated. The fundamental challenges preventing Ukraine from joining the EU are a weak rule of law, partial judiciary, grand corruption, and strong oligarchic influence. As a structural constraint, oligarchs have captured the state given their ability to influence the legal, regulatory, and policy environments for their own benefit by advancing their business interests; to resist democratic reforms, oligarchs build informal networks with political elites to create mutually beneficial connections.

Ukraine's judiciary does not serve as a real check on political authority, because of oligarchic vested interests in large part. "Under-resourced and weakly institutionalized, with deeply imbedded patterns of corruption and politicization"—the environment in Ukraine is not favourable to judicial reform.<sup>412</sup> Some of the main issues with the legal system are under-staffed courts, which contribute to backlogs, and low salaries, which compromise the independence of the judiciary by making judges more susceptible to bribery and corruption. As in a vicious cycle, given the public's mistrust of judges and the legal process in general, perceptions of corruption undermine the legitimacy of the judicial system, thereby serving to exacerbate the issue further.<sup>413</sup>

---

<sup>412</sup> Hale et al. (2016, 177).

<sup>413</sup> *ibid*, 165.

If the Commission had been asked to evaluate Ukraine's eligibility for membership in the Union prior to Russia's invasion on 24 February 2022, its Opinion would have been far less favourable. To be sure, "the European Council's decision to grant candidate status to Ukraine would probably not have happened in pre-war circumstances."<sup>414</sup> Within the context of the ongoing war, Ukraine finds itself at a critical juncture, which is when a significant event like Russia's invasion upsets the country's existing balance of political and economic power,<sup>415</sup> thus representing a favourable moment of "openness for radical institutional change."<sup>416</sup>

Even though the current war may be a turning point for Ukraine, it does not guarantee that positive change will follow. Put differently, "critical junctures are too often equated with moments of change; however, as counterintuitive as it may seem, change is not a necessary element of a critical juncture."<sup>417</sup> What is more, "the longer the juncture, the higher the probability that political decisions will be constrained by some re-emerging structural constraint."<sup>418</sup> As such, in light of this possibility, Ukraine's reform progress may be made more difficult by its post-war reconstruction if its underlying structural challenge does not get addressed immediately.

Those who favour a radical approach to change have pushed for the swift and thorough adoption of required reforms, arguing that "speed was of the essence" because of the fleeting "window of opportunity," sometimes referred to as the "honeymoon phase."<sup>419</sup> Despite the rare window of opportunity, deeply rooted oligarchic interests may impede Ukraine's reform progress. Regardless of whether the EU is prepared to integrate Ukraine, there is no chance

---

<sup>414</sup> Petrov et al. (2022, 1290).

<sup>415</sup> Cappocia (2016, 93).

<sup>416</sup> *ibid*, 98-9.

<sup>417</sup> *ibid*, 95-6.

<sup>418</sup> *ibid*, 92.

<sup>419</sup> Roland (2002, 29).

Ukraine will accede to the EU if it does not address corruption—whether this can be accomplished within a five-year timeframe, as most Ukrainians expect, ultimately depends on the speed with which this gets resolved.

The main objective of Ukraine’s post-war reconstruction should be to completely break with Ukraine’s Soviet past and create the foundation for its accession to the EU by “building back better” not just its infrastructure but also its economic, political, and social institutions. The provision of funds for post-war reconstruction should be conditional on the adoption of reforms with independent oversight and auditing mechanisms in place. The goal is to develop Ukraine’s version of a Marshall plan for the twenty-first century,<sup>420</sup> which will take time to rebuild—as in at least 10 years, according to most reconstruction plans.<sup>421</sup> With the help of the “Rebuild Ukraine” platform, the European Union will demonstrate its steadfast dedication to supporting Ukraine throughout the war and its aftermath while also facilitating Ukraine’s long-term transformation.

Since gaining independence in 1991, Ukraine has faced several pivotal moments or critical junctures,<sup>422</sup> but none have resulted in radical change; however, the current crisis may be Ukraine’s biggest window of opportunity to fundamentally change the system. To be sure, “after the Orange Revolution at the end of 2004, there was a political window of opportunity to start serious political, institutional and economic reform.”<sup>423</sup> Even though change was possible and plausible, it was not realised; instead, the status quo was reinstated.<sup>424</sup> People feel disillusioned when they do not see immediate progress after a moment of crisis. As Ukraine discovered

---

<sup>420</sup> Allenbach-Ammann (2022).

<sup>421</sup> Skidmore et al. (2022).

<sup>422</sup> Dabrowski (2014, 2).

<sup>423</sup> *ibid.*

<sup>424</sup> *ibid.*, 3.

following the Orange Revolution's failure, this disillusionment leads to populism<sup>425</sup> and promotes the growth of increasingly powerful vested interests. To be fair, this pivotal moment did result in the beginning of discussions with the EU on the Association Agreement, which, in hindsight, represents the biggest accomplishment of the time.<sup>426</sup>

Ukraine has typically been written off by the EU as being too corrupt and disorganized to have any serious chance of obtaining membership. This time the EU has provided Ukraine with an opportunity to reverse this paradigm. Ironically, Russia's invasion has made Ukrainians' long-held dream of formally pursuing EU membership a reality by providing it with a strong impetus to get out of the self-reinforcing dysfunction in which it finds itself. As a silver lining, Ukraine's patriotic uprising in response to Russia's threat to undermine its independence may be able to open a wide enough window of opportunity for challenging reforms. Ukraine has a unique chance to continue its momentum toward EU membership by forcing the EU's hand to help it realize the required political and economic reforms. Although Ukraine has made multiple significant reform attempts in the past, this time could be different because the war has created a growing sense of urgency among Ukrainians and Europeans alike to implement transformative change. A full exploration of how the prospect of EU membership, referred to as the "membership carrot,"<sup>427</sup> may serve to facilitate Ukraine's reform progress lies beyond the scope of this paper.

---

<sup>425</sup> Dabrowski (2014, 9).

<sup>426</sup> *ibid*, 3.

<sup>427</sup> Kuzio (2016, 138).

## Annex

Table A1: Ukraine's implementation ratings of the main provisions of the Association Agreement

<b>Political principles, rule of law</b>		
Electoral democracy	2.5	Recent elections correct: President, Parliament, local
Human rights	2	Fundamental freedoms OK (except occupied Donbas and Crimea)
Rule of law	1.5	Judicial reform badly needed, not advancing consistently
Anti-corruption	1	Poor, only marginal improvement, inconsistent stance of leadership
<b>DCFTA</b>		
Market access	2	Shift in trade structure from Russia to EU and China
Customs services	2	Long resistance to reform; advances now being made
Technical product standards (TBT)	2	Good progress in implementing strategy
Food safety (SPS)	2	Strategy adopted; progress in implementation
Services	2.5	Ukraine more liberal than the EU for establishment
Public procurement	2.5	E-procurement system acclaimed; risks of backtracking
Intellectual property rights (IPR)	1.5	Limited progress in IPR protection and enforcement
Competition policy	2	Laws OK, but authority of government agency at risk
Statistics	2	Significant progress in adopting EU methodologies
<b>Economic cooperation</b>		
Macroeconomic policy	1.5	Improved but still vulnerable; IMF/EU aid-dependent
Financial services	2	Proceeding with comprehensive alignment on EU laws
Transport	1	Road transport needs action by Ukraine (and EU)
Energy	2	Major challenges being addressed; joining Green Deal
Environment	2	Comprehensive, costly, long-term action engaged
Digital and cyber	2.5	Dynamic digital and cybersecurity sectors
Consumer protection	1.5	Progress in product safety, but much more outstanding
Company law	1.5	Legislative action, but uncertain enforcement
Employment and social policy	2	ILO conventions OK, but new Labour Code outstanding
Visa regime, movement of people	2.5	Successful implementation of visa-free travel
Education and culture	2.5	High educational standards, comparable to EU neighbours
Gender equality	2.5	Comparable to EU neighbours
Civil society	3	Competent, independent civil society, forceful advocates of reform

Note: the ratings build on the methodology that the European Commission uses in its annual evaluation of the Western Balkan states, where 3 is a 'good' rating in preparedness in relation to EU standards, 2 indicates 'moderate' preparation, and 1 'some' preparation. Source for the ratings: *'Deepening EU-Ukrainian relations'*, op. cit.

Source: Emerson et al. (2022, 6).

## References

- Allenbach-Ammann, J. (2022, October 25). Towards a Marshall plan? EU, G7, discuss Ukraine reconstruction. *EURACTIV*. <https://www.euractiv.com/section/economy-jobs/news/towards-a-marshall-plan-eu-g7-discuss-ukraine-reconstruction/>
- Augry, L. (2022, June 17). *Candidature de l'Ukraine à l'UE: Sur BFMTV, Macron évoque "un message envoyé à la Russie."* BFMTV. [https://www.bfmtv.com/international/candidature-de-l-ukraine-a-l-ue-sur-bfmtv-macron-evoque-un-message-envoye-a-la-russie\\_AV-202206170246.html](https://www.bfmtv.com/international/candidature-de-l-ukraine-a-l-ue-sur-bfmtv-macron-evoque-un-message-envoye-a-la-russie_AV-202206170246.html)
- Balazs, E. (2022, May 16). *Suspension of EU import duties on Ukrainian exports set for fast-track approval*. [Press release]. <https://www.europarl.europa.eu/news/en/press-room/20220516IPR29639/suspension-of-eu-import-duties-on-ukrainian-exports-set-for-fast-track-approval>
- Hale, H. E., & Orttung, R. W. (Eds.). (2016). *Judicial Reform in Comparative Perspective: Assessing the Prospects for Ukraine*. In *Beyond the Euromaidan*. Stanford University Press. <https://doi.org/10.1515/9781503600102-011>
- Ben Khelil, S. (2021). *The Externalization of Geographical Indications' Protection in the European Union's Trade Policy: A Three-step Process*. [Unpublished master's thesis]. University of Ottawa. <https://ruor.uottawa.ca/bitstream/10393/43152/1/BEN%20KHELIL%2c%20Sarraf%20-%20300017426.pdf>
- Bergmann, J., & Romanyshyn, I. (2022). *Rebuilding Ukraine: How the EU should support Ukraine's reconstruction and recovery (Policy Brief 6/2022)*. <https://doi.org/10.23661/ipb6.2022>
- Bouanchaud, C. (2022, June 24). *Ukraine's long road to joining the European Union*. *Le Monde.Fr*. [https://www.lemonde.fr/en/international/article/2022/06/24/ukraine-s-long-road-to-joining-the-european-union\\_5987843\\_4.html](https://www.lemonde.fr/en/international/article/2022/06/24/ukraine-s-long-road-to-joining-the-european-union_5987843_4.html)

Brzozowski, A. (2022a, February 28). Ukraine requests EU membership under fast-track procedure. *EURACTIV*.

<https://www.euractiv.com/section/europe-s-east/news/ukraine-requests-eu-membership-under-fast-track-procedure/>

Brzozowski, A. (2022b, April 19). Ukraine completes questionnaire for EU membership. *EURACTIV*.

<https://www.euractiv.com/section/enlargement/news/ukraine-completes-questionnaire-for-eu-membership/>

Campbell, C. (2022, June 17). *Why Ukraine's Bid for E.U. Membership Could Take Decades – If it Ever Happens*.

*Time*. <https://time.com/6188644/ukraine-eu-membership/>

Capoccia, G. (2016). Critical Junctures. In O. Fioretos, T. G. Falleti, & A. Sheingate (Eds.), *The Oxford Handbook of Historical Institutionalism* (p. 89-106). Oxford University Press.

<https://doi.org/10.1093/oxfordhb/9780199662814.013.5>

Chromiec, J. J., & Koenig, N. (2015). *Supporting Ukraine's Difficult Path Towards Reforms*.

<https://search.proquest.com/docview/1761665920?pq-origsite=primo>

Coalition for the ICC and Member organization. (2019, September 23). *Letter to the President of Ukraine for*

*ICC Rome Statute Ratification | Coalition for the International Criminal Court*. [Letter to the President of](#)

[Ukraine ICC Rome Statute CICC & members FINALupdated.pdf \(coalitionfortheicc.org\)](#)

Copyright Board of Canada. (n.d.). *Copyright Information: Collective Societies*. <https://cb->

[cda.gc.ca/en/copyright-information/collective-societies](https://cb-cda.gc.ca/en/copyright-information/collective-societies)

Council of the European Union. (2022, October 26). *Qualified majority*.

<https://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority/>

Council of the European Union. (2022a, June 30). *Rome Statute of the International Criminal Court:*

*Declaration by the High Representative on behalf of the EU to mark the 20th anniversary of its entry into*

*force*. [Press release]. <https://www.consilium.europa.eu/en/press/press-releases/2022/06/30/rome->

[statute-of-the-international-criminal-court-declaration-by-the-high-representative-20-anniversary-entry-into-force/](#)

Dabrowski, M. (2014). Ukraine: Can Meaningful Reform Come Out of Conflict? *Bruegel Policy Contribution*.

[https://www.bruegel.org/sites/default/files/wp\\_attachments/pc\\_2014\\_08\\_Ukraine.pdf](https://www.bruegel.org/sites/default/files/wp_attachments/pc_2014_08_Ukraine.pdf)

Deutsche Welle. (2022, July 1). "European Union: EU chief - Ukraine needs to give anti-corruption reforms 'teeth'." DW.

[Ukraine must give anti-corruption reforms 'teeth' — EU chief — DW — 07/01/2022](#)

Di Matteo, L. A., Mykhailiuk, G., & Mykhailiuk, N. (2021). *Advancing the Rule of Law: Creating an Independent and Competent Judiciary*. *The Italian Law Journal*, 07(01): 35.

<https://theitalianlawjournal.it/data/uploads/7-italj-1-2021/61%20DIMATTEO%20ET%20AL.pdf>

Duff, A. (2022, May 12). Ukraine isn't ready for EU membership—The EU isn't ready for it either. *POLITICO*.

<https://www.politico.eu/article/ukraine-isnt-ready-for-eu-membership-the-eu-isnt-ready-for-it-either/>

Emerson, M., Blockmans, S., Movchan, V., & Remizov, A. (2022). *Opinion on Ukraine's application for membership of the European Union*. <https://www.ceps.eu/ceps-publications/opinion-on-ukraines-application-for-membership-of-the-european-union/>

Emerson, M., Movchan, V., Blockmans, S., Van der Loo, G., & Akhvlediani, T. (2021, October 12). *Deepening EU-Ukrainian Relations: Updating and upgrading in the shadow of Covid-19*. Centre for European Policy Studies. <https://www.ceps.eu/ceps-publications/deepening-eu-ukrainian-relations/>

Escritt, T. (2015, September 27). Dutch website says it will trigger referendum on EU-Ukraine ties. *Reuters*.

<https://www.reuters.com/article/ukraine-crisis-dutch-referendum-idINL5N11X0L920150927>

EURACTIV. (2022, May 9). *A third of EU countries oppose changing bloc's treaties*.

<https://www.euractiv.com/section/future-eu/news/a-third-of-eu-countries-oppose-changing-blocs-treaties/>

European Commission. (2022, May 18). *Ukraine: Commission presents plans for the Union's immediate response to address Ukraine's financing gap and the longer-term reconstruction*. [Press release].

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3121](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3121)

European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations (2022a, June 16). *Opinion on Ukraine's application for membership of the European Union*. [https://neighbourhood-enlargement.ec.europa.eu/opinion-ukraines-application-membership-european-union\\_en](https://neighbourhood-enlargement.ec.europa.eu/opinion-ukraines-application-membership-european-union_en)

European Commission. (2022b, June 17). *Opinion on the EU membership application by Ukraine*. [Press release]. [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3802](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3802)

European Commission. (2022c, August 24). *EU trade relations with Ukraine*.

[https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/ukraine\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/ukraine_en)

European Commission. (2022d, August 28). *Steps towards joining*. [https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/steps-towards-joining\\_en](https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/steps-towards-joining_en)

European Commission. (2022e, May 5). *Eurobarometer: Europeans approve of EU's response to the war in Ukraine*. [https://ec.europa.eu/migrant-integration/library-document/eurobarometer-europeans-approve-eus-response-war-ukraine\\_en](https://ec.europa.eu/migrant-integration/library-document/eurobarometer-europeans-approve-eus-response-war-ukraine_en)

European Commission. (2022f, August 25). *European Neighbourhood Policy and Enlargement Negotiations. Enlargement. Turkey*. [https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/turkey-0\\_en](https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/turkey-0_en)

European Commission. (2022g, June 17). *The European Commission recommends to Council confirming Ukraine, Moldova and Georgia's perspective to become members of the EU and provides its opinion on granting them candidate status*. [Press release].

[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3790](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3790)

- European Commission. (2022h). *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: Ukraine Relief and Reconstruction*. Brussels: Office for Official Publications of the European Communities. [https://ec.europa.eu/info/sites/default/files/ukraine-relief-reconstruction\\_en.pdf](https://ec.europa.eu/info/sites/default/files/ukraine-relief-reconstruction_en.pdf)
- European Commission. (2022i, May 12). *Commission to establish Solidarity Lanes to help Ukraine export agricultural goods*. [Press release]. [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_3002](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3002)
- European Commission. (2022j, April 27). *EU takes steps to suspend all duties on imports from Ukraine*. [Press release]. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_22\\_2671](https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2671)
- European Commission. (2022k, April 9). *Opening, interventions and closing remarks by President von der Leyen at the global pledging event 'Stand Up For Ukraine'*. [Statement]. [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_22\\_2375](https://ec.europa.eu/commission/presscorner/detail/en/statement_22_2375)
- European Commission. (2021, June 4). *New EU copyright rules that will benefit creators, businesses and consumers start to apply*. [Press release]. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_1807](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_1807)
- European Council. (15 December 2016). *Conclusions on Ukraine*. <https://www.consilium.europa.eu/media/24151/15-euco-conclusions-ukraine.pdf>
- European Court of Auditors. (2021). *Special Report 23/2021: Reducing grand corruption in Ukraine*. [https://www.eca.europa.eu/Lists/ECADocuments/SR21\\_23/SR\\_fight-against-grand-corruption-in-Ukraine\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR21_23/SR_fight-against-grand-corruption-in-Ukraine_EN.pdf)
- European Parliament. (2022, June 28). *Enlargement: How do countries join the EU?* [Press release]. <https://www.europarl.europa.eu/news/en/headlines/world/20180126STO94113/enlargement-how-do-countries-join-the-eu>
- Faucompert, E. (2008). *Turkish accession to the EU: Satisfying the Copenhagen criteria*. Routledge. <https://doi.org/10.4324/9780203928967>

Freedom House. (2021). *Freedom in the World 2021 Country Report: Ukraine*.

<https://freedomhouse.org/country/ukraine/freedom-world/2021>

Freedom House. (2022). *Freedom in the World 2022 Country Report: Ukraine*.

<https://freedomhouse.org/country/ukraine/freedom-world/2022>

Gain, A. (2021) *Disinformation and the Ukrainian Oligarchy* [Unpublished Senior Thesis], The American University of Paris. [https://antonina-gain.github.io/Antonina\\_Gain\\_Ukraine\\_Disinformation.pdf](https://antonina-gain.github.io/Antonina_Gain_Ukraine_Disinformation.pdf)

Gonzales, K. W. (2004). Good Fences Make Good Neighbors: Ukrainian Border Security and Western Assistance. *Problems of Post-Communism*, 51(1): 43–54.

<https://doi.org/10.1080/10758216.2004.11052155>

Gray, A. (2022, June 18). Big deal: What does EU candidate status actually mean for Ukraine? *POLITICO*.

<https://www.politico.eu/article/why-eu-membership-candidate-status-matters-for-ukraine/>

Hall, S. (2022a, June 27). Ukraine and Moldova gain EU candidate status but face a long road to full membership. *The Conversation*. <http://theconversation.com/ukraine-and-moldova-gain-eu-candidate-status-but-face-a-long-road-to-full-membership-185440>

Hall, S. (2022b, June 28). *No fast track for Ukraine into the EU*. Asia Times.

<https://asiatimes.com/2022/06/no-fast-track-for-ukraine-into-the-eu/>

Haring, M., & Heilbrunn, J. (2022, April 21). *Ukraine After the War*.

<https://www.foreignaffairs.com/articles/ukraine/2022-04-21/ukraine-after-war>

Herron, E. S. (2020). *Normalizing corruption: Failures of accountability in Ukraine*. University of Michigan Press. <https://doi.org/10.3998/mpub.11596348>

Herszenhorn, D. M. (2022, February 28). Zelensky's personal plea helped accelerate EU aid to Ukraine.

*POLITICO*. <https://www.politico.eu/article/zelenskys-personal-plea-helped-accelerate-eu-aid/>

- Herszenhorn, D. M., & Gray, A. (2022, June 17). European Commission backs EU candidate status for Ukraine, Moldova. *POLITICO*. <https://www.politico.eu/article/european-commission-backs-eu-candidate-status-for-ukraine-moldova/>
- Hillion, C. (2014). *The Copenhagen Criteria and Their Progeny* (SSRN Scholarly Paper No. 2405368). <https://papers.ssrn.com/abstract=2405368>
- Hoff, S., & de Volder, E. (2022). *Preventing human trafficking of refugees from Ukraine*. The Freedom Fund. <https://freedomfund.org/our-reports/preventing-trafficking-ukraine/>
- Jack, V. (2022, February 28). *Ukraine's Zelenskyy ups pressure on EU with plea for immediate membership*. *POLITICO*. <https://www.politico.eu/article/volodymyr-zelenskyy-eu-ukraine-membership/>
- Koval, V., Borodina, O., Lomachynska, I., Olczak, P., Mumladze, A., & Matuszewska, D. (2022). Model Analysis of Eco-Innovation for National Decarbonisation Transition in Integrated European Energy System. *Energies*, 15(9), Article 9. <https://doi.org/10.3390/en15093306>
- Kleinschmitzer, K., Knodt, M., Lortz, M. & Stöckl, A.K. (2022). Energy Relations in the EU Eastern Partnership. In M. Knodt & J. Kemmerzell (Eds.), *Handbook of Energy Governance in Europe* (pp. 287-314). Springer. [https://doi.org/10.1007/978-3-030-43250-8\\_57](https://doi.org/10.1007/978-3-030-43250-8_57)
- Kucharczyk, J. (2022, May 12). *Judy Asks: Does the EU Need a New Enlargement Policy?* Carnegie Europe. <https://carnegieeurope.eu/strategieurope/87114>
- Kuzio, T. (2016). Analysis of Current Events: Structural Impediments to Reforms in Ukraine. *Demokratizatsiya (Washington, D.C.)*, 24(2): 131–138.
- Lehmann, H., & Morkova, O. (2022, July 21). Why Ukraine needs to enforce Istanbul Convention—Now. *EUobserver*. <https://euobserver.com/opinion/155583>
- Lippert. (2022). Ukraine's membership bid puts pressure on the European Union: A security policy flanking, not a revision of EU enlargement policy, is advisable. *IDEAS Working Paper Series from RePEc*. <https://www.swp-berlin.org/10.18449/2022C21/>

Lohsen, A. (2022, May 17). *How the War Could Transform Ukrainian Politics*.

<https://www.csis.org/analysis/how-war-could-transform-ukrainian-politics>

Marktler, T. (2006). Power of the Copenhagen Criteria, The. *Croatian Yearbook of European Law & Policy*, 2(1): 343–364.

Matuszak, S. (2021, November 15). An attempt to “deoligarchise” Ukraine – real action or a game of pretence? OWS Commentary. [https://www.osw.waw.pl/sites/default/files/Commentary\\_415.pdf](https://www.osw.waw.pl/sites/default/files/Commentary_415.pdf)

Matthijs, M. (2022, June 28). *Ukraine Could Become an EU Member. What Would That Mean?* Council on Foreign Relations. <https://www.cfr.org/in-brief/ukraine-could-become-eu-member-what-would-mean>

Morcos, P. (2022, May 18). *Ukraine’s Road to EU Membership*. Center for Strategic and International Studies. <https://www.csis.org/analysis/ukraines-road-eu-membership>

Olearchyk, R. (2022, November 7). Ukraine seizes control of five ‘strategic’ companies from oligarchs.

*Financial Times*. <https://www.ft.com/content/c1eb81af-70d4-48f9-bba0-b96d654e19b6>

Paul, A., & Borges de Castro, R. (2022, June 21). *EU candidate status for Ukraine is a geopolitical and moral imperative*. <https://www.epc.eu/en/Publications/EU-candidate-status-for-Ukraine-is-a-geopolitical-and-moral-imperative~497c80>

Petrov, R., & Hillion, C. (2022). “Accession through war” – Ukraine’s road to the EU. *Common Market Law Review*, 59(5): 1289-1300. <https://doi-org.proxy.bib.uottawa.ca/10.54648/cola2022092>

Rankin, J. (2016, April 5). Dutch gear up for the other EU vote giving Brussels a headache. *The Guardian*. <https://www.theguardian.com/world/2016/apr/05/dutch-gear-up-for-the-other-eu-votegiving-brussels-a-headache>

Rauhala, E., Suliman, A., & Aries, Q. (2022, June 17). Ukraine should get E.U. candidate status, European Commission recommends. *Washington Post*. <https://www.washingtonpost.com/world/2022/06/17/european-commission-candidate-eu-ukraine-war/>

Rettman, A. (2022a, June 17). Ukraine and Moldova on path to be “EU candidates.” *EUobserver*.

<https://euobserver.com/world/155251>

Rettman, A. (2022b, June 24). Ukraine becomes EU candidate after 120 days of war. *EUobserver*.

<https://euobserver.com/world/155327>

Rognsvåg, S. (2022, June 9). Derfor blir Ukraina neppe EU-medlem no. *NRK*. [https://www.nrk.no/urix/derfor-](https://www.nrk.no/urix/derfor-blir-ukraina-neppe-eu-medlem-no-1.15947076)

[blir-ukraina-neppe-eu-medlem-no-1.15947076](https://www.nrk.no/urix/derfor-blir-ukraina-neppe-eu-medlem-no-1.15947076)

Rohac, D. (2022, July 20). Seize Macron’s idea of a ‘European Political Community.’ *POLITICO*.

<https://www.politico.eu/article/emmanuel-macron-eu-ukraine-moldova-idea-of-a-european-political-community/>

Roland, G. (2002). The Political Economy of Transition. *The Journal of Economic Perspectives*, 16(1): 29–50.

<https://doi.org/10.1257/0895330027102>

Sanchez Nicolas, E. (2022, July 14). Pressure on EU Commission as report shows rule-of-law retreat.

*EUobserver*. <https://euobserver.com/rule-of-law/155528>

Sapir, A. (2022). Ukraine and the EU: Enlargement at a New Crossroads. *Inter Economics*, 57(4): 213–217.

<https://doi.org/10.1007/s10272-022-1065-2>

Schimmelfennig, F. (2001). The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern

Enlargement of the European Union. *International Organization*, 55(1): 47–80.

<https://doi.org/10.1162/002081801551414>

Schimmelfennig, F. (2022, June 30). *Ukraine is an E.U. candidate. Full membership is an obstacle course.* - *The*

*Washington Post*. <https://www.washingtonpost.com/politics/2022/06/30/ukraine-eu-membership-moldova-georgia/>

Shea, J. (2022, July 13). Rebuilding Ukraine: Maybe not the Marshall Plan but certainly Marshall Plan money.

*Friends of Europe*. <https://www.friendsofeurope.org/insights/rebuilding-ukraine-maybe-not-the-marshall-plan-but-certainly-marshall-plan-money/>

- Skidmore, D., Wessel, D., & Asdourian, E. (2022, November 3). Financing and governing the recovery, reconstruction, and modernization of Ukraine. *Brookings*. <https://www.brookings.edu/blog/up-front/2022/11/03/financing-and-governing-the-recovery-reconstruction-and-modernization-of-ukraine/>
- Sologoub, I. (2022). Ukraine's EU Integration: A Long Way Home. *Inter Economics*, 57(4): 218–224. <https://doi.org/10.1007/s10272-022-1066-1>
- Sybikowska, B. (2021). The Euromaidan Social Movement: How to Grasp Political Opportunities. *St Antony's International Review*, 16(2): 253–270. <https://www.ingentaconnect.com/content/stair/stair/2021/00000016/00000002/art00013>
- 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): 107–122. <https://doi.org/10.30950/jcer.v6i1.124>
- Toygur, I. (2022, June 24). Competing options for EU enlargement. *EUobserver*. <https://euobserver.com/opinion/155302>
- Transparency International. (2021). *Corruption Perceptions Index*. <https://www.transparency.org/en/cpi/2021>
- U.S. Commission on Security and Cooperation in Europe (U.S. Helsinki Commission). *Internal Enemy: A Helsinki Commission Staff Report on Corruption in Ukraine*. (2017). <https://www.congress.gov/event/115th-congress/joint-event/LC57050/text?s=1&r=89>
- Van der Loo, G. (2017). "The Dutch Referendum on the EU-Ukraine Association Agreement: Legal Implications and Solutions." In M. Kuijer & W. Werner (Eds.), *Netherlands Yearbook of International Law 2016: The Changing Nature of Territoriality in International Law* (pp. 337– 350). T.M.C. Asser Press. [https://doi.org/10.1007/978-94-6265-207-1\\_14](https://doi.org/10.1007/978-94-6265-207-1_14)
- Verlanov, S. (2020, November 19). Taming Ukraine's oligarchs. *Atlantic Council*. <https://www.atlanticcouncil.org/blogs/ukrainealert/taming-ukraines-oligarchs/>

- Vidotto, C., & Wright, G. (2022, June 17). *An Institut Montaigne explainer: EU enlargement*. Institut Montaigne. <https://www.institutmontaigne.org/en/blog/institut-montaigne-explainer-eu-enlargement>
- von Ondarza, N. (2022, July 22). *Ukraine's possible EU accession and its consequences*. Stiftung Wissenschaft Und Politik (SWP). <https://www.swp-berlin.org/en/publication/ukraines-possible-eu-accession-and-its-consequences>
- Vošta, M., Musiyenko, S., & Abrahám, J. (2016). Ukraine-EU Deep and Comprehensive Free Trade Area as part of Eastern Partnership initiative. *Journal of International Studies (Kyiv)*, 9(3): 21–35. <https://doi.org/10.14254/2071-8330.2016/9-3/2>
- Wheeldon, T. (2022, June 26). Is Macron's 'European Political Community' a realistic prospect? *France 24*. <https://www.france24.com/en/europe/20220626-is-macron-s-european-political-community-a-realistic-prospect>
- Wilson, A. (2016). *Survival of the Richest: How Oligarchs Block Reform in Ukraine*. European Council on Foreign Relations. <https://www.jstor.org/stable/resrep21573>
- Zemelyte, B. (2022, June 17). *Analysis: What does Ukraine joining the EU really mean?* <https://www.aljazeera.com/news/2022/6/17/analysis-what-would-ukraine-joining-the-eu-really-mean>