

NEWSLETTER

UKRAINE

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The EU opens membership negotiations with Ukraine

Two crucial decisions were pending for Ukraine at the European Council meeting on 14/15 December: The opening of accession negotiations with the EU and a financial package of EUR 50 bn to secure the country's economic survival. After tough negotiations with Hungarian Prime Minister Viktor Orban, the European Council decided on 14 December to open accession negotiations with Ukraine. However, Hungary continues to block the financial package. This move marks the next step in EU enlargement policy, primarily symbolic for Ukraine, with the review of progress on the seven priorities outlined by the Commission (EC) starting in March. Despite the key sign from Brussels, the medium-term financing is currently of higher priority to ensure the economic and military survival.

EC proposes accession negotiations

The decision was preceded by a recommendation from the EC on 8 November. This recommendation underscores the fundamental changes following Russia's war since February 2022 with geopolitical considerations playing a significant role. The EC suggests opening negotiations with Moldova and Bosnia-Herzegovina and granting candidate status to Georgia. Moreover, it suggested to establish a multi-year financing plan (Ukraine Facility) of EUR 50 bn in loans and grants for 2024 to 2027 as an important signal amidst military setbacks and uncertainties about financial commitments from Washington. The proposal comes with additional conditions related to technical enlargement conditionality, including core political issues like rule of law, administrative reform, and electoral law, defined in seven priorities by the EC in June 2022. According to the Commission's report, Ukraine has fully met four of these conditions:

- (1) Adoption of the jurisdiction for appointing judges to the Constitutional Court.
- (2) Integrity review of judges of the high court.
- (3) Anti-money laundering legislation.
- (4) Adjusting media legislation.

The following have not been fully implemented yet:

- (5) Corruption control,
- (6) Deoligarchization
- (7) Protection of national minorities

These will be reassessed in a Commission report in March 2024. The EU expects Kyiv to appoint a new head

of the specialized Anti-Corruption Prosecutor's Office and the National Anti-Corruption Bureau (NABU), a law to increase NABU's staff, and lifting restrictions on the National Agency for Corruption Prevention in asset and property reviews. Additionally, a law against lobbying should be passed to limit oligarchs' influence. Once Ukraine has implemented these reforms, the EC will recommend that the Council adopts a negotiating framework. This step will mark the start of the negotiations. These are divided into 35 chapters and six clusters, which aim to implement EU law ("acquis"). The legal framework are the Copenhagen criteria. These include [\(link\)](#):

- 1) Political: e.g. democracy, rule of law
- 2) Economic: e.g. market economy, competitiveness
- 3) Ability to fulfil the obligations arising from membership

Based on EC reports quantified by Emerson and Blockmans [\(link\)](#) Ukraine is at a moderate to good level of preparation in the political area, but below that in the economic area.

Accession criteria: Rating of preparedness



Sources: EC, Emerson und Blockmans, 2023, 1=early level of preparedness, ..., 5= very advanced level

Negotiation leverage for political reforms

In the past, the political will for fundamental reforms in these areas has been lacking. However, with Russia's war and growing dependence on arms deliveries and financial support from Europe, the EU has more leverage to achieve a political breakthrough. Representatives of Ukrainian civil society and expert communities demand the EU's consistent adherence to norms and principles for EU accession, especially in the areas of rule of law, corruption control, and administrative reform, as political resistance remains strong. The discussion of accommodating Ukraine for geopolitical reasons appears problematic for the credibility of the accession process and counterproductive given a political culture that only responds to pressure for genuine political reforms. The

Council's resolutions of 14 December emphasize that reforms in the rule of law are central to EU enlargement and that only a performance-based integration process is possible. This is also a response to member states' criticism, warning against a too rapid accession of Ukraine and premature concessions. Hungary, as the main critic of the accession process, is not alone in this stance. The Council also highlighted the need for internal reforms in the EU to advance the enlargement process.

Budget financing is key

The EU member states' decision to actually start the accession process with Ukraine will change both the country and the EU. A significant challenge is the ongoing war. Russian President Putin recently reiterated in his annual press conference that he plans a longer war. Securing Ukraine's financing in the medium to long term is crucial. The IMF estimates a financing gap for 2024 to 2027 by around EUR 73 bn. Thereby, the US is expecting Europe to bear a significant portion of the costs for economic survival and military support for Ukraine. The blocked multi-year financial package for Ukraine and the common EU budget will be renegotiated again in an extraordinary session of the European Council February 1, 2024. Here, Italy, along with Hungary, has already announced resistance. Alternatively, member countries can commit the financial aid bilaterally to bypass a veto. Decisions regarding Ukraine are increasingly becoming a bargaining chip among member states to gain advantages for themselves. This will lead not only to distribution conflicts between member states but also within them. Chancellor Olaf Scholz has already indicated his support for the EUR 50 bn package but sees no room for increasing the EU budget.

2024: A difficult year for Ukraine

The European elections are scheduled for 2024, where right-wing populist parties are expected to gain influence. At the same time, the appointment of a new Commission will paralyze the EU for months. If Commission President Ursula von der Leyen is re-elected, it would be positive news for Ukraine, as she is seen as a supporter of the accession process and can guarantee the Commission's quick operational capability. Pressure from Washington for Europeans to take on more financial responsibility for Ukraine will increase with the US-presidential elections in November. For Ukraine, the enlargement process is both a motivation and a burden. The centralization of decision-making processes due to the war weakens local self-government, and the lack of personnel capacity in administrations could lead to a decline in the reform process during an ongoing war. Civil

society is particularly crucial in providing expertise and human capacities for the enlargement process. Waning financial and military support from the West, combined with a prolonged war, will increasingly lead to prioritization in the use of financial resources and personnel in Ukraine. This could also affect the progress in the accession process and the military protection.

Outlook

The European Council's decision to commence accession negotiations with Ukraine has enormous symbolic significance for Ukraine and extends beyond the end of Russia's war of aggression in terms of the EU's geo-strategic relevance in Eastern Europe. This process will change not only Ukraine but also the EU in the coming years. The longer the war lasts, the more capacity Ukraine will need for economic and military survival. A significant obstacle is the uncertainty and disagreement among member states over the next steps in internal EU reforms. It is likely that the next European Parliament will be less constructive towards Ukraine, and the fights over financing Ukraine among member states will intensify. For Ukraine, this development poses an additional challenge. All in all, securing budget financing and military support are current priorities as long as the war continues.

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