



UKRAINE IN THE EU

Agenda 2020

The debate about the European perspective for Ukraine inspires a whole range of reactions. There are those who believe that Ukraine naturally belongs to Europe and has to find its place in the European Union. There are others who take the view that the European Union has reached its geographical limits and will not be able to enlarge further to countries of Eastern Europe.

Yalta European Strategy has looked at this question from another angle. Based on the assumption that Ukraine has every right to apply for membership in the European Union, we have attempted to show the way in which this objective can be brought about. In other words what needs to happen for Ukraine to join the European Union in 2020?

The report which follows shows the successive stages of this process, starting from implementation of the EU-Ukraine Action Plan, through an association agreement and onto the accession process.

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UKRAINE IN THE EUROPEAN UNION: AGENDA 2020

Ukraine's future lies firmly in the European Union. The country's tradition has been a profoundly European one. Its history is rich on the one hand and difficult on the other. The people of Ukraine cannot be taken to account for everything they had to endure in the past. All the more so, Europe should respect and honour the achievements of the Ukrainian people. Their aspirations should be treated as a voice in favour of a stronger and more active European Union.

The project of European integration has always been about openness.

The Treaty on the European Union leaves no doubt who can apply for membership – all European countries which respect the Union's principles are entitled. That provision is of constitutional nature for the European Union. If it is ever denied, the Union will enter a profound crisis as a political project.

It was already the founding fathers who believed that the Community they were creating would not be of exclusive but inclusive nature. Jean Monnet told the Economic Affairs Committee of the Council of Europe Assembly on 28 March 1953: "Our Community is neither a little Europe, nor a closed Community". Given the political realities, he could not have meant Ukraine at the time. Nevertheless, Monnet clearly perceived the project he designed as an open one.

A European perspective for Ukraine should be recognized as a natural political and strategic objective of the European Union. At the same time, a European perspective clearly does not amount to a prospect of immediate membership. No blank invitation card can be issued. After all, the magic of the enlargement process lies in the potential for change and transformation it brings about in aspiring and then candidate countries.

Article 49 of the Treaty on European Union states unequivocally that any European State which respects the principles set out in Article 6(1) of TEU may apply to become a member of the Union.

It is equally clear that **the European Union itself has to be ready to open its doors** again to the future members, including Ukraine. That requires two preconditions to be met. **First of all, the process of internal consolidation has to run its span. It concerns both the institutional future of the Union as well as the future of its policies.** Clearly, the European Union needs to find a way out of the constitutional crisis, in which it found itself after the failed referenda in France and in the Netherlands. **The Union also faces a fundamental review of its budget in the years 2008-2009 which will have significant implications for its capacity to admit new members.** In some Member States, referenda will be required upon future enlargements. Ukraine must urgently take stock of those issues and prepare a strategy for presenting its case to the European decision-makers and public opinion. All possible channels of communication should be used for the purpose, including the EU-Ukraine Parliamentary Cooperation Committee.

Ukraine's membership in the European Union is entirely feasible within more than the next decade. If the vision of Ukraine's accession is translated into tangible preparations on both sides, it is by all means possible for Ukraine to join the European Union in 2020. The process must be a structured one and include several steps which are outlined below. If they are concluded successfully, there is every reason for the objective to be fulfilled.

In 1958, Thomas Watson who was at the time the head of the IBM corporation, predicted that there would be a market around the world for about five computers. His example shows that we always need to combine realism with a high level of ambition.

First things first

Ukraine's relations with the European Union are currently part of the European Neighbourhood Policy. Formally, the status of Ukraine is similar to that of the Maghreb countries, Israel or Palestine, with whom ENP Action Plans have either been agreed or are being negotiated. **The network of contacts between the EU and Ukraine is more intense than with the other ENP countries.** There are summits between the leaders. There is cooperation on issues of foreign and security policy. Ukraine has a functioning Partnership and Cooperation Agreement with the European Union. All that, however, leaves a lot of scope for an ever closer relationship.

As Javier Solana said at the inauguration of President Yuschenko: "The key to deeper relationship is not to be found in declarations, but through concrete results in political, economic and social reforms".

The "Orange Revolution", the parliamentary elections in March 2006 and the formation of the new government have demonstrated that Ukraine is consolidating as a fully-fledged democracy and market economy. Freedom of the media has been strengthened. A significant degree of integration with the European Union is provided for already by the Action Plan which Ukraine had signed with the European Union in 2005. **There has been a marked progress in the implementation of the Action Plan.** It is clear that Ukraine has made an enormous effort to advance the difficult reform process. It has taken important measures in the fight against corruption and reduction of poverty.

EU-Ukraine Action Plan has focused on 14 priorities. It has been a useful instrument which must be followed by a more tangible framework.

Progress on the ground has been reflected in the EU-Ukraine relations. The European Union has granted Ukraine a market economy status. It has assisted the country's accession process to the WTO. **Visa facilitation negotiations have opened and should be finalized in the near future. A study on the Free Trade Area between the European Union and Ukraine has been completed.** This is a solid record which bids well for the future.

The European Union and Ukraine have increased their cooperation in the field of Common Foreign and Security Policy. The one area where this cooperation has worked particularly well is crisis management operations. Ukraine has been an extremely constructive partner in efforts to bring about a political settlement of the Transnistrian conflict. Upon a request of Ukraine and Moldova, the European Union has set up a Border Mission which will play a pivotal role in bringing about prospects for a peaceful solution to this long-standing conflict.

Priorities of the Action Plan in 2006 and 2007

The Action Plan will remain the framework for EU-Ukraine relations in 2006 and 2007. In the course of this period, Ukraine must consolidate its political system on the basis of a sound constitutional reform and a proper equilibrium between the main state institutions. It also has to promote administrative reform as well as the reform of the prosecution system. A new National Anti-Corruption Plan must be prepared and implemented.

Adopting and implementing the law on the independence of state radio and television will be an important contribution to ensuring respect for the freedom of the media and freedom of expression, another Action Plan priority. **EU and Ukraine will have to improve their political dialogue**, with stronger cooperation on crisis management and alignment of Ukraine with EU positions on regional and international issues. The fields of disarmament and non-proliferation are also areas where the EU and Ukraine can deepen their relationship. Both partners must aim at the successful resolution of the Transnistrian conflict.

As for the WTO accession, Ukraine must adopt the remaining legislation in Verkhovna Rada and conclude bilateral negotiations.

The EU should continue to support Ukrainian bid to join the WTO in its contacts with key negotiation partners. EU assistance should also be offered in meeting the necessary requirements. Ukraine has to demonstrate progress on the removal of all export and import restrictions in the spirit of the PCA agreement, including reduction in export duties and elimination of export ban. As for the business climate, Ukraine must commit itself to further reduction of over-regulation, in particular with respect to transparency and predictability. A comprehensive assessment of the state budget system should lead Ukraine to an improvement in the budget preparation and execution process.

The year 2006 should see the conclusion of negotiations on readmission and visa facilitation with a view to their simultaneous implementation. Ukraine Action Plan on Free Movement of Goods, agreed on 19 December 2005, should be put into effect with the aim of negotiating an Agreement on Conformity Assessment and Acceptance of Industrial Products.

The EU and Ukraine have to attach utmost priority to enhancing people-to-people contacts, especially in the area of youth and education. Justice, Freedom and Security will remain an area of particular attention in the framework of the Action Plan. The TACIS National Action Programme 2006 should allow for a sufficient access to EU assistance which ought to increase sizably under the European Neighbourhood and Partnership Instrument. The launching of the first twinning calls for proposals in the spring of 2006 open a new phase in the EU's assistance for Ukraine.

Review of the Action Plan and Association Agreement

The European Union will soon undertake a review process of the Action Plan and its implementation. It should be accompanied by the opening of a discussion on the future enhanced agreement which is envisaged by the European Union to replace the present Partnership and Cooperation Agreement.

YES believes that it should be an association agreement modeled after agreements signed in the early 1990s by the recent Central European entrants to the European Union.

After all, the European Union has signed association agreements with countries as far afield as Chile. There is no reason why it should not conclude an association agreement with Ukraine. Preparatory work on the framework of that agreement should start in mid-2006, so **that negotiations could be concluded in early 2007, in time for entry into force on 1 January 2008.** The process of drafting this enhanced agreement should be an inclusive one. Based on an input from the Commission, it should involve the Member States as well as Ukraine. It would be a useful idea to envisage a series of seminars devoted to the discussion of the future EU-Ukraine Association Agreement with the participation of representatives from all the Member States, European Commission, European Parliament, Council Secretariat and Ukraine.

The basic tenant of the Association Agreement should be the further extension of the four freedoms – free flow of goods, capital, services and persons – in the EU-Ukraine relationship. The Association Agreement should amount to an establishment of a free trade area between the EU and Ukraine. Political dialogue should be enhanced with closer involvement of Ukraine in the EU's activities within Common Foreign and Security Policy.

A separate chapter should concern issues of energy security. Ukraine is a crucial partner of the European Union as an energy hub and a transit country for large part of the EU's imports. Provisions concerning transparency of energy contracts should be part of the new Agreement. Enhancing reliability of the energy transit system will be an important contribution to closer EU-Ukraine relations.

Application to join the European Union

Ukraine should time its application to join the European Union wisely. A premature application, although confirming Ukraine's European choice, would run the risk of an outright rejection on the part of the Union. It is clear that Ukraine will not be ready to become a candidate for membership in the next few years and the European Union will be far from ready to contemplate further rounds of enlargement until the next decade.

In 2010-2011 Ukraine should draft an EU Accession Strategy in which it would spell out the most important reforms it needs to undertake in order to become first a candidate and then a Member of the European Union. This should be a comprehensive document, showing both how far the country has travelled and how significant is the commitment it intends to undertake on its way to the European Union. The EU Accession Strategy should open the way for Ukraine's membership application. In other words, Ukraine needs to demonstrate that its application to join is not a political step but a result of a well-structured process. The delivery of the application should be accompanied by an intensive diplomatic campaign, raising awareness of the EU institutions and the Member States about the results of Ukrainian reforms and its European commitment.

Ukraine's EU application could be tabled in the second half of 2011, during the presidency of Poland in the Council of the European Union. The EU presidency will then initiate the standard procedure and ask the European Commission for its opinion upon the Ukrainian application.

The period following the application will be of crucial importance for the prospects of Ukraine's accession to the Union. The government must make every possible effort to demonstrate that its reforms have had a profound and irreversible effect. It should assist the European Commission in its effort to examine the foundations for Ukraine's EU membership application. **The Commission should be asked to deliver its avis not later than a year after Ukraine had tabled its application.** There are three possible scenarios for how the Commission can proceed. Its opinion can be either positive with a recommendation to open negotiations. It could be negative with a recommendation to continue efforts to prepare for membership. The Commission can also recommend to the Council the granting of the status of candidate country to Ukraine while stating that negotiations for accession should be opened once Ukraine has reached a sufficient degree of compliance with the membership criteria. All three scenarios have been practiced in the past. None of them means that the Council could not decide on the opening of negotiations. Clearly, however, a positive opinion is what Ukraine needs for the smooth progress of its accession process.

It can well be expected that by that time, the absorptive capacity of the Union will once again resurface and become a key issue in the debate. There is little Ukraine can do directly to assist the institutional deepening of the Union. However, it should encourage Member States supportive of its aspirations to advance the internal reform of the Union. As every time in the past, enlarging the Union will have to proceed hand-in-hand with a deepening of the integration process and the streamlining of procedures.

Ukraine will also be well-advised to commission expert studies of the implications of its bid to join the Union. At least two or three major European research institutes should be asked to examine the impact of Ukrainian membership in its political, economic and social dimension. It has to be remembered that Ukraine's membership application will coincide with the final phase of the negotiations on the Financial Perspective 2014-2020. Therefore the country has to be able to demonstrate that its pre-accession needs will be modest compared to the overall EU budget while the gains resulting from Ukraine's gradual approximation to EU standards will greatly exceed the costs.

Accession Negotiations

Following a positive opinion of the Commission, the Council should take a decision on recognizing Ukraine's candidate status and opening accession negotiations during 2013. **The opening of accession talks could then be scheduled for 2014.** It is widely expected that by that time, Turkey's negotiations can be near conclusion. Assuming that Turkey is ready to join in the middle of the next decade and that the EU Member States are ready to welcome it, Ukraine will find it easier to build a case for its membership in the Union. It will be impossible to deny to Ukraine candidate status once the welcoming carpet is rolled out for Turkey.

In the run-up to the decision of the Council to offer Ukraine candidate status and then open accession talks, **Kiev should ensure that the framework for the negotiations proposed by the European Union does not multiply conditions for joining as compared to the previous enlargements.** Copenhagen criteria should remain the basis for Ukraine's progress in preparations. In addition, there are sufficient safeguards in the negotiating frameworks proposed to Turkey and Croatia to regulate the accession of future aspirants such as Ukraine.

Ukraine should then immediately establish a negotiating team for its talks on EU accession. It should be anchored well in the government structures to ensure smooth decision-making and proper implementation. Ukraine should also enhance its Mission to the European Union as well as bilateral embassies in the Member States.

Ukraine should prepare well for the screening of community legislation that will follow the opening of accession negotiations. It should also insist that the first negotiating chapters are opened before the entire screening exercise is concluded.

Ukraine can generally expect the negotiations to take 4 to 5 years.

It is likely that the final phase of its accession negotiations will coincide with the conclusion of negotiations on the Financial Perspective 2021-2027, expected in the spring of 2019. It can be taken for granted that given the size of Ukraine's agricultural sector and its developmental needs, the costs of its accession to the Union will be an important factor in the Financial Perspective negotiations.

Ukraine must negotiate a number of transition periods upon application of community legislation in the most sensitive areas such as environment, free flow of capital or competition policy. In return, it must expect the Union to insist on a transition period with respect to the free flow of persons as well as a phasing-in period before full payments within the Common Agricultural Policy are at the disposal of Ukrainian farmers. Each previous enlargement will have taken its toll on the conditions which Ukraine has to put up with. It will be legitimate for the Ukrainian government to request fair and equal treatment from the beginning. At the same time, it will be wise for Kiev to prepare its public opinion for stringent conditions of membership. It can also take for granted that the safeguard clauses which had already been part of the previous enlargement packages will also be proposed in the framework of its accession. They may include the special clause which allows for a possible postponement of the accession of Bulgaria and Rumania by one year.

Following the end of the negotiations, the process of drafting the Accession Treaty can be expected to last for another 3-4 months with the signing ceremony likely in July 2019. Allowing for ratification of the Accession Treaty, it can be expected that Ukraine would become a Member of the European Union in the course of 2020. Ukraine would have to stage a massive campaign in order to ensure the ratification process is a timely one. It will also have to demonstrate that it is capable of introducing the *acquis communautaire* effectively as of accession. Nevertheless, assuming utmost priority attached to the cause of accession to the Union, it is entirely possible for Ukraine to become a Member of the European Union in 2020. That way the process of European integration would be near completion as far as its geographical dimension is concerned. **Enlargement, the most successful endeavor of the European Union would have by then transformed Ukraine into a proud, modern and dynamic European country.**

This scenario is within reach. Its fulfilment rests on the political will. The European Union has rarely been in the position to do more for a neighbouring country as well as for itself than by inviting Ukraine to become a member.