

# EU Solidarity in Time of War in Ukraine

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## 1. Introduction

Ukraine's formal application for EU membership on 28 February 2022 was made in tragic circumstances. It came as a surprise to many that President Zelenskyy and his government could even think about EU membership while the Russian army was invading the country on a scale comparable to that of 'Operation Barbarossa' by Nazi Germany in 1941. And yet the formal application to the EU was signed just a few days after that unprovoked invasion, while Russian troops were only about 15 kilometres from President Zelenskyy's office in Kyiv. The long cherished dream of the Ukrainian nation to engage formally in negotiations for EU membership suddenly became reality in one of the most critical and fatal moments of the country's history.

On the one hand, the formal bid for EU membership was an act of despair by a country which had already been at war since 2014 and was now fighting for its survival. Indeed, this bold move ultimately served its purpose and considerably boosted the combat morale of the Ukrainian nation. It also raised hopes for more military, financial and technical assistance on the part of the EU to support Ukraine in its war effort. By any standards, the EU accession process triggered by the application has unfolded with unprecedented speed. While Ukraine's bid for EU membership was immediately joined by similar bids from Moldova and Georgia, the European Commission committed itself to issuing its opinions on the respective applications, as required by Article 49 TEU, as soon as possible.<sup>1</sup>

Indeed, by 17 June 2022, the Commission had already assessed Ukraine's ability to join the EU, in consideration of the accession conditions based

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1 'So we will accelerate this process as much as we can, while ensuring that all conditions are respected.' European Commission: Statement by President Von der Leyen with Ukrainian President Zelenskyy at the Occasion of the President's Visit to Kyiv, Brussels, 8 April 2022, [https://ec.europa.eu/neighbourhood-enlargement/news/statement-president-von-der-leyen-ukrainian-president-zelenskyy-occasion-presidents-visit-kyiv-2022-04-08\\_en](https://ec.europa.eu/neighbourhood-enlargement/news/statement-president-von-der-leyen-ukrainian-president-zelenskyy-occasion-presidents-visit-kyiv-2022-04-08_en) [04/10/2023].

on the so-called Copenhagen criteria. It concluded that ‘Ukraine is a European State which has given ample proof of its adherence to the values on which the European Union is founded [and] therefore recommend[ed] to the Council that Ukraine should be given *the perspective to become a member* of the European Union.’<sup>2</sup> Consequently, the Commission also recommended that the European Council grant Ukraine the much sought after ‘candidate status’ – a label not formally envisaged by the procedure of Article 49 TEU, though it has become a key component of the EU enlargement taxonomy and a milestone in the accession process. This recommendation was supplemented by the request to conduct urgent reforms in seven sectors (judiciary, rule of law, fight against corruption, national minorities, anti-money laundering legislation, anti-oligarch legislation, media legislation in line with the EU *acquis*). The European Commission committed itself to monitoring Ukraine’s progress within these fields and issue a final assessment by the end of 2022. Further, the European Commission confirmed that Ukraine’s accession process will be ‘based on established criteria and conditions.’<sup>3</sup> Thus it has confirmed that the Copenhagen criteria will remain crucial for the progress of Ukraine’s accession.

Although less favourable, the Commission’s opinions on the applications of Moldova and Georgia respectively came to the same conclusion: the prospect of becoming Member States of the Union was held out to both countries.<sup>4</sup> The European Council endorsed the Commission’s recommendations only a few days later and recognised the European perspective for Ukraine, Moldova and Georgia, acknowledging that ‘the future of these

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2 European Commission: Communication from the Commission to the European Parliament, the European Council and the Council. Commission Opinion on Ukraine’s Application for Membership of the European Union, Brussels, 17 June 2022, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Ukraine%20Opinion%20and%20Annex.pdf> [04/10/2023], 20 (emphasis in original).

3 Commission Opinion on Ukraine’s Application for Membership of the European Union, 21.

4 European Commission: Communication from the Commission to the European Parliament, the European Council and the Council. Commission Opinion on the Republic of Moldova’s Application for Membership of the European Union, Brussels, 17 June 2022, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf> [04/10/2023]. European Commission: Communication from the Commission to the European Parliament, the European Council and the Council. Commission Opinion on Georgia’s Application for Membership of the European Union, Brussels, 17 June 2022, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf> [04/10/2023].

countries and their citizens lies within the European Union'.<sup>5</sup> 'Candidate country' status<sup>6</sup> was granted only to Ukraine and Moldova, however, Georgia being asked to address the priorities of domestic reform indicated in the Commission's opinion first.

## *2. Challenges of the Ukrainian Road to EU Membership*

Ukraine's road towards EU membership will not be a mere echo of the accession experience of the EU's old and new Member States. That is because 'Ukraine became the first country to apply for EU membership in the middle of a war that had been started by invasion of it by another state with which the EU still has a functioning bilateral partnership and cooperation agreement.'<sup>7</sup> There are, furthermore, other challenges to be considered on that road. The first is whether the comprehensive EU-Ukraine Association Agreement can remain a solid and relevant foundation for Ukraine's accession procedure. In this regard, experts advocate that the EU-Ukraine Association Agreement still has considerable potential and can therefore be regarded as a perfect 'stepping-stone towards EU membership'.<sup>8</sup> Second, the Ukrainian case requires reconsideration of the accession procedure due to the imminent and escalating cost of war. Ukrainian officials call for either a 'fast-track' procedure for Ukraine or for a 'special procedure' for Ukraine's application 'without the strains of mistrust and the failure of conditionality'.<sup>9</sup> Third, the substantive and procedural rules of Ukraine's future accession to the EU must reflect the scope and objectives of a future

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5 European Council: European Council Meeting (23 and 24 June 2022) – Conclusions, Brussels, 24 June 2022, <https://www.consilium.europa.eu/media/57442/2022-06-2324-euco-conclusions-en.pdf> [04/10/2023], 4.

6 Ibid.

7 Tatham, Allan F.: Op-Ed: Conflict Between Rhetoric and Reality of Enlargement: The Implications of Opening EU Accession Negotiations with Ukraine, in: EU Law Live, 5 April 2022, <https://eulawlive.com/op-ed-conflict-between-rhetoric-and-reality-of-enlargement-the-implications-of-opening-eu-accession-negotiations-with-ukraine-by-allan-f-tatham> [04/10/2023].

8 Van Elsuwege, Peter/Van der Loo, Guillaume: Op-Ed: The EU-Ukraine Association Agreement as a Stepping-Stone Towards EU Membership?, in: EU Law Live, 28 March 2022, <https://eulawlive.com/op-ed-the-eu-ukraine-association-agreement-as-a-stepping-stone-towards-eu-membership-by-peter-van-elsuwege-and-guillaume-van-der-loo> [04/10/2023].

9 Kochenov, Dimitry/Janse, Ronald: Op-Ed: Admitting Ukraine to the EU: Article 49 TEU Is The 'Special Procedure', in: EU Law Live, 30 March 2022,

peace deal between Ukraine and Russia. In other words, it would be an unbearable challenge for Ukraine to participate in the complicated and meticulous accession race while being engaged in a resource-consuming and bloody war with Russia.

It is argued that Ukraine's ability to conduct these accession negotiations with the EU will inevitably depend on the outcome of the war, and the terms on which hostilities eventually end. A potential war settlement will indeed redefine and/or confirm the geographical borders of Ukraine and could influence its sovereignty on issues related to its security and its ability to join international organisations such as NATO and the EU.

### *3. Peace Deal as a Decisive Factor for Ukraine's Accession to the EU and Domestic Constitutional Reform*

The terms of any peace deal between Ukraine and Russia will inevitably influence the pace and priorities of Ukraine's accession to the EU and its domestic constitutional and legal systems. Several scenarios could be envisaged at this stage.

In a first scenario, Russia could face complete military defeat, followed by a regime change. In this situation, a peace deal could lead to the liberation of all the Russian-occupied areas of Ukraine, including Crimea and the territories of the so-called people's republics in the east. From the point of view of the accession process, that would be the best outcome for Ukraine and the EU. Such a peace deal would restore Ukraine to its internationally recognised borders and lay the foundation for the fastest possible reconstruction of Ukraine and the finalisation of its accession to the EU. The EU and other world powers, and international organisations too, would unleash a package of significant financial and technical assistance to support the rebuilding of Ukraine, with the Copenhagen criteria and the EU *acquis* as a compass. In this case, Ukraine's constitutional system would remain intact and the country would remain a unitary state as provided for in its constitution.<sup>10</sup> The liberated territories of Ukraine would come under Ukrainian control, allowing resumption of the Ukrainian courts'

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<https://eulawlive.com/op-ed-admitting-ukraine-to-the-eu-article-49-teu-is-the-special-procedure-by-dimitry-kochenov-and-ronald-janse> [04/10/2023].

10 Article 2 of the Constitution of Ukraine of 1996, Council of Europe: Constitution of Ukraine, 28 June 1996, <https://rm.coe.int/constitution-of-ukraine/168071f58b> [04/10/2023].

jurisdiction, social support, education and police control. Importantly, the Ukrainian legislature would face the necessity of dealing with the legal status of Ukrainian nationals who had joined military and police units of the so-called people's republics in the east of Ukraine and Russian army and police on Crimea.

The second scenario would see Ukraine win convincing military successes while Russia was crippled by the unbearable costs of war and by sanctions. In this situation, the Russian government might agree to a compromise peace deal that envisaged the de-occupation of Ukrainian territories invaded since 24 February 2022, but not Crimea or the territories of the so-called people's republics in the east (Luhansk and Donetsk People's Republics or 'LDPR'). This option would not imply any formal recognition of the territorial status of Crimea or the LDPR. That issue could simply be postponed until a later stage of the peace settlement and a further definition of the territorial status of those entities. This option would come close to option one in terms of its positive effects on Ukraine's recovery and accession prospects. However, it would inevitably raise sensitive questions such as how to treat Ukrainian nationals and companies located in those territories in the event of Ukraine's becoming a member of the EU. As regards companies, their registration and seat of operation would be essential to determining the legal regime that applied to them. However, the status of Ukrainian nationals residing in the areas concerned would remain problematic. Most of them have acquired Russian citizenship and could rely on their Ukrainian passports to use (or abuse) their rights as EU citizens. In this regard, the experience of Cyprus would be of great value for Ukraine. In particular, this concerns the treatment of the rule of origin of goods and services from the occupied territories, and the rights of Ukrainian nationals residing there to acquire EU citizenship rights. In this case, the constitutional system of Ukraine is unlikely to be changed. It will remain unitary as provided for in the country's own constitution.<sup>11</sup>

In a third scenario, Ukraine and Russia would come to a military draw and reach a 'status quo peace deal', leaving Ukrainian territories that were already occupied under Russian control. The Ukrainian government might be forced to accept the ceasefire under the unbearable cost of warfare and possible termination of Western economic and military assistance due to 'Ukraine fatigue'. Most likely, that would bring about the indefinite

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11 Ibid.

suspension – ‘freezing’ – of the conflict. As a result, Ukraine would face a permanent security threat on its borders and lose access to the Sea of Azov, while its Black Sea ports would remain blocked by the Russian Navy. Ukraine’s export of agricultural products and other goods would run into a plethora of unavoidable obstacles in terms of reaching EU and other international markets. This option would significantly complicate Ukraine’s accession process. The cases of Cyprus and the Northern Ireland Protocol are unlikely to be a source of inspiration, since the war in Ukraine is an unprecedented challenge in the EU. Ukraine’s ‘accession deal’ would probably require specific derogations on the application of the EU acquis and membership rights within the internationally recognised territory of Ukraine. This option could result in a constitutional reform in Ukraine. Since the status of the country’s old and newly occupied territories would be ‘frozen’, the Ukrainian legislature would take steps to prepare a legal foundation for their eventual return. The constitutional reform might focus on several founding aspects of domestic political and legal systems. First, Ukraine could change Article 2 of its constitution in order to become a federal state, thus giving regions dedicated autonomy rights and legislative competencies with considerable impact on decision-making. Second, provisions of the Constitution of Ukraine on the irrevocability of the country’s European and Euroatlantic foreign policy might either be abolished, or revised to cope with possible compromises in the Russo-Ukrainian peace deal concerning the neutrality of Ukraine in the field of foreign policy.<sup>12</sup> Third, Ukrainian as an official language of the country might be supplemented by Russian and other national minority languages in the areas of compact residence of national minorities (Hungarian, Bulgarian, Polish, Romanian and others).<sup>13</sup> Furthermore, as a pre-condition of the peace deal, the Russian Federation might call for a provision on a special status of the Russian-speaking minority in Ukraine to be added to the Constitution of Ukraine, and perhaps one on the common history of Ukraine and Russia too.

The fourth scenario would be a complete military defeat of Ukraine, potentially leading to the loss of all or most of its territory to Russia, or its partition into several zones/people’s republics, as occurred in some occupied European countries in the early 1940s. In the worst-case scenario, the

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12 Constitution of Ukraine, Preamble, Articles 85(5), 102 and 116(1).

13 Constitution of Ukraine, Article 10.

Ukrainian government might go into exile or move from Kyiv to another regional centre such as Lviv, while the patriotic population would continue resistance within occupied territories. This scenario would severely complicate Ukraine's accession to the EU in legal, economic and political terms. In practice, it would imply the so-called 'demilitarisation' and 'denazification' of Ukraine as the initial objective of the invasion by the Russian Federation on 24 February 2022. In the former case, it would not only mean reducing the defence capacity of Ukraine, but also formal acceptance of the policy of neutrality and revocation of any objective to join defence unions such as NATO. In the latter case, the Russian Federation would pursue the policy of so-called 'filtration' as already tested in the east of Ukraine, and the establishment of a so-called 'Nuremberg-type tribunal' over alleged 'war criminals' in Ukraine.<sup>14</sup>

All these scenarios are of a speculative nature and are obviously not definite, since the terms of any settlement must still be decided on the battlefield. For now, top Ukrainian officials have ruled out any prospect of a peace deal with the Russian Federation, other than on the basis of the complete military defeat of Russia. Of course, that is the most desirable option for Ukrainians and for the international community, though it would cost more human lives and destruction in Ukraine. Unfortunately, chilling references to the possibility of deploying nuclear weapons against Ukraine imply that any option, even the last one, is still possible. The Russian Federation has embarked on the strategy of a war of attrition in the hope of overcoming Ukraine's resistance and Western assistance and support by virtue of its own enormous human and military resources. In any outcome, the options we have discussed show that the objectives of a Ukraine-Russia settlement will have a considerable impact on the pace and nature of Ukraine's accession to the EU, and will require commensurate engagement from the EU and its Member States to make it possible.

In the meantime, there are two major peace plans on the table. Ukraine offered its ten-point peace plan also referred to as Ukraine's 'Peace Formula', outlined by President Zelenskyy on 15 November 2022.<sup>15</sup> This plan was strongly backed by the EU and other G7 members. Ukraine's Peace Formula defines prerequisites for the cessation of hostilities, such as the

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14 President V. Putin's speech on the eve of the invasion of Ukraine on 24 February 2022, Kremlin: Address by the President of the Russian Federation, Moscow, 24 February 2022, <http://kremlin.ru/events/president/news/67843> [04/10/2023].

15 Ukraine Ministry of Foreign Affairs: What Is Zelenskyy's 10-Point Peace Plan?, <https://war.ukraine.ua/faq/zelenskyy-10-point-peace-plan/> [01/12/2023].

withdrawal of Russian troops from the territory of Ukraine as it was internationally recognized in 1991. Also, it presumes international criminal responsibilities for those Russian politicians who initiated annexation and invasion of Ukrainian territories. In other words, Ukraine's Peace Formula is feasible in case of scenario number one and two mentioned above.

The second major peace plan was offered by China on 24 February 2023, and is called 'China's Position on the Political Settlement of the Ukrainian Crisis'.<sup>16</sup> This plan calls for the cessation of hostilities but without the withdrawal of Russian troops from the Ukrainian territory and does not mention the perspective of international justice. In other case, China's Position is feasible in case of scenario number three.

Recently more international players expressed their will to join a peace process between Ukraine and Russia. Among them are Vatican City and countries of the African Union.<sup>17</sup> Very little is known on their visions regarding the aims and substance of the perspective Peace Deal between Ukraine and Russia. Nevertheless, success of international mediation and choice of a modality of a Peace Deal depends on the factors like the status quo on the battlefield and ongoing commitment of the Western allies of Ukraine to support its economic recovery and ability of Ukraine to continue its military resistance to Russian aggression.

#### *4. The European Political Community as a Tool of Ukraine's Accession to the EU*

In parallel with the accelerating speed of Ukraine's accession, the EU has been searching for new forms of political cooperation to strengthen its resilience and ensure mutual solidarity in times of intimidating security and economic crises in Europe. Eventually, it encapsulated those ideas in the European Political Community (EPC) initiative proposed by French

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16 Ministry of Foreign Affairs of the People's Republic of China: China's Position On The Political Settlement Of The Ukraine Crisis, 24 February 2023, [https://www.fmprc.gov.cn/mfa\\_eng/zxxx\\_662805/202302/t20230224\\_11030713.html](https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/202302/t20230224_11030713.html) [01/12/2023].

17 Pulella, Philip: Pope Says Vatican Involved in Secret Ukraine Peace Mission, in: Reuters, 1 May 2023, <https://www.reuters.com/world/europe/pope-says-vatican-involved-ukraine-peace-mission-2023-04-30/> [01/12/2023] and Camut, Nicolas: African Union Calls on Russia to Reinstate Ukrainian Grain Deal, in: Politico, 27 July 2023, <https://www.politico.eu/article/african-union-calls-to-reinstate-the-ukrainian-grain-deal/> [01/12/2023].



President Macron in May 2022 during the French presidency of the EU Council. The French government outlined its vision of the EPC as a new political platform that ‘would be open to European States that share a common set of democratic values, whether or not they are members of the Union and regardless of the nature of their current relationship with the European Union’ with the overall purpose of ‘strengthen[ing] the political, economic, cultural and security links between its members.’ It may cover cooperation within ‘foreign and security policy issues, climate change and the supply of energy and other raw materials, food security, infrastructure development and interconnection, mobility, migration, the fight against organised crime, relations with other geopolitical actors.’ Overall, the EPC would ‘provide a forum for coordination, decision-making and cooperative projects to respond in a concrete way to the challenges facing all countries on the European Continent’.<sup>18</sup>

The European Council supported the French initiative at its summit in June 2022. Straight away, however, the vague character of the EPC initiative was perceived with a degree of suspicion by some third countries. Some candidate countries feared that the EPC could undermine or even implicitly serve as an alternative to their ultimate EU membership as the European Neighbourhood Policy and Eastern Partnership had done before. However, the French government importantly underlined that ‘[t]he European Political Community would not be an alternative to EU membership and would not be a substitute to the enlargement process. For European states wishing to join the European Union, it would, on the contrary, allow for the strengthening of links with EU Member States prior to accession’.<sup>19</sup>

Against the backdrop of these controversial anticipations, the kick-off EPC meeting took place in Prague, during the Czech presidency of the EU Council, on 6 October 2022.<sup>20</sup> That meeting can be hailed as successful for several straightforward reasons. First, it exceeded most expectations

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18 Rijksoverheid: Non-paper European Political Community, The Hague, 17 June 2022, [https://open.overheid.nl/documenten/ronl-0eb63766fdcefc637c835705765fd68d67d3d7f2/pdf\[04/10/2023\]](https://open.overheid.nl/documenten/ronl-0eb63766fdcefc637c835705765fd68d67d3d7f2/pdf[04/10/2023]).

19 Rijksoverheid: Non-paper European Political Community.

20 Hitherto, two more meetings of the EPC took place (1 June 2023 in Bulboaca, Moldova and 5 October 2023 in Granada, Spain). Unfortunately, these meetings failed to produce promising results for Ukraine’s efforts to bring the war to an end. However, the EPC is still a new-born political project of the EU and still has strong chances for success.

since not many existed. Second, it was attended by an impressive number of European countries with different and, in some cases, even conflicting political interests and objectives. For instance, it was attended not only by all the EU Member States but also by the UK, Turkey and the Eastern Partnership countries.<sup>21</sup>

In the aftermath of the EPC kick-off meeting, EU High Representative in Common Foreign and Security Policy (CFSP) Josep Borrell concluded that the EPC may be seen as:

1. a community of shared principles through an alignment on principles that guarantee peace and stability on the continent;
2. a community of resilience to reduce the exposure and vulnerability of European countries to risks and threats of an increasingly hybrid nature;
3. a community of cooperation aimed at strengthening economic cooperation, interconnectedness and cross-border sectorial cooperation;
4. a community that adds value to the existing institutions and formats since the EPC is complementary to EU policies and other regional frameworks.

What is the practical value of these optimistic conclusions? What could the results of the kick-off meeting of the EPC mean for the accession of Ukraine to the EU?

First, the EPC kick-off meeting was attended by almost all the countries on the European continent, with heterogeneous European integration aspirations and, in some cases, conflicting geopolitical interests and objectives. On the one hand, that may turn future EPC meetings into a chaotic political 'bazaar'. On the other, it may serve as a unique and valuable test laboratory to elaborate and discuss current and future European crises and challenges, such as ending the war in Ukraine and ensuring energy independence of the European countries. The Black Sea Grain Initiative between the UN and Russia and between the UN and Ukraine, mediated by Turkey in 2022, is a good example of a deal that could have been developed and exercised under the EPC framework. The participation of Ukraine in further EPC initiatives could be a valuable tool for stimulating the 'parallel' integration of Ukraine in selected pan-European projects while being engaged in the meticulous EU accession process.

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21 44 countries of the European continent participated but the meeting was not attended by Andorra, Monaco, San Marino and Vatican City; Belarus, Russia and Kazakhstan were not invited.

Second, the EPC could contribute to the eventual return of some European pariah states to the 'European concert'. For instance, representatives of Russia and Belarus might be invited to participate in forthcoming EPC meetings and activities. At present, it is certain that officials of the current Russian and Belarussian regimes cannot be welcomed to any of the EPC meetings. However, representatives of the internationally recognised Russian and Belarussian opposition might be invited to attend EPC meetings in order to discuss possible formats of EU policies with post-war Russia and Belarus. The ongoing war in Ukraine should not hinder the important task of unifying and consolidating opposition movements in those two countries. Furthermore, the people of those countries must be given a chance to know about possible alternatives to today's stalemate in EU-Russia and EU-Belarus relations. Engagement of Russian and Belarussian opposition leaders in the activities of the EPC could contribute considerably to this course.

Third, the EPC could become a platform for future peace talks between Ukraine and Russia. In the meantime, it is impossible to envisage the participation of representatives of the current regimes in Russia and Belarus in Ukraine-Russia peace talks under the aegis of the EPC. It simply contradicts the idea of the EPC as a community of shared democratic values and principles. Nevertheless, the EPC participants, jointly with Russian and Belarussian opposition leaders, might contribute to the elaboration of guiding principles of a potential Ukraine-Russia peace deal, of course, in close involvement with Ukraine. It is important to demonstrate how a future peace deal might affect post-war Russia and Belarus. Transparent and consistent positions of the EPC on this issue will counterbalance intrusive Russian propaganda and send a clear signal of support for change to the current regimes in those countries. It is important to send a strong message that a post-war return of Russia and Belarus to Europe is possible.

Fourth, when the Ukraine-Russia peace deal is reached, the EPC could play an important role in discussing and shaping the modalities of the post-war economic recovery of Ukraine. The scale of current economic and infrastructural damage caused to Ukraine's economy by the Russian invasion amounts to at least 600 billion euros. The continuing destruction of Ukraine's critical infrastructure by Russia may raise this figure even higher. The EPC's members could set up an *ad hoc* common financial instrument to contribute to the economic recovery of Ukraine. Such financial instruments could be set up outside the EU framework with the active participation of the EPC's 'heavyweights' such as the UK and Turkey. This

approach could enhance the 'informal' influence of non-EU Member States within the EPC and throughout European geopolitical space.

The EPC contains several important advantages to be considered by Ukraine against the backdrop of its accession process to the EU. The first is the fact that the EPC platform hosts almost all countries of the European continent with different policies and geopolitical preferences, and could therefore constitute a real chance to develop a truly 'pan-European' solution to global crises such as the war in Ukraine and energy security on the European continent. The second advantage is that the EPC could serve as a transition platform for change agents from ousted European states to ensure their gradual return to the concert of European nations. The third is that the EPC's meetings and statements could offer pragmatic alternatives to complex, predictable EU foreign policy recipes and consequently try out unorthodox solutions to European crises.

### *5. Concluding Remarks*

The invasion of Ukraine by the Russian Federation on 24 February 2022 has given the European integration project an unprecedented historical dynamism and created a momentous challenge to EU solidarity. It must be acknowledged that the EU is now facing the most serious existential crisis since its foundation. The Russian Federation is the first military and political superpower that has openly challenged the international security order, undermined the foundations of international law by disregarding the territorial sovereignty of Ukraine, repeatedly broken the UN Charter and openly contraposed Western and European common democratic values with self-developed notions of 'sovereign democracy' and 'traditional values' which are the cornerstones of EU solidarity. Ignorance of these events could run against the spirit of Article 21 TEU and would irrevocably undermine the role of the EU as a global actor and, consequently, question the legitimacy of EU solidarity. In these critical circumstances, Ukraine has appeared to be ready and resolute, not only to fight for its own survival, but also to protect the ideological and political credibility of the EU on the battlefield. This unparalleled challenge has forced the EU to deploy the whole arsenal of its political, economic and security tools to deter Russia from its aggressive behaviour, to do everything plausible to restore the territorial integrity of Ukraine and, in the end, to restore peace on the European continent.

The end of the war in Ukraine will inevitably be finalised by a Russo-Ukrainian peace deal. There are several possible scenarios for this depending on success on the battlefield. Any option other than a convincing victory for Ukraine would imply a constitutional reform in Ukraine. The scope of such a constitutional reform might vary from revision of the status of unitary state and single official language policy to the acceptance of neutrality in foreign policy and complete demilitarisation of Ukraine. There is no doubt that the degree of constitutional reform and potential limitation of national sovereignty depends directly on the convincing success of the Ukrainian army on the battlefield and resolute support from the Western allies. Economic, political and security support from the EU is crucial to achieving Ukraine's victory on the battlefield against the aggressor. EU solidarity is the key factor in an ultimate Ukrainian victory and in the restoration of its sovereignty and territorial integrity.

