

UDC 339.923:061.1EU(477)(478)(479.22)
Biblid: 0025-8555, 75(2023)
Vol. LXXV, No. 3, pp. 409–433
DOI: <https://doi.org/10.2298/MEDJP2303409G>

Original article
Received 6 July 2023
Accepted 11 September 2023
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Good neighbourhood as an EU accession criterion for Ukraine, Moldova and Georgia?

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Abstract: For the new and future EU candidate countries of Ukraine, Moldova and Georgia, the path to EU membership is based on the same “established criteria and conditions” as for the long-term candidates of the Western Balkans (WB). However, the WB’s EU accession process brought with it additional conditions, such as regional cooperation, reconciliation and good neighbourly relations. The EU’s objective at the time was to encourage the countries in the region to improve relations with their neighbours and to deal with the war legacies through regional cooperation initiatives. This raises the question of how, and to what extent, these additional criteria could become part of the EU integration process of Ukraine, Moldova and Georgia – all countries in conflict with neighbouring Russia. The theoretical background of the analysis is the EU’s actorhood and its policy of external governance, expanding its normative sphere of influence to non-EU members. The paper discusses the additional WB conditions and identifies similar preconditions in the relevant EU agreements and documents for Ukraine, Moldova and Georgia since 2014. It shows that some of the WB preconditions are used in Eastern European Partner (EaP) countries but are, for now, seemingly less of a priority.

Keywords: EU enlargement, conditionality, conflict, neighbourhood, Western Balkans, Eastern European Partnership, Russia.

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This paper was presented during the panel ‘Between the Eastern Partnership and the Western Balkans. The blurring of EU policies’, as part of the UACES Conference held between 3-6 September 2023 in Belfast, Northern Ireland, United Kingdom.

Introduction

The EU's history of enlargement can be interpreted as a success story. It is testament to the EU's attractiveness, which reached its peak in 2004 with the "big bang" enlargement. EU accession for the WB countries was promised at the 2003 EU Summit in Thessaloniki, once all the preconditions for EU membership were fulfilled. At the time, the EU's attractiveness pulled those countries towards the union, but more than 20 years have passed since then and they are waiting for a clear commitment regarding whether and when accession will occur. Due to the unpredictability and perceived inconsistencies in the EU's accession strategy, resulting in delays and prolongation, the EU's credibility and attractiveness have waned in the Southeastern European countries, but seemingly still has some weight in countries of Eastern Europe such as Ukraine, Moldova, and Georgia. The first two received candidate status in June 2022 and Georgia is on its path to follow.

The WB countries were considered a special case in the EU integration process, as the region emerged from several brutal wars which resulted in the violent dissolution of Yugoslavia and the establishment of a number of new states in the 1990s. The region faced difficult political and economic transition processes, and simultaneously dealt with the impact of war on society. A decisive change occurred in the early 2000s when a new generation of political actors was able to take up political leadership positions. At the time, the EU took an optimistic view and supported these positive developments by providing the states with the perspective of EU membership in 2003. To obtain EU membership, WB countries were to apply the Copenhagen criteria, which were devised in 1993 and are based on the values of the EU as mentioned in Article 2 of the Treaty of the European Union (TEU); they require the countries to ensure stable political institutions, to maintain democracy, the rule of law and human rights, and to guarantee the protection of minorities. In the economic sphere, the countries are required to have a functioning market economy, which is able to keep up with the pressures of the market economy within the EU. Finally, the countries have to adapt their legal framework to the EU *acquis communautaire* (EUR-LEX, 1993).

The EU's main concern for the WB region was the stabilisation and rebuilding of the region. To achieve political stability, the WB states had to fulfil additional criteria, such as cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), the implementation of regional cooperation, the establishment of good neighbourly relations and addressing the legacies of the wars through reconciliation initiatives. In 2003, all the stakeholders were

optimistic that the WBs would move speedily towards EU membership. In 2023, these countries are still trying to get closer to the EU, but the EU has, due to internal discussions, *de facto* stopped the accession process. Despite the awarding of the candidate status to Bosnia-Herzegovina in 2022 and the signing of Kosovo*'s visa-free travel agreement with the EU in 2023, the enlargement process in the WBs is now at a standstill. With Russia's invasion of Ukraine in February 2022, the EU was under pressure to act and show its support, awarding EU candidate status to Ukraine and Moldova, and providing an EU perspective to Georgia in June 2022.

The paper argues that different regions require a customised EU accession process, as the conditions set for the WBs are not transferable to states in Russia's neighbourhood. That would mean that regional specificities need to be taken into consideration. The starting assumption is that the EU will define similar criteria for the accession of Ukraine, Moldova and Georgia for the enlargement process.

The EU's attractiveness and the effectiveness of its so-called "soft power" contributes to a positive integration process; therefore, the article introduces the concept of the EU's external governance and related concepts of "civil power", "normative power" and "soft power". The article provides a comparison of both regions, describes the additional EU accession requirements for the WBs and assesses if and to what extent these are relevant for Ukraine, Moldova and Georgia.

The EU's actorness in the context of enlargement

The EU's enlargement policy is considered to be one of the most successful EU policies targeting non-EU countries. By providing a clear and achievable accession perspective, the EU was able to motivate prospective member states to initiate reforms, adopt EU regulations, norms and laws. Political conditionality has been the EU's most effective tool to guide the "merit-based process", meaning that, as a reward for implementing reforms, the countries could expect a positive response in relation to their EU integration status. The enlargement policy worked well as long as the EU was perceived as an attractive and credible political actor in the

* The Regional representation agreement (2012) introduced the denomination that will also be used in this article: Kosovo* – This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ opinion on the Kosovo declaration of independence. In relation to the Kosovo* terminology the author adhered to the opinions and data obtained during the manuscript review process.

region. Due to the “polycrisis”² faced by the EU and the lack of progress in the EU accession process since the mid-2000s, the EU’s image as an efficient, capable and credible international actor has waned. At the moment the EU is struggling to revive the credibility of its accession process for the WB states. In regard to the Eastern Partnership, the EU seems to have been able to maintain a certain level of attractivity or perhaps profits from the geopolitical circumstances and the current Russian war in the Ukraine, as the Eastern Partnership countries feel pressured to declare their allegiance to either the EU or to Russia. Ukraine, Moldova and Georgia were pushed towards the EU.

Both regions, the WB and the states of the EaP, which are the focus of this paper, are exposed to the EU’s external governance policy, and were until recently dealt with through two distinct strategies: the EU enlargement strategy and the Eastern Partnership strategy. The main difference between the strategies was that the WB states had an EU accession perspective and the EaP countries did not. Now, the political changes in Eastern Europe have caused an overlap between EU enlargement and the EU’s Eastern Partnership policy. According to Lavenex, the EU’s external governance can be categorised into five types depending on the regions: firstly, the *quasi-membership* approach, which refers to a very close relationship between the EU and the third countries, based on a number of bilateral agreements or associations (e.g., Switzerland, EEA-European Economic Area). Secondly, *accession association*, which relates to the framework of EU enlargement and accession negotiations, such as the Stabilisation and Accession Process (SAP) for the WBs. Thirdly, the *neighbourhood association* focusing on the EU’s Eastern and Southern Neighbourhood, e.g., Eastern Partnership countries and the Euro-Mediterranean Partnership. The fourth type of external governance targets the countries of the global south in the form of a *development co-operation* and finally the EU has established *transatlantic co-operation* with the US and Canada (Lavenex, 2004, 683). This article focuses on the two external government approaches of *accession association* and the *neighbouring association*.

The EU as a foreign political actor has extended its governance structures and mechanism to other regions and organisations by convincing them to import some of the EU’s rules, norms, values and regulations into their domestic legislation. EU

² The EU failed to award itself a constitution in 2005 due to negative referendums in some of the member states. The global financial crisis in 2008 severely affected a number of EU countries. During the 2015 “migrant crisis”, the differences in opinions between four of the Central European states and the Western EU countries became apparent and in 2016 the UK decided to leave the EU. In 2020 COVID reached Europe and, finally, the Russian invasion of Ukraine in February 2022 threatened the international order.

external governance is an “institutionalized transfer of rules to EU accession candidates or within the framework of the EU neighbourhood policy through association agreements or political partnerships” and where the EU’s “actorness is de facto assumed” (Lütz et al, 2011, 2). EU external governance therefore goes beyond its own borders and “addresses, although to different degrees, all neighbouring countries of the EU” (Lavenex, 2004, 683). Moreover, the EU’s role as a political actor on the world stage has been defined as a “civil power” or a “normative power”. The EU was formed as a political and economic union on the basis of certain norms and values, but military cooperation was partly outsourced to NATO. Not all EU states are NATO members, but some form of cooperation also exists with non-members in the framework of the partnership for peace. Whereas the European Community (EC), the EU’s precursor, focused on building the supranational organisation by mainly focusing on internal business, the end of the Cold War made it possible to expand its “normative” borders and transfer its governance system to other countries of the former socialist bloc or even to countries of the former Soviet Union. One driving factor for countries joining the European Community (EC), and later the Union, was access to the European market. For countries overcoming the socialist period, the image of what the EU stood for - democracy and freedom - drew the countries into their sphere. It was the EU’s attraction which made countries want to join and consequently to accept to import rules and regulations into their legal framework.

A “civil power” is defined by the attractiveness of its norms, of its way of conducting politics through persuasion and of its objective of “civilising” international relations. Its policies are based on values and set norms, which creates legitimacy. Still, the EU has foreign policy interests, which are to ensure a stable neighbourhood and to persuade countries to follow their lead by accepting the EU as a role model. Due to the fact that the EU’s role as a foreign actor has changed since the 1990s and is now guided by intrinsic interests, Manners suggests addressing the EU as “normative power”, because its founding principles are still attractive to other countries (Manners, 2002, 236). Both concepts of “civil power” and “normative power” are closely connected with Joseph Nye’s “soft power” concept, which is defined as “when one country gets other countries to *want* what it wants” (Nye, 1990, 166). While it is true that the EU has a certain power of attraction, which pulls the countries towards it, there are also push factors, such as the issue of global interdependence and Russian policy, which convince countries to join a larger political unit. The EU’s credibility is an essential factor within the integration process, as the strength of the push and pull factors and the EU’s presence as a political actor determine the willingness of other countries to implement reforms and adopt EU values and policies.

Similarities and Differences: “Western Balkans 6” (WB 6) vs “Eastern Partners 3” (EaP 3)

The usefulness of a comparative approach can be questioned and is very much dependent on the selection of case studies. In this context, the cases are given and their main similarity is their wish to become EU members. This would be insufficient for an in-depth comparative analysis, but the objective in this case is to provide an overview of some facts that demonstrate the differences between the countries. Georgia is included because it is expected to receive candidate status soon. Although it is officially still an EU candidate country, Türkiye is excluded as the process has been frozen due to the country’s domestic political developments.

One of the accession criteria is the EU’s capacity to accept new members, a precondition the EU candidate countries cannot influence by themselves. The capacity argument can be used by EU members as a “veto” against EU enlargement, as membership requires a unanimous vote by all member states. The integration of the three EaP countries will be a much bigger challenge than the accession of the entire WB region at once. Furthermore, Ukraine is currently fighting a war and parts of its territory are occupied by Russia and by Russia-friendly military groups. Similarly, Georgia and Moldova have territories *de facto* under Russian control. Their territorial integrity is infringed, with the presence of foreign troops in some areas constituting a state within a state. How will the EU deal with these issues? Other aspects also need to be taken into consideration, including differences of territories’ size, with implications for the proportion of agricultural land, in population size, which will define the numbers of seats in the EU parliament, and in GDP, with repercussions for the amount required from the cohesion funds.

The difference between the two regions is quite striking when assessing the material facts. The territory of the entire WB region occupies approx. 207,481 km², whereby the Ukraine’s territory alone is 603,500 km². The territories of all three EaP countries add up to 707,045 km². Serbia is the largest country in the WB region (Worldometer, 2023). The total population of the WB is 17.5 million, compared to 50.1 million of all three EaP countries, with a Ukrainian population of 43,8 on its own (World Economics, 2022). GDP per capita (current prices in USD in 2022) is more than 2,5 times higher in the WB region (45,326.08 USD) than in the three EaP countries (16,726.5) (IMF, 2023). The general debt in the WB is in average 54,90 percent and in the three EaP countries on average 43,41 percent (IMF, 2022).

The other important issue for the EU enlargement process is the status of the rule of law and the democratic reforms in the candidate countries. In five WB

countries, the Bertelsmann Transformation Index (BTI) declared the state of democracy as “defective” (7.99 - 6), with Bosnia-Herzegovina categorised separately as a “highly defective democracy” (5.99 - 1). All three EaP countries fall under the category of “defective democracy” (7.99 - 6). Freedom House’s Transformation Index identifies all the countries of both regions as “Transitional and hybrid Regimes” (34-50). The Freedom Index categorised all the countries as “partly free”. The Bertelsmann Governance Index shows a range of data for the WB region. The Government Index formulated the following ranking: Albania, North Macedonia and Montenegro as “good” (6.99 - 5.6), Serbia and Kosovo* as “moderate” (5.59 - 4.3) and Bosnia-Herzegovina as “poor” (4.29 - 3). The Government Index for all three EaP countries - Georgia, Moldova and Ukraine - is assessed as “moderate” (5.59 - 4.3) (Bertelsmann Index, 2022).

There are no major differences between the WB and the EaP countries regarding their democracy status, governance or fundamental rights, but the status must be improved, and work done in those areas, in order to obtain EU membership.

The main difference between the WB 6 and EaP 3 is their geopolitical location and the direct influence of Russia on the EaP 3 countries. Russia is Ukraine and Georgia’s direct neighbour. Moldova lies between Romania and Ukraine but contains the pro-Russian enclave of Transnistria within its territory. After a misguided military intervention in 2008, Georgia had to accept that it failed to establish its sovereignty over the two majority Russian-speaking regions of Abkhazia and South Ossetia. On the contrary, the WB states have a more advantageous geopolitical position, because the region is surrounded by EU countries which have an interest in dismantling EU external borders and improving interconnectivity between EU countries by integrating the WB 6 into the EU.

The following part of the paper discusses the additional accession criteria for the WB, which have been devised in relation to overcoming the legacies of the wars in the region and to establish trust between the political leaders and the population. This analysis relied on a selection of the EU’s progress reports from 2005 until 2021, e.g., the Enlargement Strategy and Main challenges (2008-2009; 2011-2012, 2012-2013) as well as on the most important EU-WB strategies, e.g., on the Stabilisation and Association process (SAP) for the countries of South-Eastern Europe (1999); 2002-2006 Regional Strategy (2001) and “A credible enlargement perspective for and enhanced EU engagement with the Western Balkans” (2018).

That is followed by an analysis of the EU documents relevant to the three EaP countries, Moldova, Georgia and Ukraine, according to the same criteria. The official documentation is limited to the Opinion of the EU Commission regarding the EU

membership application and the of all three countries (17 June 2022), the three Association Agreements (AA) including the Deep and Comprehensive Free Trade Agreement (DCFTA) of 2014, and the AA Implementation Reports of each of the countries (i.e., Georgia from 2019 to 2022; Moldova 2016, 2017, 2018, 2019, 2021 and 2023; Ukraine from 2016 to 2020, and 2022) and the Conclusions of the European Council meeting (European Council, 2022). The main aim of the analysis is to establish if there are any indications that some of the conditions specific to the WB have been transferred to the new candidates. As the three EaP countries have to deal with the effects and legacies of conflicts and wars, it would be consistent with the EU's enlargement process already being applied to the WB region.

Special Conditionality: Western Balkans +

The main objective of the EU after the Kosovo war in 1999 was the stabilisation of the region, therefore the Stabilisation and Association Process (SAP) was launched in the same year. To underpin the process, the EU expected the countries of the region to improve their neighbourly relations and to solve bilateral conflicts. Regional cooperation was seen by the EU as the means to improve the relations between states in the region. The countries would only qualify to join the EU once they had proved their ability to overcome the differences stemming from the violent secession of Yugoslavia.

Good neighbourly relations

Maintaining good neighbourly relations also demonstrates the level of political maturity required to become an EU member, because within the EU political decisions are decided jointly based on a broad political consensus, requiring a certain level of trust and ability to cooperate constructively on political issues. Good neighbourly relations are therefore a precondition for EU membership. "Each country's willingness to build good relationships with its neighbours shall be the key determinant of its readiness to move closer to the goal of EU membership" (European Commission, 2001, 5). Regional cooperation and good neighbourly relations are seen as essential elements of the EU enlargement process. In theory, regional cooperation fosters good relations with neighbours, however, because of damaged bilateral relations, regional cooperation often cannot be implemented efficiently.

The question of how to improve relations with neighbours will have to be addressed in the enlargement to Ukraine, Moldova and later Georgia. For now, the EU promotes the idea that “[r]egional cooperation and good neighbourly relations are essential for progress on the countries’ respective European paths” (European Commission, 2018c, 6). Still, the WB example shows us how difficult it can be in the absence of political will. The onus for establishing good neighbourly relations is on the country wishing to join the EU, hence the neighbour might abuse this situation. According to Van Elsuwege, it is unclear if the WB countries have an *obligation of conduct* or an *obligation of result* in the context of EU accession (Van Elsuwege, 2015, 218).

Good neighbourly relations as principles can be found in the UN Charter in Article 1 and 2 (UN, 1945, Chapter 1), in the 1970 “Declaration of Friendly Relations” (UN General Assembly, 1970) and the Helsinki Final Declaration of the 1975 Conference for Security and Cooperation in Europe (CSCE). The EU is very clear that international law must be followed: “Respect of international law, inviolability of international borders, peaceful resolution of conflicts and regional co-operation are principles of the highest importance, to which we are all committed” (European Commission, 2003, 1).

Regional cooperation

The regional cooperation approach aimed to assist in overcoming distrust among politicians and the broader public and assist reconciliation processes, but also sets out to initiate economic growth and create prosperity for the people in the region. Cooperation is in general supported in areas of common interest such as infrastructure, economics, security or energy. This functional approach assumes that regional cooperation in non-political areas creates a spillover effect into other, more politically sensitive areas of cooperation. The EU drew many of these ideas from its own experience: “This regional cooperation model is essentially an extension of the EU’s own philosophy that deeper cooperation with neighbouring countries is a route to national as well as regional stability and growth and that such cooperation serves the mutual interests of all countries concerned” (European Commission, 2001, 5). That model has obvious limitations in the context of the WBs, as political behaviour is driven by national populism and ideas inconsistent with the EU’s political culture. Regional cooperation in the WBs was more successful in some areas than in others, but overall, it has slowed down and lacks regional ownership. It was essential for the EU that the countries of the WB region initiate activities out of their own interest and take on the ownership of regional cooperation in the region in general. Although a long list of regional organisations

was established throughout the last 25 years, “symbolism politics” dominates, hence regional meetings are maintained, but with limited outcomes and activities that are conducted merely to demonstrate to the EU that regional cooperation takes place.

Reconciliation

The EU likes to refer to its own experience when addressing conflicts and reconciliation, presenting itself as a role model for conflict resolution, to be followed by other states. “The EU is itself a model for overcoming conflict and promoting reconciliation through close co-operation to achieve common goals, while respecting national sovereignty and territorial integrity” (Commission of the European Communities, 1999, 6).

Reconciliation and addressing the legacies of the past have crept onto the list of requirements for EU accession. Similar to regional cooperation, reconciliation activities initiated by the WB countries demonstrate their maturity regarding their prospective EU membership. “All countries must unequivocally commit, in both word and deed, to overcoming the legacy of the past, by achieving reconciliation and solving open issues well before their accession to the EU” (European Commission, 2018c, 6-7). What needs to be done to fulfil this requirement is somewhat unclear, perhaps even deliberately so. One important part of reconciliation is to establish the truth about crimes and atrocities committed in the context of war or conflict. The WB countries’ cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) therefore became a main obligation at the start of the accession process, requiring the extradition of alleged war criminals to the international tribunal in The Hague. This led to situations where countries had to arrest people who, at home, were considered war heroes. Due to the domestic resistance to this demand, governments were not always able and willing to comply. The ICTY was closed in December 2017 and the majority of open cases was transferred to national judiciaries; only a few remained at the International Residual Mechanism for Criminal Tribunals (IRMCT). Currently, the responsibility for dealing with the past’s atrocities lies with the national courts, but progress is very slow and only minor crimes have been adjudicated.

Reconciliation is a rather broad concept and incorporates a set of ideas, such as establishing the truth, addressing the past, building trust, justice, healing, reparations and restoration of relationships (Huyse, 2003). Still, the EU left it quite open for interpretation. The EU remarks that “further efforts towards reconciliation are crucial to firmly anchor peace and ensure lasting stability in the region. The wounds of the 1990s still need time to heal” (European Commission, 2018c, 6).

The additional preconditions for the WBs were considered to be necessary for a region which was emerging from conflict. The EU's political conditionality should provide a push to bring the countries to deal with the sensitive war issues and legacies, as well as the injustices committed during that time. In the case of Ukraine, the recording of war crimes committed by the Russian armies, as well as by the Ukrainian forces, is an ongoing task. How many of these facts can and will be brought against the perpetrators cannot currently be foreseen.

The European Neighbourhood's new candidate countries (EaP 3)

The political situation of Moldova, Georgia and especially Ukraine is determined by its Russian neighbour, which for some time has shown a disregard for international law and the sovereignty of neighbouring countries. The Russian invasion of Ukraine has evolved into a full-scale war, although already in 2014 Russia's annexation of Crimea and parts of Eastern Ukraine (Donbas and Luhansk) infringed the state's territorial integrity and sovereignty. Georgia's regions of South Ossetia and Abkhazia are under the control of the pro-Russian forces. Moldova must deal with the existence, within its officially internationally recognised borders, of the more or less separate state under Russian influence, of Transnistria. By awarding these countries EU candidate status, the Russian zone of influence is being questioned.

Ukraine

Since its independence, Ukraine has had to face the political dilemma of being squeezed between the EU and Russia's spheres of interest. In 2004, the Orange Revolution removed the allegedly elected president Viktor Yanukovich from office. Claims of electoral fraud brought masses onto the street, which led to a pro-EU declaration and a rejection of Russia's support for Yanukovich. In 2013, Yanukovich – by then elected – refused to sign the newly negotiated Association Agreements (AA) with the EU, which resulted in the Maidan protests and Yanukovich's flight to Russia (Busygina, 2018, 173-178).

Already in 1994, the EU had established contacts with Ukraine by signing a Partnership and Cooperation Agreement (PCA), which entered into force in 1998. In 2004, Ukraine was promoted to priority partner of the EU's European Neighbourhood programme, which was underpinned by an Action Plan in 2005,

and by 2009 Ukraine was a member of the Eastern Partnership (EaP) (Busygina, 2018, 186-192; European Commission, 2022c, 2-5). Petro Poroshenko won the presidential election after the Maidan protests in 2014. In March 2014, the government signed the political part of the AA with the EU and, two months later, the economic agreement of the Deep and Comprehensive Free Trade Area (DCFTA). In September 2017, the AA/DCFTA fully entered into force (European Commission, 2022c, 3). Ukraine applied for EU membership on 28 February 2022. The Council of the European Union requested the Commission to form an opinion on the application. Ukraine received further questions on the economic and political criteria and additional questions on the *acquis* in April and May 2022. In June the Commission presented its opinion on membership was granted on 23 June 2022 (European Council, 10.02.2023).

The preamble of the AA makes a reference to European values and lays out the objectives and the areas of cooperation between the two contract partners. It draws on the “close and lasting relationship that is based on common values, namely respect for democratic principles, the rule of law, good governance, human rights and fundamental freedoms, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, human dignity and commitment to the principles of a free market economy” (European Union, 2014a, 4). Moreover, the contract sets out as objectives the promotion of peace and stabilisation of the region according to established international principles. In this regard a reference to the neighbourhood is found requesting “to promote stability, security and democratic development in their common neighbourhood, and in particular to work together for the peaceful settlement of regional conflicts” (European Union, 2014a, 8). The wording suggests that these are shared responsibilities and not one-sided conditions for Ukraine. One obligation for Ukraine that was mentioned in the agreement and was followed up by the country, was the ratification and implementation of the Rome Statute of the International Criminal Court (ICC) of 1998 (European Union, 2014a, 8). Despite the aim of preserving and strengthening peace and stability in the region, the term “reconciliation” is not mentioned in the document. Addressing regional challenges and security issues and fostering cooperation for “achieving peace, security and stability on the European continent” have been included in the AA as objectives of the EU and Ukraine (European Union, 2014a, 7). Chapter 27 on “Cross-Border and regional Cooperation” mentions that both contract parties are committed to promoting “mutual understanding and bilateral cooperation”, strengthening “cross-border and regional cooperation, [...]and promot[ing] the strengthening of cross-border and regional economic and business networks” (European Union, 2014a, 161).

Areas of existing regional and international cooperation are e.g., are combating terrorism, implementing international human rights refugee and humanitarian law standards (European Union, 2014a, 9), police cooperation, environmental protection as well as regional projects in the area of transport and infrastructure. Cooperation within regional organisations such as the Eastern Partnership Transport Panel, the Transport Corridor Europe-Caucasus-Asia (TRACECA), Common Maritime Agenda (CMA) for the Black Sea, the UN, the OSCE, and the Regional Fisheries Management Organisations, is another aspect of cooperation (European Union, 2014a, 145, 148, 154).

The EU Commission's Opinion on Ukraine's accession capability is based on the evaluation of the AA, the DCFTA and the level of implementation of the EU's *acquis*. The EU Commission granted EU candidate status to Ukraine because of the well-advanced development in the area of political criteria, the stability of political institutions, the guarantee of democracy, rule of law and the protection of minorities. In terms of economic criteria, it mentioned that a certain macro-economic resilience existed before the war and it needs to be seen, if the Ukrainian economy has the capacity to withstand the pressure of the EU market (European Commission, 2022c, 19-21). The document on the opinion does not address the issue of good neighbourly relations or reconciliation. Although regional cooperation is not mentioned in the document, Ukraine is a participant in the macro-regional EU Strategy for the Danube region, it is included in a number of educational programmes such as ERASMUS and participates in a number of regional cooperation initiatives, therefore showing that it is able and willing to cooperate with regional partners (European Commission, 2022c, 19-21).

The AA and the Implementation Reports from 2016 until 2022 were analysed to search for an indication of whether good neighbourly relations and regional cooperation might become preconditions in the EU negotiations. The term "neighbourhood" only relates to the names of various EU strategies or organisations, such as European Neighbourhood Policy, European Neighbourhood Instrument, EU Neighbourhood Investment Platform (NIP). No reference is made to non-EU neighbouring countries. Regional cooperation is not mentioned as a precondition for Ukraine, but the reports have documented activities of regional cooperation, such as Ukraine's membership of the Common Maritime Agenda for the Black Sea (CMA) since 2019, the Strategic Research and Innovation Agenda for the Black Sea (SRIA), the Black Sea Working Group of the General Fisheries Commission for the Mediterranean and a possible participation in the regional cooperation project BlackSea4Fish (European Commission, 2020a, 15; European Commission, 2016, 11).

The implementation reports were also searched for the term “reconciliation”, but no mention was found. This might not be unexpected, as Russia started its invasion only in February 2022, yet the conflict has existed since the occupation of Crimea and the eastern parts of Ukraine, Donbas and Luhansk, in 2014. Of importance is that Ukraine accepted in 2015 the jurisdiction of the International Criminal Court “over alleged war crimes and crimes against humanity committed on the territory of Ukraine since February 2014” (European Commission (2016, 6). The EU Commission’s 2022 report mentioned that, although the Russian aggression towards Ukraine has an impact on the implementation of the AA/DCFTA, the circumstances have not “weakened the determination of Ukraine to pursue its European path” (European Commission, 2022b, 19).

The AA/DCFTA are a clear examples of the EU’s external government approach, as it refers to common values, which are the basic principles of the EU, and includes parts of the EU’s *acquis*. Ukraine will have to demonstrate that it is complying with these guidelines, as any other prospective EU member wishing to be admitted to the Union. There is no reference to reconciliation found in the documents, as addressing the impact of the ongoing war on the population is currently not feasible. Rather than “good neighbourly relations” the AA mentions that a “common neighbourhood” and cooperation for a “peaceful settlement of regional conflicts” are envisaged, as well as the diffusion of the common values. Ukraine is involved in a number of regional activities, but for more pragmatic reasons, such as the improvement of economic cooperation or regional approaches in the area of transport, environment and energy. An effective regional cooperation initiative, with the aim of improving political relations, would require Russia’s inclusion, which is currently not conceivable. In terms of dealing with the current war, it can be said that Ukraine has signed an agreement with the International Criminal Court (ICC) and that, based on the agreements, it is committed to work for a peaceful settlement of all conflicts in the region.

In view of Ukraine’s specific situation, the EU might refrain from adding preconditions for conflict resolution to Ukraine’s accession process. However, as this might be a long process, some additional preconditions might sneak in at a later stage.

Georgia

Georgia also signed an Association Agreement (AA) with the EU, including the June 2014 Deep and Comprehensive Free Trade Area (DCFTA), which entered into force in July 2016. Georgia, together with Moldova and Ukraine, became partners of the EU’s Eastern Partnership (EaP) in 2009. The EU recognised the territorial

integrity of Georgia, continues to support a long-term conflict resolution process and an active engagement with Abkhazia and South Ossetia, the two Georgian break-away regions under separate, Russian-supported administration. Additionally, an EU Monitoring Mission was established to observe the situation at the borders of the two regions (Delegation of the European Union to Georgia, 2021a).

In August 2008, against the backdrop of increased tensions between Georgia and Russia, the then Georgian president Mikheil Saakashvili approved a military attack on South Ossetia. President Saakashvili, who came to power after the “Rose Revolution” in 2003, made the election promise to re-integrate the two break-away regions of South Ossetia and Abkhazia. In the early 1990s, after the disintegration of the Soviet Union, both regions of Abkhazia and South Ossetia declared their wish to remain with Russia, which resulted in a violent conflict with the Georgian government. The deployment of Russian peacekeepers in both regions to de-escalate the conflict was agreed in 1994. In the summer of 2008, at the start of the military campaign, Georgian troops were able to take the capital of South Ossetia, Tskhinvali, only to be pushed back by Russian troops, which crossed into Georgia proper, some days later. The Georgians claimed that they acted pre-emptively as additional Russian troops were observed in the provinces, a claim which could not be verified. The 2008 attack by Georgia led to the death of around 850 people and the displacement of over 100,000 civilians (Traynor, 2009). Despite Georgia’s misguided behaviour in triggering the conflict, the EU is very clear that it respects Georgia’s territorial integrity. “The EU remained strongly supportive of Georgia’s sovereignty and territorial integrity within its internationally recognised borders” (European Union, 2014b, 7).

The EU-Georgia AA refers to common values of “democracy, respect for human rights and fundamental freedoms, and the rule of law”. The agreement also states that the parties recognise the importance of Georgia’s reconciliation efforts “to restore its territorial integrity and full effective control over Georgian regions of Abkhazia and the Tskhinvali region/South Ossetia in pursuit of a peaceful and lasting conflict resolution based on principles of international law” (European Union, 2014b, 5). Additional references to the need for reconciliation can be found in Article 9 under the section “Peaceful conflict resolution” that stresses the importance of “post-conflict rehabilitation and reconciliations efforts” (European Union, 2014b, 10). The AA contains an obligation for Georgia to improve relations with both break-away regions and to find peaceful means to address the underlying conflict. The implementation reports include no reference to “reconciliation” or “good neighbourly relations”, which suggests that conflict resolution and reconciliation measures are only laid down in the AA/DCFTA and are not followed up on. The reason could be that a solution depends on all conflicting parties, but

there is no motivation for Russia to support any long-term solution. Still, the AA in its preamble and in Article 1 includes the obligation of “promoting cross-border and inter-regional cooperation by both sides in the spirit of good neighbourly relations” (European Union, 2014b, 6). Georgia’s task is to create a conducive environment for conflict resolution and for the promotion of cooperation. This demand could be strengthened in future EU enlargement relations with the EU. According to the implementation reports, Georgia has since 2021 addressed the issue of the so-called “occupied territories” by working on a “state strategy for de-occupation and peaceful conflict resolution”, which aims to improve the “*engagement through cooperation*”. (European Commission, 2022a, 6). Of significance is the signing of an agreement with the International Criminal Court (ICC) in July 2017 to investigate war crimes and crimes against humanity allegedly committed by the armed forces in South Ossetia during the 2008 conflict (European Union, 2017b, 5). According to the 2019 and 2020 implementation reports, Georgia has continued its cooperation with the ICC (European Commission, 2019c, 5, European Commission, 2020b, 7). In 2016, the ICC started an investigation into alleged war crimes and crimes against humanity committed during the conflict in 2008 (ICC, n.d.). The EU concedes that the war in Ukraine heavily impacts Georgia, especially in relation to economic and security issues. As a consequence, the EU has expressed its support for Georgia, despite the country not having imposed any sanctions on Russia (European Commission, 2022a, 2).

Regional cooperation and the request that Georgia should “work to further promote regional cooperation in various formats” (European Union, 2014b, 8) is mentioned in the AA. In order to ensure regional stability, cooperation is required on issues of conflict prevention, conflict resolution and conflict management (European Union, 2014b, 9). Cooperation in economic areas as well as in the area of infrastructure on a regional level is encouraged by the EU. The EU positively notes that Georgia signed agreements to be able to join the Neighbourhood Cross Border Cooperation Black Sea Programme (European Commission, 2017b, 15-16; European Commission, 2019c, 17; European Commission, 2020b, 17) and participates in the EU4Business initiative, supporting business development on a bilateral and regional level, and other additional regional programmes, e.g. EU4Energy, EU4Environment, EU4ClimateChange and EU4Youth initiatives (European Commission, 2017b, 15-16).

The analysis of the Georgian case seems to suggest that the issues of conflict resolution, reconciliation activities, good neighbourly relations and regional cooperation are important aspects of the EU’s policy towards Georgia, especially in relation to the two break-away regions of South Ossetia and Abkhazia. Although reconciliation was only found in the AA and not followed through as a principle in

the implementation reports, the necessity to address the origins of the conflict with South Ossetia and Abkhazia is clearly mentioned. The EU's early engagement with the 2008 conflict could explain this focus on conflict resolution. Georgia showed some political maturity by actively cooperating with the ICC in relation to the 2008 war. Although regional cooperation is mostly pursued in technical areas such as infrastructure, environment and the economy, this might foster relations with neighbouring states, with the exclusion of Russia. In the Georgian case, it appears that the principles of reconciliation and good neighbourly relations have already found their way into the EU's conditionality playbook for Georgia.

Moldova

Similarly, to Georgia and Ukraine, Moldova is not in full control of its territory, as the Transnistrian province is governed separately with the help of Russian separatists since 1992. The peaceful co-existence which was in place for decades has come under pressure since February 2022 and the Russian invasion of Ukraine. Moldova's wish for a closer rapprochement with the EU had already previously led to tensions with pro-Russian Transnistria and its Russian protector. Despite political divisions in Moldova on the issue of EU membership, the pro-EU government and current Moldovan President Maia Sandu have pursued this political path, especially after Russia's invasion of Ukraine made Moldova's dependence on Russia apparent (Wilder, 2023). The EU has declared that it fully recognises Moldova's territorial integrity and supports a peaceful resolution of the conflict with Transnistria by suggesting a special status for Transnistria (European Commission, 2017c, 2). Even in its last report in 2023 the EU confirmed its commitment to supporting a peaceful approach to address the Transnistrian case, still fully supporting Moldova's territorial integrity and sovereignty (European Commission, 2023, 7).

Moldova also signed an AA and DCFTA in 2014. In June 2022, Moldova received a positive response to its EU application, being awarded EU candidate status together with Ukraine (Delegation of the European Union to the Republic of Moldova, 2021b). The relationship between the EU and Moldova is more or less based on the AA signed in 2014, which obligates the contract partners to "preserve and strengthen peace and stability" and to promote "cross-border and inter-regional cooperation, in the spirit of good neighbourly relations" (European Union, 2014c, 7). An objective of the agreement is to establish stability and peace and to promote democratic development, which provides a background to deal with conflicts in the region (European Union, 2014c, 9). Although reconciliation has so far not found its way into the EU-Moldova documentation, the country has committed to addressing the conflict. In Bratislava in 2019, an attempt was made

to constructively engage with the Transnistrian case in 5+2 talks by discussing a settlement on a special status for Transnistria. The talks were not continued (European Union, 2021, 8).

Moldova is tasked with the support of the EU to promote “cooperation and good neighbourly relations, including cooperation on the development of projects of common interest” (European Union, 2014c, 8). The AA makes several references to cross-border, regional cooperation (European Union, 2014c, 6).

In relation to regional cooperation, it can be seen that the report continuously refers to regional activities in the area of economics, transport, environment and other areas of cooperation, which are considered to add up to a positive development for Moldova. Moldova also participates in EU regional programmes, e.g., Cross-Border Cooperation (CBC) programmes for the Black Sea, for the Romania-Ukraine-Moldova cooperation, the Romania-Moldova Programme and the Interreg Danube Transnational Programme (European Commission, 2017c, 12). It is a member of the EU Strategy for the Danube Region and even coordinates the Priority Area “People and Skills” (European Commission, 2018b, 10), but activities are limited within the EU Strategy due to a lack of financial resources. Moldova is also a participant in regional programmes supported by the EU in areas of crime prevention, e.g., Fighting Organised Crime in the Eastern Partnership region and the Training and Operational Partnership Against Organised Crime (TOPCOP), EU4Monitoring Drugs project and since 2020 in the European Multidisciplinary Platform Against Criminal Threats (EMPACT) (European Commission, 2021, 12). Additionally, Moldova is involved in regional cooperation initiatives working on supporting SMEs, improving transport, energy, environment and the overall business environment (European Commission, 2017c, 12; European Commission, 2018b, 16; European Commission, 2019b, 20).

Moldova has tried to address the case of Transnistria, which will require a more permanent solution if it wants to move forward on its EU path. Again, the EU candidate status has created an uneasy situation for the Moldovan government, which has a Russian enclave in its back garden. The EU is interested in an undivided Moldova with full territorial integrity including a Transnistria with a special status within Moldovan borders. Reconciliation is not explicitly mentioned in the context of Transnistria, but there is a clear understanding from the guiding principles of the AA that a peaceful settlement of the Transnistrian case needs to be reached. Moldova is engaged in several initiatives on a regional level, which are supported by the EU and assist the country in dealing mainly with security issues in the region. The emphasis on regional cooperation can be explained through Moldova’s geographical location close to its EU neighbour Romania, which could be a good partner in supporting Moldova during the EU accession process. The EU’s position

on addressing the case of Transnistria found its way into the relevant documents for Moldova and this might provide a first idea of Moldova's requirement for its EU accession.

Conclusions

The paper attempted to analyse if and how the additional preconditions for the WB countries for addressing their conflicts, were introduced to the EU documents of the 3 EaP countries of Ukraine, Moldova and Georgia.

The result is mixed, but for the analysis the most relevant documents were the three AAs. The AA are a good example of the EU's "external government" approach towards the region. The EU's main values and principles are referred to and the EU's *acquis* is integral part of the agreement. For the EaP countries it will be of essential importance that the EU can strengthen its foreign policy role and can act as a counterweight to Russia. The EU is a "normative power" and might remain a "civil power" despite all the current geopolitical shifts, but it is imperative that it remains a credible power, because having the trust of its people would be its ultimate advantage over Russia.

The paper demonstrated that Ukraine, Moldova and – later on – Georgia's EU enlargement is different compared to that of the WBs due to the difference in size and population (mainly connected with Ukraine) and due to the geopolitical location. Both regions have to deal with current or past conflict situations. Therefore, the EU should propagate its model of conflict resolution in the EaP region. In this regard, some activities in the area of conflict settlement or resolution and reconciliation could be observed and were reported in the implementation reports. Regional cooperation as a general principle seems to be widely recognised as a meaningful policy, although it mainly focuses on infrastructure, energy, security, cooperation on crime and economic issues in the EaP countries, with no claim to foster better political relations. Good neighbourly relations are mentioned in the report as a necessary condition for a stable and peaceful political environment.

According to the AA, the EU does not place any major demands on Ukraine in solving the conflict with Russia, but generally demands a peaceful solution of conflicts in the region. However, Ukraine signed an agreement with the ICC, which will gain in importance in the years to come. Georgia's task is to work on a solution and to improve relations with the secessionist provinces of South Ossetia and Abkhazia. The Georgian army will also have to cooperate with the ICC in relation to the 2008 conflict. The aspect of addressing conflict and working on a peaceful

future seemingly is a certain priority for Georgia. Moldova, similarly to Georgia, has to deal with the results of a past conflict. The EU is in favour of a special status for Transnistria within the officially recognised borders of Moldova. However, it is the policy of regional cooperation which has received some attention in the contracts, which can be considered as a mechanism for Moldova to catch up with developments in the EU neighbourhood.

Until now the EU's advantage was that countries wishing to join the EU were located in its direct neighbourhood. The strength of Russia's influence on those countries made it more difficult to transfer EU values and ideas to them. It is unclear if the EU can step up to its new role as counterpart to Russia.

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**DOBROSUSEDSTVO KAO KRITERIJUM ZA PRISTUPANJE EVROPSKOJ UNIJI
ZA UKRAJINU, MOLDAVIJU I GRUZIJU?**

Apstrakt: Za Ukrajinu, Moldaviju i Gruziju – nove i buduće kandidate za članstvo u Evropskoj uniji – evropski put je zasnovan na istim, „utvrđenim kriterijumima i uslovima“, kao i za zapadnobalkanske kandidate. Međutim, pristupni process Zapadnog Balkana sa sobom je doveo i dodatne uslove, poput regionalne saradnje, pomirenja i dobrosusedskih odnosa. Cilj Evropske unije u tom trenutku bio je da ohrabri zemlje regiona da poprave odnose sa susedima, i da prevaziđu ratno nasleđe kroz inicijative regionalne saradnje. To podstiče pitanje kako, i u kom obimu, ovi dodatni kriterijumi mogu postati deo procesa evropskih integracija Ukrajine, Moldavije i Gruzije, koje imaju sukobljene odnose sa Rusijom. Teorijska pozadina ove analize je u domenu akterstva Evropske unije (EU's actorness) i politike spoljnog upravljanja (external governance), širenja normativne sfere uticaja na zemlje ne-članice. Autorka diskutuje o dodatnim uslovima za Zapadni Balkan i identifikuje slične predispozicije u relevantnim ugovorima i dokumentima Evropske unije za Ukrajinu, Moldaviju i Gruziju od 2014. godine. To pokazuje da se neki od preduslova za Zapadni Balkan koriste i za istočne partnere, ali da za sada deluje da je to predmet nižeg prioriteta.

Ključne reči: proširenje Evropske unije, uslovljavanje, sukob, susedstvo, Zapadni Balkan, Istočno partnerstvo, Rusija.