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CHALLENGES FOR UKRAINE'S ACCESSION TO THE EUROPEAN UNION ВИКЛИКИ ДО ВСТУПУ УКРАЇНИ ДО ЄВРОПЕЙСЬКОГО СОЮЗУ

The aim of the article is to analyse the process of Ukraine's accession to the EU from a geopolitical perspective. The acceleration of this process under the influence of Moscow's aggression against Ukraine in 2022 had a geopolitical dimension. Nevertheless, the obstacles piling up before Kyiv's accession to the EU often also have a geopolitical dimension. They mainly concern objections from Western European countries influential in the EU. The article will present these conditions in more detail, as well as geopolitical differences in the approach to Ukraine's accession on the part of Western and Central European Member States.

Key words: geopolitics, Ukraine's membership in the EU, Western Europe, Central Europe.

Метою статті є аналіз процесу вступу України до ЄС з геополітичної точки зору. Прискорення цього процесу під впливом агресії Москви проти України у 2022 році мало геополітичний вимір. Проте перешкоди, що накопичуються перед вступом Києва до ЄС, часто мають також геополітичний вимір. В основному вони стосуються заперечень з боку впливових у ЄС західноєвропейських країн. Ці умови, а також геополітичні відмінності у підходах до вступу України з боку держав-членів Західної та Центральної Європи будуть представлені в статті більш детально.

Ключові слова: геополітика, членство України в ЄС, Західна Європа, Центральна Європа.

Introduction. A few days after Moscow's aggression on the territory of sovereign Ukraine, on February 28, 2022, Kiev officially applied for membership of the European Union (EU). The Russian Federation's attack on Ukraine in 2014, renewed in February 2022, was an objective obstacle to this accession. It is difficult to include into the Community a country that is at war and part of its territory is occupied by Moscow. Vladimir Putin's attack to some extent justified the actions of many Western European countries that had been postponing Ukraine's entry into the EU for many years. Among the countries traditionally reluctant to this process were mainly France, Germany, the Netherlands and Denmark. The above-mentioned countries were afraid of the economic consequences of such accession, especially that it would "blow up" the EU budget and force generous financial transfers from cohesion policy and agricultural policy to Kiev. There were fears (e.g. in France) that Ukrainian agriculture would be too strong a competition on the internal market for Western European farmers. There were also geopolitical considerations. Western European countries did not want to irritate the Kremlin by drawing Kiev into the sphere of Western influence. Moreover, Paris and Berlin were afraid of losing influence in the European Union after its expansion to the east. Therefore, it was an intra-EU geopolitical aspect, very important for the future of European integration.

For all these reasons, before 2022, Ukraine's accession to the EU was basically rejected by most Western European elites. This attitude is quite well reflected in the famous statement of the President of the European Commission, Romano Prodi, who stated that the prospects of Ukraine's entry into

the EU are the same as those of New Zealand (Splidsboel Hansen, 2006). Shortly afterwards, in 2005, President Viktor Yushchenko was persuaded not to apply for membership in Ukraine (5 канал, 2021). This probably weakened the pro-European aspirations of the Ukrainian elites, as well as diminished Kyiv's geopolitical position vis-à-vis Moscow. It encouraged the ruling elites in the Kremlin to intensify their efforts to regain their former sphere of influence.

Moscow's firm refusal to let Ukraine join the EU as well as the North Atlantic Treaty Organization (NATO) resulted from Putin's geopolitical concerns. He did not want Ukraine - perceived as a sphere of Moscow's economic and political influence - to be included in the structures of the West. The acceleration of Kviv's accession to the EU in 2022 also had a clear geopolitical context. It was caused by Moscow's aggression against Ukraine. The geopolitical context is also visible in relation to the concerns of some Western European countries regarding this accession. Both Paris and Berlin did not want to irritate Moscow and spoil their economic and political relations with Putin. Moscow has always been much more important for both capitals of Western Europe than Kiev and its pro-European, pro-Western and democratic aspirations. This resulted primarily from the geopolitical concept of the EU's strategic autonomy towards the US, as well as the concept of multipolarity, where, apart from Paris and Berlin, Moscow and Beijing were to be other important international poles. Both concepts were intensively promoted by French and German elites, and were also welcomed by Moscow and Chinese politicians.

The aim of the article will be to look at the process of Ukraine's accession to the EU from a geo-

political perspective. I intend to show, on the one hand, the geopolitical factors that accelerate this accession and, on the other, slow it down. In this context, the basic differences of interests will be shown between Kiev, Berlin and Paris on the one hand, and between the countries of Central Europe and Western Europe on the other. Putin's aggression against Ukraine in 2022 accelerated Kyiv's accession to the EU, but did not eliminate the structural factors that were present earlier and hindered this accession. In other words, both the acceleration and delay of the process of Ukraine obtaining EU membership are of a geopolitical nature, although, of course, these are not the only aspects and differences of interests accompanying this process.

Speeding up accession. It seemed that the war with Russia would prevent Ukraine from joining the European Union, and the war damage was an additional burden that would discourage the elites in Western Europe from supporting Kiev's accession. Nevertheless, Moscow's invasion of February 24, 2022, had such a strong geopolitical, humanitarian and media impact that it was difficult to refuse help to the fighting Ukraine, even in the declarative and symbolic dimension. Calling to accelerate the process of Ukraine's accession to the EU was also a form of support for Kiev.

Very strong pressure for that accession came from the so-called NATO's eastern flank countries. For example, on February 26, 2022, Polish President Andrzej Duda called for accelerating the process of Ukraine's admission to the EU. On February 27, 2022, Polish Prime Minister Mateusz Morawiecki and Slovenian Prime Minister Janez Janša proposed a plan for Ukraine's accelerated entry into the EU. Just a few days after Kiev's formal application to the EU, eight Central European Member States supported this application in a joint letter (Reuters, 2022). These were Bulgaria, Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia and Slovenia. On the same day, Hungarian Foreign Minister Péter Szijjártó expressed support for Ukraine's accession. Earlier, in 2020, Poland, Lithuania and Ukraine established a tripartite political forum, the so-called Lublin Triangle, one of the main goals of which was to accelerate Ukraine's integration with the EU and NATO. It was an initiative arising from regular meetings of parliamentarians of these three countries. In addition, the United States of America strongly supported Ukraine's accession to the EU.

It is difficult not to realize that the attitude of Washington, as well as the capitals of Central Europe and the Baltic states, resulted from geopolitical, but also humanitarian and democratic reasons. It was widely recognized among the countries mentioned above that Ukrainians had the right to democracy and political independence. This is consistent with EU values as well as international law and human rights. In addition, the geopolitical context was also important. The countries most threat-

ened by Moscow's imperialism feared that Putin's aggression would not stop in Ukraine and would then be directed towards the Baltic states, Central European countries and further west. Support for Ukraine therefore meant defending its own freedom and security, as well as that of other EU Member States. This movement of solidarity was therefore of great geopolitical importance, as it concerned security and sovereignty.

At the same time, in 2022, differences in the perception of Russia and the geopolitical situation in the region became visible between the countries of Western Europe and the countries of Central Europe, including the Baltic states, Finland and Sweden. The geographical context, i.e. territorial proximity to Moscow, determined the sense of threat and the way of reacting to the war taking place in Ukraine, including support for Kiev's future membership in the EU.

Western European mistakes. It can be assumed that if Western Europe had previously had a different attitude towards Ukraine's accession to the EU and NATO, perhaps the war that started in 2014 would not have happened at all. Geopolitical omissions or even mistakes in Western Europe before 2022 are obvious and they probably influenced the drama of the events of February 2022. An example here is the decision of the German authorities to build and then expand the Nord Stream gas pipeline along the bottom of the Baltic Sea. This was a policy that allowed gas to be sent to the European Union bypassing Ukraine and Poland. This created an instrument of geoeconomic pressure on both countries and enabled the Russian attack on Kiev – in theory, without the need to interrupt gas supplies to Germany. Although events took a different course in 2022 and the Nord Stream gas pipeline was partially blown up, this did not change the fundamental vectors of Berlin's policy towards Moscow. The German elites sought to end the conflict in Ukraine as quickly as possible – of course, at the price of territorial concessions from Kiev to the aggressor, i.e. the Russian Federation.

According to German elites, admitting Ukraine to the EU and NATO would be difficult because it aroused resistance from Moscow. Moreover, Kyiv's possible accession to the EU could only be possible if the war with Moscow ended. Needless to say, that only territories actually controlled by the government in Kiev would then be admitted to the EU. This would mean that the price of accession to the EU would be for Kiev to come to terms with the loss of its eastern regions and Crimea.

The German goal was to renew geoeconomic cooperation with Moscow as quickly as possible, thus returning to the strategic situation in Europe before the war in Ukraine. This was consistent with the concepts of strategic autonomy and multipolarity preferred by a large part of the German elite. However, it is worth paying attention to the geopolitical price of implementing both of these concepts.

It was an informal division of spheres of influence in Central and Eastern Europe, according to which Central Europe was to remain in the orbit of German influence, while Eastern Europe (i.e. Belarus and Ukraine) was to fall to Moscow. The quick end of the war on conditions set mainly by the Kremlin – to a large extent, maintained these basic geopolitical conditions. It seems that they were present in the policy of "reconciliation" of Western Europe with Moscow long before the Russian aggression in 2014.

As I mentioned earlier, another mistake of Western Europe was delaying the entry of Ukraine and other Eastern European countries into the EU. Even the Russian invasion of 2022 was for some time a convenient alibi for Western Europe to delay Ukraine's accession. It was then that French President Emmanuel Macron informed the public that such accession might take several decades (BBC News, 2022). Member States asked the European Commission for an opinion on this matter, and at least some of them may have hoped that EU officials would multiply obstacles to this accession. Another pretext for delaying this membership has traditionally been plans to include first Croatia and then the Balkan states into the Union (Knaus, 2021). For example, German diplomats and the media insisted that talks on Ukraine's future membership in the EU take place only when the European perspective of the Western Balkans is settled (European press roundup, 2022).

Nevertheless, it was difficult not to take up the challenge of Ukrainian accession in the face of international pressure and violations of European values and international law by Russian troops in Ukraine. The improvement of pro-Ukrainian sentiment in Western Europe was particularly noticeable. The societies of this part of the continent increasingly supported Kiev's European aspirations. For many years, they have been clearly supported by the nations of Central Europe (with the exception of Hungary) (Finchelstein et al., 2022). Therefore, the position of the most important decision-makers in Western Europe slowly changed. This was expressed by the visit of the leaders of France, Germany and Italy to Kiev in June 2022, accompanied by the President of Romania. In this way, Western Europe succumbed to the expectations of the moment, although it did not intend to give up its vital economic and geopolitical interests. In June 2022, the European Commission presented a report in which it supported Ukraine's accession, although at the same time it indicated a number of conditions that the country's authorities must meet (Commission 2022). Shortly thereafter, all Member States agreed to grant Ukraine formal candidate status. In December 2023, the European Council agreed to start formal accession negotiations with Kiev (Camut et al., 2023).

It should be emphasized that Ukraine's membership prospects were subject to a number of conditions. The entire process may therefore be suspended or even abandoned if, for example, in the opinion of Western European decision-makers, Ukraine's accession would be too costly. It could also be extended – when establishing the thirty-five so-called negotiation chapters – even indefinitely, as evidenced by the example of the accession talks with Turkey.

An alternative to accession? As I mentioned, French President Emmanuel Macron emphasized in May 2022 that the accession process may take several decades. At the same time, he sought to create a European Political Community that would cover European countries from the United Kingdom to Ukraine, Armenia and Azerbaijan (European Council, 2022). According to some opinions - including prominent Ukrainian politicians - this could have diluted Kyiv's accession or at least slowed down the process (Le Monde, 2023). It is worth noting that already in 2005, the Polish Minister of Foreign Affairs, Adam Rotfeld, decided in the face of similar discussions that concrete actions for Ukraine's accession were more important than talks about pan-European cooperation (Der Spiegel, 2005).

All the more so because a number of EU-Ukrainian initiatives, starting from the first summit of both parties in 1992, could both develop the prospect of Ukraine's membership and were also perceived as an alternative way of economic, regulatory and geopolitical ties between Kiev and Brussels in relation to formal accession. For example, this was the assessment of the Association Agreement between Ukraine and the EU (The European Union-Ukraine Association Agreement), which included an agreement on the Deep and Comprehensive Free Trade Area between both parties. The above-mentioned agreements, which entered into force on September 1, 2017, included Kiev's obligation to adopt many EU regulations and in many respects hampered the access of Ukrainian entrepreneurs and service providers to the EU internal market.

Another important experience of cooperation was the so-called Eastern Partnership with the participation of, among others, Ukraine, established on the initiative of Sweden and Poland in 2009. The partnership developed relations between the EU and the partner countries, but without even suggesting a future perspective of EU membership. On the Ukrainian side, this created a mood of disappointment towards the EU and demobilized society towards membership (Kapuśniak, 2010). According to American experts, this was a serious mistake of the European Union, which could have negative geopolitical consequences (Michta, 2015). On the other hand, the Eastern Partnership was perceived by the Russian side as a hostile encroachment on its sphere of influence and aroused growing distrust towards the EU (Mikalay, Neuman, 2023). In other words, the Eastern Partnership has neither met Ukraine's geopolitical expectations, nor has it appeased Moscow's geopolitical concerns.

A certain breakthrough was the social uprising in Ukraine called Euromaidan in 2013, when mass demonstrations against President Viktor Yanukovych took place. He refused to sign the association agreement with the EU, and thus blocked the European aspirations of a large part of society. A huge wave of public discontent led to Yanukovych's removal from power and the acceleration of the EU accession process. In 2014, an association agreement and an agreement on an in-depth free trade area were signed. In the same year, Moscow responded to Kiev's European aspirations with aggression in eastern Ukraine and annexed Crimea. In this way, it tried to prevent geoeconomic rapprochement between the West and Ukraine, and in fact it prevented the loss of the former sphere of influence in Ukraine.

The armed intervention of the Russian Federation in 2014 strengthened those forces in the west of the continent that did not want to provoke the Russian side to escalate military actions, and thus effectively froze Ukraine's accession process. Therefore, the President of the European Commission, Jean-Claude Juncker, informed all interested parties in 2016 that the perspective of Ukraine's membership in the EU and NATO would take at least 25 years (RadioFreeEurope/RadioLiberty, 2016), although even this time horizon seemed unrealistic at the time. Only the war of 2022 changed the course of events.

Geopolitical conditions for accession. In the opinion of politicians from Berlin and Paris, Ukraine's accession to the EU should not disturb the current power of the French-German tandem in this organization. That is why there were proposals put forward, among others by Chancellor Olaf Scholz, regarding changing the way of voting in the Union's intergovernmental institutions before its further enlargement to the east (von der Burchard, 2022). Other internal changes in the EU, which were to prepare the organization for Kiev's accession, could also be expected. First of all, fundamental changes were to be expected within the existing EU cohesion policy and the common agricultural policy. It was also probable that there was an attempt to negotiate special conditions from Ukraine, which would mean that it would operate under different rules in the EU's redistributive policies compared to other members of this organization. This was the case when Central European countries joined the EU in 2004-2007, which a dozen or so years later had substantially smaller financial transfers for farmers than those intended for Western Europe. It was also expected that a smaller number of votes would be granted to the Ukrainian government or a smaller presence of representatives of this country in EU institutions compared to other countries, especially the most populous ones from Western Europe. This type of change was introduced during the eastern enlargement of the Union in 2004-2007, when the Nice voting system was replaced by the Lisbon voting system, also known as the double majority mechanism. It increased the power of France and Germany over the decision-making processes in the EU and limited the influence of the new Member States from Central Europe, in particular the largest country in this region, Poland (Cichocki, Życzkowski, 2010).

Additionally, the Commission presented a number of conditions (Commission 2022), on which it made the progress of the Ukraine's accession process dependent, including whether the status of a candidate country would be maintained (it was not final, but only conditional). The most important among them were reforms of the Ukrainian Constitutional Tribunal, introduction of changes in the judicial system, and increasing the scope of reforms aimed at systemically reducing corruption in Ukraine, especially in the field of money laundering. Moreover, the European Commission intended to weaken the Ukrainian economic elites, their influence on power, as well as their privileged position on the Ukrainian market. Oligarchs could also be serious competitors for Western corporations on the internal market in the EU. Further EU expectations concerned the introduction of changes to media law in accordance with EU regulations, which in practice could result in an increase in the role of European capital in these media, as well as in limiting the influence of the Ukrainian authorities on the media. The commission also put forward demands for increasing rights for ethnic and sexual minorities in Ukraine. All these changes led to a reduction in the influence of Ukrainian elites on their own economy, judiciary and democratic politics, and at the same time created privileged conditions for economic expansion and the development of political influence on the part of largely Western European entities.

During the war with Moscow, Ukraine continued preparations for EU membership and introduced a number of reforms, including those regarding the justice system. For example, the District Administrative Court in Kiev, which had been accused of a number of irregularities in the past, was closed down. The idea was to separate criminal cases for the Kiev region from administrative matters relating, in particular, to the functioning of the government administration located in the capital. Another change that met the expectations of the EU was the appointment of a new prosecutor to deal with anti-corruption cases. It is worth mentioning here that the European Commission should be primarily interested in institutional solutions, not personal ones, even when, as was the case with the previous anti-corruption prosecutor, a number of accusations of abuse were made. The institutional issue in this case should include provisions verifying such accusations, introducing appropriate mechanisms for controlling and disciplining prosecutors, as well as promoting regulations that prevent a person convicted by final judgments from performing a prosecutor's function.

Changes in the method of selecting judges to the Constitutional Court of Ukraine also sparked criticism among EU experts and officials (Melkozerova, 2022). It was decided that the new method of selecting them, and especially giving opinions on the candidates by the so-called advisory group, may raise doubts as to whether there is political influence on the appointment of members of the Tribunal. The primary goal was therefore to reduce the influence of democratic Ukrainian politics on the functioning of the national judiciary, and thus to actually limit Ukraine's sovereignty.

The European Commission sought to ensure the full political independence of judges, as well as their maximum independence from national authorities - elected democratically. These were actions previously also applied to some Central European Member States. They were controversial for three reasons. Firstly, because in a democratic system, although judicial power should be separated from the legislative and executive power, it should not be deprived of democratic control, as well as the influence of electoral democracy on the selection of the most important judges. We can refer here to the method of selecting Supreme Court judges in the United States of America. They are not only nominated by the incumbent president, but also should represent in their rulings the political values of the majority of voters who appointed the head of state. Political influence on judicial nominations also exists in many Western European countries (Romanowski, Pogłódek, 2020). Secondly, the intervention of the European Commission in the organization of the judiciary in Member States or candidate countries was controversial. According to the European treaties, this is the exclusive competence of nation states, so it should not be influenced by EU institutions. Thirdly, the desire to make national judges apolitical, and especially their complete separation from national democracy, served to weaken the loyalty of the judicial apparatus towards their own state and voters (the so-called *demos*). At the same time, it was intended to strengthen political ties between national judges and the EU institutions, especially the EU courts. The main idea was to implement in a practical way the principle of the supremacy of EU law over national law, including that of constitutional one. This has been a long-running controversy in the European Union as a number of Member States and their Supreme or Constitutional Courts have questioned the supremacy of EU law over national constitutions and judgments of national constitutional courts.

These three contentious issues also became apparent in relation to the expectations of the European Commission regarding the change in the constitutional judiciary system in Ukraine. They announced not only much greater requirements for Ukraine than in the case of candidates from previous accessions, but also the use of this

opportunity by EU officials to increase their own competences in the EU. In addition, depriving local democracy of the ability to control the judiciary, as well as subordinating the Ukrainian judiciary more closely to the influence of EU institutions, was of great economic and political importance. It facilitated economic expansion and the extension of political influence in Ukraine by those interest groups that are most influential in the EU structures. Current practice proves that they come mainly from the largest countries in Western Europe.

Conclusions. The Muscovites' aggression in 2022 pushed Ukraine towards the West in geopolitical, economic and social dimensions. The countries of Central Europe became convinced that Moscow's imperialism was a threat not only to Ukraine itself, but also to NATO and EU countries, which is why they became involved in helping the fighting Ukrainians. In this way, a system of real security was formed in this part of Europe, which was based on Ukraine and the so-called NATO's eastern flank, including Sweden and Finland. The system is also actively co-created by other countries of the North Atlantic Alliance, mainly the USA and the United Kingdom.

The largest Western European countries distanced themselves from aid to Ukraine or delayed it and tried to minimize it. A few months after the Russian invasion, it was difficult to them to keep blocking Ukraine's accession process, therefore it was possible to decide to grant the status of a candidate country to Kiev. At the same time, this process was subject to numerous conditions, not to mention the fact that the war in this country must first end. Membership may also continue to be delayed or even abandoned - as was the case with the accession negotiations with Turkey. Even at the end of 2023, when Member States were negotiating formal consent to start accession negotiations with Ukraine, diplomats pointed to the reluctance to this process on the part of political leaders from Berlin and Paris. "Despite its new rhetoric, France doesn't really want Ukraine in the EU and Germany is playing a cynical game" (...). "They [Germany] want to force changes in the EU treaty in the name of enlargement, such as more qualified-majority voting. The changes will give Berlin more power, but the Germans don't really believe Ukraine will join" (Rettman, 2023).

Meanwhile, Ukraine's accession to the EU has great geopolitical significance. It can stabilize Central and Eastern Europe and thus enable its dynamic development. Therefore, it can bring a number of benefits to both Ukrainians and other inhabitants of Central and Eastern Europe. Accession, however, should not be based on asymmetric rules, i.e., above all, favourable to Western Europe and while maintaining power in the Union by the Franco-German tandem. On the contrary, the enlargement of the Union should be used to balance this organization between both parts of Europe, i.e. between the western and eastern sides of the EU.

The impulse for such a change is the emerging system of real security in the region, which is already increasing the geopolitical importance of Central and Eastern Europe (Michta, 2022; Grosse, 5.04.2022). The system is also relatively durable. It will function as long as Moscow's imperial ambitions remain a challenge to security on the Old Continent. Deepening cooperation in the discussed region on many other levels can only further strengthen this part of Europe geopolitically, and thus serve to balance the relations between the western and eastern sides of the EU.

An opportunity for cooperation in Central and Eastern Europe may be the post-war reconstruction of Ukraine, which should primarily involve the countries of NATO's eastern flank. Another opportunity to deepen cooperation in the region could be institutional cooperation between Kiev and Warsaw, organized following the example of Germany and France after World War II. It should be based on an international treaty and create a framework for permanent cooperation between government and parliamentary institutions, as well as in many

public policies, starting with foreign and European ones. It would also be necessary to strengthen the cooperation of the Lublin Triangle (i.e. between Poland, Lithuania and Ukraine), and in the future, expand this format to include a free Belarus.

Only deeper regional cooperation will strengthen Central and Eastern Europe in its relations with Western Europe. In this way, Ukraine's position in accession negotiations with Western Europe may also increase. This process could then be more beneficial for Kiev and less asymmetric in relation to the interests of the largest Western European countries. Kyiv's EU aspirations, supported by Central Europe, may counteract the temptation of influential capitals in the western part of the continent to slow down this process. In this way, the accession process can become fairer for all parties and, at the same time, pave the way to a more internally balanced Union. Thanks to this, the European Union can become a healthier and more resilient organization, and thus more resistant to crises and ready to compete with other powers on a global scale (Grosse, 2022).

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