

# Is Ukraine Poised to Join NATO and the European Union?

Oded Eran and Shimon Stein | No. 1571 | March 15, 2022

Questions of the “what would have happened if” are irrelevant to historical research, unless they add a current perspective. Such a perspective exists insofar as Ukraine is not part of NATO or the European Union, unlike other European countries that were part of the Soviet bloc and were accepted into these organizations following the dissolution of the Soviet Union. And now, when parts of Ukraine have been captured by Russia, and two regions have even been recognized by Russia as independent, this question arises anew. The rigid conditions posed by the Kremlin for an end to the war leave little room for implementation, and there is therefore a need for “creative” ideas that can perhaps help stop the fighting. It is possible that if the talks with Russia progress, members of the European Union and NATO may be required to produce formulas that resolve the tension between the moral obligation to a European country under attack and “realpolitik,” that is, the need to reach a settlement and establish coexistence with an enemy that is challenging the existing order in the Eurasian space.

The breakdown of the Soviet bloc, symbolized by the fall of the Berlin Wall in 1989, set in motion an important historical move that saw the integration of most of the countries that had been part of this bloc into two very significant organizations that were established in Europe after the Second World War – NATO, and what eventually became the European Union. Thus Bulgaria, Romania, Hungary, Poland, Czechia, and the three Baltic states became full members of both organizations. East Germany, one of the most fervent members of the Soviet bloc, was united with West Germany immediately following the fall of the wall that had divided its capital. Ukraine, a country occupying a considerable portion of the eastern part of the continent and sharing a border with Russia, remained outside both groups – with no prospects of future membership. True, Ukraine has a place in NATO’s Euro-Atlantic Partnership Council (EAPC), established in 1991, and since 1994 it has been a member of Partnership for Peace (PfP), which was set up to forge relations between NATO and countries that do not want full membership (Sweden and Finland, for example), or that are unable to join for political or geographical reasons. The official NATO site

mentions the Ukrainian constitution, which in 2019 added the strategic objective of joining NATO.

The European Union offered Ukraine the same status as that granted to many neighboring countries, including Israel, of an association – connection on a wide range of topics, primarily in most cases setting up a free trade area, participation in the EU's cooperation programs, and a mechanism for bilateral political-economic coordination. In late 2013, Ukrainian Prime Minister Viktor Yanukovich rejected the option of an association agreement, claiming that the financial package it included was insufficient. But it is very likely that the true reason was pressure applied by Vladimir Putin. In 2014, when Yanukovich fled Kyiv following demonstrations protesting this decision, Ukraine approved the implementation first of the economic section, and then of the political section of the association agreement with the European Union.

The Russian invasion of Ukraine raises a number of questions relating to Europe's conduct over the last three decades in face of the historic revolution that brought down the Communist regime in Russia and the other countries in the Soviet bloc, and in particular regarding Putin's narrative about the invasion and his demands relating to Ukraine, which are clearly not limited to Ukraine. In this context, the central question is whether Ukraine's full membership in NATO and the European Union would have deterred Putin from starting a fight with these two organizations and channeled him toward other ways of placing in Kyiv a regime that complies with his strategic ambition of restoring to Russia even a part of the assets lost to the Soviet empire.

Article 5 of the NATO charter states that an attack on a member of the alliance will be deemed an attack on all members and they are committed to defend it. In other words, if Ukraine were a member of NATO, when considering his policy over Ukraine, Putin would have had to consider a forceful response from NATO to an invasion. On the other hand, there is nothing in either the charter or any precedents showing how NATO members would respond to a change of government if it were brought

about by an internal pro-Russian movement in one or more of its members. Article 42(7) of the European Union charter requires its members to come to the aid of a member under attack, but it may be assumed that Austria, for example, would refrain from providing military aid, and the same goes for members of the EU who avoided joining NATO. Therefore, any assessment in these contexts about the crisis in Ukraine remains pure conjecture. At the same time, clearly the sanctions imposed on Russia by EU countries, and even more severe ones would have been imposed if Ukraine were a member of the European Union. Presumably the aid packages being extended to Ukraine now and in the future would also have been greater.

Ukrainian President Volodymyr Zelensky has already taken the first step toward the European Union, when on February 28, 2022 he signed an official application to join the organization. Within a day, Charles Michel, the President of the European Council (the most senior entity of the organization, consisting of heads of the member states) and the President of the European Commission (the body that manages all aspects of the EU's daily affairs) Ursula von der Leyen had responded positively. There was a similar response from the European Parliament and the presidents of eight of Ukraine's neighboring countries that are already members. Their opinions are important, but they are only the start of a long and complex process before a new member can be accepted, centering around preliminary approval behalf of the European Council to the Commission to conduct structured negotiations (containing 35 separate sections) with the applicant country, ending with a vote. The vote must be unanimous (including a referendum in countries where this is the custom, or approval of all parliamentary houses in each member country). The European Union has never used an accelerated procedure for accepting a new member. Turkey, for example, whose application was approved in an EU resolution in 2004, with negotiations starting the following year, is still far from completing the process. At a meeting of March 10-13, heads of EU members states asked the Commission's opinion of Ukraine's request to join "according to the relevant provisions of the EU Charter" – in other words,

without any provision for an easier or an accelerated procedure, but with a sentence saying that “Ukraine belongs to the European family.”

And in the future, notwithstanding the initial positive responses to Ukraine’s request, the heads of all the countries that discuss it will have to ponder political, legal, economic, and ethical issues concerning its membership. The first aspect will touch on the clash between the moral-political desire to respond to aggression by Russia, the EU’s neighbor, which threatens the political-economic order that was established after enormous efforts over the eight decades since the end of the Second World War, and the chances of reaching a settlement of the conflict in Ukraine without using force – which in any case is not in its toolbox. Putin’s vigorous response in 2013-2014 to an agreement between Ukraine and the EU offering less than full membership indicates his expected response to any similar move by the EU in the current circumstances, but leaves an opening for a compromise that will depend on the development of the talks on other matters, above all membership in NATO. Even if the heads of EU member states decide to ignore the implications of starting immediate talks with Ukraine, it would simply be a symbolic move, since at this stage there are no clear answers to some legal issues, such as the extent of the Ukrainian government’s control of all parts of the country.

At a summit meeting in 2008, the heads of NATO member states announced that Ukraine and Georgia would one day become members. In order to implement this declaration, the organization must invite these two, as well as Bosnia-Herzegovina, which has also expressed interest in joining, to discussions with a NATO team on their ability to comply with the political, legal, and security obligations arising from membership of the organization, while also adapting their technical-security capabilities to its requirements. At the end of the process, summaries of the discussions and the official documents signed by the parties will be submitted to the heads of member states for approval, and subsequently the General Secretary of NATO will officially invite the approved states to join.

In preparation for direct talks between Russia and Ukraine, the Kremlin published its terms for ending the crisis, starting with Ukrainian recognition of the Crimean Peninsula as part of Russia and recognition of the independence of Donbas and Luhansk, while establishing Ukraine's neutrality in its constitution. On the surface, these terms are very severe, and certainly very difficult to implement. Moreover, the heads of NATO and EU member states (there is an almost total overlap between the two groups of European countries) will presumably want to examine the chances of the efforts to mediate a political way out of the present crisis, based on an understanding that the start of the process to bring Ukraine into the organizations will have a negative effect on the diplomatic efforts. On the other hand, both European countries and the United States are under pressure from domestic public opinion, which is demanding a tougher response to Russian aggression and conquest of parts of Ukraine. The Ukrainian President made the problem a lot easier for the NATO leaders when he preemptively announced that his country had lost interest in NATO membership.

The future of the Crimean Peninsula and the two separatist regions whose independence was recognized by Moscow is for the Ukrainian people and their government to decide, and this will be a difficult and painful decision. As for Ukraine's neutrality, there is the precedent of Austria, whose 1955 amended constitution stated that it would not join any military alliance or agree to the stationing of foreign forces on its territory. However, in 1995 Austria joined the PfP after Russia did so.

At a certain stage of the talks with Russia, if they proceed, the European Union and NATO member states will have to find formulas to settle the tension between the moral obligation to a European country that has been attacked and partially destroyed, and "realpolitik" – the need to reach a solution for coexistence with an enemy that is challenging the existing order in the Eurasian region. If the Austrian precedent of full membership in the EU is not accepted by Russia, there will be a need for "creative" formulas such as the design of a new status of "membership minus," where Ukraine (and other countries such as Turkey and Israel) will be able to

participate in formulating EU resolutions on matters that directly concern them (for example, neither Turkey nor Israel has any direct interest in Arctic Ocean matters), but will have no right to vote on them. Perhaps at a later stage, depending on developments in Ukraine, it will be possible to apply similar arrangements to Russia – if it is interested.

The process of mediating between rivals with such heavy historical, cultural, and political baggage is always difficult. However, it is already clear that the human and material cost of the fighting in Ukraine is even heavier, and therefore justifies the search for a rapid but viable compromise.

---

Editors of the series: Anat Kurtz, Eldad Shavit and Judith Rosen