COMMENTARY

UKRAINE, MOLDOVA, AND GEORGIA HAVE THEIR EUROPEAN PROSPECTS CONFIRMED. WHAT DOES IT MEAN FOR MIGRATION POLICIES?

by Violeta Wagner

Ukraine presented its application for EU membership on 28 February 2022, five days after Russia's military aggression. Moldova and Georgia followed suit on 3 March 2022, both applications being tabled in the context of Russia's war of aggression against Ukraine. These developments bring important implications for the region's migration policies, practices, and prospects.

In its 23 June 2022 conclusions, the European Council reiterated that the future of Ukraine, Moldova, and Georgia and their citizens lies with the European Union (EU), granting candidate status to Ukraine and Moldova and reconfirming a readiness to grant candidate status to Georgia. EU candidate status foresees a negotiation process addressing a number of migration and border management issues, including the status of third-country nationals, readmission agreements, and harmonisation of border control.

Association Agreements and visa-free travel are important milestones towards EU integration.

Georgia, Moldova, and Ukraine are long-standing priority partners to the EU. Association Agreements (AAs), including the agreement on Deep and Comprehensive Free Trade Areas, not only proved to be important strategic milestones, but also brought immediate benefits and long-term prospects of closer political association and economic integration. This included significant EU-supported reforms, ranging from public governance, justice, and law enforcement through to environmental protection, education, youth participation in democratic life, and culture.

Visa-free travel agreements have been signed with all three countries, requiring comprehensive adaptations in the areas, among others, of document security, border management, migration and asylum, and fundamental rights. The Visa Liberalisation Dialogue encouraged the three countries to carry out reforms with significant impact on the rule of law and their respective justice systems. Significantly, visa liberalisation supports the development of tourism, furthers person-to-person contact, enhances the transfer of knowledge, and strengthens cultural and business ties and partnerships. Moreover, its successful completion has triggered discussions on further reform and transformation.

Remarkably, the visa-free regime was not suspended after the Russian invasion of Ukraine, which caused an unprecedented scale of displacement to neighbouring EU Member States due to people fleeing the war. Thus, although never intended for protection purposes, the visa-free regime has certainly eased the safe arrival of Ukrainian displaced people in need of protection since the beginning of the Russian invasion. While the visa-free regime permits only short-term stays without access to social and health services or employment, it offers a chance for nationals of these countries to scope out longer-term prospective destination countries.

Public support for European integration prevails in all three countries.

A public opinion survey conducted in April 2022 in Georgia demonstrated that 82 per cent of the population approves of joining the EU, with economic growth and security stated as the primary reasons for approval. In Moldova, a March 2022 public opinion survey confirmed that the majority of people support EU membership, with approval numbers increasing to 61 from 52 per cent following the Russian invasion of Ukraine. A public survey of the Ukrainian population conducted in March–April 2022 (except for the occupied territories of Crimea, Donetsk, and Luhansk oblasts) revealed that 80 per cent of Ukrainians have a strong desire to join the EU, showing a steady increase of approval compared to 68 per cent in February 2022. As these surveys make clear, while there was widespread approval of European integration in all three countries before the war in Ukraine, Russian aggression has accelerated public approval rates and the decisions of Ukraine, Georgia, and Moldova to submit formal applications for EU membership.

Recognition of Moldova and Ukraine as EU candidate countries – why is it important?

Candidate status is particularly encouraging for Ukrainian and Moldovan people, reflecting their European aspirations and recognising the democratic, economic, and anti-corruption reforms that were recently made. Both countries will have access to significantly higher financial and institutional assistance than was provided under the AAs. Furthermore, the reforms that will be undertaken during the pre-accession period will be guided and supported by European institutions and EU Member States, which will strengthen inter-institutional and cross-border cooperation in principal areas such as rule of law and good governance.

For Ukraine specifically, this recognition will further boost the morale of people currently resisting Russian aggression. As the Commission's President, Ursula von der Leyen, stated regarding the recognition of Ukraine as an EU candidate country: 'Ukrainians are ready to die for the European perspective. We want them to live with us the European dream.'

Over the past two decades, Russia has undermined the European integration of the three countries through disinformation, economic pressures, hybrid attacks, interference with their territorial integrity, and provoking military conflicts. The granting of candidate status, therefore, is also a resolute answer and fitting response to Russian aggression.

If Ukraine, Moldova, and Georgia are successful in joining the EU, their citizens would benefit from enhanced free movement rights to move to work, study, and settle in other Member States. Of course, increased migration, which indeed is already underway, raises potential concerns around the impact on origin countries' human capital, as well as working conditions for new migrants.

What comes next?

Generally, the process of joining the EU consists of three stages. The first phase is marked by the submission and approval of the official candidate application. The second, and lengthiest, phase consists of formal membership negotiations. This process involves the adoption of the EU acquis and preparations to properly apply EU legislation, as well as implementation of any necessary judicial, administrative, economic, or other reforms. All of this enables the candidate country to meet the EU accession (Copenhagen) criteria, absorb the body of EU legislation into its national system, and satisfy economic accession criteria. A prospective Member State must have stable administrative and judicial institutions and respect for values such as human dignity, freedom, democracy, equality, and the rule of law as well as respect for human rights, including the protection of minorities. The formal accession process is finalised in the third phase: the signing and ratification of an Accession Treaty by all EU Member States.

Experience shows that the duration and pace of negotiations can vary significantly, and many countries face a long road to becoming Member States. There are therefore no reliable predictions, nor can there be, as to when the hope of EU accession for Ukraine, Moldova, and Georgia will be realised.

Are migration and border management policies and practices important for accession negotiations?

Migration management, asylum, visa policy, and Schengen legislation are considered as part of negotiation Chapter 24: Justice, Freedom, and Security.

The successfully completed Visa Liberalisation Dialogues mean that all three countries have already adopted a significant part of the EU acquis in the areas of migration, asylum, and border management. ICMPD's ENIGMMA project, funded by the EU and implemented in Georgia, provided support on each migration-related benchmark of the Visa Liberalisation Action Plan. Georgia's official legal acts database already now contains key EU migration and asylum legislation, translated into Georgian, a significant part of which has been transposed into national legislation. Similarly in Moldova, the ICMPD-led, EU-funded REVIS project supported the country's preparation for the implementation of a readmission agreement and visa liberalisation. In Ukraine, ICMPD focused on supporting integrated border management under the EU4IBM Ukraine project, preparing the country for the implementation of the Schengen acquis.

The free movement of persons within the Schengen area (currently encompassing most EU countries, except for Bulgaria, Croatia, Cyprus, Ireland, and Romania) means that the migration decisions of one Member State affect other Member States. For this reason, the EU established a set of minimum guarantees and standards in relation to the conditions and procedures for non-EU nationals' entry, residence, and work in the EU. Legal acts and procedures in the areas of irregular migration, readmission, and treatment of foreigners must also be harmonised. In addition to border crossing regulations, the Schengen acquis covers cross-border police and judicial cooperation and the Schengen Information System. However, an Accession Treaty does not at the same time extend to an accession to the Schengen zone: a substantial part of the Schengen acquis is implemented following a separate Council decision after formal accession. Joining the EU also means aligning national regulations with the Common European Asylum System (CEAS) that requires, among others, the establishment and maintenance of sufficient reception capacities and conditions, effective integration mechanisms, and qualified personnel dealing with asylum issues.

The way forward

Ukraine, Moldova, and Georgia have engaged actively in the process of approximation and have achieved numerous steps already. The accession of new members might require changes on the side of the EU to avoid turning the pre-accession negotiations of all three countries into so-called enlargement fatigue. These changes might include a more efficient decision-making process at the EU level, improved institutional consolidation and integration capacities of the EU, and better communication strategies to regain public support and trust. However, it is important to remember that it is not only the European perspective and future membership that a candidate country benefits from – the accession process itself is also instrumental for the country, its institutions, and its people.

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