

Florent Marciacq

Theresa Töglhofer (eds.)

**Enlarging the Union,
consolidating democracy – which
role for the Weimar Triangle?**

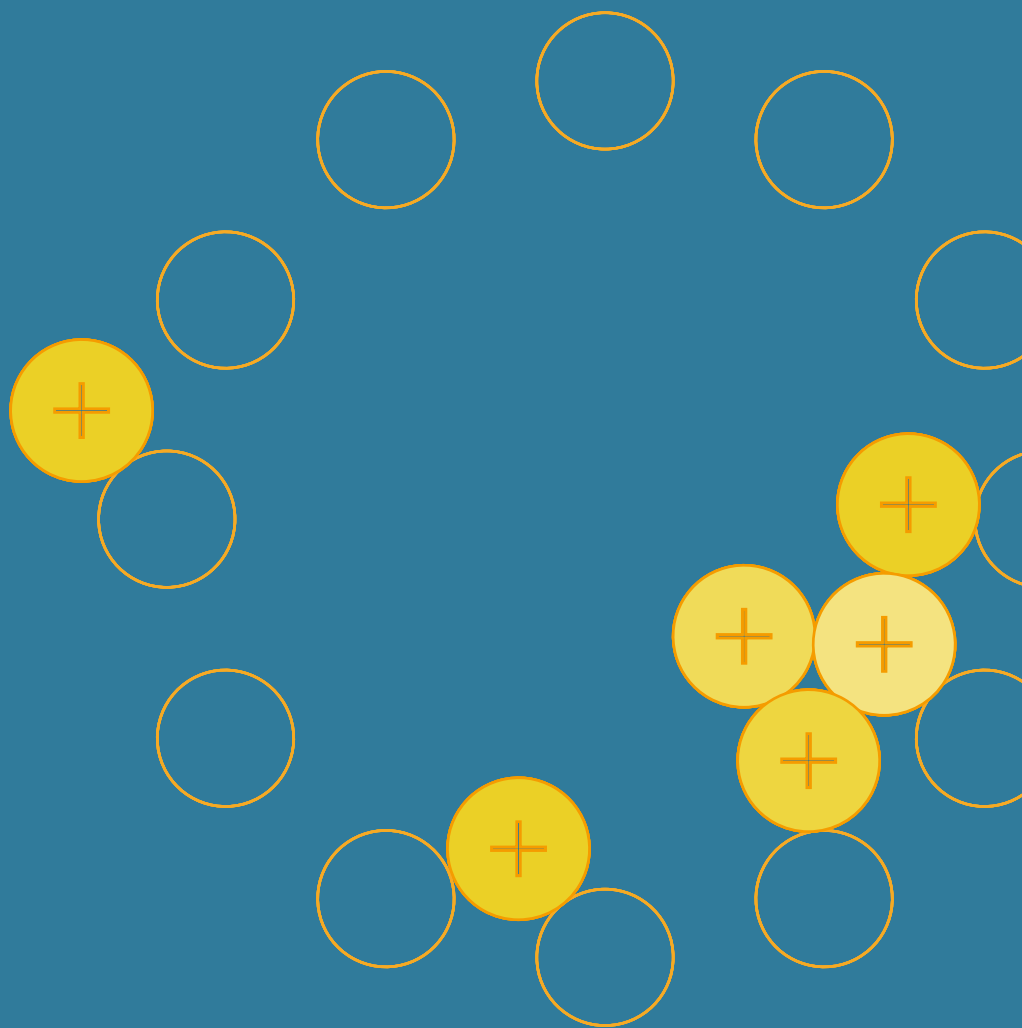


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Introduction: Consolidating democracy while enlarging the European Union – how can the Weimar Triangle square the circle?

Florent Marciacq, Theresia Töglhofer, Marta Szpala

Geopolitics and insecurity have bolstered the dynamic of EU enlargement in the past few years and have paved the way for renewed cooperation in the Weimar Triangle. Nevertheless, political leaders' commitment to pursuing an accession policy aimed at consolidating democracy and the rule of law remains unchanged. How can both strategic objectives be combined, i.e. addressing the geopolitical challenges while effectively fostering democracy in EU accession countries? This publication follows up on a roundtable hosted by the Genshagen Foundation in May 2024. It offers a set of tentative answers and explores the role that the Weimar Triangle could play in shaping tomorrow's Union.

The full-scale invasion of Ukraine by the Russian Federation in February 2022 was a landmark moment for the European Union. The brutal return of geopolitics to the European stage has put the EU's credibility and institutions to the test and paved the way for a reappraisal of its accession policy. The European Council endorsed this new reality by granting Ukraine, Moldova and then Georgia candidate status in 2022 and 2023. It opened accession negotiations with Ukraine and Moldova in June this year while at the same time calling for an overall acceleration of the accession process. Enlargement, according to the European Council held in December 2023, must now be seen as a “geostrategic investment in peace, security, stability and prosperity”.¹

A driving force in this new dynamic has been the need for the EU to address geopolitical challenges in the East and to consolidate the geostrategic anchoring of the Western Balkans in times of heightened power competition. Concerns over security have taken the driving seat and put enlargement back on the capitals' agenda, thereby opening up avenues for the Weimar Triangle to intensify cooperation based on shared geopolitical

interests. The 2024 Weimar Agenda articulates the will to “ensure a successful enlargement process with Ukraine and Moldova that contributes to enhance Europe's stability and security” while (less ambitiously) “complement[ing...] the efforts made under the framework of the ‘Berlin Process’ for the Western Balkans”.²

Democracy not taking a back seat

This reappraisal of enlargement is a welcome reckoning after a long period of eroding and hesitant EU engagement both in the Western Balkans and in Europe's East. However, the fact that the emphasis is now on security does not mean that democratic concerns will take a back seat in the enlargement process. On the contrary, the EU member states, like most countries aspiring to join, are increasingly confronted with democratic backsliding. The authoritarian rulers and forces that are gaining ground across the continent are undermining the fabric of society and the progressive aspirations embedded in the European project. They serve the interests of the authoritarian regime in Russia just as much as the interests of strongmen in the Balkans and their attempt to further destabilise peace and democracy in Europe.

In this context, consolidating democracy, both within the EU and in Europe's East and South-East, should not be a lesser political priority compared to affirming security. Both objectives are mutually reinforcing: they are pillars of democratic peace. Only with the cornerstone of vivid, healthy democracy can comprehensive security be achieved and sustained. That means, of course, intensifying the promotion of the rule of law in EU accession countries as well as the protection of the *acquis* within the Union with all of the instruments already at the EU's disposal. However, as both are under mounting pressure from within and without, the Union needs to increase its political clout and raise a generation of European citizens who view the Union as

a bulwark against geopolitical, authoritarian disruptions in Europe.

The Weimar Triangle as a bridgehead

Political leaders in Europe have often voiced their support for an accession policy that stands for democracy and the rule of law. Lately, the European Council conclusions of June 2024 highlighted the importance of “values, including tools and processes to protect the rule of law”.³ This commitment, according to the EU's Strategic Agenda 2024–2029, applies both externally to EU accession countries and internally to EU members states. Values, after all, are seen as the “foundation for a stronger, more prosperous and more democratic Union for our citizens”.⁴

The Weimar Triangle could become a bridgehead in this reform agenda for an enlarged Union-in-the-making. France and Germany have been vocal in emphasising that enlargement should not undermine the functioning and political integration of the Union. They have therefore linked enlargement to institutional reforms enabling the EU to preserve its capacity to act. The report by the Franco-German expert group published in 2023 has gone further and advocates a democratic leap in EU institutions and society, bringing the EU polity closer to that of a constitutional democracy. The Polish elections held in the autumn of 2023 illustrated that democratic backsliding in Europe is not irreversible and the change in government offers new opportunities for the Weimar Triangle to cooperate.

However, Poland prioritises rebuilding the effectiveness and credibility of the enlargement process and prefers to avoid engaging in time-consuming debates on reforming the EU, which divert political attention from other pressing challenges. Instead, Warsaw favours making

better use of the “untapped potential” under the current institutional system to foster the rule of law inside the EU and in the context of enlargement. Moreover, Warsaw sees no urgency for an intra-EU reform debate, given that none of the candidates are currently ready to join the EU and that Ukraine is still fighting to protect its territorial integrity. However, that does not mean that Poland would like to weaken EU conditionality for the sake of rapid enlargement. Quite the contrary, it supports enlargement policy founded on a merit-based approach with the rule of law as a priority to foster the deep political and economic transformation of the candidate countries.

France, Germany and Poland thus share overlapping views on intertwined issues of security and democracy in EU enlargement. A key challenge lies in the fact that a – geopolitically motivated – acceleration of the accession process also requires political transformation to be sped up in candidate countries. The Weimar Triangle must therefore make effective and coordinated use of the EU's conditionality and accession support toolbox and aggregate support from other capitals in Europe in this endeavour. “Weimar Plus” cooperation can be fostered already today at the track-2 level by intensifying exchanges among experts to sketch out the contours of tomorrow's democratic Europe.

Reflecting on the way forward

While political leaders are committed to coupling geostrategic enlargement with political transformation in EU candidate countries, there are still numerous question marks over how this can be achieved in concrete terms. How can the EU better prioritise democracy in its debates on enlargement reform? Has the EU learned its lessons and, if so, what are they? To what extent does the promotion of democracy and the rule of law need to take into account country-specific and regional contexts? How can the external and internal dimension of safeguarding democracy and the rule of law, both in

¹ European Council, European Council meeting (14 and 15 December 2023) – Conclusions, EUCO 20/23, Brussels, 15 December 2023, p. 4.

² A Weimar Agenda for a strong, geopolitical EU, Weimar, 22 May 2024.

³ European Council, European Council meeting (27 June 2024) – Conclusions, EUCO 15/24, Brussels, 27 June 2024, p. 12.

⁴ European Council, Strategic Agenda 2024–2029, 27 June 2024.

current and future member states, be thought of as two sides of the same coin? Lastly, what can the Weimar Triangle and its partners do to support political reforms in affirming both security and democracy in Europe?

To discuss these questions, the roundtable “Enlarging the Union, consolidating democracy: which priorities, which tools?” brought together key analysts and policymakers from Germany, France, Poland, Austria, the EU institutions and EU candidate countries at Genshagen Castle on 23 and 24 May 2024. The contributions assembled in this volume reflect the views of particular participants. They offer a set of tentative answers to the question of how to bolster democracy and the rule of law both in accession countries and within the Union and explore the role that the Weimar Triangle could play in this context.

Promoting democracy and the rule of law in candidate countries – has the EU learned its lesson(s)?

Natasha Wunsch

Sluggish democratic reforms in EU candidate countries and ongoing rule of law violations in several member states have cast doubt on the EU’s ability to sustainably promote democracy throughout its enlargement process. Despite extensive research into the strengths and limitations of the EU’s approach during previous negotiation rounds, some important lessons have not been learned. This brief sketches out the main adjustments the EU and the Weimar Triangle in particular should make to enhance the effectiveness of EU enlargement policy vis-à-vis the latest group of accession hopefuls.

Enlargement policy was once hailed as the EU’s most successful foreign policy tool and a means to achieve “democratisation by integration”.⁵ In light of post-accession democratic backsliding in several countries from the 2004/2007 eastern enlargement round as well as democratic stagnation in the Western Balkans, evaluations have become more cautious. Reviewing some of the key insights from the academic literature on EU enlargement, this contribution elucidates their practical implications, asks which lessons have been learned, and sketches out the adjustments that remain to be made in order to facilitate successful negotiations with the most recent round of aspiring member states.

External incentives and the limits of democratic conditionality

The EU’s “big bang” enlargement to include 12 primarily Central and Eastern European (CEE) countries in the first decade of the 2000s took place against the backdrop of much enthusiasm over the EU’s “transformative power”⁶ and its apparent ability to foster lasting demo-

⁵ Antoaneta Dimitrova/Geoffrey Pridham, International Actors and Democracy Promotion in Central and Eastern Europe: The Integration Model and its Limits, *Democratization* 11 (5), 2004, pp. 91–112.

⁶ Heather Grabbe, *The EU’s Transformative Power. Europeanization through Conditionality in Central and Eastern Europe*, Basingstoke: Palgrave Macmillan, 2006.

cratisation⁷ by encouraging domestic reforms via top-down conditionality. Enlargement became synonymous with democratic transformation, with eventual accession hailed as the final stage in the process of democratic consolidation. The key assumption was that where external incentives surpassed the costs of reform for domestic elites, domestic reforms would gradually propel candidate countries towards democratisation. Inversely, withholding rewards over stagnating reform progress would ensure the credibility of the EU’s “carrot-and-stick approach”, with membership representing the ultimate “golden carrot”. Already at the time, there was some concern about the sustainability and local ownership of reforms largely driven by top-down conditionality rather than by domestic demand for democratic changes. These concerns were more than confirmed with the onset of democratic backsliding among the frontrunners of eastern enlargement, with Hungary entering a period of democratic regression from 2010 and Poland from 2015, respectively.

The EU learned a number of lessons from this reform reversal in CEE by shifting its emphasis on law adoption to requiring candidate countries from the Western Balkans to produce a credible track record of implementation. Besides, a reformed enlargement methodology frontloaded difficult negotiation chapters on the rule of law as well as justice and home affairs and opened the door to suspending negotiations in cases of lack of progress in these areas.

Nonetheless, EU enlargement policy remains rather technocratic, with a strong focus on a checklist approach that tends to miss the big picture of how democracy is evolving in candidate countries. Beyond verifying the adoption of individual reforms, the EU and its member states need to recognise – and call out –

⁷ Frank Schimmelfennig/Ulrich Sedelmeier, Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, *Journal of European Public Policy* 11 (4), 2004, pp. 661–679.

broader and often negative developments, including the onset of democratic backsliding in several of the current accession hopefuls. Maintaining such a critical approach to the evaluation of democratic reforms is crucial to ensure EU assessments of candidate countries remain credible and EU action fosters positive change rather than supporting detrimental developments in the enlargement region.

State capture trap or stabilitocracy promotion

As EU enlargement policy has proceeded towards the post-conflict setting of fragile democracies in the Western Balkans, there has been increased recognition of the changed domestic context in which enlargement negotiations take place. Scholars have highlighted pervasive state capture that the EU unwillingly helps to consolidate rather than overcome by (1) providing funding for local autocrats to pursue clientelism, (2) strengthening executive over other political and societal actors, and (3) legitimating current leaders via progress on the enlargement path despite widespread trends of democratic backsliding.⁸ Overlooking this dynamic risks holding current candidate countries in a “state capture trap” in which they make no progress towards democratisation and, instead, we observe tendencies towards autocratisation in several countries. The Balkans in Europe Policy Advisory Group calls this phenomenon “stabilitocracy promotion”, whereby stability is prioritised over democratisation in a misguided effort to avoid greater EU investment and the temporary destabilisation that democratic transformation might entail.⁹

The EU has appeared somewhat helpless in addressing this conundrum, with technical reforms of the

⁸ Solveig Richter/Natasha Wunsch, Money, power, glory: The linkages between EU conditionality and state capture in the Western Balkans, *Journal of European Public Policy* 27 (1), 2020, pp. 41–62.

⁹ Marko Kmezić/Florian Bieber, The Crisis of Democracy in the Western Balkans: An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion, *Balkans in Europe Policy Advisory Group*, March 2017

enlargement process bringing no significant change to the way in which the EU deals with candidate countries. Instead, there has been a tendency towards stop-and-go engagement in the Western Balkans. While the migration and refugee crisis in 2015 briefly brought the region back into focus with some hope for reinvigoration of enlargement policy, the EU’s attention quickly turned to other, apparently more crucial challenges.

In light of lengthy negotiations to be expected for the latest round of aspiring member states from the Eastern Partnership region – Ukraine, Moldova and Georgia – it is crucial to extend engagement beyond national governments. The EU remains very much executive-focused in its dealings with candidate countries, which leads to unfortunate distortions in the domestic power balance that can help authoritarian leaders consolidate their position. Besides, by disappointing local civil society actors, the EU risks losing the very players it would need for a successful “sandwich strategy” combining top-down and bottom-up pressures for democratisation. What is needed instead is a more deliberate and effective effort to detect, denounce and eventually overcome state capture, especially vis-à-vis Ukraine in light of the key role still played by oligarchs in this setting.

Rhetorical entrapment and the importance of an enlargement narrative

A logic of “rhetorical entrapment”¹⁰ played an important role in bringing about the EU’s eastern enlargement, despite the fact that the accession of the post-communist CEE countries faced significant resistance among several of the older member states. Rhetorical entrapment implies that actors are compelled to act in conformity with their prior argumentative commitments, following their words with policy actions.

¹⁰ Frank Schimmelfennig, The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union, *International Organization* 55 (1), 2001, pp. 47–80.

Specifically, eastern enlargement was framed as a historical reunification of the European continent. Once older member states bought into this narrative, it became difficult to refuse accession, despite concerns about the lower levels of political and economic development in the soon-to-be new member states.

The Western Balkans never benefited from this kind of overarching narrative in favour of their accession. Although there was a brief moment during which their membership was presented as a potential demonstration of successful post-conflict transformation driven by the EU, this framing never achieved the same weight as the CEE “reunification” narrative. The power of discourse for enlargement policy came to the fore once again following Russia’s full-scale invasion of Ukraine. After February 2022, public discourse on Ukraine underwent an impressive U-turn, from a perception of Ukraine as mid-way between Russia and Europe to Ukrainian soldiers fighting for European values and thus deserving a place in the European family. This framing of Ukraine defending Europe became a powerful narrative that drove the conferral of candidate status to Kyiv just four months after Russia’s aggression, with Moldova, Georgia and Bosnia-Herzegovina also benefiting from the EU’s renewed engagement on enlargement in the form of concrete steps on the accession path.

Still, discursive shifts can be short-lived, and Ukraine’s membership is at best a distant prospect. Going forward, it will be important to ensure not just buy-in on the part of the leadership, which is likely to wane as the war drags on, but also supportive public opinion among EU citizens as well as honest communication with Ukraine about a realistic time horizon for accession.

Contributions by the Weimar Triangle: invest, support, communicate

What role can the Weimar Triangle play in advancing the EU’s enlargement agenda in the years to come? France, Germany and Poland are three important member states whose voices carry weight on the European stage and which have jointly emphasised the need for a more coherent and effective EU foreign policy. Developing a more deliberate approach to EU enlargement will be key to building strategic autonomy for the EU in the current climate of geopolitical tension. The members of the Weimar Triangle can support such efforts in three ways. First, it is crucial to back any renewed commitment to the pursuit of EU enlargement by investing the necessary political and financial resources to support domestic reforms as well as a realistic, balanced assessment of reform progress that prioritises depth over speed. Poland has long-standing ties with Ukraine and plays the role of regional leader in CEE, while Germany and France have the political weight to convince more sceptical Western European member states of the need to increase the EU’s investment – including economically – in Europe’s East. Second, the Weimar Triangle should use its own experience of transnational cooperation to facilitate exchanges among parliamentary and civil society actors in the aspiring member states. By involving and strengthening non-governmental actors, they can ensure that reform efforts are broadly supported and reflect local realities in a way that allows them to remain sustainable beyond the eventual accession date. Finally, the Weimar countries should actively communicate the benefits of enlargement vis-à-vis their own populations to create and maintain the public support that will be crucial for the cohesiveness of an enlarged Union. A firm and stable commitment by the Weimar Triangle can help make enlargement a success story in the current context of geopolitical fragility.

Security priorities and democracy – balancing Ukraine’s EU integration path

Sergiy Gerasymchuk
Oleksandr Kraiev

The issue of EU enlargement, particularly regarding Ukraine, requires a cohesive strategy that combines hard security aspects with a liberal and democratic agenda. The EU initially focused on democratic reforms, but fell short of offering an accession perspective, whereas security concerns now have to be tackled alongside the demands placed on harmonisation. The EU needs to re-invent its approach in this regard. Political unity and finding a balance between democracy and security are crucial for advancing Ukraine’s EU agenda. Timely aid linked to reform progress can bolster Ukraine’s EU accession, whereas the advocating role played by influential groupings of member states, such as the Weimar Triangle, may eventually accelerate not only Ukraine’s EU path, but also cohesion within the Union.

The European Union has been instrumental in fostering democracy and the rule of law among its member states and prospective members. These values are set out at the very beginning of the Treaty on European Union. However, the EU’s approach in Eastern and Southeast Europe was characterised by a number of particularities. Enlargement fatigue alongside the lack of a common vision regarding the eastern neighbourhood resulted in the decision to focus on building a security and stability belt around the EU without granting an accession perspective to Ukraine and other states that explicitly expressed their desire to join. However, the EU, as a normative and transformative power, nevertheless provided Ukraine with strong incentives to proceed with the implementation of democratic reforms. The EU projected its internal solutions to the external level through visa liberalisation and the Association Agreement, both of which entered into force in 2017, as well as the EU Advisory Mission for Civilian Security Sector Reform. These steps paved the way for further integration and approximation. The existential threat posed by Russia’s war against Ukraine prompted the country to

choose a pro-European path. In February 2022, Ukraine applied for EU membership, a step that is intended to help it to preserve its sovereignty while safeguarding democracy and its European path. In June 2022, Ukraine was given EU candidate status. Two years later, on 25 June 2024, the EU launched the first Intergovernmental Conference at ministerial level to open accession negotiations.

Strengths and weaknesses of the EU’s current approach

To date, progress in the reform process has only been slightly impacted by the ongoing war. In 2023, the Ukrainian Government managed to complete the implementation of the recommendations outlined by the European Commission as a precondition for opening accession negotiations. Specifically, moderate progress was cited regarding the issue of improving legislation on a selection procedure for judges of the Constitutional Court while major steps were taken to finalise the integrity vetting of the candidates for membership of the High Council of Justice by the Ethics Council. Both issues were a substantial challenge for the Ukrainian judicial system even prior to full-scale invasion, so this accomplishment during wartime is even more significant. The membership perspective was a booster for rapid reforms, whereas technical and financial support from the EU ensured consistent progress in the areas prioritised by the European Commission.

There are challenges that may hamper further progress, however. First and foremost, the current geopolitical situation hinders the liberal and democratic agenda of EU enlargement by emphasising hard-security and hard-power issues above most other concerns. For the sake of solidarity in the assessment of security needs, certain violations of the Treaties may be overlooked or tolerated. Second, the traditional dichotomy between national egoism and European solidarity is still a very

relatable debate, as times of crisis intensify calls for more rights and privileges for specific countries. Transactionalism in intra-EU politics often prevails over the values-based approach. This refers to Hungary’s practice of wielding its veto rights to blackmail the other member states in addition to bargaining for preferential financial treatment under the pretext of war-time challenges. Such signals may lead to a certain amount of ambiguity for the Ukrainian leadership and tempt it to slow down democratic reforms for the sake of tactical security solutions.

The aforementioned issues are complicated by the lack of resources – human, intellectual, financial, institutional and, most importantly, time – to deal with this complexity in both Kyiv and Brussels. Therefore, the EU’s approach must be reconsidered from the ground up. On the one hand, the new maxim of harmonisation as opposed to approximation calls for more intensive reform efforts that, in turn, will increase the need for organisational, institutional and financial resources. On the other, the challenges of war limit progress in certain areas and raise the issue of prioritisation. The need to mobilise society and unite it under one banner therefore inadvertently leads to certain restrictions to basic democratic rights and freedoms (such as freedom of speech, freedom of assembly, freedom of movement, etc.), and although such measures are in line with constitutional procedures and are not unlawful, they are definitely not helpful when it comes to forging ahead with the consolidation of democracy.

The way forward

The EU’s application of conditionality, in which aid is linked to reform progress, should take into consideration the limitations and immediate needs imposed by the war. Updating bureaucratic processes in the context of the EU’s defence procurement, the distribution of security-related funds, the rearmament of the member

states’ armies and the assessment of urgent needs in order to ensure timely and effective support for reforms are crucial aspects in this context.

To avoid mismatched policies – such as the failure to respond in a timely manner to violations of the Treaty on European Union (as in the case of Hungary), egoism-driven vetocracy in the field of Common Security and Defence Policy, and sanctions policy – initiatives concerning advocacy must be taken both by Brussels and by Kyiv in particular. The progress assessment methodology must be updated in accordance with the realities on the ground, including the dynamic and turbulent local political and social context affected by the war and the aforementioned ambiguity.

Divergent interests among EU member states can undermine a unified stance towards Ukraine, hampering the effectiveness of policies and discouraging the speed and efficiency of internal reforms. In this regard, increasing political unity and utilising the potential of political party families and regional groupings may be of added value and could help to ensure that long-term stability is prioritised over short-term national interests.

Moreover, it is crucial for Ukraine to participate in debates on the future of Europe. It should also be involved in the discussions on the EU’s Common Security and Defence Policy, which must be updated in accordance with the Strategic Compass, as well as on enhanced security cooperation and joint initiatives in countering hybrid threats. Being included in such formats that are contingent on further democratic reforms and the rule of law may become a catalyst for political transformation.

Calling for the Weimar Triangle to take the lead

The European Union currently faces a wide range of issues, among which enlargement is one of the most complex and multifaceted challenges. In this situation, the Weimar Triangle must assume greater responsibility, with Germany, France and Poland as the political, economic and security bulwark of the Union.

The Weimar Triangle – representing “old” Western and “young” Central and Eastern Europe and uniting the key economies of the EU – can play a pivotal role here. The Triangle’s political leaders influence decision-making within the families of mainstream political parties. By applying their political and diplomatic potential, they may also engage countries beyond Europe (including the G7) in supporting Ukraine’s reforms and addressing its security concerns. Such an approach may help to address scarce resources that must be distributed between immediate wartime demands and the need for reform.

Heightened security should not necessarily lead to the erosion of democracy. On the contrary, if democratic reforms are linked to enhancing institutional efficiency, efficient institutions can prove to be more resilient and less dependent on a dynamically changing environment. The Weimar Triangle can contribute to the dual challenge of fostering security and democracy by taking the initiative and displaying concerted leadership that will move both Europe and Ukraine forward.

Leading by example? Strengthening the fundamentals of membership within the EU and in accession countries

Christophe Hillion

As a “geo-strategic investment”, a big bang enlargement 2.0 will be self-defeating if it is poorly prepared. For the EU, pre-enlargement preparations must start by restoring and strengthening the fundamentals of its membership. Such a consolidation is essential for the Union to rebuild its aptitude to lead by example, chiefly vis-à-vis the accession countries. An elaborate membership-defence toolbox is already available within the current EU treaties and must be resolutely mobilised, notably by the countries of the Weimar Triangle.

After years of neglect, EU enlargement is back. It took Russia’s full-scale invasion of Ukraine and acknowledgement on the part of the member states that extending EU membership is “a geo-strategic investment in peace, security, stability and prosperity”¹¹ to revive it. If all goes according to plan, this could engender a Union of 37 members – six times the original size of the early Communities. As “a geo-strategic investment”, a big bang enlargement 2.0 would be self-defeating, however, if it were badly prepared. Given the current state of the Union and of the candidate states, such preparation should begin at home by restoring and buttressing the fundamentals of EU membership, in particular respect for the rule of law, democracy and human rights.

What example to lead by?

By underlining the need to “maintain undisputed respect for and continued application of the EU’s core values”, the recent “Communication on pre-enlargement reforms and policy reviews”¹² by the European Commission does indeed recall the essential connection between the observance of values within the Union, membership and future enlargement. However, it does so half-heartedly. In view of political and constitutional evolution in several EU member states, enlargement

not only requires that such an “undisputed respect” be “maintain[ed]” but that it should primarily be restored.

Nevertheless, the Council’s (mis)handling of the procedure set out in Article 7(1) of the Treaty on European Union (TEU), activated several years ago vis-à-vis the Hungarian and Polish Governments, has exposed the member states’ lingering powerlessness, if not unwillingness, to safeguard the “fundamentals” of EU membership, namely commitments that each state makes upon choosing to be, and remaining, a member. In the same vein, the Commission’s hasty decision to terminate that very procedure, which it had itself initiated against the recalcitrant Polish Government, raises further questions as to whether the so-called “Guardian of the Treaties” itself is determined enough to perform its treaty-based mandate. Acting in the wake of the PiS Government’s defeat last autumn, the Commission took its decision before the established regression had effectively been reversed, thus potentially contributing to entrenching, rather than repairing, Poland’s damaged membership. The Commission’s initiative to unblock massive EU funds to Hungary on the eve of the European Council meeting of December 2023, while the country’s parliament was adopting Kremlin-inspired legislation on foreign agents, did little to help dispel those doubts. Rather, it confirmed the problematic politicisation of the institution’s operation and its impaired authority to safeguard the EU legal order.

The unresolved constitutional regression of some member states damages the EU, its membership and its capacity to enlarge. While eroding European citizens’ trust in its institutions, the Union’s (and member states’) ambivalent safeguard of its very foundations may well corrode their support for further expansion, too, support that is essential if only because the ratification of accession treaties requires a referendum in at least one member state (namely France). Although popular enthusiasm towards enlargement increased in

¹¹ European Council, The Granada Declaration, 6 October 2023.

¹² European Commission, COM(2024)146, 20 March 2024, p. 1.

the wake of Russia's war of aggression against Ukraine, it remains highly volatile, and, as already palpable, risks becoming even more fragile as policy and the financial implications of further accessions are debated – and politicised.

That same ambivalence also undermines the Union's authority towards the candidates and the effectiveness of its enlargement policy. Instead of leading by example and incentivising their pre-accession transformation into effective member states, the EU's flip-flopping fuels their disillusion, if not cynicism, notably about the meaning of membership.

A common approach to defending the fundamentals of EU membership

To be credible, reinvigorated enlargement talks must therefore go hand in hand with reinforced defence, by and within the Union, of the fundamentals of its membership. This is crucial for the EU to demonstrate, internally, that it will open up its membership from a position of strength, able to cope with the consequences of another big bang expansion. It will also show the candidates that the Union is genuinely preparing their admission by safeguarding the integrity of the membership to which they aspire and by buttressing the polity they intend to join.

Whether in the context of enlargement or within the Union, the fundamentals of membership, especially the Union's founding values enshrined in Article 2 TEU, are indeed the same. Respect for these constitutes both a condition for accession for candidates (Article 49 TEU) and a condition for EU members' continuing enjoyment of their membership rights (Article 7 TEU). In formulating a duty for member states of non-regression from the commitment to values that they voluntarily undertake when joining, the European Court of Justice has

confirmed¹³ and consolidated the umbilical link between accession and membership prerequisites while calling for a consistent approach in their fulfilment. A common approach in the defence of EU membership fundamentals seems to emerge also in practice, albeit in haphazard fashion. The pre-accession methodology has inspired some of the new mechanisms developed internally for the EU to (try and) prevent and/or address regression in member states. For example, the Commission's annual reporting on EU members' observance of the rule of law partly replicates its "country reports" (formerly "progress reports") on the candidates' fulfilment of the Copenhagen political criteria. In the same vein, the increased use by the EU of (financial) conditionality towards the member states, by reference to the rule of law and/or fundamental rights, borrows from the pre-accession methodology. Conversely, these internal legal evolutions determine the Union's approach towards candidates. Consider in this regard the remarkable development of the European Court of Justice's case law articulating membership-based obligations deriving from the rule of law and democracy as EU founding values,¹⁴ and notably the standards of judicial independence that have since been incorporated into the pre-accession conditionality.

That said, there is also commonality in the inconsistent defence of the EU's membership fundamentals. As is the case inside the Union, much remains to be desired in securing candidate states' observance of, for instance, the rule of law, democracy and fundamental rights in the enlargement context. On the one hand, some of the applicants' prevarication, and even regression, has not been adequately addressed by member states and institutions, as in the case of Serbia. On the other hand, other candidates' actual progress in fulfilling accession conditions has not always been

¹³ See e.g. Case C-896/19, *Repubblika*, EU:C:2021:311.

¹⁴ On the rule of law, see e.g. Case C-156/21, *Hungary v EP and Council (Conditionality (I))*, EU:C:2022:97, *Poland v. Council and EP (Conditionality (II))* ECLI:EU:C:2022:98, and on democracy, see e.g. Case C-502/19, *Oriol Junqueras Vies*, EU:C:2019:1115. See also: Dimitrios Spieker, *EU Values before the Court of Justice. Foundations, Potential, Risks*, Oxford, OUP, 2023.

commensurately rewarded, as in the case of North Macedonia. The Union is thus failing to apply the "fair and rigorous conditionality" that is deemed to structure the entire accession process¹⁵ and which is designed to engrain its membership fundamentals in the candidates' polity. This is unlikely to improve so long as these fundamentals are not consistently upheld internally.

Mobilising the EU membership-defence toolbox – a task for the Weimar Triangle

Against this backdrop, confronting internal regression from and securing genuine (re)observance of these fundamentals is the mother of all EU "reforms", particularly to prepare it for further enlargement. This is essential for restoring the credibility of EU institutions in general and the authority of the Union vis-à-vis candidate countries in particular.

Such a reform is indeed a *préalable* for other institutional changes to improve the Union's functioning – not the other way around. More qualified majority voting in the EU decision-making procedures, and/or fewer commissioners will do little to improve the Union's operation and capacity to integrate new members if existing member states keep on flouting EU Treaties and decisions. Opening such an institutional discussion with europhobes and vetocrats presently in power in several EU capitals would more likely enable their hostage-taking (yet again), thereby stalling both reforms and accessions, in turn further damaging the Union and, ultimately, the stability of the whole continent.

Indeed, EU Treaties do not need to be amended for the Union to address regression in its member states, and thus to improve the EU pre-accession strategy and

effectively to prepare enlargement. While imperfect, an elaborate toolbox for safeguarding the fundamentals of membership is available, based on existing EU Treaty rules and developed in practice, notably through enlargement. As alluded to above, it remains to be consistently and compellingly mobilised, both in the EU and in relation to the candidates.

Poland's intentions to reverse its past constitutional regression and the Franco-German vocation to maintain the momentum of integration point towards a joint responsibility of the three Weimar countries to repair, and to strengthen, the foundations of EU membership. In particular, their leadership is key to ensuring that, to begin with, the EU defence mechanism set out in Article 7 TEU is effectively deployed rather than disrupted, and that the Commission, as "Guardian of the [our] Treaties", is allowed to rather than dissuaded from fulfilling its protective mandate consistently.

¹⁵ See in this respect: European Commission, *Enhancing the accession process – A credible EU perspective for the Western Balkans*, COM(2020)57, 5 February 2020.

Towards a Weimar Agenda for fostering democracy and the rule of law in EU candidate countries

Vedran Džihić

With a new political constellation in Poland and a rejuvenated Weimar Triangle, there is a window of opportunity to act upon the principles and concrete policy ideas formulated in the 2024 Weimar Agenda. It is indeed EU enlargement that, as was also the case back in 1991, will determine the future of Europe and the fate of European democracy. The Weimar Triangle needs to fight illiberal and authoritarian tendencies across Europe. It should work to strengthen civic forces and alliances in candidate countries and push for robust sanctions against politicians violating the rule of law and democratic principles.

In their ten-point declaration in 1991¹⁶, Germany, France and Poland committed themselves to the founding – liberal and democratic – values and interests of the Weimar Triangle that, as emphasised at a recent meeting of Ministers of Foreign Affairs, “will remain at the core of our common engagement in an ever-challenging world”.¹⁷ Today, this core is being put to the test. The values of liberal democracies and freedom are under pressure as never before since 1945 and 1989. Neither democracy nor the rule of law and liberal and universal values are guaranteed any more. A new competitor in the guise of illiberalism and various forms and shades of authoritarianism has entered the game.

Poland, which certainly rose to become one of the most important and powerful member states of the European Union, is probably the most paradigmatic case for all the challenges to democracy and liberalism today. Together with Hungary under Viktor Orban, the government under the Law and Justice party (PiS) contributed to the illiberal script on how to bring the judiciary under the control of one party, turn the *rule of law* into *rule by law* and limit spaces for free media. As Poland

became one of Europe’s bogeyman states, the Weimar Triangle was all but clinically dead.

However, it was Poland again, which had almost killed the process in the first place, that contributed to its rejuvenation. With the defeat of PiS in the 2023 parliamentary elections, Poland not only proved that democratic backsliding can be reversed and that wounds inflicted on the rule of law and democracy can slowly heal. The regime change in Poland, together with Russia’s aggression against Ukraine, provided a new lease of life for three core European countries. The Weimar Agenda for a strong, geopolitical European Union agreed upon in May this year promised again to speak up and act with one voice. The tone set by the almost dramatic introduction to the declaration speaks for itself: “As Europeans, we must stand together and protect our interests and values as well as the principles of international law, human rights and peace.”¹⁸

The Weimar Triangle needs to seize the momentum now

There is no doubt that, with the new political constellation in Poland and a rejuvenated Weimar Triangle, there is a window of opportunity to act upon the principles and proposals formulated in the Weimar Agenda of 2024 – the question is just how long it will remain open. President Macron and his policies are being challenged by both far-right and far-left competitors. The 2027 presidential elections might easily bring a sudden change of leadership and political course in France. Germany’s coalition government is highly unpopular in 2024. The (projected) electoral wins for the Alternative for Germany (AfD) at this year’s regional elections might set the tone for what could unfold in the course of the elections to the Bundestag in 2025. Austria, not a member of the Weimar Triangle but a country that has long been closely aligned with its central values, will face the first big litmus test for its

democracy in the parliamentary elections at the end of September 2024. The far-right Austrian Freedom Party, which has made no secret of its support for the ideas of illiberal democracy, is leading in the polls and will certainly impact Austrian positions on the rule of law and democracy in Europe.

Illiberal and even authoritarian sentiments and tendencies embraced by Western European far-right parties and movements are converging with overall increasing insecurity about the future, fears of migration, and socio-economic despair experienced by considerable parts of the populations of countries in Western Europe. This is resulting in a popular quest by many citizens for quick and simple solutions and fixes as well as a strong leader in charge. In a world that is more complex and dynamic than ever before, this is a dangerous path to choose.

Rule of law and democracy as a primary strategic task of the Weimar Triangle

EU enlargement, as was also the case back in 1991, will decide the future of Europe and determine the fate of European democracy. Recently, it has been largely a technocratic dead man walking, with the Western Balkans being a case in point. The EU simply did not manage to deliver in the Western Balkans, resulting in a huge gap between the rhetoric of EU integration and its concrete practice. The countries in the region did not deliver on reforms that are both necessary at the internal level and a prerequisite for EU integration either, so both got caught in a double pretence – the EU pretended that it wanted to enlarge, and candidates pretended that they wanted to reform and join the EU.

In the meantime, the new illiberal and authoritarian chameleon grew big in the region, probably best

exemplified by the case of Serbia, which in the last decade has belonged to a group of countries around the world with a strong decline of democracy and rising authoritarian tendencies. The case of a former front-runner of EU integration curtailing citizens’ freedoms today hints at the need for a new liberal democratic engine in Europe that is able to withstand internal challenges to democracy and the rule of law while delivering robust and positive democratic momentum for the countries knocking at the EU’s door. The Weimar Agenda for a strong, geopolitical Union sends a message that the challenge has been recognised and accepted. But how to deliver?

Most importantly, the other engine on European soil, the illiberal and authoritarian one, which has been growing bigger and becoming stronger also in Europe¹⁹, needs to be addressed with urgency. Being clear and resolute about Viktor Orban’s illiberal and authoritarian policies, including all possible tools and ways to sanction and isolate them, can send a message and set standards for the Union and the Weimar Triangle on how to protect democracy and the rule of law. A policy of no compromises might lead to an open confrontation with all regimes and political groups standing for *rule by law*, autocracy, repression and disinformation. However, confrontations do lead to clarity and send strong signals to all those pro-democratic forces in candidate countries that their struggles and efforts are seen and supported. This is why it is important to make the rule of law and democracy a primary strategic task of the Weimar Triangle.

Working on the societal underpinning of democracy

Speaking of concrete policies and actions, one major path to tread would be to focus on the broader societal

¹⁶ Joint Declaration of the Foreign Ministers of Germany, France and Poland on the Future of Europe, Weimar, 29 August 1991.

¹⁷ Federal Foreign Office, Meeting of the Weimar Triangle countries – Ministers of Foreign Affairs: Political declaration, press release, Paris, 12 February 2024.

¹⁸ A Weimar Agenda for a strong, geopolitical EU, Weimar, 22 May 2024.

¹⁹ Anne Applebaum, *Autocracy, Inc. The Dictators Who Want to Run the World*, Penguin Books, New York, 2024.

underpinning of the rule of law and democracy in enlargement countries. The Weimar Triangle should focus here on keeping the goal of the long-term transformation of societies high on the agenda. The best way to do this is to build new alliances with people and citizens on the ground. This is important for Ukraine and Moldova, but equally for the countries of the Western Balkans. Aspiring member states in the Western Balkans face rising EU scepticism and growing authoritarian tendencies, but also harbour widespread pro-democratic and pro-European forces such as civic and protest movements and citizens' initiatives against environmental degradation, corruption and injustice.

Serbia, which is facing a new wave of protests against lithium mining plans right now, offers scope for working to strengthen civic forces and alliances. While candid words from Germany regarding the manipulation of Serbian elections in December 2023 pointed in the right direction, this clear stance was not publicly shared by Poland and France. Greater unity and a stronger common voice on the part of the Weimar Triangle countries is needed in the future. The recent visit by Chancellor Scholz to Belgrade in July 2024 and Germany's and the EU's support for lithium mining contradicts the Weimar Triangle's approach, which is based on values and the rule of law. What looks like a geopolitically and geoeconomically motivated interest on the part of Germany and the EU might jeopardise the values of liberal democracy in Serbia and send the wrong message to other EU candidate countries. This is just one of the litmus tests surrounding the new Weimar Agenda.

Another test might be the question of robust sanctions against those violating the rule of law and democratic principles, which should also be applied to candidate countries. One effective tool would, for example, be the introduction of common EU sanctions against politicians such as the pro-Russian Milorad Dodik in Bosnia and Herzegovina, who keeps undermining the rule of

law and democratic principles and threatens secession. While some EU countries contemplated such a step, Hungary called for Dodik's protection. As the Weimar Agenda suggests that the sanctions mechanisms of the EU be streamlined, such a measure might help the Union to act in concrete cases such as the one pertaining to Milorad Dodik.

It goes without saying that smaller steps as highlighted in the Weimar Agenda, including the idea of a "Weimar of citizens" or a "Weimar of youth" can prove to be highly instrumental in contributing to the societal underpinning of the rule of law and democracy mentioned above. Why not be more courageous and start working on "Weimar of citizens"-plus processes in Ukraine, Moldova and the Western Balkans. The same goes for youth cooperation. In the Western Balkans, the Regional Youth Cooperation Office (RYCO), which was founded on the same principles as the Franco-German Youth Office, is the obvious partner. Efforts made so far by Germany and France to support the RYCO and youth exchange could be joined by Poland and generally intensified in order to create a more sustainable values-based youth network in the region.

In times of upheaval in which conflicts and security are dominating the agenda, there is a need to strive towards a new vision for both a larger and united as well as a democratic Europe based on principles of the rule of law and universal values. The window of opportunity to set the tone and policies for years and decades to come is narrow, but with a sense of urgency, enthusiasm and creativity, it can be taken advantage of. It is up to the Weimar Triangle and its partners to meet this challenge now.

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The Foundation

The Genshagen Foundation evolved from the Berlin-Brandenburg Institute for Franco-German Collaboration in Europe, which was founded in 1993 by historian Rudolf von Thadden and Brigitte Sauzay, who later became an advisor to German Chancellor Gerhard Schröder. Since 2005, the Foundation has been run as a non-profit foundation under German civil law. Its founders and main sponsors are the German Government, represented by the Federal Government Commissioner for Culture and the Media, and Land Brandenburg. The most important third-party donor is the Federal Foreign Office.

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About the authors

Vedran Džihic is a Senior Researcher at the Austrian Institute for International Affairs (oiip) and a Senior Lecturer at the Institute for Political Sciences at the University of Vienna.

Sergiy Gerasymchuk is Deputy Executive Director and Director of the Regional Initiatives and Neighborhood Program at the Foreign Policy Council *Ukrainian Prism*, Kyiv.

Christophe Hillion is Professor of European Law at the University of Oslo, Research Professor at the Norwegian Institute of International Affairs (NUPI) and visiting Professor at the College of Europe.

Oleksandr Kraiev is Director of the North America Program at the Foreign Policy Council *Ukrainian Prism*, Kyiv.

Florent Marciacq is a Research Associate at the French Institute of International Relations and Deputy Secretary General of the Vienna-based Austro-French Centre for Rapprochement in Europe.

Marta Szpala is a Senior Fellow at the OSW Centre for Eastern Studies in Warsaw.

Theresia Töglhofer is a project leader in the division European Dialogue – Political Thinking on Europe at the Genshagen Foundation.

Natasha Wunsch is a Professor of European Studies and co-director of the Centre for European Studies at the University of Fribourg.

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Austro-French Centre for Rapprochement
in Europe (CFA/ÖFZ)
Rustenschacherallee 38/3
A-1020 Vienna

Phone: +43(0)1-533 89 27 20
www.oefz.at
events@oefz.at

Stiftung Genshagen
Am Schloss 1
D-14974 Genshagen

Phone: +49(0)3378-805931
www.stiftung-genshagen.de
institut@stiftung-genshagen.de

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Martin Koopmann, Florent Marciacq, Theresia Töglhofer

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Kornelia Bille

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