



Department of European Public Law
University of Zagreb Faculty of Law



Croatian Yearbook of European Law and Policy

ISSN 1848-9958 (Online) | ISSN 1845-5662 (Print)

Journal webpage: <https://www.cyelp.com>

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Suggested citation: S K Mazur, 'Evolution of the European Political Community in Times of the EU's "Geopolitical Awakening"' (2023) 19 CYELP 79.

DOI: 10.3935/cyelp.19.2023.524

 <https://www.cyelp.com/index.php/cyelp/article/view/524>

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 2023 The Author(s)

 Published by University of Zagreb

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 Published online: 29 December 2023

OPEN ACCESS

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EVOLUTION OF THE EUROPEAN POLITICAL COMMUNITY IN TIMES OF THE EU'S 'GEOPOLITICAL AWAKENING'¹

Sylwia K Mazur*

Abstract: The latest developments on the global scene, notably Russia's war on Ukraine, not only accelerated the European Union's review of available measures to stabilise its neighbourhood, but also ignited a search for new forms of structuring relationships with its neighbours. With the inauguration of the European Political Community, the differentiation principle driving those relationships was enhanced. The new endeavour was not, however, conceived according to the blueprint, hence raising the crucial question about whether this was a relaunch of the EU position in its vicinity or a redundant layer added to the already complex reality of European foreign policy. Additionally, with the lack of even a simple written communiqué released after the summits, questions regarding its institutionalisation remain open.

Keywords: European Political Community, 'wider Europe', enlargement, European Neighbourhood Policy

1 Introduction

The European Union has been the 'primary vehicle for organizing Europe'.² That feeling was especially strong after communism collapsed when the EU appeared to be the 'only game in town' for States that had just gone through political, economic, and social transformation.³ Relevantly, due to events in the late 1980s, two Nordic countries (Finland and Sweden) and Austria had opted for accession to the EU. The introduction of the so-called 'Copenhagen criteria' in 1993 (created to assess the readiness of applicant States to access the EU) and the commitment of

¹ A term used by the EU High Representative for Foreign Affairs and Security Policy to characterise the European Union's response to war in Ukraine. See Josep Borrell, 'Europe in the Interregnum: Our Geopolitical Awakening after Ukraine' (*Groupe d'études géopolitiques*, 24 March 2022) <<https://geopolitique.eu/en/2022/03/24/europe-in-the-interregnum-our-geopolitical-awakening-after-ukraine/>> accessed 6 April 2023.

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² Andreas Staab, *The European Union Explained: Institutions, Actors, Global Impact* (3rd edn, Indiana University Press 2013).

³ Wim van Meurs, 'Introduction' in Wim van Meurs and others (eds), *The Unfinished History of European Integration* (Amsterdam University Press 2018).

Central and Eastern European States to the reforms combined with EU willingness to accommodate new Member States enhanced the perception that the EU was the main actor in the 're-unification or re-creation of Europe'⁴ and that the 'European Union could, and even should, be open to the inclusion of the whole of Europe'.⁵ Attracting neighbours from the East was accompanied by building relationships with the Southern and Eastern Mediterranean States.⁶

At some point after the 'big-bang' enlargement, the EU was portrayed as a rising power, ready to become part of a new tri-polar world order.⁷ It was not only expanding in geographical terms, but also launched its own currency and became a leader in areas of development cooperation and humanitarian aid. On the legal front,⁸ however, the overhaul of the institutional system encapsulated in the draft of the Treaty Establishing a Constitution for Europe⁹ failed following 'no' votes in two Member States.¹⁰ The Treaty of Lisbon introduced the new institutional set-up¹¹ aimed at strengthening the international influence of the EU and improving consistency in the field of EU external relations. However, the sense of an overall 'mission' on an external front is still lacking.¹²

⁴ Marise Cremona, 'Accession to the European Union: Membership Conditionality and Accession Criteria' (2001) XXV PYIL 219.

⁵ *ibid.*

⁶ The Barcelona Process, aimed at strengthening relations between Europe and the Southern Mediterranean countries, was inaugurated in 1995.

⁷ Parag Khanna, *The Second World: Empires and Influence in the New Global Order* (1st edn, Random House 2008).

⁸ The Treaty of Nice did not fully prepare the EU for the enlargements; therefore, the Laeken Declaration was followed by the European Convention.

⁹ Treaty Establishing a Constitution for Europe [2004] OJ C310.

¹⁰ In 2015, several Member States organised referenda on ratifying the draft of the Treaty Establishing a Constitution for Europe. 'No' votes in the Netherlands and France heralded the end of the European Constitution. For more, see Anne Peters, 'The Constitutionalisation of the European Union: Without the Constitutional Treaty' in Sonja Puntischer Riekmann and Wolfgang Wessels (eds), *The Making of a European Constitution* (VS Verlag für Sozialwissenschaften 2006); Sara Binzer Hobolt and Sylvain Brouard, 'Contesting the European Union? Why the Dutch and the French Rejected the European Constitution' (2011) 64(2) PRQ 309; Boyka Stefanova 'The "No" Vote in the French and Dutch Referenda on the EU Constitution: A Spillover of Consequences for the Wider Europe' (2006) 39(2) Political Science and Politics 251.

¹¹ With the Treaty of Lisbon entering into force, the EU acquired legal personality, the post of High Representative for Foreign Affairs and Security Policy was created (the High Representative is not only the Vice President of the European Commission, but also presides over the Foreign Affairs Council), the European External Action Service has been operationalised and the EU Delegations has increased the EU's diplomatic and policy outreach.

¹² Marise Cremona, 'A Constitutional Basis for Effective External Action? An Assessment of the Provisions on EU External Action in the Constitutional Treaty' (EUI Working Papers 30) <<https://cadmus.eui.eu/handle/1814/6293>> accessed 3 February 2023.

Currently, the EU's economic and regulatory *gravitas* is clearly a mismatch for its strength as a foreign policy actor,¹³ even provoking voices that the EU should opt for separation between economic integration on one hand and foreign policy and defence cooperation on the other.¹⁴ Moreover, Brexit, the deterioration of cooperation under the Eastern Partnership, the never-ending membership negotiations and the diplomatic dead end in relations with Turkey, layered with permacrisis,¹⁵ diluted any sense of optimism about the EU future, including in its neighbourhood.

Interdependence between the EU and its neighbours has been a reality for some time.¹⁶ Unsurprisingly, already in 2020, Josep Borrell pointed out that the EU neighbourhood 'is in flames'.¹⁷ Russia's re-emergence as a revisionist power pursuing the creation of a 'safety belt' in Central and Eastern Europe, willing not only to weaponise its energy supplies and cyber capabilities, but also conventional forces (and potentially nuclear arsenal) re-ignited discussions on the EU's lack of 'political will' and 'military capabilities' which are elements of 'genuine political power'.¹⁸ Moreover, criticism of the EU concerns its limited responses in military crisis management.¹⁹

¹³ On the EU position in the world, see, among others: Sven Biscop, 'European Strategy in the 21st Century New Future for Old Power' (1st edn, Routledge 2019); Zaki Laïdi (ed), *EU Foreign Policy in a Globalized World: Normative Power and Social Preferences* (Routledge 2008); Ioanna Hadjiyianni, 'The European Union as a Global Regulatory Power' (2021) 41(1) OJLS 243; Filip Tereszkiwicz, 'The European Union as a Normal International Actor: An Analysis of the EU Global Strategy' (2020) 57 *International Politics* 95; Asle Toje, 'The European Union as a Small Power' (2011) 49(1) *JCMS* 43; Ian Manners, 'European Union "Normative Power" and the Security Challenge' (2006) 15 (4) *European Security* 405.

¹⁴ Tim Koopmans, 'Guest editorial: In search of purpose' (2005) 42 *CMLR* 1241, 1244.

¹⁵ Fabian Zuleeg, Janis A Emmanouilidis, and Ricardo Borges de Castro, 'Europe in the Age of Permacrisis' (European Policy Center, Commentary, 11 March 2021) <www.epc.eu/en/Publications/Europe-in-the-age-of-permacrisis~3c8a0c> accessed 27 February 2023.

¹⁶ It was already acknowledged by the European Commission in 2003. See Commission, 'Communication from the Commission to the Council and the European Parliament. Wider Europe - Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (Commission of the European Communities, 11 March 2003) <https://eeas.europa.eu/archives/docs/enp/pdf/pdf/com03_104_en.pdf> accessed 24 February 2023.

¹⁷ Michael Peel and Ben Hall, 'In the Last 10 Months, Our Neighbourhood Has Become Engulfed in Flames, from Libya to Belarus' *Financial Times*, (London, 13 September 2020) <www.ft.com/content/aeab4c81-50d3-4aaa-9bf1-e6593b394047> accessed 21 March 2023.

¹⁸ Joschka Fischer, 'What Kind of Great Power Can Europe Become?' (Project Syndicate, 30 January 2020) <www.project-syndicate.org/commentary/european-union-great-power-potential-by-joschka-fischer-2020-01> accessed 3 March 2023.

¹⁹ Asle Toje, 'The European Union as a Small Power, or Conceptualizing Europe's Strategic Actorness' (2008) 30 *JEI* 199.

The unprovoked and unjustified war on Ukraine²⁰ not only 'put EU enlargement to the fore of the European agenda',²¹ but also triggered the search for efficient forms of a structuring relationship with its neighbours. The latest foreign policy endeavour, the European Political Community (EPC), is a dramatic consequence of Russia's aggression²² and a direct outcome of that exogenous shock.²³

On Europe Day 2022, French President Emmanuel Macron – who is not shy of setting out his ideas in anticipated appearances – delivered a speech in front of the European Parliament during the closing ceremony of the Conference on the Future of Europe which he had initiated.²⁴ In what is known as a 'hallmark of Macron's method',²⁵ stirring public debate and the media, he called on 'democratic European nations that subscribe' to shared values to find 'a new space' for political and security cooperation, as well as collaboration in crucial areas like energy and transportation.²⁶ Macron's concept referred to the 'new geopolitical context' created by the above-mentioned war, the membership aspirations of Ukraine, Moldova, and Georgia, and the over-stretched accession process for the Western Balkan States.²⁷ A few days later, European Council President Charles

²⁰ Apart from Russia's war on Ukraine, the autocratic threat from Belarus, the active jihadist network and long-term conflicts in Libya and Syria are still affecting Europe.

²¹ Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. 2022 Communication on EU Enlargement Policy'. (European Commission 12 October 2022) <https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/strategy-and-reports_en> accessed 28 February 2023.

²² European Council, 'Informal meeting of the European Council Prague' (European Council 7 October 2022) <www.consilium.europa.eu/media/59393/20221005-informal-eu-co-backgroundbrief.pdf> accessed 7 March 2023.

²³ Which, contrary to previous ones, did not create 'distributional conflict' among Member States. Frank Schimmelfennig, 'European Integration (Theory) in Times of Crisis. A Comparison of the Euro and Schengen Crises' <www.eui.eu/Documents/RSCAS/JMF-25-Presentation/Schimmelfennig-European-Integration-in-Crisis-RSC.pdf> accessed 3 March 2023.

²⁴ The Conference on the Future of Europe was created as an opportunity for European citizens to debate priorities and challenges in front of the European Union. The collected opinions initiated European Citizens' Panels and Plenaries across the continent. The outcome was published in a report to the Joint Presidency. The Conference was placed under the authority of the European Parliament, the Council and the European Commission.

²⁵ Éric Pestel, Jeanette Süß, 'Vive L'Europe. French European Policy-making under Emmanuel Macron, Friedrich Nauman Foundation' (Friedrich Naumann Foundation for Freedom, 24 May 2022), <www.freiheit.org/european-union/publication-vive-leurope-french-european-policy-making-under-emmanuel-macron> accessed 13 February 2023.

²⁶ Emmanuel Macron, 'Speech at the Closing Ceremony of the Conference on the Future of Europe' (Ambassade de France en Lettonie, 9 May 2022) <<https://lv.ambafrance.org/Speech-by-Emmanuel-Macron-at-the-closing-ceremony-of-the-Conference-on-the> accessed> accessed 21 February 2023.

²⁷ The idea was clearly 'undercooked', but according to Charles Grant it emerged shortly before the speech in Strasbourg, and therefore the French administration had no chance to polish it. See Charles Grant, 'Macron Is Serious about the 'European Political Community'' (Centre for European Reform, 1 August 2022) <www.cer.eu/sites/default/files/insight_CG_1.8.22.pdf> accessed 11 February 2023.

Michel enhanced the proposal by speaking about the 'European geopolitical community'.²⁸ According to both speeches, the new framework would not replace existing EU policies and instruments and would respect the EU's decision-making autonomy.²⁹ Although first met with scepticism³⁰ by the Associated Trio³¹ and the wait-and-see attitude of the Western Balkan States,³² the idea quickly gained traction. EU leaders agreed during the European Council meeting in June 2022 to launch the European Political Community.³³ The first meeting of the new diplomatic hub³⁴ took place on 6 October 2022 in Prague,³⁵ and the second one on 1 June 2023 in Bulboaca, Moldova.³⁶

In a fluctuating geopolitical environment, the EU has significant need to stabilise its wider strategic neighbourhood with values which helped to stabilise its Member States. Following the EU's decline in membership³⁷

²⁸ Charles Michel, 'Speech at the Plenary Session of the European Economic and Social Committee' (European Council, 18 May 2022) <www.consilium.europa.eu/en/press/press-releases/2022/05/18/discours-du-president-charles-michel-lors-de-la-session-ple-niere-du-comite-economique-et-social-europeen/> accessed 21 February 2023.

²⁹ Neither of the speeches was detailed enough to contain speculation on the EU leaders' motivations and potential outcomes of the proposed endeavour.

³⁰ Initial reaction, especially on the Ukraine part, was cold. They were suspicious that the EPC would serve as a long-term ante room or even an alternative to enlargement. See Philippe Ricard, 'Ukraine Wary of Macron's "European political community" project' *Le Monde* (Paris, 13 May 2022) <www.lemonde.fr/en/international/article/2022/05/13/ukraine-wary-of-the-european-political-community-project_5983395_4.html> accessed 12 April 2023.

³¹ The Associated Trio is a format created for the enhancement of cooperation between Georgia, Moldova, and Ukraine on issues related to European integration. It is commonly accepted that the EU prefers to negotiate with groups of States that already foster relation with one another.

³² Florent Marciacq, 'The European Political Community and the Western Balkans. Strategic Thinking or Misleading Hope?' (Friedrich Ebert Stiftung, Analysis, December 2022) <<https://library.fes.de/pdf-files/bueros/sarajevo/19790.pdf>> accessed 19 February 2023.

³³ European Council, 'European Council meeting (23 and 24 June 2022) – Conclusions' (European Council, 24 June 2022) <www.consilium.europa.eu/media/57442/2022-06-2324-euco-conclusions-en.pdf> accessed 23 February 2023.

³⁴ Term used by Arancha González and Sébastien Maillard, 'A European Political Community for a Geopolitical Era' (Notre Europe, Sciences Po, 24 May 2023) <<https://institutdelors.eu/wp-content/uploads/2023/05/EPC-Chisinau-version-finale.pdf>> accessed 18 April 2023; and Sarah Wolff and others, 'How the European Political Community Can Help Bring Peace to Europe' (*Blog LSE*, 1 June 2023) <<https://blogs.lse.ac.uk/europ-pblog/2023/06/01/how-the-european-political-community-can-help-bring-peace-to-europe/>> accessed 2 June 2023.

³⁵ The inaugural meeting of the European Political Community preceded an informal meeting of the European Council. Both meetings shared common topics, namely peace and security (including energy safety) and economic issue.

³⁶ The fact that the summit was organised in a small non-EU country that shares a border with the war-torn Ukraine and is under direct threat from Russia was interpreted as a sign of solidarity and support for Moldova. The European Political Community, 'Moldova Brings Europe together in an Expression of Unity and Shared Commitment to Peace' (1 June 2023) <www.epcsummit2023.md/moldova-brings-europe-together-expression-unity-and-shared-commitment-peace> accessed 4 June 2023.

³⁷ The United Kingdom withdrew from the European Union on 31 January 2020.

and Brussel's vanishing leverage, a deteriorating European Neighbourhood Policy and an unstable situation in the neighbourhood, the author argues that the European Political Community, as a way of fostering the EU's relations with its neighbours, can be a suitable response for contemporary challenges and can break the inflexibility impasse. Positioned at the juncture of different EU foreign policy initiatives, it can serve as a multilateral vehicle in the re-emergence of traditional power politics and the dominance of a transactional approach. In short, it can – at least partially – fill a geopolitical void in Europe.

This paper provides an analytical framework which aims to examine the European Political Community as a measure in EU foreign policy, with special attention given to its innovative elements, although the idea of gathering the EU's neighbours under one cooperation umbrella is not new. Despite two meetings³⁸ of the EPC already having taken place, not even a simple *communiqué* was released, raising questions on the EPC's final structure and possible further institutionalisation. Besides, even though throughout its existence, the EU has established different frameworks to address regional specificities,³⁹ the EPC will be positioned against the enlargement policy and the European Neighbourhood Policy in a comparative manner. All the above is reflected in the paper's structure. However, in connection to the lack of any type of resolution – which could serve not only as guidelines for the project but would allow for testing some principles before embodying them in an establishing treaty – some parts of the article should be treated as an exercise in foresight. Moreover, since the EPC is still a project in the making, any critique can only be sectional.

Considering that cooperation between States inhabits a fluid spot at the junction of international law and international politics, interdisciplinary and mixed methods are used for the purpose of this research. IR methods will be considered since any kind of discussion regarding the EU's position in the world must be embedded in discourse on the nature of the world order. Apart from normative and authoritative sources (including a brief review of think-tank reports), a body of documents produced by the EU institutions is analysed.

2 The 'new' old idea

The idea presented by Emmanuel Macron is not particularly groundbreaking. It was built on concepts presented by European leaders in the past. In fact, a few weeks before Macron's speech, Enrico Letta called for the creation of a European Confederation consisting of: EU Member

³⁸ As noted by Arancha González and Sébastien Maillard (n 34) 'one gathering is an event; two is an established feature'.

³⁹ Fabrizio Tassinari, 'The European Political Community: Putting Politics First?' (DIIS Policy Brief, May 2023) <https://pure.diis.dk/ws/files/21048982/DIIS_PB_EPC_WEB.pdf> accessed 2 June 2023.

States; Ukraine, Georgia and Moldova; and six Western Balkan States.⁴⁰ According to the former Italian Prime Minister, under the European Confederation umbrella, aspiring States could 'participate in European public life' simultaneously taking part in the accession process. Pursuant to the presented vision, a summit of all leaders would be followed by a meeting of the European Council. The formation of the new platform would be accompanied by a 'deepening' reform with the abolition of veto power.⁴¹ Not for the first time in history, in face of a tectonic shift, European leaders were in search of a structure to allow for a systemic transformation of the EU neighbourhood, creating a stability zone, but without the burdens, risks, and binarity of an enlargement process.

In January 1989, Jacques Delors proposed the concept of structuring relations between Community Member States and countries of the European Free Trade Association (EFTA).⁴² Contrary to the *status quo* then, the President of the Commission presented a vision of a 'new, more structured partnership with common decision-making and administrative institutions'⁴³ which evolved into the Agreement on the European Economic Area (EEA)⁴⁴ bringing EU Member States and EFTA States into a single market and reaffirming that the relationship was based on 'proximity, long-standing common values and European identity'.⁴⁵

In December the same year, French President François Mitterrand proposed the creation of 'a common and permanent organisation for exchanges, peace and security', dubbed 'the European Confederation'. Delivered on the brink of the collapse of the Soviet Union, it was aimed at associating all States of the continent and to sustain the balance of power in Europe.⁴⁶ However, François Mitterrand's proposal anticipated Russia's partnership which was deemed unacceptable for many former Soviet Union countries. Moreover, it lost appeal as a path toward membership and started to look like a Community entry ban. In the end, both projects failed. Establishing the EEA did not result in the 'full' membership of the

⁴⁰ Enrico Letta, 'Una Confederazione europea e il percorso per l'adesione di Kiev' *Corriere della sera* (Rome, 19 April 2022) <www.corriere.it/economia/finanza/22_aprile_19/enrico-letta-confederazione-europea-percorso-1-adesione-kiev-9fda6a1c-c014-11ec-9f78-c9d-279c21b38.shtml> accessed 27 February 2023.

⁴¹ *ibid.*

⁴² At that time, those were Norway, Sweden, Finland, Iceland, Austria and Switzerland. Liechtenstein joined the EFTA in 1991.

⁴³ Jacques Delors, 'Statement on the Broad Lines of Commission Policy (17 January 1989)' in the European Economic Area 1994-2009 (EFTA Commemorative Publication 2009).

⁴⁴ Agreement on the European Economic Area - Final Act - Joint Declarations - Declarations by the Governments of the Member States of the Community and the EFTA States - Arrangements - Agreed Minutes - Declarations by one or several of the Contracting Parties of the Agreement on the European Economic Area [1994] OJ L001.

⁴⁵ *ibid.*

⁴⁶ While praising 'velvet revolutions', President Mitterrand also stressed that East Europe would need the help of the West after years of communist rule. See Frédéric Bozo, 'The Failure of a Grand Design: Mitterrand's European Confederation, 1989-1991' (2008) 17(3) *Contemporary European History* 391.

involved third countries, but instead institutionalised another form of variable geometry,⁴⁷ while François Mitterrand's 'European Confederation' remained an 'unfinished grand project'.⁴⁸

Another idea was presented by Romano Prodi shortly before the Eastern enlargement in 2004. The then-President of the European Commission called for a 'proximity policy' which 'would not start with the promise of membership and it would not exclude eventual membership'.⁴⁹ The goal was to find an arrangement that would accommodate the ambitions of neighbouring States and not allow for a too hasty enlargement.⁵⁰ While acknowledging that the EU wanted to retain its appeal factor in the neighbourhood, Romano Prodi stressed, however, that accession could also be a source of challenges.⁵¹ Therefore, according to the proposal, the 'ring of friends' would be a golden means that could create opportunities for States choosing the transformation and would be structured and process-oriented on the basis of a framework considered 'Copenhagen proximity criteria'.⁵² In the end, this idea was also not taken on.

3 European Political Community: what has been established?

3.1 Aim and scope

The idea of a new platform was presented by Macron when the war in Ukraine was entering its third month. The rapidity with which the inaugural meeting was organised suggests that the reason behind the platform deeply concerned Member States and their neighbours. A press release of the European Council clearly stated that the idea to bring on board countries on the European continent was a consequence of Russia's war.⁵³ According to Charles Michel, the new community was to be created to 'forge convergence and deepen operational cooperation to address common challenges' and 'to promote peace, stability, and security' on the European continent.⁵⁴ The European Council's Conclusion did not offer any more details than those, simply stating that the EPC is to 'offer

⁴⁷ Benjamin Leruth, Stefan Gänzle, Jarle Trondal, 'Differentiated Integration and Disintegration in the EU after Brexit: Risks versus Opportunities' [2019] *JCMS* 1383.

⁴⁸ Jean Musitelli, 'François Mitterrand, architecte de la Grande Europe: le projet de Confédération européenne (1990-1991)' [2011] *RIS* 18.

⁴⁹ Romano Prodi, 'A Wider Europe: A Proximity Policy as the Key to Stability' (Speech, 'Peace, Security and Stability International Dialogue and the Role of the EU, European Commission 5-6 December 2002) <<https://ec.europa.eu/dorie/fileDownload.do?docId=255969&cardId=255969>> accessed 1 March 2023.

⁵⁰ The speech was delivered a few days before the Copenhagen European Council meeting during which a formal membership invitation was extended to Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia.

⁵¹ Prodi (n 49).

⁵² *ibid.*

⁵³ European Council (n 22).

⁵⁴ Michel (n 28).

a platform for political coordination for European countries across the continent' and to 'address issues of common interest so as to strengthen the security, stability, and prosperity of the European continent'.⁵⁵ In the process, an additional layer was added by France's Foreign Minister Laurence Boone who claimed that the EPC's goal of stability can also be enhanced by interconnections in trade, research, and education.⁵⁶

Regarding the scope of the platform, Charles Michel pointed out that the main area of cooperation within the new community would be foreign policy. Additionally, States would participate in socio-economic programmes which do not require regulatory alignment. According to the European Council's statement released right before the Prague meeting, the ambition was to foster European leaders' cooperation on issues like 'peace and security, the economic situation, energy and climate, and migration and mobility'.⁵⁷ The Czech Presidency statement was vaguer, suggesting that the first meeting was expected to be as open as possible.⁵⁸ The Moldova meeting, on the other hand, focused on three topics: efforts for peace and security; energy resilience and climate action; and interconnections in Europe for a better connected and more stable continent.⁵⁹

At this point, it is safe to say that there is a clear link between Russia's action and the substantive issues reflecting geopolitical challenges caused by Russia's attack on Ukraine, namely an energy crisis, climate change, recession and inequality, demographics, and technology.⁶⁰ However, the list could undoubtedly be broadened building from experience.⁶¹

3.2 Membership and members

Again, the lack of any joint declaration hinders identifying membership and exclusion criteria.⁶² Considering the two meetings that have already taken place, it can be assumed that the core of the participating States was outlined in the sent invitations. A preview of the participating States was sketched by Macron who in his Strasbourg speech established

⁵⁵ European Council (n 33).

⁵⁶ Laurence Boone, 'Europe Must Become a Global Political Power' *Financial Times* (London, 25 August 2022) <www.ft.com/content/dfb90cca-cd02-4add-8378-86fddae2aefc> accessed 23 March 2023.

⁵⁷ European Council (n 22).

⁵⁸ Czech Presidency of the Council of the European Union, 'European Political Community' (Czech Presidency 2022) <<https://czech-presidency.consilium.europa.eu/en/presidency/prague-summit/european-political-community/>> accessed 21 February 2023.

⁵⁹ European Political Community Summit hosted by the Republic of Moldova <www.epc-summit2023.md/> accessed 3 June 2023.

⁶⁰ Corina Stratulat, 'The Beginning of the European Political Community' (European Policy Center, Discussion Paper, 3 October 2022) <www.epc.eu/en/Publications/The-beginning-of-the-European-Political-Community~4b012c> accessed 28 February 2023.

⁶¹ Franz C Mayer and others, 'Enlarging and Deepening: Giving Substance to the European Political Community' (Bruegel, September 2022) 6-9.

⁶² *ibid.*

EU membership as a reference point. The French president underlined that joining the new organisation 'would not prejudice future accession' to the European Union, and 'would not be closed to those who have left the EU'.⁶³ In a rather poetic description, but nonetheless using the geographical criterion, EU Council President Charles Michel stated that the new platform would include states 'from Reykjavik to Baku or Yerevan, from Oslo to Ankara'.⁶⁴ However, there are opposing voices, claiming that geography should not be the sole condition for participation.⁶⁵

Regarding accession criteria for the new platform, the majority of proposals supported the idea of conditions for membership rooted in a set of common values. The discussion paper prepared by the French Presidency (never released to the public), pointed out that the new community would accept European States 'that share a common set of democratic values', irrespective of their current relationship with the EU 'whether they wish to join it, have left it, do not plan to join it, or are linked to it only by economic agreements'.⁶⁶ According to a more crystallised vision presented by one of the think tanks, the three main criteria for EPC membership should include: a) observance of democratic values and the rule of law; b) respect for human rights (confirmed by full participation in the Council of Europe); and c) geopolitical alignment on the EU's stance on Russia's aggression. Therefore, membership would be rooted in the 'endorsement of a common set of principles' instead of 'hard-wired rules'.⁶⁷ In a similar tone, Josep Borrell stated before the inaugural meeting that the EPC should be a 'community of shared principles', yet sombrely noted that these principles are upheld differently across countries.⁶⁸

The invitation list for the first summit consisted of 44 countries.⁶⁹ Apart from the EU27, the list included six Western Balkan States; three States that applied to join the EU at the beginning of 2022 (Ukraine in February, Georgia and Moldova in March) aka the Associated Trio;⁷⁰ four out of the four EFTA Countries (Iceland, Liechtenstein, Norway, Switzerland); Armenia and Azerbaijan; Turkey (whose accession process has

⁶³ Macron (n 26).

⁶⁴ Michel (n 28).

⁶⁵ Mayer and others (n 61).

⁶⁶ Rikard Jozwiak, 'Paper Shows France's Vision of New "Community" for All of Europe' (Radio Free Europe, 15 June 2022) <www.rferl.org/a/eu-france-paper-new-community/31899602.html> accessed 13 March 2023.

⁶⁷ Mayer and others (n 61).

⁶⁸ Josep Borrell, 'Revisiting the question of Europe's Order' (*EEAS Blog*, 5 October 2022) <www.eeas.europa.eu/eeas/revisiting-question-europe%E2%80%99s-order-0_en> accessed 21 March 2023.

⁶⁹ Czech Presidency of the Council of the European Union (n 58).

⁷⁰ After the transformation Europe went through in early 90s, the European Union was not able to commit to enlargement beyond the Western Balkan States and Turkey. After three States submitted their application in spring 2022, the European Commission recommended granting a European perspective to all three states. However, only Ukraine and Moldova were granted candidate status.

been at a standstill since 2018)⁷¹ and – despite some original hesitancy – the United Kingdom.⁷² According to the invitation letter, leaders were put ‘on an equal footing’. Invitations for the second summit were extended to 47 heads of States and government.⁷³ Apart from the original group of States, San Marino,⁷⁴ Andorra, and Monaco were included.⁷⁵ Interestingly, the summit was organised by Moldova which – together with five EU Member States⁷⁶ – does not recognise Kosovo which was invited too⁷⁷. The above-mentioned lack of institutionalisation allows for freedom to join and withdraw not only from the platform, but also from summits. The Danish Prime Minister Mette Frederiksen missed the inaugural meeting due to domestic reasons, whereas Turkish President Recep Tayyip Erdoğan pulled out at the last minute from the Moldova gathering.

Clearly missing from the guest list were Russia and Belarus. Through the lack of invitations, both countries were not only excluded from the EPC gatherings, but also from wider Europe, which shows that despite some differences, EU Member States and ‘non-EU’ members share some geostrategic interest. Questions were also raised due to Israel’s absence.⁷⁸ The simplest explanation is the geographic one – the State of Israel is not part of Europe. Additionally, it is quite evident that the EPC was addressed toward the ‘Eastern neighbourhood’, not the ‘Southern Mediterranean’ with which the European Union associates Israel.⁷⁹ Some analysts pointed out that the United States was excluded, which may

⁷¹ Turkey is backsliding not only in the area of fundamental rights, but also in the independence of the judiciary, economic management, and the lack of reforms in some sectoral issues.

⁷² Liz Truss, when still foreign secretary, said that the United Kingdom considers NATO as the main guarantor of security and the G7 as the economic cooperation platform. See: ‘Liz Truss: UK Not Interested in Joining European Political Community – Video’ *The Guardian* (London, 28 June 2022) <www.theguardian.com/politics/video/2022/jun/28/liz-truss-uk-not-interested-in-joining-european-political-community-video> accessed 2 March 2023. The UK was also sceptical about the name of the new platform, which, according to London, could refer to the European Communities. Instead, London suggested the name ‘European Political Forum’. See J Hanke Vela, ‘Brexit Britain Wants to Come Back’ (*Politico*, 29 September 2022) <www.politico.eu/article/brexit-britain-wants-to-host-big-european-political-summit/> accessed 4 March 2023.

⁷³ Invitations were also extended to President of the European Council, the President of the European Commission, and the President of the European Parliament.

⁷⁴ San Marino confirmed its presence at the beginning of 2023.

⁷⁵ Next to the UN General Assembly and COP, it was one of the biggest meetings of world leaders that year.

⁷⁶ The Member States that do not recognise Kosovo are Spain, Slovakia, Cyprus, Romania and Greece.

⁷⁷ Despite not being recognised by five EU Member States, Kosovo holds ‘potential candidate’ status in its accession pursuit.

⁷⁸ Before the Prague summit, Czech radio informed listeners that Israel would be represented. Later the information was corrected. iROZHLAS, ‘Na evropský summit do Prahy přijedou i lídři západního Balkánu nebo Británie, říká Bek’ <www.irozhlas.cz/zpravy-svet/bek-evropska-unie-bruselske-chlebicky_2209191117_pj> accessed 12 February 2023.

⁷⁹ For example, Commission of the European Communities, ‘European Neighbourhood Policy. Strategy Paper’ (Communication) COM(2004) 373 final.

highlight European efforts to strength its own responsibility for affairs.⁸⁰ Opposite to the presented views, Corine Stratulat argued that if the EPC was framed in a geopolitical context, this should be irrespective of whether or not the allies were strictly 'European' or 'democratic by whatever standards'⁸¹ On the other hand, the risk of aligning the continent on the 'smallest common democratic denominator' was also raised.⁸²

To sum up, although originally pitched as a community of democratic States, the EPC did not become an alliance of values.⁸³ Similarly, it is also not a club of States steadfastly resisting Russia.⁸⁴ Moreover, the fact that the Europe Union did not reach for '*the neighbours of our neighbours*'⁸⁵ may suggest that the EPC is and will be built on the basis of limited membership founded on geography (and geostrategic interests⁸⁶) and is aimed at consolidation of the continent.

3.3 Structure

According to the French discussion paper, the EPC should have a 'light legal structure'⁸⁷ and meetings would take place several times a year at heads-of-state, governmental, and ministerial levels. A leader-oriented structure was also preferred by Charles Michel, who suggested meetings taking place at least twice a year and since from its inception it was known that the focus of the platform would be on foreign affairs, the foreign ministers of non-EU member States would join the EU Foreign Affairs Council meetings 'on a regular basis'.⁸⁸

⁸⁰ Sissy Martinez and Mathieu Droin, 'The European Political Community: A Successful Test?' (Center for Strategic and International Studies) <www.csis.org/analysis/european-political-community-successful-test> accessed 21 March 2023.

⁸¹ Stratulat (n 60).

⁸² Marc Pierini, 'Five Takeaways from the European Political Community Summit' (Carnegie Europe) <<https://carnegieeurope.eu/strategieurope/88189>> accessed 29 February 2023.

⁸³ Especially controversial in this regard is the presence of Azerbaijan, Serbia and Turkey.

⁸⁴ Armenia, Azerbaijan, Hungary, Serbia and Turkey maintain links with Russia.

⁸⁵ The concept was introduced by the European Commission in 2006 and concerned States in Central Asia and in the Gulf, States beyond the North African ENP and Kazakhstan. Commission of the European Communities, 'On Strengthening the European Neighbourhoods Policy' (Communication) COM(2006)726 final.

⁸⁶ According to Hans Kribbe and Luuk van Middelaar, Russia's attack on Ukraine showed that both EU and non-EU States share 'certain territorial and geostrategic interests'. Hans Kribbe and Luuk van Middelaar, 'At the Prague Summit, the Family Photo Is the Message' (*Politico*, 5 October 2022) <www.politico.eu/article/at-the-prague-summit-the-family-photo-is-the-message/> accessed 13 March 2023.

⁸⁷ This view was supported by the High Representative of the European Union for Foreign Affairs and Security Policy / Vice-President of the European Commission Josep Borrell who also pointed that "it cannot be just a meeting or talking shop". Borrell (n 68).

⁸⁸ Michel (n 28).

One of the ideas floated was also a model of ‘back-to-back meetings’ where sessions of the Councils would follow on with EPC summits.⁸⁹ The organisational role would fall to the European External Action Service.⁹⁰ The Jacques Delors Institute went further when its researchers suggested that participation in the Community should entail ‘taking part in the EU institutional life and an immersion in civic life’. The former includes participation in European Council summits and the opportunity to attend meetings of the European political families. Additionally, delegations should sit in European Parliament plenary sessions as observers, enjoying the right to speak and be involved with the work of parliamentary commissions⁹¹ which would embody the principle of ‘institutions first’. If realised, this would break with previous ideas often based on the principle ‘everything but institutions’.⁹²

For now, it seems that the platform will operate on the principle of rotating ‘presidencies’, with bi-annual summits being organised alternately by EU Member States and non-members⁹³ which can be considered as an ‘equaliser’ of the balance between the two groups. The fact that the first meeting took place in Prague during the Czech Presidency and Spain being nominated to organise a meeting in autumn 2023 indicates that the EPC meetings will be arranged according to the state holding the EU Council Presidency. Regarding the format, the first two meetings consisted of plenary sessions and roundtables⁹⁴ co-facilitated by a Member State and non-EU country.⁹⁵ During the summits, leaders were also given the opportunity to hold bi- and multi-lateral meetings on the sidelines⁹⁶ to discuss pending issues. At the first meeting in Prague, Swedish Prime Minister Magdalena Andersson held talks with the President of Turkey on Sweden’s accession to NATO⁹⁷ and British Prime Minister Liz Truss

⁸⁹ Michael Emerson, ‘Will the European Political Community Actually Be Useful?’ (CEPS Explainer, March 2022) <www.ceps.eu/wp-content/uploads/2022/09/CEPS-Explainer-2022-03_EPC-possibilities.pdf> accessed 13 March 2023.

⁹⁰ *ibid.*

⁹¹ Thierry Chopin, Lukáš Macek, Sébastien Maillard, ‘The European Political Community. A New Anchoring to the European Union’ (Notre Europe. Institute Jacques Delors, May 2022) <https://institutdelors.eu/wp-content/uploads/dlm_uploads/2022/05/PB_220517_TheEuropeanPoliticalCommunity_Chopin_Macek_Maillard_EN.pdf> accessed 10 March 2023.

⁹² Among others, it was a formula presented by Romano Prodi (n 49).

⁹³ According to the established schedule, the next meetings of the EPC will take place in Spain and the United Kingdom.

⁹⁴ European Parliament, ‘Outlook for the Meetings of EU Leaders in Prague on 6 and 7 October 2022’ (At a Glance) <[www.europarl.europa.eu/RegData/etudes/ATAG/2022/734670/EPRS_ATA\(2022\)734670_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2022/734670/EPRS_ATA(2022)734670_EN.pdf)> accessed 13 April 2023.

⁹⁵ Format of hosting roundtables co-facilitated by an EU and non-EU countries was earlier introduced during the EU-African Union summit.

⁹⁶ Czech Presidency of the Council of the European Union (n 58).

⁹⁷ European Parliament, ‘Outcome of the European Political Community and European Council meetings in Prague on 6-7 October 2022’ (Briefing) <[www.europarl.europa.eu/RegData/etudes/BRIE/2022/734671/EPRS_BRI\(2022\)734671_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2022/734671/EPRS_BRI(2022)734671_EN.pdf)> accessed 14 April 2023.

met with Emmanuel Macron to discuss bilateral cooperation, notably on energy and migration.⁹⁸ In Prague, Liz Truss secured agreement on a Memorandum of Understanding to work with the North Sea Energy Cooperation which was signed in December 2022.⁹⁹

One of the most notable outcomes of the Prague meeting was progress between the South Caucasus countries. A quadrilateral meeting between the President of the European Council, the President of France, Azerbaijani President Ilham Aliyev, and Armenian Prime Minister Nikol Pashinyan resulted in Armenia's consent to facilitate a two-month civilian EU mission alongside its border with Azerbaijan. Both States also confirmed their commitment to the UN Charter and the Alma Ata Declaration.¹⁰⁰ However, after the second summit, Azerbaijan accused Macron of distorting the position of parties during peace talks with Armenia.

4 On the path to a full-fledged international organisation?

After the first meeting in Prague, President Macron, Prime Minister Peter Fiala, and the President of Moldova Maia Sandu gave assurances that the notion of informality was at the core of the EPC. It allowed leaders to express themselves freely on the crucial challenges and common solutions.¹⁰¹ In the same vein, meetings were even lacking a chair.¹⁰² Missing institutionalisation is generally perceived as an advantage, also by other participating European leaders.¹⁰³ Albania's Prime Minister Edi Rama and his Dutch counterpart Mark Rutte underlined that the driving force behind the EPC should be flexibility.¹⁰⁴ This applies not only to the rationale behind the platform but should also apply to agendas which focus on common concerns. To put it simply, a new platform means 'no boxes to

⁹⁸ Prime Minister's Office, 10 Downing Street, 'UK-France Joint Statement: 6 October 2022' (GOV.UK, 2022) <www.gov.uk/government/news/uk-france-joint-statement-6-october-2022> accessed 17 February 2023.

⁹⁹ The memorandum introduces a framework for voluntary cooperation on joint projects but does not mean rejoining of the group. North Seas Energy Cooperation, 'Memorandum of Understanding on Offshore Renewable Energy Cooperation between the Participants of the North Seas Energy Cooperation (NSEC), of the one side, and the United Kingdom of Great Britain and Northern Ireland, of the other side', 18 October 2022.

¹⁰⁰ European Council, 'Statement following quadrilateral meeting between President Aliyev, Prime Minister Pashinyan, President Macron and President Michel' (European Council, 6 October 2022) <www.consilium.europa.eu/en/press/press-releases/2022/10/07/statement-following-quadrilateral-meeting-between-president-aliyev-prime-minister-pashinyan-president-macron-and-president-michel-6-october-2022/> accessed 8 March 2023.

¹⁰¹ It also remains the first meetings of the European Council.

¹⁰² This contrasts with EU-Western Balkan summits which are chaired by the European Council President.

¹⁰³ Wolff and others (n 34).

¹⁰⁴ Edi Rama and Mark Rutte, 'Albanian and Dutch PMs: The European Political Community Is a Good Idea' (*Politico*, 5 October 2022).

tick, no milestones, no conditions to fulfil'.¹⁰⁵ However, despite the Prague meeting being the 'main message', the missing decision-making process and governance details can be a valid hurdle toward ambitious goals like restoration of peace and stability on the continent.¹⁰⁶

From the inception of the new platform, European leaders presented it as an extremely light-structured form of cooperation that would neither replace nor even overlap with existing EU policies, nor operating international organisations. The Czech Presidency in a released note explicitly stated that the format does not replace 'existing organisations, structures or processes, nor does it aim to create new ones at this stage'.¹⁰⁷ Edi Rama and Mark Rutte pointed out that the European States need a platform that 'doesn't overlap with the strong regional organisations we already have in Europe'.¹⁰⁸ Reassuring voices were also coming from international organisations. The President of the Parliamentary Assembly of the Council of Europe stated that 'there is no confrontation' between the EPC and the Council of Europe,¹⁰⁹ pointing to the fact that the defence of human rights is not in the scope of the new platform.¹¹⁰ In a different tone, the CEPA claimed outright that the EPC can help resolve issues which cannot be resolved by the EU or NATO alone.¹¹¹

All the above did not silence questions of potential institutionalisation. In theory, international organisations are negotiated responses to the problems which actors face.¹¹² In the spirit of functionalism theory, the *raison d'être* of international organisation is carrying out specific tasks to address issues concerning more than one State. International law requires a certain threshold of 'organisationhood' since 'informal international organisation' – from a legal perspective – is 'close to meaningless'.¹¹³ For some, international organisation requires a permanent

¹⁰⁵ Hans Kribbe, Sébastien Lumet and, Luuk van Middelaar, 'Bringing the Greater European Family Together. New Perspectives on the European Political Community (Brussels Institute for Geopolitics). <<https://big-europe.eu/>> accessed 1 June 2023.

¹⁰⁶ Marta Mucznik, 'The European Political Community: From Prague to Chisinau and beyond' (European Policy Center, 31 May 2023) <www.epc.eu/en/Publications/The-European-Political-Community-From-Prague-to-Chisinau-and-beyond~511bac> accessed 3 June 2023.

¹⁰⁷ Czech Presidency of the Council of the European Union (n 58).

¹⁰⁸ Rama and Rutte (n 104).

¹⁰⁹ The list of Council of Europe's members converges with the list of invited states.

¹¹⁰ Agence Europe, 'Launch of European Political Community Makes Fourth Council of Europe Summit Urgent' (Europe Daily Bulletin No 13043, 15 October 2022) <<https://agence-europe.eu/en/bulletin/article/13043/27>> accessed 19 March 2023.

¹¹¹ Sam Greene, Edward Lucas, and Nicolas Tenzer, 'The Road to Chişinău. How the European Political Community Can — and Cannot — Address the Wider Continent's Conundrums' (CEPA 2023) <<https://cepa.org/comprehensive-reports/the-road-to-chisinau-the-european-political-community/>> accessed 17 June 2023.

¹¹² Barbara Koremenos, Charles Lipson, Duncan Snidal, 'The Rational Design of International Institutions' (2001) 55 IO 761.

¹¹³ Jan Klabbbers, 'Formal Intergovernmental Organizations' in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds), *The Oxford Handbook of International Organizations* (OUP 2016).

secretariat and three or more member states.¹¹⁴ However, despite the existence of 'fully integrated institutions that impose regulation through comprehensive, hierarchical rules', at the other pole 'highly fragmented collections of institutions with no identifiable core'¹¹⁵ can also be found.

Currently, the European Political Community cannot be qualified as an international organisation. Even the fact of calling it a 'community' conveys the willingness of European leaders to maintain an image of flexibility (and potentially adaptability). It is a valid argument since international organisations can become victims to politics by implementing one-size-fits-all approaches without considering the context which leads to internal confrontations and isolation from States.¹¹⁶ In these cases, technocratic design can implode in the face of political realities. Moreover, bureaucrats can move institutions away from member States' interest.¹¹⁷ Despite all of the above, institutionalisation, at least partial, would allow for the structuring of continuity and prevent organisations from turning into a 'zombie' without any impact¹¹⁸ or desuetude.¹¹⁹

One of the most pressing issues regarding the EPC is its relations with the European Union. The creation of another entity with high complexity or relying on EU institutions could slow down the decision-making process, thus harming its effectiveness. The idea of close association with EU institutions in order to gain access to EU funds is met with reluctance from frugal Member States.¹²⁰ Some even called for a clear separation between the EPC and the EU in pursuit of maximising the platform's 'agility, inclusivity, and efficacy'.¹²¹ Too close ties with the EU could possibly discourage the current British government.¹²² Another issue is the potential dominance of the EU institutions and Member States within the EPC. In spite of the first meeting being held at the invitation of the European Council President and the Czech Prime Minister Peter Fiala, in

¹¹⁴ Jon Pevehouse, Inken von Borzyskowski, 'International Organizations in World Politics' in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds), *The Oxford Handbook of International Organizations* (OUP 2016)

¹¹⁵ Robert O Keohane and David G Victor, 'The Regime Complex for Climate Change' [2011] 9 *Perspectives on Politics* 7-23.

¹¹⁶ Michael N Barnett, Martha Finnemore, 'The Politics, Power, and Pathologies of International Organizations' [1999] 53 *IO* 699.

¹¹⁷ Michael Barnett and Liv Coleman, 'Designing Police: Interpol and the Study of Change in International Organizations' (2005) *ISQ*, 593.

¹¹⁸ Julia Gray, 'Life, Death, or Zombie? The Vitality of International Organizations' (2018) *ISQ* 62(1) 1.

¹¹⁹ Maria J Debre and Hylke Dijkstra, 'Institutional Design for a Post-liberal Order: Why some International Organizations Live Longer Than Others' (2021) 27(1) *EJIR* 311.

¹²⁰ Vessela Tcherneva, 'The Future of the European Political Community' (European Council on Foreign Relation, 1 June 2023) <<https://ecfr.eu/article/the-future-of-the-european-political-community/>> accessed 4 June 2023.

¹²¹ Greene, Lucas, and Tenzer (n 111).

¹²² Luigi Scazzieri, 'Can the European Political Community Be a bridge between the UK and the EU?' (Center for European Reform and Konrad Adenauer Stiftung, 2023) <www.cer.eu/sites/default/files/pb_LS_EPC_28.4.23.pdf> accessed 3 June 2023.

the official communication it was underlined that all countries are on an equal footing, mitigating the perception that the EU Member States and EU institutions are in some way at the helm. It seems also that the EU as a whole is not interested in holding a rotating presidency, similarly to the G20 where the rotating presidency is given only to member States. Furthermore, assuming that the current number of participating States will be maintained, arguments about Member States being over-represented may not be valid.

Lastly, some organisations are created by the legal act of an already existing organisation which allows asking about a future treaty and the potential embedding of the EPC in it. Interestingly, while presenting ideas on the new form of cooperation with the EU neighbours, Enrico Letta, Emmanuel Macron, and Charles Michel expressed the need for EU structural reform. Moreover, Macron delivered his speech during the closing ceremony of the Conference on the Future of Europe, which had resulted in a set of reform proposals. According to the European Commission, the Conference created 'new momentum to focus on renewing and improving the European project'.¹²³ However, Sweden and 12 Member States quickly issued a 'non-paper' opposing any treaty change due to different priorities in wartime and efficacy of crisis responses within the current Treaty framework.¹²⁴

Although the current chances of a revision of the EU Treaties which could embed the European Political Community are low, the EPC could be institutionalised via the so-called 'Schengen method'. Similarly to the Schengen *acquis* originating with the Schengen Agreement signed in 1985 and later incorporated into the legal framework of the European Union with the Treaty of Amsterdam, the European Political Community can be regulated outside the legal and normative framework of the EU and later brought into the corpus of EU law. Clearly at such a point this is pure speculation. In the end, notwithstanding the current posture of the heads of States and governments of participating States, neither the EPC turning into one of the EU policies nor its evolution into a full-fledged international organisation can be excluded. As in the case of the Organization for Security and Co-operation (OSCE),¹²⁵ evolution from convening conferences on a more or less regular basis into an international organisation is possible.

¹²³ European Commission, 'Conference on the future of Europe. Putting vision into Concrete Action' (Communication) COM(2022) 404 final.

¹²⁴ Swedish Presidency of the Council of the EU, 'Non-paper by Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Romania, Slovenia, and Sweden on the outcome of and follow-up to the Conference on the Future of Europe' (Twitter @sweden2023eu, 9 May 2022) <<https://twitter.com/sweden2023eu/status/1523637827686531072>> accessed 19 March 2023.

¹²⁵ Miriam Sapiro, 'Changing the CSCE into the OSCE: Legal Aspects of a Political Transformation' [1995] 89 AJIL 631.

5 The European Political Community and enlargement policy

Russia's aggression against Ukraine was not only 'a harsh awakening to a new geopolitical reality' but, as previously mentioned, a push that raised the European Union's enlargement process to the top of the agenda.¹²⁶ Enlargement policy is one of the European Union's most powerful policy tools – it has shaped the European continent for the last fifty years during which the number of Member States has increased from six to 28, and later – due to Brexit – reduced it to 27.¹²⁷ The process of enlargement has made the EU 'much safer, more prosperous, stronger and more influential than the original European Economic Community'.¹²⁸ From the perspective of the EU, a credible enlargement policy is not only a 'geostrategic investment in peace, stability, security and economic growth in the whole of Europe',¹²⁹ but also a source of political stabilisation.¹³⁰ According to Alexander Stubb, in a new European security order it is 'the best geopolitical tool'.¹³¹ For an aspiring Member State, the perspective of membership is considered a 'strong anchor not only for prosperity, but also for peace and security'.¹³²

Despite the significance of enlargement, the path to membership is long and arduous. Its slow pace has not only irritated aspiring States, but has also even drawn criticism of the EU's ally – the United States.¹³³ The procedure itself is technocratic, formalistic and based on the principle 'nothing is agreed until everything is agreed'.¹³⁴ The EU acts on procedures that ensure that the aspiring States will be admitted only when they are able to operate as members. The fact that a country becomes

¹²⁶ Commission, 'Communication on EU Enlargement Policy' (Communication) COM(2021) 644 final.

¹²⁷ For more on enlargement, see Marise Cremona (ed), *The Enlargement of the European Union* (OUP 2003); Frank Schimmelfenning and Ulrich Sedelmeier (eds), *The Politics of European Union Enlargement: Theoretical Approaches* (Routledge Advances in European Politics 2005); Eli Gateva (ed), *European Union Enlargement Conditionality* (Palgrave Studies in European Union Politics 2015); Jurgen Elvert, Wolfram Kaiser (eds), *European Union Enlargement: A Comparative History* (Routledge Advances in European Politics 2004).

¹²⁸ European Commission, Directorate-General for Enlargement, *20 Myths and Facts about Enlargement* (Luxembourg Office for Official Publications of the European Communities 2006).

¹²⁹ *ibid.*

¹³⁰ For example, Greece entered the Communities in 1981 after seven years of Junta rule. Five years later, Spain and Portugal – emerging from authoritarian rule, followed.

¹³¹ Alexander Stubb, 'The Case for a Confederal Europe' (European Council on Foreign Relations, 21 June 2022) <<https://ecfr.eu/article/the-case-for-a-confederal-europe/>> accessed 2 May 2023.

¹³² European Commission (n 21).

¹³³ Kristin Archick and Sarah E Garding, 'European Union Enlargement' (Congressional Research Service, 11 August 2021) <<https://crsreports.congress.gov/product/pdf/RS/RS21344>> accessed 13 March 2023.

¹³⁴ Commission, 'Understanding Enlargement. The European Union's Enlargement Policy' (2007) <https://europa.rs/images/publikacije/22-Understanding_Enlargement.pdf> accessed 19 April 2023.

an official candidate¹³⁵ does not automatically lead to the opening of negotiations. Formal membership negotiations are a process that prepares an aspiring State to meet the accession criteria.¹³⁶ Only when the negotiations and accompanying reforms are concluded, the State can join the EU. The accession treaty¹³⁷ is binding when it is supported by the EU Council, the European Commission, and the European Parliament; when it is signed by representatives of Member States and candidate countries; finally, when it is ratified¹³⁸ by Member States and candidate countries. Moreover, the process is highly politicised. Pursuant to Article 49 of the Treaty on European Union (TEU) – which, together with Article 2 TEU,¹³⁹ constitutes the legal basis for enlargement – almost all the crucial steps in the process require the unanimity of Member States.¹⁴⁰

Due to the constant evolution of the EU *acquis*, the process of accession has become ‘a far greater challenge than in earlier enlargements’.¹⁴¹ The case of the Western Balkans proves that it can become unbearably long and can be described as ‘everlasting purgatory’. The number of voices calling for its reform constantly increasing.¹⁴² Calls to tie further en-

¹³⁵ States that do not yet fulfil the requirements for membership are considered “potential candidates”. Currently this is the status of Georgia and Kosovo.

¹³⁶ Subject of negotiations are the conditions and timing of the candidate's adoption, implementation, and enforcement of the *acquis*. Each of the thirty-five chapters is negotiated separately.

¹³⁷ The treaties on the accession of the new Member States are considered primary source of EU law which means that they are at the top of the European legal order. They contain the terms and conditions of membership, transitional arrangements and safeguard clauses, deadlines and details of financial arrangements.

¹³⁸ Both Member States and candidate States ratified it in accordance with their constitutional rules.

¹³⁹ Article 2 TEU states that the EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

¹⁴⁰ The applicant State addresses its application to the Council, which after consulting the Commission and receiving the consent of the European Parliament, acts unanimously. Further in the process, not only do the conditions of admissions, but also adjustments to the Treaties, have to be agreed by the Member States and by the aspiring State.

¹⁴¹ European Union, Agenda 2000 - Volume I - Communication: for a stronger and wider Union [2007] DOC/97/6.

¹⁴² Ideas for the reform were presented in, among others: Non-paper. Reforming the European Union accession process.

largement to institutional reform are also more common.¹⁴³

Additionally, up to the start of the war in Ukraine, the shadow cast by the Eastern enlargement paralysed further 'widening'. Although partially alleviating the effects of the Cold War, the 'big bang' enlargement still led to 'enlargement fatigue'.¹⁴⁴ The 2004-2007 enlargement was commonly considered the most challenging expansion in the history of the EU. The number of applicants and the huge scale of the transformation they underwent to become EU members required the mobilisation of politicians, experts, civil society, and citizens across Europe to make it a reality. After Croatia's accession in 2013, although still formally pending, the enlargement policy was 'practically dead'.¹⁴⁵ Thus, the EU not only risked violating its own principles as an actor committed to promoting its values,¹⁴⁶ but also undermined its credibility since the lack of a membership perspective reduces external capacity.¹⁴⁷

From the moment of its announcement, discussions on the EPC were accompanied by debates on how the new form of cooperation should be positioned in relation to the enlargement process, including opinions that without reform of the enlargement process, the EPC would amount to a 'fig leaf' covering the Union's geopolitical struggles.¹⁴⁸ As mentioned, the initial proposal presented by President Emmanuel Macron evoked wariness among candidate and aspiring States. Charles Michel assured that the 'geopolitical community' goes 'beyond enlargement', it is neither its replacement nor a guarantee that the participating State will one day be

¹⁴³ Calls for treaty changes accompanying EU expansion do reflect the federalist view that 'widening' must be supported by 'deepening'. One of the strongest advocates for mutual reform is German Chancellor Olaf Scholz who also called for the simultaneous strengthening of democracy and the rule of law. Oliver Noyan, 'Germany Pushes to Tie Together Enlargement and EU Reform' (*Euractiv*, 22 June 2022) <www.euractiv.com/section/all/news/germany-pushes-to-tie-together-enlargement-and-eu-reform/> accessed 19 March 2023. Among those endorsing this idea is also Josep Borrell. Josep Borrell, 'The Geo-political Imperative for the EU Is to Both Widen and Deepen' (*EEAS Blog*, 27 June 2022) <www.eeas.europa.eu/eeas/geo-political-imperative-eu-both-widen-and-deepen_en> accessed 20 March 2023.

¹⁴⁴ Oli Rehn, 'What's the Future for EU Enlargement?' (Speech, 25 September 2007) <www.eu-un.europa.eu/articles/es/article_7355_es.htm> accessed 12 March 2023.

¹⁴⁵ Nathalie Tocci, 'Enlargement's Back on the Political Agenda' (*Politico*, 20 June 2023) <www.politico.eu/article/enlargements-back-on-the-political-agenda/> accessed 20 June 2023.

¹⁴⁶ According to Article 49 TEU, any European state may apply for EU membership if it respects its common values and is committed to promoting them. EU values are encapsulated in Article 2 TEU.

¹⁴⁷ Tanja A Börzel, Antoaneta Dimitrova and Frank Schimmelfennig, 'European Union Enlargement and Integration Capacity: Concepts, Findings, and Policy Implications' (2017) 24 *JEPP* 157.

¹⁴⁸ Piotr Buras, 'European Political Community: A Second-tier Europe Risks Being a Fig Leaf for the EU's Woes' (*Euronews*, 3 October 2022) <www.euronews.com/2022/10/03/european-political-community-a-second-tier-europe-risks-being-a-fig-leaf-for-the-eus-woes-> accessed 27 February 2023.

amember of the European Union.¹⁴⁹ The President of the European Council also explicitly stated that the reformed EU enlargement policy which would consist of 'gradual, phased integration, even while the accession process is ongoing',¹⁵⁰ will be a reference point for the new community. In its Conclusion from June 2022, the European Council asserted that the new Community will 'not replace existing EU policies and instruments, notably enlargement'.¹⁵¹ Most importantly, with the same Conclusion, the Council decided to grant Ukraine and Moldova candidate status which helped to reduce fears that the EPC was some sort of alternative for membership. Conducted skilfully, the EPC can considerably enhance the EU's external integration capacity¹⁵².

6 Quo vadis, the European Neighbourhood Policy?

Despite its revision launched in 2015,¹⁵³ voices on the EU's neighbourhood policy ranged from those stating that it is a 'geo-branding of "traditional" foreign policy'¹⁵⁴ to those claiming it has completely failed.¹⁵⁵ The main argument for the latter group was the fact that instead of turning its neighbours into the previously mentioned 'ring of friends', it did not offer sufficient incentives to embrace the reforms. Some even claim that it has added to Russia's revisionist policy over its neighbourhood.¹⁵⁶ Yet, the notion of an 'overlapping neighbourhood'¹⁵⁷ was never sustainable and Moscow's war on Ukraine diminished any space for ambiguity.

The European Neighbourhood Policy is based on the EU's bilateral privileged relations with partner countries. It was created as a response to the challenges arising from the Eastern enlargement.¹⁵⁸ It has two re-

¹⁴⁹ Michel (n 28).

¹⁵⁰ It means that 'widening' would happen simultaneously with 'deepening'.

¹⁵¹ European Council (n 33).

¹⁵² External integration capacity refers to the ability of the European Union to prepare non-member States for membership. Internal integration capacity, on the other hand, helps to preserve EU functioning and cohesion in the post-accession phase. See Börzel, Dimitrova and Schimmelfennig (n 147).

¹⁵³ One of the main aims of the process was to adapt the policy's tools which would consider particular aspirations of partner countries.

¹⁵⁴ Steven Blockmann, *The Obsolescence of the European Neighbourhood Policy* (Rowman & Littlefield International 2017).

¹⁵⁵ Sandra Lavenex, 'On the Fringes of the European Peace Project: The Neighbourhood Policy's Functionalist Hubris and Political Myopia' (2005) 19(1) BJPIR 63.

¹⁵⁶ *ibid.*

¹⁵⁷ For more on the notion of the 'overlapping neighbourhood', see Tom Casier, 'Identities and Images of Competition in the Overlapping Neighbourhoods: How EU and Russian Foreign Policies Interact' in Remi Piet, Licinia Simão (eds), *Security in Shared Neighbourhoods. New Security Challenges* (Palgrave Macmillan 2016); and Magdalena Dembińska and David Smith, 'Navigating in-between the EU and Russia' (2021) 62 Eurasian Geography and Economics 247.

¹⁵⁸ Commission, 'European Neighbourhood Policy. Strategy Paper' (Communication) COM(2004) 373 final.

gional dimensions. First, the Eastern Partnership (EaP),¹⁵⁹ inaugurated in 2009, aimed at enhancing relations with Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.¹⁶⁰ Its objective was threefold. Firstly, it was created in order 'to share the benefits of the EU's enlargement with neighbouring countries in strengthening stability, security and well-being for all concerned'.¹⁶¹ Secondly, it was to 'prevent the emergence of new dividing lines between the enlarged EU and its neighbours'.¹⁶² Its final aim was to 'offer them the chance to participate in various EU activities, through greater political, security, economic and cultural co-operation'.¹⁶³ Regulatory rapprochement in this case did not mean full access to the single market.¹⁶⁴ It was also kept separate from the enlargement process¹⁶⁵ which, as explained by Jan Klabbers, dilutes the European Union, since expansion eastward is contrary to 'ever closer union'.¹⁶⁶

As a second dimension, the Union for the Mediterranean (UfM) includes 27 EU Member States and 16 Mediterranean countries and Libya with observer status.¹⁶⁷ Launched at the 2008 Paris Summit, it is the continuation of the Barcelona Process. From the beginning it was known that UfM is independent not only from enlargement, but also from accession negotiations and the pre-accession process.¹⁶⁸ Both of the previously mentioned dimensions suffered blows. The latter by the Arab Spring, the former by Russia's reaction to the Association Agreement which was about to be signed in 2013. Moreover, Belarus withdrew from the Eastern Partnership after the EU imposed sanctions over a fraudulent presidential election and a radical deterioration of human rights, democracy and

¹⁵⁹ The idea was introduced by Poland's and Sweden's foreign ministers, Radosław Sikorski and Carl Bildt.

¹⁶⁰ Despite the initial scepticism, also due to the plurality of an existing neighbourhood policy, the initiative was pushed forward after the war between Georgia and Russia broke out. The plan for Eastern Partnership was approved under the French Presidency and launched under the Czech Republic Presidency. Soon afterwards, Russia launched its own Eurasian Union, created to bring EaP countries back under its influence.

¹⁶¹ Commission (n 141).

¹⁶² *ibid.*

¹⁶³ *ibid.*

¹⁶⁴ Including freedom of movement.

¹⁶⁵ In the Commission's words, 'Since this policy was launched, the EU has emphasised that it offers a means to reinforce relations between the EU and partner countries, which is distinct from the possibilities available to European countries under Article 49 of the Treaty on European Union'. Commission (n 141).

¹⁶⁶ Klabbers (n 113).

¹⁶⁷ Along with the 27 EU Member States, the following States are members of the UfM: Albania, Algeria, Bosnia and Herzegovina, Egypt, Israel, Jordan, Lebanon, Mauritania, Monaco, Montenegro, Morocco, North Macedonia, Palestine, Syria (currently suspended), Tunisia and Turkey.

¹⁶⁸ Council of the European Union, 'Joint Declaration of the Paris Summit for the Mediterranean Paris, 13 July 2008' (Presse 213) 11887/08.

the rule of law¹⁶⁹.

From the perspective of time, what is especially interesting is the fact that contrary to the Western Balkans, none of the EaP countries was considered a candidate State before Russia's war on Ukraine, despite high hopes in Georgia, Moldova, and Ukraine. All three countries have concluded Association Agreements (AAs)¹⁷⁰ with the EU aimed at promoting cooperation and bringing them closer to EU rules and standards¹⁷¹ and facilitating and deepening trade relations.¹⁷² The conclusion of an AA, however, does not represent a commitment to EU membership, and therefore at the July 2021 trilateral summit, Georgia, Moldova, and Ukraine issued a declaration pledging to pursue EU accession-oriented reforms and calling for a clearer membership perspective from Brussels, stating that 'European integration has no alternative' and 'no third party could influence this sovereign choice'¹⁷³.

With the inception of the European Political Community, the European Union cannot neglect its southern rim. Despite not only close historical and cultural links but also common strategic interest,¹⁷⁴ no Mediterranean state was included in the list of invitees. The 'ring of well-governed countries'¹⁷⁵ – crucial from the security perspective – is incomplete without southern partners, and therefore the EU has to offer some realistic path for modernisation. However, as presented above, any form of cooperation modelled on the enlargement process but without the advantages of membership would not be successful.

¹⁶⁹ Before the presidential election of 9 August 2020, relations between the European Union and Belarus were correct. Policy dialogue was enhanced by financial assistance, including through the European Investment Bank and European Bank for Reconstruction and Development.

¹⁷⁰ The Association Agreements remain the best instruments for the short and medium terms.

¹⁷¹ The Agreement with Armenia never entered into force due to the decision of Armenia's government to join the Eurasian Economic Union.

¹⁷² In the short and medium terms, Association Agreements are considered highly suitable for overcoming tensions between political and technical concerns. Guillaume Van der Loo and Peter Van Elsuwege, 'The EU-Ukraine Association Agreement after Ukraine's EU Membership Application: Still Fit for Purpose' (Europe in the World Programme, 14 March 2022) <www.epc.eu/content/PDF/2022/Ukraine_DP.pdf> accessed 19 March 2023.

¹⁷³ Batumi Summit Declaration Issued by the Heads of State of Association Trio - Georgia, Republic of Moldova and Ukraine, 19 July 2021.

¹⁷⁴ Commission, 'Barcelona Process: Union for the Mediterranean' (Communication) COM(2008) 319 final.

¹⁷⁵ Council of the European Union, 'A Secure Europe in a Better World - European Security Strategy' (Brussels, 2003).

7 Conclusions

The European Political Community is a product of its time, an adaptation policy, which requires the alignment of the EU's neighbours with its common foreign and security policy¹⁷⁶ and serves as a supplementary measure for the EU's financial and regulatory power. As a 'trust building exercise'¹⁷⁷ it also confirms that 'multilateralism is in Europe's DNA'¹⁷⁸ and is considered an 'identity factor'.¹⁷⁹ The new formula allows the EU to exercise leadership in the face of regional threats, whereas non-EU Member States, under the EPC umbrella, can act against such a powerful actor like Russia.

With the European Union's constant struggle with its foreign and security policy,¹⁸⁰ a 'flexible pan-European structure'¹⁸¹ might deliver a desirable effect, especially since the EU enlargement may soon be nearing its geographic end and with the European Neighbourhood Policy exhausting its formula. For now, the EPC can be an avenue toward a stronger Europe, a facilitation endeavour for candidate States which would not disrupt the cohesion and functioning of the EU, and a platform of cooperation with 'non-accession' States, like the United Kingdom, especially since the European Security Council aimed, among other things, to keep the UK in the European foreign policy orbit but failed to do so. The current geopolitical situation undoubtedly fosters chances for re-engagement between Brussels and London at the political level.¹⁸²

In order to avoid becoming a one-hit wonder, a formula with such an ambitious goal might sooner than later exhaust itself, and therefore at least minor institutionalisation is necessary, especially since international organisations evolve through the dynamic interpretation of constituent acts, institutional practice, and secondary law.¹⁸³ The EPC should not

¹⁷⁶ The issue was raised also during a meeting between EU and Western Balkan leaders which took place on 23 June 2022.

¹⁷⁷ Tcherneva (n 120).

¹⁷⁸ Ursula von der Leyen, 'A Union That Strives For More. My Agenda for Europe. Political Guidelines for the Next European Commission 2019-2024' (European Commission, 2019) <https://commission.europa.eu/system/files/2020-04/political-guidelines-next-commission_en_0.pdf> accessed 12 February 2023.

¹⁷⁹ David O'Sullivan, 'The European Union and the Multilateral System. Lessons from Past Experience and Future Challenges' (European Parliament, March 2021) <[www.europarl.europa.eu/RegData/etudes/BRIE/2021/689365/EPRS_BRI\(2021\)689365_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689365/EPRS_BRI(2021)689365_EN.pdf)> accessed 13 February 2023.

¹⁸⁰ van Meurs and others (n 3).

¹⁸¹ Michael Leigh, 'New Approaches to EU Governance and Enlargement (GIS Reports online, 3 November 2022)' <www.gisreportsonline.com/r/eu-governance-enlargement/> accessed 19 March 2023.

¹⁸² The United Kingdom's participation in the first summit was described as the 'modest return of the United Kingdom to a continental forum. Pierini (n 81). The UK will host the EPC summit in the first half of 2024.

¹⁸³ Anne Peters, 'International Organizations and International Law' in Jacob Katz Cogan, Ian Hurd, Ian Johnstone (eds), *The Oxford Handbook of International Organizations* (OUP 2016).

only be able to cope with a new geopolitical reality, but must also face issues arising from seemingly unstoppable technological developments and climate change. Moreover, irrespective of the area of cooperation, the EPC, as a political organisation, contrary to technical counterparts, will possibly succumb to 'political sentiments' leading to 'unproductive debates and disagreements'.¹⁸⁴ Considering the geopolitical stakes, this should be avoided at all costs.

According to France's foreign minister Laurence Boone, Russia's war on Ukraine accelerated the EU 'evolution into a fully-fledged sovereign political power'.¹⁸⁵ Although it might be an overstatement, the creation of the EPC embodies European responsibility to act in the area of foreign policy which has evolved for more than five decades.¹⁸⁶ With globalisation moving toward a more polycentric and segmented system, the European Union should also be more considerate in regarding not only its relations with neighbours, but also 'friends in every single democratic nation on this globe'.¹⁸⁷ Second, apart from enriching relations with its neighbours, it should also counter the influence of other States in its neighbourhood.

On a bleaker note, the EU is not a State, notwithstanding its legal personality and some exclusive competences. It is an international organisation *per se* which was built against the politics of power. Moreover, as a form of cooperation between 27 Member States, it has a serious issue with unified messaging when it comes to crucial global events,¹⁸⁸ with the war in Ukraine being one of the few exceptions. Within the current legal framework, the EU 'is bound to remain a foreign and security policy actor of limited ambitions and capabilities beyond soft-power projection and beyond its immediate environment'.¹⁸⁹ So far, the strength of European policymaking was 'its ability to reconcile domestic political imperatives with the need for international diplomacy'.¹⁹⁰ Whether the European Political Community becomes an efficient product of that diplomacy and a tool to mitigate the EU's 'capabilities-expectations gap'¹⁹¹ remains to be seen.

¹⁸⁴ Jan Klabbers, *An Introduction to International Organizations Law* (3rd edn, CUP 2015) 25.

¹⁸⁵ Laurence Boone, 'Europe Must Become a Global Political Power' *Financial Times* (London 25 August 2022) <www.ft.com/content/dfb90cca-cd02-4add-8378-86fddae2aefc> accessed 24 March 2023.

¹⁸⁶ Heidi Maurer, Richard G Whitman, Nicolas Wright, 'The EU and the Invasion of Ukraine: a Collective Responsibility to Act?' (2023) 99 IA 219.

¹⁸⁷ SOTEU 2022

¹⁸⁸ The list includes war against Hamas, the issue of Kosovo's independence, the breakup of Yugoslavia, or the latest comment by French President Emmanuel Macron on the *status quo* in Taiwan which surprised European and transatlantic partners.

¹⁸⁹ van Meurs and others (n 3).

¹⁹⁰ Mark Leonard, 'Will Putin Unite Europe?' (Project Syndicate, 15 February 2022) <www.project-syndicate.org/commentary/ukraine-crisis-uniting-european-union-by-mark-leonard-2022-02> accessed 19 February 2023.

¹⁹¹ Christopher Hill, 'The Capability-expectations Gap, or Conceptualizing Europe's International Role' (1993) 31 JCMS 305.



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Suggested citation: S K Mazur, 'Evolution of the European Political Community in Times of the EU's 'Geopolitical Awakening' (2023) 19 CYELP 79.