



INSTITUTIONAL ASPECTS OF UKRAINIAN ACCESSION TO THE EU

ABSTRACT

Ukrainian accession to the European Union has major implications for the EU itself. It has economic, political, security and institutional consequences and complications which will have to be addressed to make it work in the interest of everybody. This article will focus on the institutional questions, which have up to now been less discussed than the economic and political ones.

This is not to neglect those other issues:

- Politically and culturally, it will mean the European Union stretching much further to the east than was ever envisaged when it was first created, set up initially by just six member states in the west of Europe.
- Economically, it will be a challenge. Indeed, we've already seen issues in the field of agriculture with complaints by Polish and other EU farmers about competition from Ukrainian products. There will also be challenges for Ukraine in terms of integrating and competing in the European single market.
- Regarding security, Ukrainian accession will obviously lengthen considerably the border between the EU and Russia. What happens with Russia after the end of the war remains to be seen, but whatever arrangement is made will have to be a major focus of the EU's foreign and security policy.

But this policy brief examines the **institutional** aspects of Ukraine joining: how will it fit into the EU institutions and do those institutions need to be adapted?



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Introduction

Ukrainian accession to the European Union has major implications for the EU itself. It has economic, political, security and institutional consequences and complications which will have to be addressed to make it work in the interest of everybody. This article will focus on the institutional questions, which have up to now been less discussed than the economic and political ones.

This is not to neglect those other issues:

- Politically and culturally, it will mean the European Union stretching much further to the east than was ever envisaged when it was first created, set up initially by just six member states in the west of Europe. The EU was in recent years extended to central Europe and is now having think about what a Union would be like, stretching all the way to the eastern border of Ukraine.
- Economically it will be a challenge. Indeed, we've already seen issues in the field of agriculture with complaints by Polish and other EU farmers about competition from Ukrainian products. There will also be challenges for Ukraine in terms of integrating and competing in the European single market. Such issues arise to one degree or another with every new member state, usually solved by having transition periods during which a new member state doesn't have to initially apply all European policies or regulations but adapts to them over a period of time. In Ukraine's case, there may be a need for long transitional periods and there will certainly also be a need for a huge reconstruction programme, which the EU has pledged to support, because of the devastation that Ukraine has suffered after the illegal and brutal Russian invasion, but there is a strong feeling of solidarity across Europe and the EU will keep up its support to Ukraine.
- Regarding security, Ukrainian accession will obviously lengthen considerably the border between the EU and Russia. What happens with Russia after the end of the war remains to be seen, but whatever arrangement is made will

have to be a major focus of the EU's foreign and security policy.

But what I'm going to examine now are the **institutional** aspects of Ukraine joining: how will it fit into the EU institutions and do those institutions need to be adapted?

Not alone

The first thing to note is that the Ukraine will probably not be alone in joining, because there are six western Balkan countries and Moldova who are also, more or less, in the same likely time frame. (I'm leaving out Turkey and Georgia because I don't think it's conceivable that they would join in that same time frame). The same "time frame" does not mean they would all join on the same day or in the same year, but in terms of looking forward over the next decade the EU has to think about how it could function with 30+ Member States. This will affect how the EU thinks about integrating Ukraine within the institutions.

The EU has to look at its institutions and how they can work in a Union of 30+ members and how to allocate places for the new member states in the institutions. It will inevitably be looking at that, and the question how to make the Union function effectively if it moves from having 27 member states now, to perhaps 35 in the medium term.

Of those new member States, Ukraine will be the largest. Indeed, by area, it will become the largest EU member state of all (at least if you only count the European territories of the member States and not, for instance, the French overseas territories). It will be the fifth largest by population, behind Germany, France, Italy and Spain, roughly the same as Poland. It will be a major player.

Making room in the institutions

The first thing to look at is how Ukraine slots into the existing EU institutions.

Regarding the **Council** (of ministers) and the **European Council** (the summit meeting of heads of state and government) it means an extra seat round the table. There will be a Ukrainian seat (and indeed seats for all the other countries that join). Those institutions will not simply become larger; it will also affect decision taking.

When qualified majority voting applies in the Council, a double majority is needed to adopt a proposal: a majority of 55% of the member states (with one vote for each state) and also that majority must represent 65% (so nearly 2/3ds) of the population. For that second criterion, each member state has a vote proportional to the size of its population, so obviously the larger member states in terms of population have stronger votes on that second aspect of this double majority. Ukraine as a large country will carry a lot of weight for that second aspect of the vote in the Council.

On the subjects where unanimity is required to take a decision, every single minister must agree (or abstain) and Ukraine will be on the same footing as every other member state.

When it comes to the **Courts**, Ukraine, like every other member state, will have one judge in the Court of Justice and two in the General Court. There is, however, room for discussion when it comes to the Advocates General within the Court of Justice, where the largest member states all nominate one and the other member states take it in turn. Ukraine will certainly be in position to argue that it counts as one of the larger member states, because its population is more or less the same as Poland, and Poland always nominates an Advocate General.

When it comes to the **Commission**, the executive/administration of the EU that makes proposals for legislation and administers the policies that have been agreed, it is headed by a College of

Commissioners with, currently, one Commissioner per member state. There is already a feeling that having 27 Commissioners is too large, making it unwieldy and difficult to find significant portfolios for all. Moving up to over 30 Commissioners would accentuate that problem.

The treaty (which is the de facto constitution of the EU in that it lays down the remit of the EU, its powers, how it takes decisions, and how you appoint or elect people to the institutions) actually says there should be a number of Commissioners that corresponds to 2/3 of the member states, with a rotation system to take it in turn. However, the treaty also says that the European Council can take a decision to vary the number. Up to now, it has indeed done so and kept one Commissioner per member state.

The prospect of 30+ states means there will be a lot of pressure to activate that provision of the treaty and apply a rotating system. If that happens, Ukraine, like others, will have a Commissioner two times out of three.

If that doesn't happen, and the current system is kept, then the Commission will be very large, and it will have to address that. Indeed, already now, it has begun to adapt by creating a de facto hierarchy. The President is in a much stronger position than was historically the case, and a team of Executive Vice Presidents have a stronger role than others. The Commission has thus become more hierarchical. Without a reduction in its size, this trend is likely to continue.

Ukraine will in either case be in exactly the same situation as other member states. Its Commissioner will be chosen jointly by the President of the Commission and the government of Ukraine. Finding a strong Ukrainian candidate will increase the chances of securing an important role when the President distributes the portfolios.

A Commissioner's job is to work in the interest of the Union as a whole. They do not represent their country. They do bring a knowledge of their country and expertise from their country, but it's not their job to represent their government - that is the job of

the minister in the Council, not the Commissioner. The Commissioner will have a portfolio: agriculture, transport, fisheries, whatever it may be, and has to act in the overall collective European interest.

When it comes to the **European Parliament**, things get slightly complicated. The higher the population of a Member State, the higher the number of MEPs it has, but this rises degressively, and it starts from a threshold currently of six, no matter how small a country is - even Luxembourg and Malta have six seats. It then rises in function of population, but on a curve that is degressive, so smaller member states are slightly overrepresented and larger ones underrepresented if compared to strict population proportionality.

Ukraine's population is similar to that of Poland, so one might expect it to get a similar number of MEPs. But here there is already an interesting question that arises: at the moment Ukraine's population is lower than it would normally be because of the diaspora of people who have had to leave Ukraine because of the war, and conversely Poland's population, if you include people of Ukrainian nationality living in Poland, is higher than it would otherwise be. Ukraine will no doubt argue that in normal circumstances its population is slightly higher than that of Poland so it should have one or two seats more than Poland in the European Parliament.

The next issue is that, if you allocate to Ukraine, and other new members, the same number of seats as current member states with a similar population as each of them, then you would get to a European Parliament of about 845 members. That is too big. The treaty lays a maximum of 751, and already people think that is too big. The current post-Brexit parliament has 720 members, leaving a small margin of 31 "spare" seats that could cater for a small first enlargement to less populous countries. But beyond that, and certainly when Ukraine joins, there would be no alternative but to cut the number of MEPs for the existing member states.

This has happened in the past. As more countries have come in, the EU has not just added more members to the European Parliament, it's also

reduced the number of seats for older member states. This has always triggered a big argument. (It is much easier to just add numbers than to give up seats!) Even if the principle of degressive proportionality has been agreed by all, it still leaves room for argument. And up to now, the smallest member States have been protected from losing seats because of the minimum threshold of six. This has led to a greater over-representation of those states in per capita terms, compared to others. It is unlikely that they will get away without a reduction this time, especially as other small countries will be joining, but that will require an amendment to Article 14 TEU.

Ultimately, depending on how these issues are resolved, Ukraine is likely to get between 45 and 47 MEPs. That being said, in the European Parliament members do not work in national delegations. They organise themselves in political Groups according to their political affinity: Socialist, Liberal, Green, Christian Democrat, Conservative and so on. This is logical as it is not a duplication of the Council: there are MEPs from the governing parties in each member state and also of parties that are in opposition in each member state. It's elected by proportional representation, so the full range of opinions within each country has a voice. When a minister in the Council says "this is the view of my country", as if everybody back home agrees, that is often contradicted by the range of views from his or her own country represented in the Parliament. It is unusual to see all the members from one country voting one way and all the members from another country voting another way. The divisions are political.

This actually reflects more accurately the choices at stake at European level: most of the European legislation on which the Parliament votes entails political policy choices on which there will be different opinions within each country: choices between, for instance higher standards of consumer protection or leaving it to the market, stronger environmental standards but at greater cost, better protection of workers' rights in law or leave it to trade unions to negotiate as best they can with employers? These are political questions, where you

will have people on each side of those arguments inside every member state. The Parliament reflects that. So when Ukrainian members join the European Parliament they will, according to their political outlook, be joining different political groups.

With a proportional election system required by the treaty, there will no doubt be several Ukrainian political parties winning seats, and Ukraine's MEPs will join a variety of different Groups in accordance with their values, their political outlook and their political preferences. In that context, the exact number of seats that a country has in the European Parliament is in a way secondary, because the dividing lines are not national, they are political.

Implications for the EU system as a whole

We have seen how the peoples of Ukraine and other new member states will be represented in the EU institutions. But for the enlarged Union as a whole, there is also the question of whether it can keep on functioning effectively with 30+ member states. The **capacity to act** of the Union is very important - there's no point in having a Union if it's always in deadlock and can't do anything!

Fortunately, most of the time, the Union is not in deadlock, because the institutions can act by a majority vote, although in the Council, it is, as we saw above, by the high threshold of a qualified majority. In practice, ministers sitting around the table in the Council don't really like outvoting each other. They prefer to negotiate a compromise and to take everybody's interests on board - but those negotiations are very different if a vote can be taken than if unanimity is required and everybody has to agree. If a vote can be taken, those in a minority usually prefer to negotiate a compromise rather than be outvoted. But if unanimity is required, a single minister in the Council can block any decision, even if every other Council member and the European Parliament support the proposal.

Despite several treaty revisions replacing unanimity by qualified majority voting on most subjects,

there are still some subjects where unanimity is required in the Council. These include foreign and security policy, sanctions, tax, the EU's budgetary resources and its multiannual spending programme, citizenship, social security, some decisions in the field of police and justice cooperation, the accession of new member states, and sanctioning a member state for a serious violation of the values on which the Union is founded (human dignity, freedom, democracy, equality, the rule of law and respect for human rights).

In recent years, the Hungarian minister in the Council has often blocked decisions on sanctions on Russia, or held them up, demanding something in return, which has been described as blackmail. So, the veto right conferred by the need for unanimity is already seen as a problem for the EU with 27 member states - with 30+ members it means, in the best case scenario, slow cumbersome decision at the level of the lowest common denominator, and in the worst case scenario, it means deadlock or even blackmail.

There are therefore many voices calling for a switch to qualified majority voting instead of unanimity in as many areas as possible. This was one of the main conclusions of the Conference on the Future of Europe in 2022.

Can this be done? Every treaty revision over the last 40 years (the Single Act, Maastricht, Amsterdam, Nice and Lisbon treaties) has included an extension of the field of majority voting. Why do countries agree to relinquish their possibility to veto things they don't like? Because if they can block something they don't like, it means that there are 26 others who can block things they want! So, relinquishing the veto is a mutual disarmament: everybody agrees to give up their veto and gains from 26 others doing likewise.

Would a procedure to introduce such a change hold up enlargement? A full treaty revision procedure before signing an accession treaty indeed risks doing that. But there are other ways of doing so.

Any new member state joins via an Accession Treaty, and such a treaty itself modifies the original treaties.

It should therefore be possible to incorporate this reform into the Treaty of Accession of Ukraine (and/or of other countries). Of course, the bulk of an Accession Treaty is about the timetable, transition periods, number of seats in the European Parliament and so on for the acceding state, but it can also include provisions to change the voting system in the Council to cater for the extra Member State(s), and indeed other things. That way reform can be done in parallel, without holding up enlargement. Furthermore, it could be politically interesting because it will put pressure on some governments that, at the moment, are reluctant to give up their veto, but strongly support enlargement (to at least some of the candidates).

A switch from unanimity to QMV could also be done by using the so-called “passarelle clauses” of the treaties, which allow the Council or European Council to make such a decision (by unanimity) in specific cases. This could be done in conjunction with the accession of new Member States.

This is a debate that will unavoidably take place in the Union over the next few years. I think it’s in Ukraine’s interest to say “we understand the problem, but it shouldn’t hold us up. Address that problem through an Accession Treaty rather than through a prior revision of the treaties that might take years”. There is a growing feeling in the Union that that would be a way to deal with it and Ukraine would be well advised to encourage that way of dealing with this problem.

Ukrainians will also have to become familiar with how the EU works and what makes it special.

The EU is not a normal intergovernmental organisation where governments try to agree something by consensus and, if they do, may not actually carry it out (or not fully). Instead, the EU is a framework with some federal style characteristics. It can legislate in a limited number of fields (where the treaty has specified that the EU is empowered to do so), and in those fields its laws are directly applicable on citizens in all Member States (“Regulations”) or bind the member states to specific objectives (“Directives”), even if those member states voted

against them in the Council. There is a common court to enforce those rules and settle disputes about them. There is a common executive, the Commission, which applies what has been agreed, and makes new proposals for new policies and new legislation. It is not a dominant executive, like governments often are in a national context - its proposals have to go through a bicameral legislature (the Parliament, directly elected, and the Council), in which it doesn’t have compliant majorities, but it is not a mere secretariat. It acts in full independence of national governments and is accountable to the European Parliament (which elects its President, confirms its appointment, and can dismiss it).

Two-chamber legislatures are common features in many countries, and the two branches of the EU legislature mean that all proposals are examined from multiple perspectives before they can be adopted. It’s a system with checks and balances, and it has evolved over time. It is quite different from traditional international structures.

Its field of responsibility (“competences”), while limited to what is laid down in the treaties, is significant. Central features are the single market and the customs union, meaning that any product from any member state can be sold across all of them without further border checks, testing requirements, certifications, or double taxation. This is possible because common rules for that market have been adopted on product standards, consumer protection, environmental protections, workers’ rights, fair competition, and so on. The customs union means no internal border tariffs, but instead common external tariffs, meaning that the EU also has to have a common trade policy, which in turn means common positions on many foreign policy issues. There is also cooperation in many fields where acting jointly is more effective (fighting cross-border crime) or saves money (research programmes) or simply practical (transport policy).

It is important to prepare public opinion for what membership entails. It is not about simply joining a loose association of friendly states. It is about a long-term commitment to sharing sovereignty in limited but significant fields.

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RICHARD CORBETT

Richard Corbett was a Member of the European Parliament from 1996–2009 and 2014–20. During that period, he was for ten years the Coordinator for the S&D Group on constitutional questions. He was the European Parliament’s co-rapporteur on the Constitutional Treaty and on the Lisbon Treaty. He was the UK Labour Party’s leader in the European Parliament and in that capacity was a member of the Labour Party National Executive Committee and Shadow Cabinet. From 2010–14 he was senior advisor on constitutional questions to the President of the European Council, Herman Van Rompuy.

Prior to becoming an MEP, he worked with Altiero Spinelli on Parliament’s proposal for a Treaty on European Union. He later drafted proposals incorporated in the Maastricht and Amsterdam treaties, not least the first draft of what is now the EU’s Ordinary Legislative Procedure (co-decision procedure) which gives the European Parliament an equal say with the Council on legislation. He has several times been the rapporteur on rewriting the Parliament’s Rules of Procedure. He has written extensively on European affairs, including several academic textbooks, and was a visiting professor at the College of Europe in Bruges.

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FOUNDATION FOR EUROPEAN PROGRESSIVE STUDIES

FROM WAR TO RECOVERY: STRENGTHENING UKRAINE'S HEALTHCARE FOR A RESILIENT FUTURE

ABSTRACT

The availability and effectiveness of healthcare infrastructure are critical for both immediate humanitarian response and long-term societal recovery, especially in a country embroiled in war. The Russian full-scale invasion has placed immense strain on Ukraine's already fragile healthcare system, exacerbating pre-existing challenges such as underfunding, limited capacity, and workforce shortages. This situation underscores the need for targeted reforms and resource allocation to ensure accessibility and resilience. Rebuilding efforts must address systemic fragmentation, integrating diverse stakeholders like international donors, civil society, and unions, while prioritizing long-term self-reliance through financial sustainability and institutional development. A successful recovery requires inclusive policy-making, anti-corruption measures, and investments in infrastructure and workforce capacity to meet Ukraine's future healthcare needs. Drawing from expert interviews and qualitative research, this policy brief highlights the complexities of Ukraine's healthcare reform in the context of crises like war and the COVID-19 pandemic, offering insights into the challenges and opportunities for sustainable recovery.

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