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Evita Dionysiou[*]

Improving the EU's Readiness to Admit Ukraine Without Amending the Lisbon Treaty

Abstract

In the unprecedented circumstances of the full-scale war in Ukraine, the country's accession to the European Union (EU) has come to be viewed as a geopolitical imperative. However, despite renewed political commitment to enlargement, the Union remains poorly equipped to admit new members without jeopardising its internal cohesion and functionality. This article examines how the EU can enhance its institutional readiness to integrate Ukraine without amending the Lisbon Treaty. It identifies four complementary reforms that can strengthen the Union's decision-making and enforcement capacities: (a) broader use of Qualified Majority Voting (QMV); (b) activation of the *passerelle* clauses as a legal bridge toward flexibility; (c) strategic use of constructive abstention to preserve unity in the Common Foreign and Security Policy (CFSP); and (d) development of a cooperative enforcement model to improve implementation of EU legislation. By linking these mechanisms to the current debate on enlargement and governance, the article demonstrates that meaningful institutional adjustment is possible within the existing Treaty framework. It argues that such reforms would not only prepare the EU for Ukraine's accession but also strengthen the Union's overall legal coherence, external credibility, and rule-of-law resilience. To conclude, this paper advocates that the momentum created by Ukraine's membership application should be seized upon to build a more responsive, credible, and strategically autonomous Union – one capable of deepening its integration while widening its membership.

Keywords: Lisbon Treaty, Qualified Majority Voting, *Passerelle* Clauses, Cooperative Enforcement, Enlargement, Ukraine's Accession

[*] **Evita Dionysiou** – Hellenic Police Academy, Greece, Neapolis University Pafos, Cyprus, Metropolitan College, Greece, e-mail: evitadionysiou@yahoo.com, ORCID ID: 0000-0002-4289-081X.

Introduction

In December 2023, the European Council decided to open accession negotiations with Ukraine and Moldova.[1] The outcome of this process depends on three interrelated factors: (a) the evolution of the war with Russia and its eventual political settlement; (b) Ukraine's progress in meeting the conditions outlined in the European Commission's Opinion on its membership application (European Commission, 2022); and (c) the EU's institutional readiness to admit new members. This article focuses on the third factor – the Union's preparedness for enlargement.

Russia's full-scale invasion transformed Ukraine's EU membership from a distant aspiration into a geopolitical necessity. While enlargement now commands broad political support, the EU's decision-making structures remain poorly equipped to absorb new members without risking paralysis or internal fragmentation. Effective enlargement therefore requires targeted reforms that enhance the Union's capacity to act. However, internal reform should not become a pretext for delay; deepening and widening can reinforce one another if pursued through pragmatic institutional innovation (Dionysiou, 2023).

To achieve such innovation, a formal revision of the Lisbon Treaty does not appear to be a realistic prospect at present, as the Member States show little willingness to reopen the Treaty framework. Nonetheless, the Treaty already provides several underused instruments that could improve flexibility and decisional efficiency. These include broader use of QMV, activation of the *passerelle* clauses, strategic application of constructive abstention, and stronger cooperative enforcement of EU law. Together, these mechanisms could enhance the Union's functionality and resilience, enabling enlargement without undermining cohesion.

In light of the above considerations, this article's aim is to examine how institutional adjustments can prepare the EU to integrate Ukraine within the existing Treaty framework. In order to meet this aim, the article is structured as follows. The first section reviews key academic and policy debates on EU reform, decision-making, and enlargement. Section two provides a historical background that outlines the geopolitical and institutional context of Ukraine's candidacy and the EU's response to the war. The subsequent parts of the article analyse four complementary reforms – the expansion of QMV, use of *passerelle* clauses, constructive abstention, and cooperative enforcement – assessing their operation, their contribution to Ukraine's accession, and the broader implications for EU

[1] This article focuses specifically on Ukraine; reference to Moldova's membership application falls outside its scope.

governance and external relations. To conclude, this article argues that the momentum generated by Ukraine's membership application presents an opportunity to modernise the EU's institutional architecture and reinforce its strategic autonomy without amending the Lisbon Treaty.

Literature Review

Over the past decade, the EU's enlargement and decision-making reforms have become a central topic in the academic and policy discourse, particularly in the context of the Union's evolving response to the "polycrisis" and renewed geopolitical competition (Nicoli, Zeitlin, 2024). The literature on EU institutional capacity emphasises that further enlargement without internal adjustment risks diminishing the Union's effectiveness and unity (Fabbrini, 2025; Calliess, 2023). Scholars such as Rabinovych (2024), who examines the legal and rule-of-law dimensions of Ukraine's accession process, argue that the existing institutional framework rooted in the Lisbon Treaty constitutes a significant obstacle to accommodating new members while maintaining policy coherence.

At the same time, a growing body of work explores decision-making flexibility within the existing Treaty framework. Panizza (2019), Kotanidis (2020), and Mintel and von Ondarza (2022) underline that the *passerelle* clauses and the broader use of QMV are among the most promising legal mechanisms for strengthening the EU's decision-making capacity without requiring formal Treaty amendment. The European Parliament further supports this view, advocating their use as a means of enhancing responsiveness and overcoming institutional gridlock (European Parliament, 2024). Collectively, these analyses suggest that procedural innovation within the Lisbon framework is both legally feasible and politically necessary in anticipation of future enlargements.

From a broader governance perspective, research on constructive abstention and variable geometry in EU foreign policy (Bartoloni, 2022; Franco-German Working Group on EU Institutional Reform, 2023) highlights the potential for more flexible patterns of integration. These mechanisms, although imperfect, allow for differentiated participation that maintains unity while enabling timely decision-making in areas such as the CFSP. Recent contributions by Baerbock et al. (2023) and Fabbrini (2025) point out that extending QMV or applying constructive abstention in foreign policy could substantially enhance the Union's credibility as a geopolitical actor, especially in responding to external crises such as the war in Ukraine.

Parallel to the institutional debate, the literature on EU enlargement and Ukraine's accession has evolved rapidly since 2022. Early analyses framed Ukraine's application as a turning point for EU enlargement, linking it to a broader strategic vision of a "geopolitical EU" (Petrov, 2023; Dionysiou, 2023). More recent scholarship (Fabbrini, 2025; SWP, 2024; Buras, Morina, 2023; Raik, Blockmans, 2023) emphasises that Ukraine's membership perspective functions both as a geopolitical imperative and as a catalyst for internal reform. These studies converge on the argument that the EU must adapt its internal decision-making structures to accommodate a large and politically significant candidate such as Ukraine, while preserving the legitimacy and cohesion of its institutional order.

Furthermore, a growing number of studies examine enforcement and compliance mechanisms within the EU's legal system, identifying persistent deficits between legal commitments and practical implementation (Ballesteros Perals, 2025; Anzini et al., 2021). This body of literature supports the notion that improved cooperative enforcement – through networks of national and EU authorities – can bridge the gap between "law in books" and "law in action". Such approaches not only enhance rule-of-law consistency across Member States but also strengthen the credibility of the enlargement process by ensuring that new members effectively adhere to EU norms after accession.

Collectively, these strands of research reveal a significant analytical gap; while many scholars have examined enlargement and institutional reform separately, relatively few have explored their interconnection under the constraint of the Lisbon framework. This article seeks to address this gap by focusing on how feasible procedural reforms – such as broader use of QMV, activation of *passerelle* clauses, constructive abstention, and cooperative enforcement – can prepare the EU for Ukraine's accession without requiring Treaty amendment. In doing so, it positions itself within the emerging body of literature that conceptualises enlargement not only as a geopolitical choice but also as a constitutional and institutional challenge for the Union's long-term governance.

Historical Background: The Shock of the War and the Geopolitical Turn to EU Enlargement

Before 2022, EU enlargement had largely stalled due to so-called "enlargement fatigue", internal divisions, and concerns regarding governance and the rule of law. Russia's full-scale invasion of Ukraine in February 2022 transformed this landscape, turning enlargement from a technocratic exercise into a geopolitical necessity (Dionysiou,

2023; Fabbrini, 2025; Petrov, 2023). Confronted with Europe's gravest security crisis since the Cold War, the EU began to regard Ukraine's membership as essential to regional stability and to its own strategic identity.

Political leaders quickly adjusted their positions. For instance, President Emmanuel Macron's declaration in Bratislava in May 2023 that "the question is not whether we should enlarge, but how" (Buras, Morina, 2023, p. 3) signalled a broader shift among traditionally cautious Member States. These developments revealed a growing consensus that enlargement had become a core instrument of EU foreign policy and an expression of its geopolitical agency.

This reorientation was reflected in institutional practice. In June 2022, the European Commission recommended granting Ukraine candidate status, outlining seven reform priorities in areas such as judicial independence and anti-corruption (European Commission, 2022). The European Council endorsed this recommendation shortly afterwards, describing the decision as "a geopolitical choice" (European Council, 2022). By December 2023, the Council agreed to open formal accession negotiations with Ukraine and Moldova, culminating in the first Intergovernmental Conference on 25th June 2024 (Council of the European Union, 2024). These steps marked a transition from political rhetoric to concrete institutional engagement.

Yet the geopolitical turn also exposed enduring structural weaknesses in the Union's decision-making architecture. Previous enlargements, notably that of 2004, demonstrated that expansion without institutional adaptation risks inefficiency and gridlock. Scholars have warned that admitting new members under the current rules could deepen asymmetries and undermine cohesion, echoing Kennedy's (1987) notion of "imperial overstretch" in institutional terms (Calliess, 2023; 2024). As Goulard cautions, enlarging the Union without reforming it risks compromising the entire integration project, as the EU could grow to the point of "exploding" (Fabbrini, 2025 citing Goulard, 2024). The challenge, therefore, is not whether enlargement should proceed, but how the EU can expand while remaining functional, united, and coherent.

Ukraine's candidacy thus compels the Union to match geopolitical ambition with institutional preparedness. Seizing this moment to strengthen decision-making within the Lisbon framework is essential to ensure that enlargement reinforces rather than strains the EU's capacity to act.

Necessary Reforms: Enhancing the EU's Readiness to Admit Ukraine

Ukraine's accession is widely recognised as a geopolitical imperative, yet the EU's institutional capacity to absorb new members remains limited. The Union continues to face a "polycrisis" of overlapping challenges – including energy insecurity, migration, and democratic backsliding – that already tests its decision-making efficiency and internal solidarity (Nicoli, Zeitlin, 2024). Under such conditions, enlargement without internal adjustment risks amplifying existing weaknesses and straining political cohesion.

The aim, therefore, is to identify reforms that would enable the EU to enlarge while preserving functionality, legal integrity, and unity. In this context, the article proposes targeted institutional adjustments achievable without Treaty amendment, grouped into two categories.

First, decision-making reforms aimed at strengthening efficiency and responsiveness:

(a) broader use of QMV in the Council;
(b) activation of *passerelle* clauses to extend QMV to specific policy fields; and
(c) strategic application of constructive abstention in the CFSP.

Second, implementation and enforcement reforms designed to ensure effective application of EU law, notably through a cooperative enforcement model linking national and EU authorities.

Each proposal builds upon mechanisms already embedded in the Lisbon Treaty and therefore requires no formal Treaty revision. Taken together, these reforms constitute a pragmatic roadmap for institutional modernisation, enabling the Union to integrate Ukraine while reinforcing its internal cohesion and external credibility.

Greater Use of Qualified Majority Voting in the Council

The increasingly uncertain geopolitical landscape forces the EU to reconsider its decision-making process in order to proceed smoothly with enlargement while maintaining its capacity to act effectively in the international arena. To that end, adjustments to the Union's internal procedures are considered indispensable for preparing an enlarged EU to function efficiently.

In procedural terms, QMV refers to a decision-making method in the Council of the EU whereby measures are adopted if supported by

at least 55% of Member States, representing at least 65% of the Union's population. This rule, introduced by the Lisbon Treaty, replaced the earlier weighted-vote system and was designed to facilitate compromise in an increasingly diverse Union. QMV is used in most policy areas under the ordinary legislative procedure, yet key domains – such as foreign and security policy, and the admission of new members – still require unanimity. As enlargement advances, the unanimity requirement risks becoming a structural bottleneck.

From a functional standpoint, the broader use of QMV is regarded as a means to maintain decisional efficiency in a larger EU that may soon comprise more than 30 Member States (Mintel, von Ondarza, 2022). In the context of Ukraine's prospective membership, expanding QMV would help prevent individual Member States from blocking progress in key policy areas for domestic or tactical reasons. The experience of repeated vetoes on sanctions or budgetary matters has already demonstrated that unanimity can paralyse collective action (Buras, Morina, 2023). By contrast, decisions taken under QMV would reduce the number of veto players and thereby strengthen the Union's capacity to act, both internally and externally.

A greater reliance on QMV could also be applied to the enlargement process itself. Scholars such as Dionysiou (2023) contend that allowing the Council to adopt certain enlargement-related decisions by QMV could make the accession process more predictable and rules-based. For Ukraine, this would ensure that technical progress is not held hostage to political obstruction by individual Member States. It would also send an important geopolitical signal that the EU is capable of aligning its internal governance with its strategic ambitions.

At the same time, the transition to broader QMV use could be achieved without Treaty amendment, through the activation of the *passerelle* clauses – Article 48(7) TEU – embedded in the Lisbon framework. This route is both legally feasible and politically realistic, as it avoids reopening the Treaties while still allowing targeted institutional evolution. Several Member States – including Germany and the Netherlands – have recently supported this approach as a temporary but pragmatic step toward institutional flexibility (Franco-German Working Group on EU Institutional Reform, 2023; The Government of the Netherlands and the Federal Government of Germany, 2023).[2]

From an analytical perspective, a more extensive use of QMV would not only prepare the EU for Ukraine's accession but also enhance its

[2] It is worth noting that the report of the Franco-German Working Group itself explicitly states that it should not be regarded as representative of the French and/or German official position (Franco-German Working Group on EU Institutional Reform, 2023, p. 1).

coherence in external relations. The capacity to adopt common positions more swiftly would strengthen the EU's credibility in its neighbourhood and its ability to act as a strategic actor in global affairs. In the CFSP, for instance, applying QMV to sanctions could help the Union respond more rapidly to crises – an essential consideration given the geopolitical context of Ukraine's war. Furthermore, increased use of QMV could produce a positive spill-over effect on other areas of EU law, encouraging a culture of compromise and supranational decision-making that reinforces the EU's legal and political unity.

Nevertheless, it should be acknowledged that QMV is not a panacea. Deep divisions among Member States may still impede decisive action even under majority rules, and excessive reliance on QMV could risk alienating smaller Member States that are concerned about marginalisation. Therefore, a gradual approach – beginning with less controversial policy areas such as sanctions, or selected aspects of the enlargement process – is advisable. This strategy would allow Member States to build confidence in majority decision-making while maintaining a sense of collective ownership.

In conclusion, a broader application of QMV within the existing Treaty framework represents a realistic and necessary adjustment to prepare the EU for Ukraine's accession. It would ensure the Union remains capable of acting effectively in an enlarged configuration, while simultaneously reinforcing its credibility both as a global and regional actor.

Passerelle Clauses

While comprehensive Treaty reform remains politically unlikely in the short term, the Lisbon Treaty itself provides mechanisms for incremental institutional adaptation through the *passerelle* clauses. These clauses act as "bridges", allowing the Union to shift from unanimity to QMV or from a special legislative procedure to the ordinary legislative procedure in specific areas, without amending the Treaties (Kotanidis, 2020). They embody a form of constitutional flexibility designed to ensure that the Union can evolve functionally in response to new challenges.

Two categories of *passerelles* exist. The general *passerelle* clause, contained in Article 48(7) TEU, allows the European Council to authorise the Council to act by QMV in areas where unanimity currently applies, provided that no national parliament objects within six months. The specific *passerelles*, on the other hand, such as Article 31(3) TEU in the field of CFSP, apply to particular policy domains. Although activation of both types still requires unanimity in the European Council, their procedural simplicity compared

with full Treaty revision makes them a more pragmatic option for short-term institutional adaptation (European Parliament, 2024).

In the context of Ukraine's accession, *passerelle* clauses could play a central role in ensuring a smoother and more credible enlargement process. They could, for example, extend QMV to certain enlargement-related decisions – such as the adoption of negotiation frameworks or assessment of progress benchmarks – reducing the risk of individual vetoes. Their activation in fields such as CFSP or sanctions policy would also enhance the EU's geopolitical agility, enabling faster and more unified responses to external challenges.[3]

From a legal-political perspective, the *passerelle* mechanism offers a balanced compromise between flexibility and legitimacy. It preserves Member States' constitutional prerogatives – since activation still requires unanimous consent – while creating a procedural tool to streamline decision-making once political agreement is achieved. Practically, this approach constitutes institutional reform within existing Treaty boundaries, allowing institutional practice to evolve to sustain integration momentum in times of crisis. In the context of Ukraine, this adaptability would demonstrate that the EU can innovate internally to meet external strategic challenges.

The use of *passerelle* clauses also carries broader implications for EU external relations. By accelerating decision-making in foreign policy, sanctions, and defence coordination, the Union would strengthen its capacity to project influence and respond coherently to external pressures – especially *vis-à-vis* Russia and the Eastern neighbourhood. Moreover, an EU capable of timely and unified decisions would send a strong signal of credibility to partner countries and candidate states alike, underlining the Union's dual role as a rule-based and strategic actor.

Nonetheless, it should be recognised that the *passerelle* route is not without political limitations. Smaller or more sceptical Member States often perceive its use as a potential erosion of national sovereignty, making it practically difficult to achieve unanimity to trigger the clause. Yet, even the possibility of invoking *passerelles* exerts a valuable normative pressure, signalling a willingness to modernise governance within the Treaty framework. Thus, while the *passerelle* clauses may initially serve as a selective, transitional measure, their careful application could build confidence in more flexible integration methods and lay the groundwork for future constitutional evolution.

[3] It is worth noting that, between 2016 and 2022, 30 individual vetoes, threats of veto, or delays occurred in the context of the CFSP (Wessel, Szép, 2022).

In conclusion, activating the *passerelle* clauses would enable the EU to advance towards greater decisional efficiency without formal Treaty reform – an essential step in preparing the Union for Ukraine's accession. Such pragmatic adaptation would preserve the delicate balance between supranational functionality and national sovereignty, ensuring that enlargement becomes both politically viable and institutionally sustainable.

Constructive Abstentions

Another procedural mechanism that can strengthen the EU's readiness for enlargement – especially in the sensitive field of foreign and security policy – is constructive abstention. Introduced by the Treaty of Amsterdam and maintained under Article 31(1)–(2) TEU, it allows Member States to abstain from a vote in the Council without blocking the adoption of a decision. A state exercising this option is not obliged to implement the decision but must refrain from actions that would obstruct its execution by other Member States.

Procedurally, constructive abstention provides a middle ground between unanimity and full participation. Decisions can proceed even in the absence of complete agreement, preventing paralysis while respecting national preferences. A Member State may accompany its abstention with a formal declaration explaining its position, but this does not affect the validity of the decision for the Union as a whole (Bartoloni, 2022). In practice, the mechanism introduces flexibility into the CFSP, ensuring that collective action is not obstructed by a small number of dissenting governments.

In the context of Ukraine's accession and the broader enlargement process, constructive abstention could be instrumental in maintaining unity during politically sensitive decisions – such as sanctions coordination, military assistance, or alignment with EU foreign policy. By permitting dissent without veto, it enables the Union to act collectively while accommodating political diversity among Member States. As Baerbock et al. (2023) emphasise, such flexibility would prevent future blockages that have previously delayed EU responses to crises.

The mechanism also reflects the broader evolution of EU governance towards differentiated integration. It enables Member States to modulate participation according to national constraints while preserving the EU's operational capacity. For Ukraine, this sends a crucial signal that the EU can remain cohesive even when opinions diverge – reinforcing the credibility of its foreign and security policy during accession.

Externally, constructive abstention could render the EU a more agile actor in its neighbourhood and beyond. Faster decision-making in CFSP matters would enhance the Union's capacity to respond to external threats, strengthen its geopolitical credibility, and promote a unified stance towards Russia. The mechanism could also serve as a precedent for similar flexibility in other policy domains where unanimity often hampers collective action.

Nonetheless, constructive abstention should be applied with caution. Overuse could risk creating a so-called "two-speed Europe" in foreign policy, in which a core group leads while others remain passive. Its value lies in targeted, strategic application when consensus cannot otherwise be achieved. When used appropriately, it provides an essential balance between inclusiveness and effectiveness, ensuring that enlargement strengthens rather than diminishes the EU's capacity to act.

Enhancing the Implementation and Enforcement of the Adopted EU Legislation in Member States

The EU's capacity to act effectively depends not only on how decisions are taken but also on how they are implemented and enforced. While the decision-making process determines the Union's ability to respond to political challenges, effective implementation ensures that EU law produces its intended outcomes across all Member States. However, a persistent gap between "law in books" and "law in action" has long been recognised as a major weakness of the European integration project (Ballesteros Perals, 2025). This challenge becomes even more pressing in the context of enlargement, as the inclusion of new members magnifies disparities in administrative capacity and rule-of-law compliance. As the European Commission (2025) notes, ensuring the consistent and effective application of EU law across all Member States remains a cornerstone of Union governance.

A promising solution lies in a model of cooperative law enforcement, in which implementation responsibilities are shared between national authorities and EU institutions through coordination, joint supervision, and mutual assistance. Rather than supplanting national powers, this model promotes collaboration and information exchange to ensure uniform application of EU rules (Anzini et al., 2021; Calliess, 2023). Cooperation may include data sharing, coordinated inspections, or joint operational teams. Existing examples – such as the European Border and Coast Guard Agency (EBCG) and the European Competition Network (ECN) – demonstrate how shared enforcement can enhance compliance

and efficiency. Building on these precedents, the EU could extend cooperative enforcement to other key fields, including environmental and energy policy.

For Ukraine's accession, this framework offers several advantages. It would enable gradual integration of Ukraine into the EU's administrative system prior to full membership, ensuring that legal and institutional practices converge early. It would also grant the European Commission stronger oversight and facilitate post-accession compliance, thereby addressing Member States' concerns regarding uneven enforcement.

Moreover, cooperative enforcement would reinforce the Union's external credibility. A Union that consistently enforces its laws internally projects itself externally as a reliable, rules-based actor. Enhanced monitoring and coordination would improve the EU's capacity to negotiate and implement international commitments, particularly those linked to neighbourhood and association agreements. In Ukraine's case, this would support a coherent transition from association to accession, aligning national administration with EU standards in real time.

In sum, adopting a cooperative enforcement model would modernise the EU's governance and strengthen the uniform application of EU law across a larger Union. For Ukraine, it would offer a credible route to integration and durable post-accession compliance. Combined with the decision-making reforms discussed previously – QMV expansion, activation of *passerelle* clauses, and the strategic use of constructive abstention – this approach forms a coherent reform package capable of preparing the EU for enlargement within the existing Treaty framework.

Conclusions

The EU finds itself at a critical juncture, facing a dual challenge: to respond decisively to the geopolitical realities created by Russia's invasion of Ukraine and to adapt its internal governance to remain effective as it enlarges. Ukraine's accession is no longer a distant objective but a defining test of the EU's strategic maturity. Yet enlargement without reform risks undermining both internal cohesion and external credibility.

In light of these considerations, this article focused on how the EU can enhance its institutional readiness to integrate Ukraine without amending the Lisbon Treaty. It has identified four complementary reforms capable of strengthening the Union's decision-making and enforcement capacities: (a) broader use of QMV to prevent paralysis caused by unanimity; (b) activation of *passerelle* clauses to extend majority voting to key policy areas; (c) strategic application of constructive abstention to

enable progress in foreign and security policy even when full consensus is unattainable; and (d) a model of cooperative law enforcement to enhance compliance and ensure that new members, including Ukraine, implement EU law effectively.

Together, these mechanisms offer a pragmatic path towards a more functional and strategically autonomous Union. They demonstrate that flexibility and credibility can coexist: procedural efficiency can be achieved without compromising legitimacy or the rule of law.

More broadly, these reforms would foster a culture of compromise, strengthen the EU's role as a rule-based actor, and reinforce its capacity to act cohesively in the international arena. Ukraine's accession therefore represents not only the expansion of membership but also the renewal of European integration. By fully utilising the Lisbon Treaty's inherent flexibility, the Union can prove that widening and deepening are mutually reinforcing – and that the EU's unity can grow stronger as it grows larger.

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