

## INNOVATION, WORK, SOCIETY

INSTITUTIONAL CAPACITY OF THE UKRAINIAN PARLIAMENT IN THE  
CONDITIONS OF MODERN SECURITY THREATS**Oksana Bashtannyk**Candidate of Political Sciences, Assistant Professor,  
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**Summary**

The aim of this paper is to highlight the key parameters of the parliament capacity as an institution of the political system as illustrated by studying the process of exercising state power in modern Ukraine. The strengthening of threats to the national security of Ukraine, which occurred since the beginning of the full-scale armed aggression against our state, has actualized, among other things, the problems of the institutional stability of its political system and the institutional capacity of its legislative power institution. To date, as an important component for completing the democratic transformation of the political system, mainly the institutional capacity of civil society institutions is considered in the Ukrainian research space, as highlighted in the articles by M. Stasyshyna, A. Kostenko, K. Petrenko et al.

Methods used in the study: the analysis of the specified components of institutional capacity can be implemented based on the application of the research directions provisions of the new institutionalism of political science: international institutionalism, normative institutionalism and sociological institutionalism; and institutional capacity – based on the application of the research directions provisions of institutional studies in economics and political science and the new institutionalism of political science: classical (old) institutionalism, structural institutionalism and economic institutionalism.

**Key words:** public policy, legitimation, presidentialism, martial law, international politics.

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**1. Introduction**

In Ukrainian research on the issues of public administration, capacity is studied mainly as an attribute of a certain element of the political system – an institution as an entity of state power implementation. A significant segment of scientific research is centred around the analysis of the institutional capacity of local self-government, the findings of which are presented in the articles by O. Ros, S. Lypovska, O. Omelchuk et al. The article substantiates the need to expand the framework of analysis and integrate existing approaches to the conceptualization of institute/institution capacity in science of public administration and political science as such.

The study of the parliament capacity as an important component of the state capacity is of interest both in the research, theoretical, and practical area, especially in the context of institutional challenges that took on increasing importance during the period of full-scale armed aggression against Ukraine. The discussion around the potential of the state capacity in general is currently used as an element of the manipulative political rhetoric of the aggressor country towards Ukraine, in order to bring discredit to its sovereignty in the implementation of domestic and international policies.

The purpose of the study is to highlight the key parameters of the parliament capacity as an institution of the political system as illustrated by studying the process of exercising state power in modern Ukraine. The analysis of the specified components of institutional capacity can be implemented based on the application of the research directions methodological provisions of the new institutionalism of political science: international institutionalism, normative institutionalism and sociological institutionalism; and institutional capacity – based on the application of the research directions provisions of institutional studies in economics and political science and the new institutionalism of political science: classical (old) institutionalism, structural institutionalism and economic institutionalism.

## 2. The content of the concept of capacity as a research problem

It should be emphasized that from the perspective of defining the concepts of institutional/institutional capacity in the research literature on the relevant issues (including regarding the institutional capacity of the parliament), such definitions are often applied by the authors quite arbitrarily, without focusing on terminological differences, and sometimes even as synonymous concepts. However, we should note that these concepts still have their inherent properties, which N. Kolisnichenko and M. Voinovskyi focus on in the process of studying the specific features of determining the institutional capacity of local self-government. «The institutional capacity of local self-government means the capacity of local self-government institutions (authorities). Institutional capacity includes institutional capacity. Therefore, it will mean both the capacity of the entire institution of local self-government, and its authorities (institutions)» (Kolisnichenko & Voinovskyi, 2015: 299). For distinguishing the meaning of these concepts, researchers appeal to the details of the phenomenon of institutionality and its nominalization: «institutional» (derived from the word «institution») means officially approved, established, enshrined in its public status; associated with such an organization of public relations, which is based on certain rules and regulations of life and behaviour of people» (Kolisnichenko & Voinovskyi, 2015: 299).

Such an approach to understanding the definition of concepts may be viable, but we still give advantage to the approach suggested by O. Ros, who refers to examples of the application of terminology on institutional/institutional capacity in the documents drafted by international organizations. In her opinion, this corresponds to the English term «institutional capacity», that is, institutional capacity does not concern to institutes, but institutions (Ros, 2019: 98). Since, for example, «the documents issued by the European Commission suggest that strengthening institutional capacity is primarily aimed at institutions (systems and structures), however, strengthening the capability of individuals (i.e., the personnel of institutions) can be just as important for strengthening the capacity of institutions to act more effectively and efficiently» (Ros, 2019: 98–99), then O. Ros suggests understanding institutional capacity as «the ability of an institution to perform its functions by ensuring the proper level of processes, organization and resources of the relevant institution» (Ros, 2019: 99).

Capacity as an attribute of an institutionalized entity of politics may be inherent in institutions of various types (for example, the institution of legislative power), but among them those that develop the mechanism for the exercise of state power are of particular importance for the political system. Institutional capacity should be understood as the capacity of the institute to regulate a certain type of social relations based on the norms of international legal acts recognized by the state, national legislation and social legitimation (normative aspect of the institute essence). As components of the study of institutional capacity, we consider it necessary to highlight the following parameters: 1) the international legal area of the institute's functioning – compliance with international standards for the implementation of managerial activities; 2) compliance with the system of national law as a determining criterion for the legality of the implementation of managerial activities; 3) public legitimation – the presence of a sufficient level of public confidence in the functional potential of the institute.

Institutional capacity can be defined for an institution as the ability to perform its functions on the basis of regulatory, organizational and resource provision (structural aspect of the institution's essence). As components of the study of institutional capacity, we consider it necessary to highlight the following parameters: 1) the regulatory component – the availability of a coordinated regulatory framework; 2) the organizational component – the presence of the necessary level of structural differentiation; 3) the resource component – the availability of a sufficient amount of human and material resources. In order to implement both institutional and institutional capacity (especially for institutions of state power), it is necessary to take into account the factors that determine the peculiarities of the regulatory and functional properties of institutes and institutions.

### 3. The concept of state capacity in modern scientific discourse

The study of the of institutional capacity by domestic and foreign scientists is carried out primarily in relation to the analysis of the functioning of particular institutions, first of all state authority institutions like Verkhovna Rada of Ukraine. In review of this, an approach to the study of the state institutional capacity is being formed as the cumulative value of measuring the capacity of the institutions that compose its system: civil society and the state. However, such a vision is only partially legitimate, since the state as an institute of the political system and a subject of international politics also has the potential of institutional capacity.

A thorough study of the issues we have updated is carried out by the Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine, the presentation of the first findings of which took place within the framework of the panel discussion «Institutional Capacity of a State: Assessment Parameters», which was held on 22 June 2023 (*Panel discussion*). The analysis of the issues that were the subject of discussion by experts allows us to speak about the importance of the most comprehensive study of the components that determine the possibility of establishing an institutionally capable state as a whole, and include the specific aspects of the functioning of representative authorities of local self-government, communities, judicial authorities, and public administration, as well as interaction between the state and civil society. First of all, the analysis of the institutional capacity of the President, Parliament and Government as key institutions for the directions determining for implementing state policy is relevant.

Detailed research of the parameters of the state's institutional capacity is presented in the articles by M. Savchyn, who highlights a variety of factors able to determine its functional

potential capacity. It should be noted that this researcher has been analysing the phenomenon of a capable state for a long period of time, but in different contexts M. Savchyn emphasized the protection of human rights as the basis for the functioning of such a state. In a number of his research papers, the author refers to the analysis of the state's institutional capacity within the current context of its formatting, such as the problems of economic development of Ukraine before the full-scale russian invasion. On the basis of his empirical background, M. Savchyn points out that «an institutionally capable state contributes to the development and functioning of effective institutions and rules that will be able to carry out a fair allocation of resources and on this basis provide funding and planning of expenditures for certain legitimate purposes in order to ensure the economic well-being of society» (*Savchyn, 2021*).

Despite the significant impact of economic aspects, it can be argued that the most powerful challenge to the institutional capacity of the state in the Ukrainian territory was the armed aggression of the russian federation against Ukraine. In this context regarding the mechanisms for supporting the institutional capacity of the state, the need to protect human rights becomes really urgent, and M. Savchyn focuses on this issue in his latest research. «The purpose of constitutionalism is to provide certain safeguards against the barbarization of wars. This must be based on an institutionally capable state that relies on established institutions, rules and procedures to protect civilians and effectively repel the aggressor. At the national level, the components of this concept are the tools of militant democracy and parliamentary and judicial control, as well as the effective distribution of powers between the authorities in the area of national defence. The state is considered as an institutional security space for people, especially in the context of external aggression» (*Savchyn, 2022*).

Based on the conceptualization of the phenomenon of the state's institutional capacity in the research made by M. Savchyn, we consider it reasonable in the context of studying the state as an institution of the political system to distinguish its institutional capacity and institutional capacity (which can also be rational for its particular components). In our opinion, it is appropriate to characterize the institutional capacity of the state as the ability to effectively implement state power within the framework of the functioning of the public administration institutions system and institutions of civil society, and the institutional capacity of the state – as the ability to guarantee security at the national level and the protection of the rights and freedoms of an individual and a citizen.

#### **4. Martial law as a challenge to the capacity of political institutions**

In the context of the problem of institutional capacity maintaining, today require special attention the institutional interactions regarding the exercise of state power in the public administration which underwent a transformation countering the armed aggression of the russian federation. This element is a component of the implementation of institutional interactions complex related to the application of all necessary regulatory and structural tools to repel armed aggression against Ukraine as an external existential challenge. On the first day of the full-scale invasion of Ukraine by the russian army (24 February 2022), the Decree No. 64/2022 of the President of Ukraine V. Zelenskyy introduced martial law on the entire territory of Ukraine for a period of 30 days (*Presidential Decree No. 64/2022 of 24 February 2022*). This regulatory legal act also outlined the general mechanism of interaction between the military leadership, central and other executive authorities, as well as local self-government authorities to ensure the defence of Ukraine and protection of the rights and freedoms of citizens during martial law.

The urgent steps that the government and other executive authorities needed to take as structural elements of their system to implement the provisions of the legal regime of martial law were specified separately. Later, the martial law was repeatedly extended due to the continued existence of the threat of attack, the danger imposed to the state independence of Ukraine, as specified in Paragraph 20, Part 1, Article 106 of the Constitution of Ukraine (*Constitution of Ukraine*).

It should be noted that for the first time in the history of independent Ukraine, the legal regime of martial law was enshrined in the Law of Ukraine «On the Legal Regime of Martial Law» No. 389-VIII, which was signed by the President of Ukraine P. Poroshenko on 12 May 2015 in connection with the armed aggression of the Russian Federation in Donetsk and Luhansk Oblasts (*Law of Ukraine No. 389-VIII of 12 May 2015*). This Law clearly defines the specific aspects of the exercise of powers by existing state authorities and local self-government authorities under martial law (for example, the fact that the powers of the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine cannot be terminated), as well as the development of new institutions for the legal system of Ukraine, such as military administrations as temporary state authorities established to execute state power under a special legal regime. Besides, on 3 February 2015, the Law of Ukraine «On Military and Civil Administrations» No. 141-VIII was adopted, which defined the status of military and civil administrations as «temporary state authorities established in villages, towns, cities, rayons and oblasts that operate as part of the Anti-Terrorist Centre under the Security Service of Ukraine (if they are established to fulfil the powers of the relevant authorities in the area of the anti-terrorist operation) or as part of the Joint Emergency Response Centre of the Armed Forces of Ukraine (if they are established to fulfil the powers of the relevant authorities in the area where steps are taken to ensure national security and defence, rebuff and deterrence of the armed aggression of the Russian Federation in Donetsk and Luhansk Oblasts) and are intended to ensure the operation of the Constitution and Laws of Ukraine, ensure the security and the normal life of the population, law and order, participation in countering acts of armed aggression, sabotage manifestations and terrorist acts, preventing a humanitarian crisis in the area where steps are taken to repel the armed aggression of the Russian Federation, in particular, conducting an anti-terrorist operation» (*Law of Ukraine No. 141-VIII of 3 February 2015*).

If we talk, on this ground, about the institutional capacity of such important institutions of state power as the President of Ukraine, we could point out that under martial law, his legal status and public perception have significantly changed. Along with the transformation of the functional role of the President that complies with the laws, the thesis of further strengthening the status of the President in the public administration system has become common, in relation to which M. Savchyn notes that «it is inappropriate to talk about strengthening «presidentialism» – this is purely Latin American and Muscovite narrative about a leader whose actions are not restricted by any legal framework. This does not correspond to the constitutional tradition of Ukraine» (*Savchyn, 2023*).

## 5. Peculiarities of ensuring the institutional capacity of the Ukrainian parliament

The strengthening of the powers of the president of Ukraine and, accordingly, the growth of the institutional capacity of the presidential institute during martial law raises many cautions about the possible abuse of power, however, domestic researchers tend to come to the conclusion that the situation in Ukraine is under control. V. Vlasenko and V. Lutsenko consider

it necessary to stress that under martial law, the powers of the President continue to be determined exclusively by the Fundamental Law and the Laws of Ukraine. For example, Article 9 of the Law of Ukraine «On the Legal Regime of Martial Law» stipulates that under martial law, the President of Ukraine and the Verkhovna Rada of Ukraine shall act exclusively on the basis, within the limits of their powers and in the manner determined by the Constitution and Laws of Ukraine. Article 10 of the same Law stipulates that it is unacceptable to terminate the powers of state authorities and other state authorities under martial law (*Vlasenko & Lutsenko, 2023: 70*). However, the current state of the institutional capacity of the Ukrainian parliament as a collegial institution of people's representation requires a more thorough analysis (on the basis of the approaches indicated above). As a result of the research, domestic scientists formulated proposals that should contribute to strengthening the institutional capacity of the Verkhovna Rada of Ukraine as a whole, on the basis of the fundamental principles of its functioning in a modern democratic, social, legal state, developed by world practice, among which the need to take into account the proposals of the European Parliament mission regarding internal reform and increasing the institutional capacity of the Verkhovna Rada of Ukraine was singled out (*Goshovska, Pashko, & Danilenko 2019: 37*).

The biggest concern today is the component of the Ukrainian parliament's institutional capacity, which concerns its problem of public legitimation as the presence of a sufficient level of public confidence in the functional potential of the institute. According to the data of sociological surveys conducted by the Kyiv International Institute of Sociology in 2022–2023, it was found that for the period from May 2022 to October 2023, a decrease in trust in the institutions of the central government was observed: from 91% to 76%, there were fewer people who trust the President, from 74% to 39% – the Government, from 58% to 21% – the Parliament (*Dynamics of perception, 2023*). The researchers also emphasize that «it is important to distinguish between the situation for the Government and the Parliament, where we see the majority who no longer trust (and the balance of trust-distrust is clearly negative), and for the President, where the vast majority continue to trust him (and the balance of trust-distrust is clearly positive)» (*Dynamics of perception, 2023*). At the same time, it should be noted that according to the results of a sociological survey conducted by the sociological service of the Razumkov Center together with the Democratic Initiatives Foundation named after I. Kucheriv from December 8 to 15, 2023 (by the way, like many surveys of other research institutions), it was found that among state and public institutions, the Armed Forces of Ukraine are most often trusted (94% of respondents trust them), paramilitary units (89%) and volunteer organizations (86%) (*Citizens' assessment, 2023*). It is possible to note that a today situation is now caused by the martial law with an inevitable tendency to strengthen the executive power in this connection, however, as noted by a large number of researchers, the prerequisites for such a state of affairs have been forming for a long time. Regarding this, in his latest study, V. Pereveziy writes the following: «With the exception of certain electoral cycles, elections [to the parliament of independent Ukraine – O.B.] took place in a competitive and open struggle for, in general, functional fundamental democratic institutions: freedom of speech, freedom of association, assembly and peaceful protest. However, is this enough to assert the institutional capacity of the Ukrainian parliament. In our opinion, no evidence of this is the extremely low level of trust in the Verkhovna Rada, which has remained unchanged for almost all 30 years» (*Zelenko (Ed.), 2023: 99*).

In the light of the last thesis, another component of institutional capacity is actualized, which is already relevant to compliance with the system of national law as a determining criterion for the legality of the implementation of managerial activities. On October 29, 2023, regular elections to the Verkhovna Rada of Ukraine were to be held, but since, according to the

Law of Ukraine On the Approval of the Decree of the President of Ukraine «On Extending the Term of Martial Law in Ukraine» dated July 27, 2023 No. 3275-IX, the term of martial law in Ukraine was extended from August 18, 2023 for another 90 days, then this did not happen and, unfortunately, it most likely will not happen in the near future due to the continuation of warfare on the territory of Ukraine (*Law of Ukraine No. 3275-IX of 27 July 2023*). On the one hand, we do not observe a violation of the law here, since the Election Code of Ukraine clearly regulates the procedure for the introduction of martial law: «In the case of the introduction of the state of martial law or state of emergency in Ukraine or in some of its localities, the electoral process of national elections and/or the electoral process of relevant local elections taking place in these territories or part of them shall be postponed from the date of entry into force of the relevant decree of the President of Ukraine. ... The decision on the appointment of elections, the election process of which was suspended or did not start in connection with the introduction of a state of martial law or a state of emergency, is adopted by the relevant subject of their appointment no later than one month from the date of termination or cancellation of the state of martial law or state of emergency, and in the case that the law does not require a particular decision on their appointment to hold elections, the Central Election Commission announces the start of the relevant election process no later than one month after the termination or cancellation of the state of martial law or state of emergency» (*Election Code of Ukraine, 2023*). However, the failure to hold elections provides an excuse for the spread of manipulative statements by the aggressor country and its allies (as well as pro-Russian establishment in the USA and Europe) regarding the significant crisis of democracy in Ukraine, although in most of them the election process is rather an imitation of a formal order.

In general, the issue of the functional capacity of the Parliament was suggested for consideration by the participants of the above-mentioned panel discussion by V. Perevezii, who in his recent research paper noted that «the key function of representative authorities (Parliament and local self-government authorities) is to achieve balancing of interests of the maximum possible number of social groups» (*Zelenko (Ed.), 2014: 58*). The institutional capacity of the Parliament can be undermined by internal political crises or such large-scale exogenous challenges as the military aggression launched against Ukraine. However, even under these conditions, all possible mechanisms are applied to maintain the institutional capacity of the Verkhovna Rada of Ukraine. So, in April of this year, with the support of the Research Service of the Verkhovna Rada of Ukraine, together with the European Parliament, a webinar «Bringing National Legislation Closer to EU Law: Key Lessons Taken from the Recent Experience of Joining» was arranged. First Deputy Chairman of the Verkhovna Rada of Ukraine O. Korniienko said in this regard that the Research Service of the Verkhovna Rada of Ukraine thus increased the institutional capacity of the Parliament (*Korniienko O., 2023*). It is possible to note that this is the component of the institutional capacity of the Ukrainian parliament that can be evaluated most positively and precisely on the international legal area of the institute's functioning, compliance with international standards for the implementation of managerial activities today it is possible to rely. Thus, in Roadmap on internal reform and capacity-building for the Verkhovna Rada are clearly distinguished Needs Assessment Mission (NAM) recommendations and the timeframe, indicators and possible assistance for all of them. For example, for NAM «The committees' staff needs and expertise should be the subject of a regular review, with resources adjusted accordingly» specified that this should happen permanently, and as indicators it is noted that amendments to the relevant legal acts are introduced. As possible support for domestic parliamentarians, the European Parliament can offer training courses/exchange of committee staff/study visits to third country parliaments (*Report and roadmap, 2015*).

## 6. Conclusions

The concept of institutial/institutional capacity is quite widely used by Ukrainian scientists to study the peculiarities of the functioning institutions of the political system of society. However, in most publications, this analytical category is used as a matter of course, without a detailed consideration of its content and semantic differentiation, with a focus on primarily applied aspects of measurement. In order to solve this problem, the layer of existing developments on the issues of public administration should be supplemented with the methodological basis of political analysis, which will allow expanding the epistemological guidelines of scientific research.

The article also emphasizes that the parameters of the institutional phenomenon itself can be attributed to them – the elements of its internal structure must correlate with each other; as well as the characteristics of the political system as a whole – institutional elements must correspond to its typological features; in addition, the influence of supranational institutional structures, which is implemented through the mechanisms of external integration, can have a powerful transforming effect.

If we talk specifically about the institutial capacity of the Verkhovna Rada of Ukraine, the lack of a sufficient level of public trust in the functional potential of this institute of state power should be cited as a rather critical aspect of its maintenance. More positively it is possible to evaluate the international-legal dimension of the Ukrainian parliament functioning as an aspiration to increase compliance with international standards in the exercise of powers defined by law.

The analysis of the specific aspects of the functioning of the Ukrainian political system's key institutions can prove the thesis that even under martial law it is possible for a democratic state to take steps to try maintain and even increase the level of their capability. The transformation of the national public administration system in accordance with EU standards and national security requirements is considered as the main goal of increasing the state's capacity.

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