



EU Accession procedure

SUMMARY *The enlargement from a Community of six Member States (MS) to a Union of 27 is widely regarded as the EU's greatest policy triumph. However even amongst those MS who have succeeded in joining, there have been significant differences in their experiences of the accession process. For current and potential candidate countries, completing the process is likely to prove even more challenging.*

The legal basis for EU accession is a single treaty article. It provides only limited guidance, an indication of the politically-driven nature of the accession process. This process has not changed but it has developed considerably, in particular through the introduction of political and economic criteria ('Copenhagen criteria') and through an increased focus on conditionality in the EU's enlargement strategy.

Nine States are currently within the EU's enlargement framework and each present a different challenge. In the case of Turkey, the process has already been extremely lengthy. The Western Balkan countries, led by Croatia, have also had to overcome significant obstacles. By contrast there were initial suggestions that the application of Iceland, already a member of the European Economic Area and Schengen Zone, could be "fast-tracked". However, its candidacy has equally met with some difficulties.



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Context

Enlargement is one of the EU's key policies and widely considered one of its greatest successes. Over the course of 34 years, 21 new Member States have joined in six separate enlargements. This briefing is focused mainly on analysing these completed accession processes.

Some processes have been completed rapidly. For instance Finland became a member less than three years after applying. But most have taken much longer. [Turkey](#) first applied for membership in 1987 but most commentators consider its accession unlikely in the near future. Furthermore, despite the desire to integrate the countries of the Western Balkans, significant progress has proved difficult.

A number of reasons have been cited for the slower pace of more recent applications. Less enthusiasm amongst MS, characterised as "Enlargement fatigue", is cited as one reason. Furthermore the economic crisis has diverted EU policy making priorities. Specific problems within individual applicant countries, such as Croatia's full compliance with the International Criminal Court, are also relevant.

However, recent years and the latest enlargements have also seen the development of broader and more stringent requirements accompanied by a greater scrutiny of applicants throughout the accession process.

The formal procedure

Article 49

The accession process is based on [Article 49 TEU](#), which establishes the conditions of eligibility to apply for EU membership and the procedure for becoming a member.

Article 49 provides for an application for membership from a "European state"¹ respecting and committed to promoting the Union's values set out Article 2 TEU.² However Article 49 also establishes that the European Council's eligibility criteria shall be taken into account.³

The Treaty however, provides little or no guidance on the main principles or the various steps of the enlargement process between application and accession. Some academics have described it as "vague" and "imperfect" whilst others see Article 49 as simply an "outline" and thus deliberately short on detail.⁴

The steps to accession

Moreover, the accession process is a primarily political process. It is thus controlled by the MS not only at Council level but also the European Council which is seen by some as playing the "predominant political role"⁵. The Commission essentially occupies the role of agent for the MS, however many commentators point to its increasingly influential role at each stage of the enlargement process. Although not party to the negotiations, the European Parliament plays an increasingly influential role in several aspects of the process.

Whilst the pace of the accession procedure will differ for every applicant, a number of steps can be identified.

1. Application for membership

According to Article 49, formal applications for membership must be submitted to the Council having notified both the European Parliament and national parliaments. However potential candidates usually precede this step by a unilateral declaration of intent. This stems from the Commission's practice of dissuading

applications from those deemed not sufficiently ready.

Austria, Finland and Sweden, who joined in 1995, were already members of the European Free Trade Association and the European Economic Area (EEA). As such, at the time of their application they were understood to be broadly comparable to existing MS in terms of democratic and economic development (as indeed is Iceland).

More recent new members and candidates have needed to develop their institutional capacities to be able to take on the *acquis*. A variety of bilateral agreements (e.g. [Europe Agreements](#), [Association Agreements](#), [Stability and Association Agreements](#)) have been used to manage and support this process, which has come to be seen as a key part of the pre-accession phase.

2. Granting candidate status

There is no explicit procedure for granting candidacy. It is formally acknowledged by the Council following the opinion of the Commission. There is, however, no guarantee that this will lead immediately to the opening of negotiations and it is instead often done to acknowledge progress made. It does, however, mark the beginning of the accession procedure, during which the Commission publishes annual progress reports. The EP's Foreign Affairs Committee discusses these annual reports and prepares resolutions for plenary on each candidate country.

3. Opening of negotiations

The decision to open negotiations is made through a unanimous vote of the Council. A positive opinion from the Commission on the candidate's compliance with the Copenhagen criteria is essential in practice although not formally required.

4. Negotiations

Negotiations are preceded by a series of meetings between the Commission and the candidate country. This "screening" involves a detailed examination of the candidate's

conformity with the *acquis* to identify likely challenges in the negotiation process. In the case of Iceland this process was completed in seven months, whilst Croatia's screening lasted one year.

Based on this process the Council, acting by unanimity, invites the candidate country to open negotiations on the 35 negotiation chapters covering the entirety of the EU *acquis*. The speed at which chapters can be closed can vary significantly. Depending on the issue and the state of readiness of the candidate concerned, one or more chapters can be opened and closed on the same day. On the other hand, with unanimous agreement required, problems over a single chapter can also block progress indefinitely.

The screening process is also the basis for preparing the EU's common position and candidate's negotiating position. The EU's negotiating position is drafted by the Commission and must be approved unanimously by the Council.

Negotiations, conducted by the Council Presidency, take place in an Accession Conference. The Commission plays an important role as facilitator with respect to helping solve any problems the candidate country may face during the negotiations. The EP Foreign Affairs Committee holds regular exchanges of views with EU negotiators and those of candidate countries.

5. Accession

The institutional procedure for adopting an Accession treaty is set out in Article 49. The Council must act unanimously after consulting with the Commission and receiving the consent of the European Parliament.

Once accepted, an agreement between the MS and the candidate country must be ratified

by all contracting states according to their constitutional requirements. Depending on political will, the time taken to complete this final step can vary significantly.

An evolving EU strategy

It has been argued that for the EU's first four enlargements, adopting the EU *acquis* was largely sufficient to ensure membership would be granted. With the Central and Eastern Europe (CEE) enlargement, much greater emphasis was placed on compliance with the full range of Copenhagen criteria. Increasing emphasis is also being placed on the principle of conditionality in respect to those criteria at each stage of the process.

"(Rigorous) conditionality"

The Commission's [2005 enlargement strategy paper](#), which relied substantially on input from the European Parliament, set out three principles which would guide its approach to enlargement: "consolidation, conditionality and communication". These were backed in the December 2006 European Council [conclusions](#). In 2010 the Commission added a fourth principle of "credibility". It [argued](#) that for the process to be credible, required "rigorous conditionality" towards applicants.

Conditionality can now be seen in various aspects of the accession process. Benchmarks are now laid down by the

Council, acting unanimously, which must be achieved before an individual chapter can be closed. For the "judiciary and fundamental rights" along with "justice, freedom and security" chapters, the Commission proposes that these would be opened on the basis of action plans with interim benchmarks to be met before the chapter could be closed.

Conditionality now also applies after an accession treaty is signed. A new clause was

Copenhagen criteria

With the CEE enlargement in mind a series of political criteria for candidate countries were established at the European Council of June 1993.

These have been subsequently expanded and refined. They now cover both political and economic matters as well as requiring the administrative and institutional capacity to implement the *acquis* and fulfil the obligations of membership. The capacity of the EU to absorb further members whilst maintaining the momentum of further integration is also taken into account.

introduced for the Bulgarian and Romanian accession, allowing the Commission to assess a candidate's progress and if necessary recommend postponing accession.

Latest developments

The Commission's latest strategy is being integrated into the current processes. For example the new approach to justice, freedom and security set out in the Commission [2011 strategy paper](#) has been integrated into the negotiating framework for Montenegro's [candidate](#).

With a view to the newly adopted anti-crisis measures, the [2012 strategy paper](#) indicated that "screening" meetings would be used to familiarise candidate countries with changes to their obligations under economic and monetary union rules along with the new "financial supervision architecture".

Current accession processes

The EU's current enlargement [agenda](#) (acceding, candidate and potential candidate countries) covers the Western Balkans, Turkey and Iceland.

[Croatia](#) is scheduled to become a full member of the EU on 1 July 2013. The [Accession Treaty](#) was signed on December 2011 and has been ratified in most MS. However, Germany has [indicated](#) that it will wait until the next of the Commission's six monthly reports on Croatia's readiness, in spring 2013, before ratification.⁶

Croatia's accession is notable for its lengthy negotiation period lasting more than six years. This was in large due to concerns raised by certain MS, notably Slovenia, and indicative of the accession process's vulnerability to bilateral disputes.⁷

EP and national parliaments

The Foreign Affairs Committee coordinates the work of Joint Parliamentary Committees in which MEPs, including the relevant rapporteur, meet with parliamentarians from each candidate country in bi-annual meetings to examine progress in accession negotiations. This cooperation continues the work done by inter-parliamentary delegations for pre-candidate countries. The EP also assists the national parliaments of candidate countries in scrutinising and exercising control of the accession negotiations of their respective governments, and in implementing the EU *acquis*.

[Iceland's](#) candidature provides a distinct contrast to Croatia as well as to each of the other candidate and potential candidate countries. As a member of the EEA it has been transposing and implementing the EU *acquis* for nearly 20 years and has been implementing provisions of the Schengen Agreement for more than ten years. When it formally applied for membership in June 2009, suggestions were made that Iceland's application could be "fast-tracked" to coincide with that of Croatia despite the latter having applied six years earlier.

However, whilst welcoming their application the [Commission](#) was quick to rule out any special path. [Iceland](#) has so far opened negotiations on 27 chapters and closed 11 of them. However, on four chapters it is yet to begin negotiations. These include fisheries, considered one of the most difficult issues surrounding Icelandic accession.

Main references

EU enlargement and the failure of conditionality / D. Kochenow, Wolters Kluwer, 2008.

Evolving practice in EU enlargement / K. Inglis, Martinus Nijhoff, 2010.

[Commission Strategy and Progress Reports](#)

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<http://www.library.ep.ec>
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Endnotes

- ¹ Morocco's application of July 1987 was rejected by the Council (with recourse to a Commission opinion) on the grounds that it was not a European state within the definition of the then Article 237 EEC. However neither the Council nor the Commission has defined the geographical boundaries of the Union.
- ² This was explicitly mentioned for the first time in the Treaty of Amsterdam 1997.
- ³ A reference to the Copenhagen criteria was included in Article 49 by the Lisbon Treaty. It was therefore not a treaty requirement under any previous enlargements.
- ⁴ Kochenow, p.13.
- ⁵ Kochenow, p.58.
- ⁶ Article 36 of the Accession Treaty requires the Commission to closely monitor commitments made by Croatia in accession negotiations, particularly in the areas of competition policy, judiciary and fundamental rights and freedom, justice and security.
- ⁷ This has also been shown in the past where the UK slowed down Spanish and Portuguese accession over fishing rights concerns, Greece has reacted similarly in reference to Cyprus and Former Yugoslav Republic of Macedonia.

Annex

