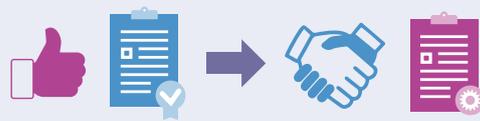


The accession treaty to the European Union: Architecture, logic and transformation



As several candidate States continue to move closer to the European Union, the prospect of accelerated accession – driven in particular by Ukraine’s candidacy – could **redefine the contours of enlargement policy**.

Long structured around a binary, merit-based logic in which compliance precedes formal accession...

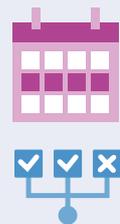


...the process could, under geopolitical pressure, shift towards a model in which political accession comes before effective integration.



Ukraine’s candidacy brings into focus a series of questions that may require unprecedented answers:

- What transition periods should be envisaged for a State with a vast agricultural sector, infrastructure in need of reconstruction, and borders that remain uncertain?
- How far can derogations go without undermining the coherence of the European project?
- Can accession to the European Union be accelerated by recognising a form of political membership, potentially reversible, without discouraging new Member States from fully adopting the EU acquis?



Behind the geopolitical tensions lies a central question:

What does an accession treaty actually contain – and what can it contain?

1

A common framework for diverse situations

LEGAL BASIS



Article 49 of the Treaty on European Union (TEU)

Any European State whose application for accession is approved unanimously by the Member States and the institutions of the Union becomes a member.



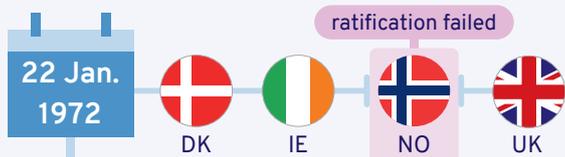
Accession is formalised by a treaty laying down the conditions of accession “and the adjustments to the Treaties on which the Union is founded, which such admission entails”.



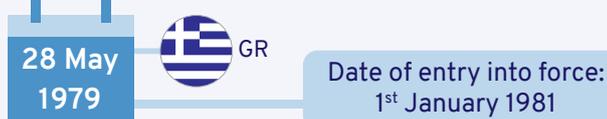
All components of the accession treaty (the Act, annexes, protocols, etc.) have the **same legal value as the founding Treaties** – they do not merely add to them, but modify and supplement them.



History of accession treaties¹



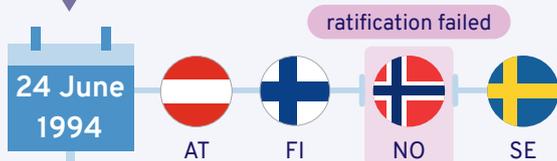
Date of entry into force: 1st January 1973



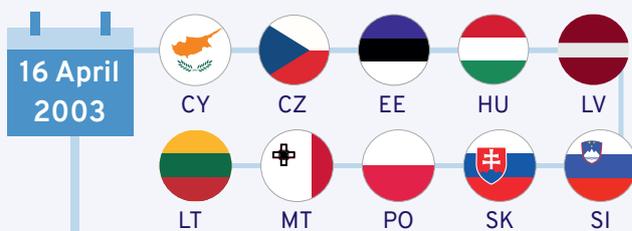
Date of entry into force: 1st January 1981



Date of entry into force: 1st January 1986



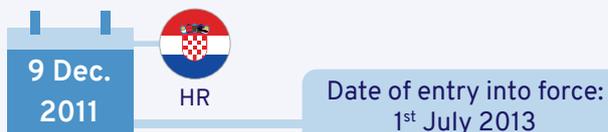
Date of entry into force: 1st January 1995



Date of entry into force: 1st May 2004



Date of entry into force: 1st January 2007



Date of entry into force: 1st July 2013

1 Treaty of Accession

Very brief (between 3 and 6 articles), it formally enshrines the accession of the new Member State, recalling that accession forms part of the pursuit of the Union's objectives and of the creation of "an ever closer union among the peoples of Europe".



3 Annexes

By far the most voluminous part of the accession treaty, of which they form an integral part, they provide the technical application of the treaty, in particular of the permanent and temporary provisions.



4 Protocols

Less extensive than the annexes, they address specific situations linked to accession and may provide for lasting derogations (e.g. special arrangements in the field of fisheries or the recognition of specific rights for certain populations).



5 Final Act

Formal closing instrument, it recapitulates all the instruments referred to and forming part of the accession treaty, as well as any additional texts (declarations, exchanges of letters, etc.), and includes the signatures.



2

Act concerning the conditions of accession of the new Member State to the European Union and the adjustments to the Treaties



This is the core of the text. Formerly highly detailed (with more than 400 articles in the case of Spain and Portugal), it has been significantly more concise since 2003 (around 60 articles). It sets out the concrete conditions of accession. It includes the:

→ Principles

Acceptance of the *acquis communautaire* and arrangements for the application of transitional provisions.



→ Adjustments to the Treaties

Institutional adaptations and scope of application.



→ Permanent provisions

Set out in detail in the annexes, they reflect the effects of accession across all areas – free provision of services, agriculture, fisheries, etc.



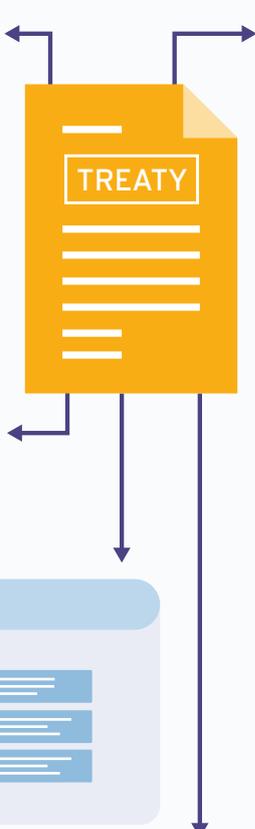
→ Temporary provisions

The most substantial part of the Act: Transitional measures and safeguard clauses, gradual adaptation of the institutional and financial framework – notably the phasing-out of pre-accession funds and the introduction of temporary support measures.



→ Provisions relating to the implementation of the Act

Transposition of the accession treaty into secondary legislation, ensuring a smooth transition – including time limits for the application of certain acts.





A structure that has remained stable since the earliest enlargements, with adjustments varying according to political and economic circumstances.

The accession treaty does not enshrine an already harmonious situation. Rather, it organises the adjustments required for the integration of the new Member State, most often in the form of transition periods. Its purpose is to ensure managed accession, under the supervision of the Member States and the institutions of the Union, which act as the guardians of the Treaties and their spirit.



2 Derogations: exceptional in law, essential in practice

PRINCIPLE

Full accession presupposing the immediate and comprehensive compliance of the new Member State with the accession criteria²:

- shared democratic and political values
- a functioning and competitive market economy
- acceptance of the *acquis communautaire*

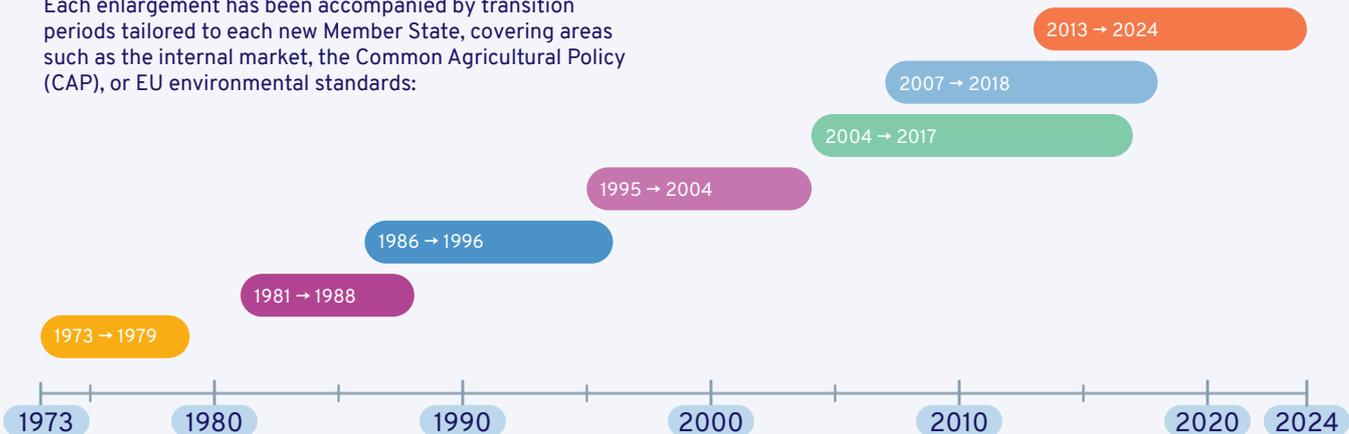


REALITY

Derogations are common – but strictly circumscribed –, allowing for the progressive application of the *acquis*.



Each enlargement has been accompanied by transition periods tailored to each new Member State, covering areas such as the internal market, the Common Agricultural Policy (CAP), or EU environmental standards:



- Transitional arrangements for budgetary contributions
- Temporary restrictions on the free movement of Greek workers
- Temporary restrictions on the free movement of workers and capital, gradual integration into the CAP, etc.

- E.g. transitional derogation from the CAP in favour of certain small Austrian agricultural producers
- E.g. environmental derogations for certain large Polish plants
- E.g. derogations relating to urban waste water treatment in Romania
- E.g. derogations relating to urban waste water treatment in Croatia



New Member States have every interest in requesting (and, in return, accepting – notably with regard to the free movement of workers) such derogations, in order to reconcile rapid accession with a gradual capacity to absorb the EU *acquis*.



Some enlargements have also included specific monitoring mechanisms, such as the Cooperation and Verification Mechanism for Bulgaria and Romania.



Accession treaties also provide for rapid reaction mechanisms in the event of imbalance. Safeguard clauses thus allow the Commission, at the request of a Member State – whether new or not – or on its own initiative, to adopt, on an exceptional and temporary basis, corrective measures designed to prevent or remedy serious difficulties that may arise from the accession of a new Member State.



Accession does not automatically entail the adoption of the euro or entry into the Schengen area, both of which are subject to separate conditions.

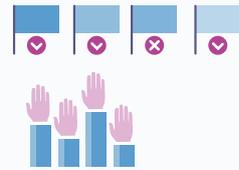
Ratification: the decisive political test

Any accession treaty must be ratified by the contracting States – both the Member States and the acceding State – “in accordance with their respective constitutional requirements” (Article 49 TEU).

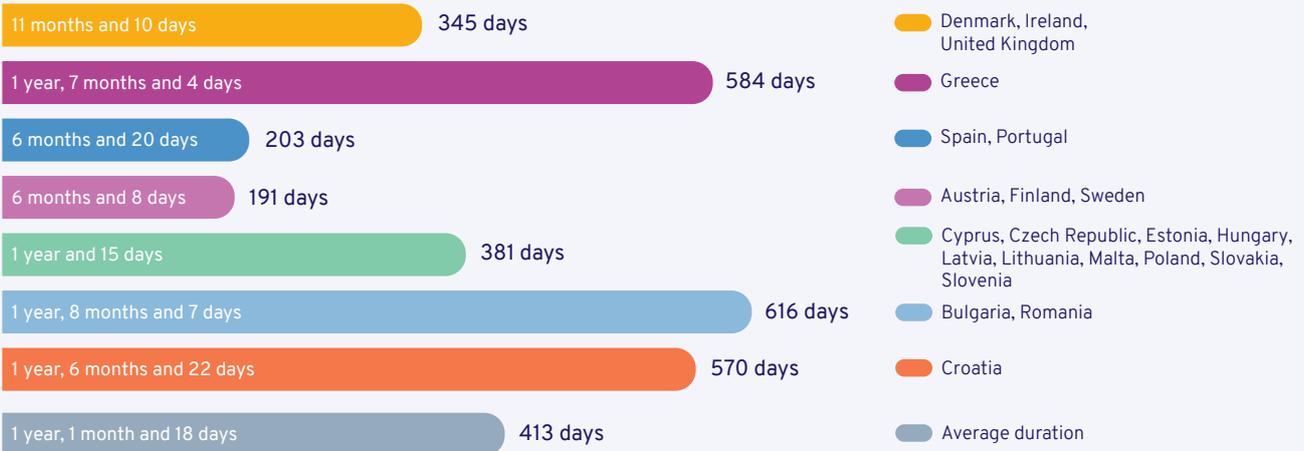


Reality check for enlargement

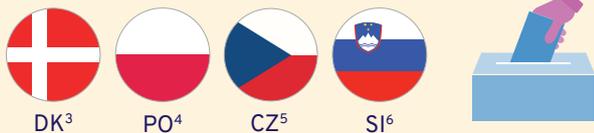
- the failure of ratification by a single State is sufficient to block accession.
- unanimity is not a mere legal formality, but a **cumulative political test**, exposed to national constitutional, parliamentary, and electoral constraints.



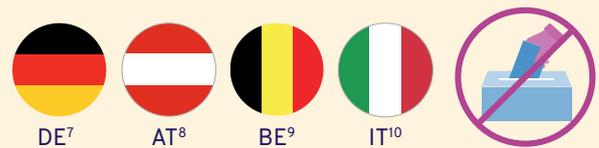
The interval between the signing of the accession treaty and its entry into force, reflecting the political and institutional complexity of ratification



National ratification procedure for an accession treaty: the central role of Parliament



→ constitutional possibility to resort to a legally binding referendum on the matter, within the limits laid down by domestic law – a provision that has never been applied in practice for an accession treaty



→ formal constitutional prohibition on recourse to a referendum in international matters

Other Member States → a referendum is possible, but never legally binding, e.g.:



France: a constitutional peculiarity

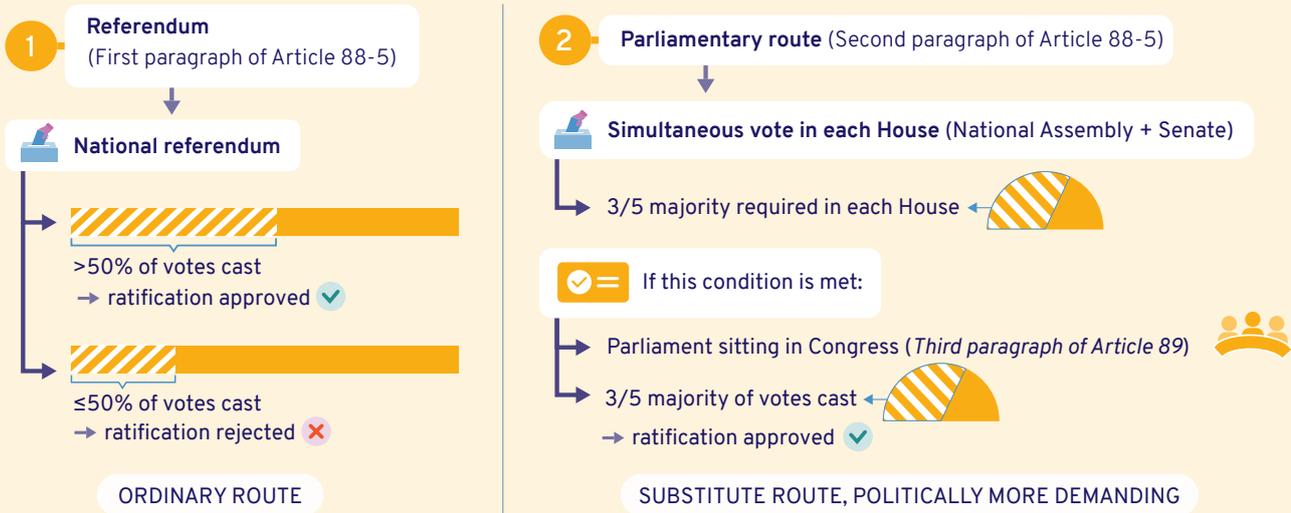
“Any government bill authorizing the ratification of a treaty pertaining to the accession of a State to the European Union shall be submitted to referendum by the president of the Republic.

Notwithstanding the foregoing, by passing a motion adopted in identical terms in each House by a three-fifths majority, Parliament may authorize the passing of the bill according to the procedure provided for in paragraph three of article 89.” (Article 88-5 of the French Constitution of 4 October 1958)

→ Provision never applied to date

→ Principle of a referendum, with the possibility of parliamentary circumvention by a three-fifths majority – an option highly unlikely given the current fragmentation of Parliament

Article 89, paragraph 3: adoption of a constitutional revision bill by Parliament sitting in Congress by a three-fifths majority of the votes cast



No State currently aspiring to EU membership constitutionally requires the mandatory use of a referendum for the ratification of its accession treaty, subject to any prior constitutional revisions → parliamentary ratification

4

Towards a new generation of treaties — or a new category of Member State?

Transition periods will become the “principle” of this “new generation of accession treaties”, having previously been the exception.



Marta Kos,
Commissioner
for Enlargement



OBJECTIVES

- respond to the geopolitical imperative
- reassure Member States
- reassure public opinion

Full accession, but implemented progressively

- extended transition periods, in particular for access to the internal market or the CAP
- temporary institutional limitations, such as restrictions on voting rights in the Council
- reinforced safeguard clauses, notably in the fields of democracy and the rule of law





The recent revival of the enlargement process owes much to Ukraine's candidacy. Paradoxically, it could now fundamentally alter its underlying logic.

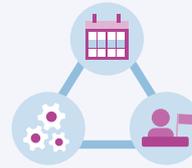


Draft peace plans with Russia, supported by the United States and the EU
 ↳ idea of Ukraine's accession on **1st January 2027**

Irrespective of the substance → unrealistic in the current circumstances, given the time required for negotiation and ratification



Slightly more realistic, but without precedent: such a timetable would require a radical rethinking of the accession process, giving priority to its political and symbolic dimension rather than to effective integration



- rapid, largely symbolic accession
- subsequent application of the *acquis*
- deferred access to the benefits of integration



? Yet can political accession be dissociated from full and effective integration? Can a fast accession precede a slower process of convergence?

Beyond overturning the current accession model, by

- diluting the conditionality of the process
- integrating an insufficiently prepared Member State
- creating a form of second-class membership

this raises questions about

- the very definition of EU membership
- the credibility of the enlargement policy
- its transformative power



To avoid such an outcome, a preferred solution:



special transitional status
 ↳ neither simple candidacy nor full membership

- gradual integration with full accession as the final objective, conditional on the merits of the candidate State
- early access to certain benefits of membership: institutional participation, integration into common policies, increased access to EU funds, etc.



1. Accession Treaties, EUR-Lex.
 2. Benjamin Couteau & Lukáš Macek, *Enlargement of the European Union: an unexpected revival*, Infographic, Paris, Jacques Delors Institute, 2023.
 3. Article 20 of the Constitutional Act of the Realm of Denmark.
 4. Article 90 of the Constitution of the Republic of Poland.
 5. Article 10a of the Constitution of the Czech Republic.
 6. Article 3a of the Constitution of the Republic of Slovenia.
 7. Basic Law for the Federal Republic of Germany.
 8. Federal Constitutional Law for the Republic of Austria.
 9. Constitution of Belgium.
 10. Article 75 of the Constitution of the Italian Republic.
 11. Nicholas Vinocur, Brussels Playbook: Andrej Babiš' plan to chop EU green rules, *POLITICO Europe*, 3 November 2025.