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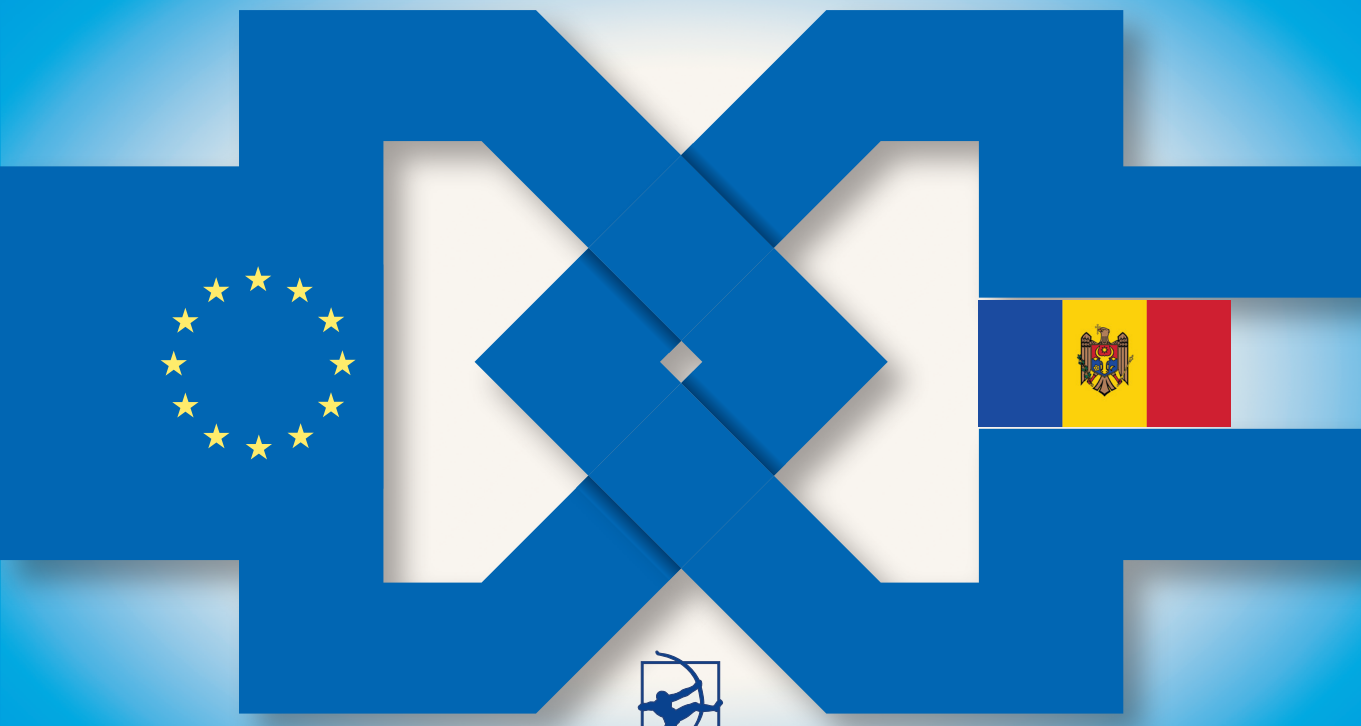
GOVERNMENT OF REPUBLIC OF MOLDOVA

HANDBOOK ON THE NEGOTIATIONS FOR THE ACCESSION OF THE REPUBLIC OF MOLDOVA TO THE EUROPEAN UNION



Editura ARC
Chisinau, October 2024

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Foreword

As the Republic of Moldova transitions from the association process towards the EU accession process, we find ourselves at a crucial point in our path toward European Union membership. This journey advanced significantly on 14 December 2023, when, at a historic summit, the European Council decided to open accession negotiations with both Ukraine and Republic of Moldova. Following this significant decision from March 2024 Republic of Moldova has been actively engaged in the screening process. This preliminary phase set the stage for the first Intergovernmental Conference between the Republic of Moldova and the 27 EU Member States, held on 25 June 2024, marking the official start of the accession negotiations.

The screening process involves a comprehensive examination of EU legislation across all areas and chapters, followed by an in-depth assessment of Republic of Moldova's existing legislation and its implementation. This critical evaluation aims to align our national laws with the EU acquis, thereby ensuring that our legislative framework is compatible with EU standards and regulations. By the end of 2024, we anticipate the publication of comprehensive screening reports. These will serve as both a diagnostic tool and a moment of truth, offering a clear picture of where we are now and the challenges lying ahead.

As the Government official leading the EU Integration coordination together with my dedicated team at the Bureau for EU Integration, I am keenly aware of the immense tasks before us as a country. I also understand that the main burden falls upon the civil service. Our civil servants will be instrumental in translating the accession objectives into tangible reforms and actions across all sectors of governance. I am committed to ensuring that our civil service is equipped with the knowledge, tools, and support needed to navigate the complexities of the accession procedure. As such, it is imperative that the EU accession process remains a top priority on the Government's agenda and that we secure as much support as possible from our friends in the EU and its Member States. This support will be crucial for conducting the accession negotiations in the supreme interest of Republic of Moldova's citizens and economic operators. Despite the inherent challenges, including the limited possibilities for exemptions, derogations, and transitional periods, our focus remains on achieving tangible progress to meet the EU criteria.

This Handbook, which emerges from our collaboration with experienced professionals from the EU-funded project "Support for structured policy dialogue, coordination of the implementation of the Association Agreement, and enhancement of the legal approximation process in the Republic of Moldova," will undoubtedly contribute to a better understanding of the accession negotiations, our main task in the upcoming years. By providing detailed insights, practical guidelines, and strategic frameworks, this Handbook serves as a vital resource for all those involved in Republic of Moldova's EU accession journey. Everyone, ranging from government officials and civil servants to business leaders and the general population has a role to play in shaping our country's future.

Our ultimate goal is clear: to restore Republic of Moldova to where it traditionally and culturally belongs, namely within the European family of free and democratic states that are committed to the rule of law, the respect for human rights, and economic prosperity within a unified market. Through this Handbook, we aim to equip all participants in this historic endeavour with the knowledge and tools necessary to contribute effectively to our collective mission, thereby ensuring that Republic of Moldova's accession to the European Union becomes a reality.

Sincerely,
Cristina Gherasimov
Deputy Prime Minister for European Integration

Preface

The Republic of Moldova has made remarkable strides towards joining the European Union, achieving significant progress in just two years. From being a neighbouring country without a clear EU accession perspective back in February 2022, precisely two years later it is now a candidate country who is running accession negotiations with the EU.

A convergence of factors, including the pro-EU orientation of Republic of Moldova's political decision-makers, changes in the country's geostrategic situation due to the conflict in neighbouring Ukraine, and the concerted efforts of the entire public administration in collaboration with the civil sector, has brought about a significant development—the initiation of accession negotiations in 2024.

The establishment of the working groups that match the structure of the future negotiating chapters, the implementation of an internal pre-screening process in 2023, the integration of costing and budgeting into the legislative planning process, and a new, appropriate internal organisation of the overall accession process, all demonstrates that Republic of Moldova has learned from the previous and ongoing enlargement experiences. It also serves as a guarantee that the public administration, despite its relatively small size, is ready for the next step—the commencement of accession negotiations.

During the past year, the Ministry of Foreign Affairs and European Integration, in close collaboration with the State Chancellery/Centre for Legal Approximation, and powered by the EU-funded project titled "Support for structured policy dialogue, coordination of the implementation of the Association Agreement and enhancement of the legal approximation process for the Republic of Moldova", has organised intensive training for Republic of Moldova's civil servants. This training has played a pivotal role in ensuring the smooth progression of the screening process that will comprise the initial step in the negotiations. Additionally, it guarantees that the future opening benchmarks across the various chapters will not be insurmountable hurdles to the commencement of the negotiation process.

We are all aware that the legal approximation process, which involves planning, drafting, adopting, implementing, and enforcing legislation, is a key factor for the years ahead, and will represent the main challenge during the negotiations. It will be insufficient merely to demonstrate

that the national legislation has been drafted and adopted in line with the EU Acquis; its practical implementation and enforcement will also be vital. In this context, all three branches of Republic of Moldova's governance structure will play a crucial role. The role of the Legislative branch (i.e. Parliament) is seemingly the most important, as it will adopt essential laws and oversee the entire accession process, including the negotiations. However, the most demanding role is that of the Executive branch (i.e. the Government). It must plan the entire legal approximation process (with costing included), draft all the legislation, adopt all the secondary legislation, implement the legislation, conduct the negotiations, and also take full responsibility for the results. But we must not overlook the Judiciary, whose role is to enforce the legislation. No matter how well the laws are written and implemented, if they are not properly enforced—and if the judiciary fails to reach fair and timely decisions in its courts—the system will not function, and it will not be possible to finalise the negotiations. In other words, the key issue during the negotiations will not be whether the laws are adopted, but how they are implemented and enforced in practice.

Il am convinced that this Handbook will prove to be a very useful tool and guide during the negotiating process that is intended to culminate in the entering into force of the Treaty of Accession of the Republic of Moldova to the EU. It is apparent from the enlargement experience of the last 25 years that the negotiation process commenced with an Intergovernmental Conference between the EU and its member states on one side, and the Republic of Moldova on the other. The screening process (consisting of the explanatory phase followed by the bilateral phase) will be the first component. We anticipate opening benchmarks for many chapters, not just for the closing ones as occurred with the Central and Eastern European countries that joined the EU twenty years ago. Although the Government will lead the negotiations, the Parliament will also play a scrutinising role in the process, although it is currently still unclear how strong this role might be.

The potential issue of amending the Constitution due to the country's accession to the EU may also soon arise. However, the hard work involving all of the future 35 negotiating chapters will be the essence of the accession process. It must also be noted that the period between the end of the accession negotiations and the entering into force of the Treaty of Accession will last around two years. This interval will allow not only for the ratification procedures to be finalised in all the national parliaments of the EU member states, the European Parliament, and Republic of Moldova's parliament, but also for the adoption and implementation of all the legislative measures that need to be in force by the date of accession.

The Handbook itself is primarily aimed at the decision-makers and civil servants directly or indirectly involved in the negotiating process, who may have varying levels of knowledge and experience. It is also intended for representatives from the civil sector, as well as journalists, students, scholars, and all interested citizens.

The first chapter of the Handbook is therefore very general, providing essential information about the European Union and its functioning. Those already familiar with the topic from their studies may consider it redundant to their needs, although they may also find in it some new information.

The second chapter deals with the history of the enlargement process, the criteria for enlargement, and the relationship between Republic of Moldova and the EU. It includes a brief presentation of the EU-Republic of Moldova Association Agreement, paying special attention to the political cooperation made possible via the common bodies established by the Association Agreement. Both these chapters are crucial, as they will lead to a better understanding of the third and main chapter concerning the EU Accession Negotiations, whose clear and practical descriptions present the accession process as straightforwardly as possible.

The last chapter wraps up the previous material, presenting the main messages to be derived from the practical experiences and from the lessons learned from both previous and ongoing negotiations.

The publication of this Handbook owes much to the valuable contributions of two senior project experts, Mr Vladimir Međak and Mr Aljoša Race, who authored the majority of its content. Mr Međak deserves special recognition for his extensive experience in the negotiating process, having been the chief lawyer in the Serbian negotiating team during the initial years of negotiations in his home country. Similarly, Mr Race played a pivotal role not only in shaping the overall structure and design of the Handbook, but in drafting key sections pertaining to the functioning of the EU and previous experiences gained during the enlargement process. His extensive experience, dating back to 1997, in preparing the governmental authorities of several countries from Central Europe and the Western Balkans for EU negotiations, has enriched the content with some valuable insights. Both the main authors were supported by the core project team, and our own suggestions and recommendations were also incorporated into the Handbook.

Finally, suggestions made by our colleagues from the Bureau for European Integration, which took over the tasks related to EU Integration from the Ministry of Foreign Affairs and European Integration in early 2024, as well as from the Centre for Legal Approximation, have ensured that the Handbook will better meet the expectations of Republic of Moldova's readers. It is also important to highlight the significant support from the EU Delegation in Chișinău.

I wish you all an interesting read!

Primož Vehar,
Project Team Leader

Chronology of relations between the EU and the Republic of Moldova

1994 – The Partnership and Cooperation Agreement (PCA) is signed between the Republic of Moldova and the European Communities and their Member States, establishing contractual relations between the European Union and the independent State of Republic of Moldova.

2003 – The European Neighbourhood Policy governing the EU's relations with 16 of the EU's closest eastern and southern neighbours is launched. It includes 16 countries from the Mediterranean region and eastern Europe, including the Republic of Moldova.

2009 – The Eastern Partnership is launched as a specifically eastern dimension of the European Neighbourhood Policy. It includes Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine.

28 April 2014 – The EU abolishes visa requirements for citizens of the Republic of Republic of Moldova travelling to countries in the Schengen zone.

27 June 2014 – The Association Agreement, with its Deep and Comprehensive Free Trade Area (DCFTA), is jointly signed between the EU, the European Atomic Energy Community (Euratom) and their Member States, of the one part, and the Republic of Moldova, of the other part (EU - Republic of Moldova Association Agreement)

1 July 2016 – The EU - Republic of Moldova Association Agreement comes into force.

3 March 2022 – The Republic of Moldova applies for membership of the EU.

23 June 2022 – The Republic of Moldova is granted candidate status for membership of the EU.

1 June 2023 – The Republic of Moldova hosts the second meeting of the European Political Community (EPC).

8 November 2023 – The European Commission publishes the first Annual Report on the Republic of Moldova in the Enlargement package and recommends the Council to open accession negotiations with the Republic of Moldova.

14 December 2023 – The European Council decides to open accession negotiations with the Republic of Moldova.

25 June 2024 – The 1st Intergovernmental Conference (IGC) on accession of Republic of Moldova to the EU was held, marking the official opening of accession negotiations of Republic of Moldova.

Key terminology and abbreviations

AA – Association Agreement.

Acquis/EU Acquis – the EU legislation in force.

Cluster – a group of chapters gathered thematically to make one logical whole. There are six clusters that between them encompass 33 negotiation chapters. Chapter 34 – Institutions and Chapter 35 - Other Issues do not belong to any of the clusters. The organisation of the clusters and the names of the chapters are described or stated on pages 68-70.

IBAR – Interim Benchmark Assessment Report. A report prepared by the European Commission confirming that the candidate country has met the interim benchmarks set by the EU Member States. Interim benchmarks are usually set only in Chapter 23 - Judiciary and Fundamental Rights and Chapter 24 - Justice, Freedom and Security.

The **Intergovernmental Conference (IGC)** is the forum in which the accession negotiations are conducted. It consists of the governments of all 27 EU Member States plus the Government of the Republic of Moldova. The IGC adopts all the decisions regarding progress during the negotiations. Meetings of the IGC are chaired by the head of the EU delegation (as a rule, this is the minister of foreign affairs of the country holding the Presidency of the Council).

OBAR – Opening Benchmark Assessment Report. A report prepared by the European Commission confirming that a candidate country has met the opening benchmarks set by the EU Member States.

Negotiation chapter – this is a thematically organised area of the EU acquis in a single, limited area of law. There are 35 accession negotiation chapters which have been organised the way they are purely for the purpose of conducting the negotiations. The negotiation chapters are the main building blocks of the accession negotiations, which are organised around them. Every candidate country must establish its coordination mechanism around these 35 chapters. Republic of Moldova has therefore had to establish 35 negotiation groups, each one covering a particular negotiation chapter.

Negotiation framework – this is the EU document which will define the framework of the accession negotiations, what the goals of the EU are, what the EU will place its focus on, the technical aspects of how the negotiations will be conducted, and the procedure for conducting the negotiations. The Negotiation Framework is presented by the EU at the first meeting of the IGC.

Negotiation position – this is a policy document which contains the vision and the plan of the Government of the Republic of Moldova stating how and when Republic of Moldova will be fully harmonised with the membership requirements set out in that chapter.

QMV – Qualified Majority Voting.

Screening – this is a technical/expert component of the accession process in which the two negotiating parties share information that is relevant to the negotiations. It is conducted by the European Commission, and is organised individually for each chapter. In the first instance, it is intended to acquaint the candidate countries with the EU acquis, thereby preparing them for the negotiations. Secondly, it is intended to enable the Commission and the Member States to evaluate the degree of preparedness of a candidate country. For each chapter, the screening consists of two phases: an **explanatory phase** during which the Commission explains the EU acquis, and a **bilateral phase** during which a candidate country describes its legal and institutional system to the European Commission. As an exception to the rule that the European Commission is present during the screening, on the EU side, the EU Member States participate in the screening for Chapter 23 – Judiciary and Fundamental Rights, Chapter 24 – Justice, Freedom and Security, and Chapter 31 - Foreign, Security, and Defence Policy.

Screening report – this report emerges out of the screening process. It contains an assessment of the situation in the candidate country plus a gap analysis describing the gap between the country's current legal and institutional situation and the state of full harmonisation that is required for membership of the EU. The screening report is prepared by the Commission and adopted by the Council.

TFEU – The Treaty on Functioning of the European Union, previously known as the Treaty on European Community. (It was renamed to TFEU in 2009 by the Treaty of Lisbon.)

TEU – Treaty on European Union. Together with the TFEU, the TEU is a primary treaty of the European Union. It forms the basis of EU law by setting out the general principles of the EU's purpose, the governance of its central institutions (such as the Commission, Parliament and Council), and its rules on external, foreign and security policy.

1 EU overview: essential information

1.1 Historical overview

Challenging situations involving the political, economic and territorial interests of the states of Europe during the first half of the 20th century led to the destructiveness of World War 1 (1914-1918) and World War 2 (1939-1945). Both wars resulted in the loss of millions of lives, poverty, hunger, and the economic destruction of most of the European continent, followed by a global geopolitical transformation involving the collapse of former empires, the rise of new superpowers, and a complete change in the political order that had existed in Europe between 1914 and 1945.

The terrible scale of the two world wars and their results motivated political leaders in Europe and around the world to start thinking about how global wars could be prevented in the future. The horrors and destruction of these wars led the political elites to seek permanent solutions. One method involved establishing numerous international organisations to bring former enemies closer together. Its goal was to resolve issues between former enemies by peaceful means and thereby prevent a new war from breaking out. An additional reason for enhanced cooperation between former enemies in the democratic portion of Europe after World War 2 was the threat represented by the Cold War developing between the East and the West. Accordingly, only a few years after the end of World War 2 several international organisations were established to bring these countries together, such as the **Organisation for European Economic Co-operation** (**OEEC**) established in 1948 (the predecessor of the Organisation of Economic Cooperation and Development (OECD)), and the Council of Europe (1949).

After the end of every war, the question of how to prevent a repeat becomes a pressing issue. Nevertheless, history consistently demonstrates the inevitability of subsequent conflicts. During the first half of the 20th century, Europe experienced unprecedented levels of conflict and loss of human life. On top of that, after every war the victors were pleased with their success, while the defeated parties bided their time, anticipating

an opportunity for retaliation. However, after World War 2, all European sides were dissatisfied with the outcome: Europe was economically ruined, its countries were bankrupt, its populations were starving, and the continent was divided, with two superpowers (the USA and USSR) keeping millions of troops stationed in Europe.

A further step aimed at fostering reconciliation among former adversaries was the creation of the **European Coal and Steel Community** (ESCS), which was established by the Treaty of Paris in 1951. The signatories of the Treaty included France, the Federal Republic of Germany, Italy, the Netherlands, Belgium and Luxembourg. The objective was to establish a **supranational organisation**[1] **tasked with overseeing two major industries** – the production of respectively coal and steel – that are essential for waging war, thus making a future war between France and Germany not only unthinkable but impossible.

It is crucial to bear in mind that the European Union (EU) was established by its Member States with the overarching purpose of fostering peace. Conceived as a peace project, the EU functions as a platform for the peaceful resolution of issues or conflicts that may arise among its Member States.

The European Coal and Steel Community (ECSC) was the first supranational organisation ever established. The Treaty on ECSC – signed in Paris in 1951 – was in force from 1952 until 2002, when it expired and thus brought the ESCS to an end. The ECSC was superseded in its work and legislation by the European Community in 2002, and by the EU after 2009.

The successful establishment of the ECSC encouraged the creation of two additional communities in 1957. With their signing of two treaties in Rome, the same six countries established the **European Economic Community** (EEC), covering the overall economic integration of these countries, including the creation of a customs

[1] ***SUPRAnationalism*** is the opposite of ***internationalism/intergovernmentalism,*** which embodies the general principle of cooperation among nations in a manner that allows them to cooperate in specific fields while retaining their sovereignty (one example of an intergovernmental institution is the Council of Europe). In contrast to supranational bodies, in which authority is formally delegated, in intergovernmental organizations states do not share their power with other actors, and take decisions by unanimity. In the European Union, the Council of Ministers is another example of a purely *intergovernmental* body whereas the Commission, the European Parliament, and the European Court of Justice represent the *supranational* mode of decision-making. Intergovernmentalism thus represents both a theory of integration and a method of decision-making in international organizations.

union by 1968 and eventually the single market; and the **European Atomic Energy Community** (Euratom), covering their cooperation in the field of the usage, research and development of atomic energy for civilian purposes.

Establishment and evolution of the EU

Organization	Established	Renamed	Current status
European Coal and Steel Community – ECSC	1951[2]		Ceased to exist in 2002
European Economic Community – EEC	1957[3]	Renamed as *European Community* in 1993	Ceased to exist on 1.12.2009, when it transferred its legal personality to the EU
European Atomic Energy Community – Euratom	1957[4]		Still exists today, in parallel to the EU
European Union – EU consisting of three pillars (the European Communities collectively comprising the 1st pillar)	1992[5]		On 1.12.2009 it took over the legal personality of the European Community due to the entry into force of the Treaty of Lisbon and the associated abandonment of the pillar structure

Following the establishment of the initial three communities, the European Union (EU) embarked on a transformative process over the next six decades, progressively deepening the integration among the Member States and expanding the scope of their collaboration into new policy domains. This was effected through a series of amendments to the original treaties plus the adoption of new treaties, such as the Single European Act in 1986. This Act enabled the creation of the internal market of the EU in 1992, marking a crucial milestone on the path towards the creation of the European Union. That ultimate goal was realized with the signing of the Treaty of the European Union in Maastricht in 1992, which entered into force in 1993.

[2] Came into force in 1952.
[3] Came into force in 1958.
[4] Came into force in 1958.
[5] Came into force in 1993.

The Maastricht Treaty established the EU on a foundation of **three pillars**:

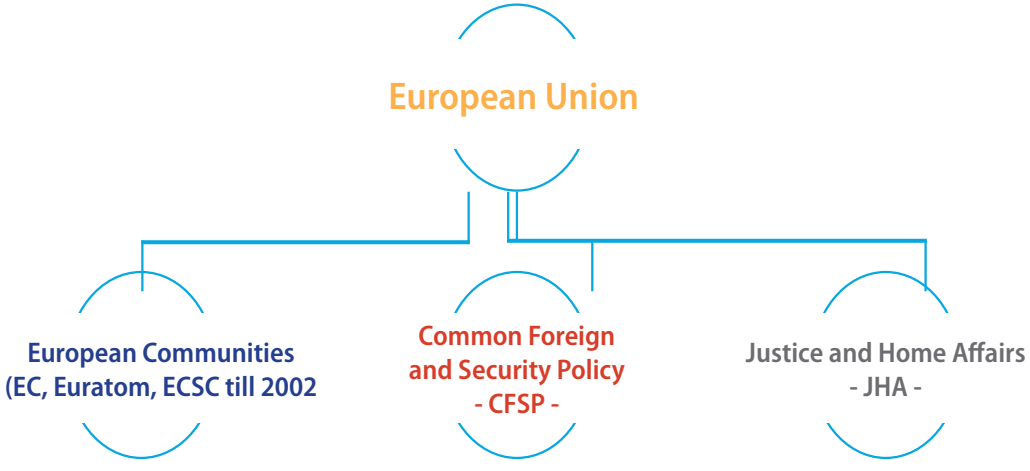
- the three European Communities being the **first pillar**,
- the Common Foreign and Security Policy (CFSP) being the **second pillar**, and
- Justice and Home Affairs (JHA) being the **third pillar** (the 1999 Treaty of Amsterdam renamed this to "Police and Judicial Cooperation in Criminal Matters"),

while the EU was the **roof** of the structure and rested on the three pillars.

With the Maastricht Treaty, the previous European Economic Community (EEC) was renamed as the European Community (EC). However, the EU did not acquire a legal personality with these treaties. Each of the European Communities was a legal entity with a separate legal personality that performed all the activities for what has become the EU where a legal personality was required. The EU acquired its legal personality only in 2009 with the coming into force of the Treaty of Lisbon (signed in 2007).

This means, for example, that before 2009 the Association Agreements with third countries were signed by the European Community, the European Energy Community, and their Member States on behalf of the EU. In 2014 the Association Agreement was signed by the Republic of Moldova as the first party to the agreement, and was signed by the European Union plus the European Atomic Energy Community and the EU Member States as a unitary second party to the agreement.

Figure 1: The three pillars as established by the Treaties in the 1990s



The Treaty on the EU underwent subsequent further amendments with the conclusion of the Treaty of Amsterdam in 1997 (in force from 1999) and the Treaty of Nice, signed in 2001 (and in force from 2003). However, these amendments did not alter the existing three-pillar structure. The European Coal and Steel Community ceased to exist in 2002 due to the ending of the 50-year period specified by the founding treaty, which was signed in 1951 and entered into force in 1952. All its obligations and rights were transferred to the European Community. Thus only two European Communities remained in place.

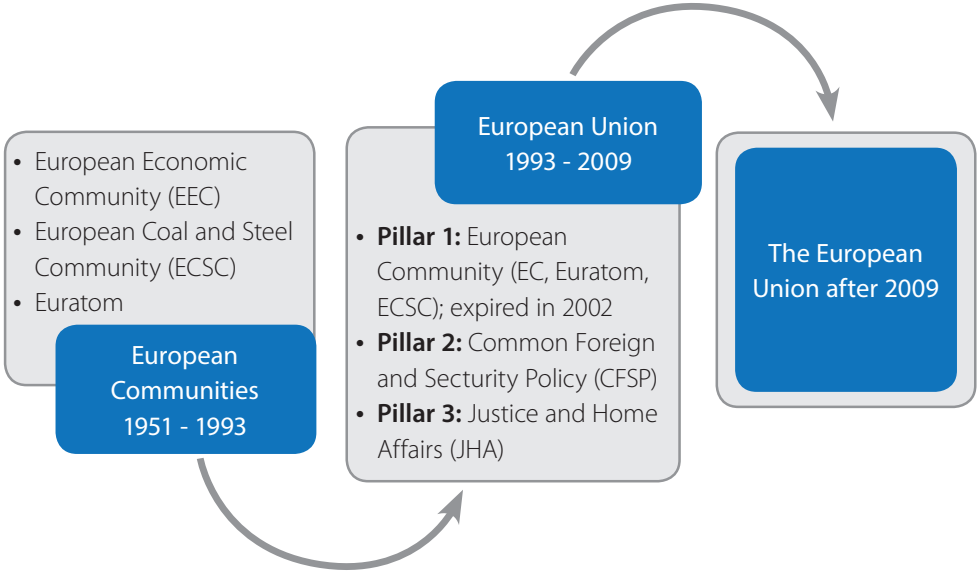
It should be noted that during 1993-2009 the EU's legal structures and procedures differed considerably across the three pillars, with significant differences existing between the supranational Community pillar and the second and third (intergovernmental) pillars. The differences related both to the types of acts adopted, their legal nature, the competences for the adoption of the acts among the various EU bodies, and the procedures of adoption and jurisdiction of the European Court of Justice (ECJ). The qualified majority voting (QMV) in the Council, the extensive competences of the Commission, the jurisdiction of the European Court of Justice, and the adoption of regulations and directives which collectively comprise the main elements of what is known as the "Community way" or the **supranational model** of decision-making, were restricted to the first pillar of the EU. The second and third pillars continued to represent a model of **intergovernmental cooperation** among the Member States, where unanimity was required and where the EU functioned like most international organisations.

With the entry into force on 1 December 2009 of amendments to the **Treaty on EU** (TEU) signed[6] in Lisbon, the architecture of the EU was reconfigured: the three-pillar structure was abandoned. The Treaty on the European Community was renamed to the **Treaty on Functioning of the European Union** (TFEU), whereby the European Community transferred its legal personality to the EU and thus ceased to exist. The EU finally became a legal entity. Consequently, today we have the European Union as one legal entity and the European Atomic Energy Community (EURATOM) as a separate legal entity. The "Community method" – namely the competences of the EU and the principles and manner of generating legislation within the former first pillar – was fully extended to the acts adopted with the framework of the former third pillar (JHA). The former second pillar (CFSP) retained its prior intergovernmental decision-making

[6] The Treaty was signed in Lisbon in December 2007.

method and the types of acts adopted, with no judicial review from the European Court of Justice over the acts adopted under this policy.

Figure 2: The transformation from the European Communities into the European Union



To summarise, throughout all these years the founding treaties have undergone numerous revisions and the adoption of new agreements, including the withdrawal of a Member State:

1951[7]	the **Treaty of Paris, establishing the European Coal and Steel Community** (ECSC) (1951-2002)[8]
1957	the **Treaty of Rome**, **establishing the European Economic Community** (EEC, 1957 - 2009)[9]
	the **Treaty establishing the European Atomic Energy Community** (EURATOM, 1957, still in force)[10]

[7] The years mentioned relate to the year of signing of the treaties and other relevant acts, not the year of their entry into force.
[8] The Treaty establishing the European Coal and Steel Community (ECSC) was signed on 18 April 1951 in Paris, entered into force on 23 July 1952, and expired on 23 July 2002.
[9] The Treaty establishing the European Economic Community (EEC) was signed in Rome on 25 March 1957 and entered into force on 1 January 1958.
[10] The Treaty establishing the European Atomic Energy Community (EURATOM) was signed at the same time as the EEC Treaty, and they are therefore jointly known as the Treaties of Rome.

1965	the **Treaty establishing a Single Council and a Single Commission of the European Communities – Merger Treaty** (1965)[11]
1970	the **Budgetary Treaty** (1970)
1972	the **Acts of Accession of the United Kingdom, Ireland and Denmark** (1972)
1979	the **Acts of Accession of Greece** (1979)
1985	the **Acts of Accession of Spain and Portugal** (1985)
1986	the **Single European Act** (SEA, 1986)[12]
1992	the **Treaty of Maastricht, establishing the European Union** (EU, 1992)[13]
1994	the **Acts of Accession of Austria, Sweden and Finland** (1994)
1997	the **Treaty of Amsterdam** (1997)[14]
2001	the **Treaty of Nice** (2001)[15]
2003	the **Treaty of Accession of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia** (2003)
2005	the **Treaty of Accession of Bulgaria and Romania** (2005)
2007	the **Treaty of Lisbon** (2007), which is currently in force[16]

[11] The Treaty was signed in Brussels on 8 April 1965 and has been in force since 1 July 1967. It provided for a Single Commission and a Single Council for what were then three European Communities.
[12] The Single European Act (SEA) was signed in Luxembourg and the Hague and entered into force on 1 July 1987. It provided for the adaptations required for achieving the Internal Market.
[13] The Treaty was signed in Maastricht on 7 February 1992 and entered into force on 1 November 1993. The Maastricht Treaty simplified the name of the European Economic Community to "the European Community". It also introduced new forms of cooperation between the Member State governments – for example, on foreign policy and defence, and in the area of justice and home affairs. By adding this inter-governmental cooperation to the existing "Community" system, the Treaty of Maastricht created a new structure with three "pillars" whose nature was political as well as economic.
[14] The Treaty was signed on 2 October 1997 and entered into force on 1 May 1999. It amended and renumbered the EU and EC Treaties. Consolidated versions of the EU and EC Treaties are attached to it. The Treaty of Amsterdam changed the identification of the articles of the Treaty on the European Union – previously identified by the letters A to S – into numerical form.
[15] The Treaty was signed on 26 February 2001 and entered into force on 1 February 2003. It dealt mostly with the reform of institutions so that the Union could function efficiently following its enlargement to 25 Member States.
[16] The Treaty was signed on 13 December 2007 and entered into force on 1 December 2009.

2011	the **Treaty of Accession of Croatia** (2011)[17]
2019	the **UK-EU Withdrawal Agreement** ("The Brexit Treaty") (2019)[18]

As can be seen from the list above, to equip the EU to tackle new challenges, and to enable deeper cooperation and better functioning with a growing number of members, the EU has undertaken several legal and institutional changes over the decades. As has been mentioned, the **Treaty of Lisbon** is the current legal basis for the functioning of the European Union. The Treaty was signed in Lisbon in 2007 and came into force on 1 December 2009. It was developed as a response to the inability of the EU Member States to ratify the Treaty Establishing the Constitution for Europe in 2005.[19]

When we refer to the Treaty of Lisbon, we are actually referring to two distinct treaties: the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU). These two treaties comprise the legal foundation of the Union. They possess equal legal significance and are collectively referred to as "the Treaties." The Charter of Fundamental Rights of the European Union is incorporated into the Treaties, and has a legal status equivalent to that of the Treaties.

With the entry into force of the Treaty of Lisbon, the Member States have increased the total number of areas and policies of the former 1st pillar for which decisions are adopted using the qualified majority voting rule. In the former 2nd pillar – Common Foreign and Security Policy – the unanimity-based decision-making process has been retained. In the former 3rd pillar (Justice and Home Affairs, now called Area of Freedom, Security and Justice) the qualified majority voting rule has been introduced. However, individual countries have the option of raising objections on issues of national interest when minimum rules are established concerning the definition of criminal offences and sanctions for particularly serious types of crime having a cross-border dimension.[20] In such a case the decision is transferred from the Council to the European Council, where decisions are reached by consensus.

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[17] The Treaty was signed in 2011 and entered into force on 1 July 2013, when Croatia became the 28th EU Member State.
[18] This entered into force on 1 February 2020, having been agreed on 17 October 2019.
[19] The referendums in France and the Netherlands resulted in the rejection of the Treaty in 2005.
[20] Article 83 of the Treaty on the Functioning of the EU.

Currently the system of qualified majority voting (QMV) is being applied in a total of 114 different areas of EU policy. The Treaty of Lisbon introduced QMV in 44 of these areas, and the Treaty of Nice in 19.[21] This fundamental change in the decision-making process of the EU and the deepening of the integration process was implemented in parallel with the so-called "Big Bang" in the enlargement process during the first decade of this century.

The overall success of the peace project and the economic and political benefits thereby brought to the citizens of the Member States have made membership of the European Union increasingly attractive to other European countries. Over the years its membership grew from the original 6 in 1951 to 28 in 2013. However, the United Kingdom withdrew its membership of the EU in 2019, after holding a referendum to decide the UK's EU membership status in 2016. On the other hand, there are currently nine countries with the status of a candidate country for EU membership: Turkey, Montenegro, Serbia, North Macedonia, Albania, Republic of Moldova, Ukraine, Bosnia and Herzegovina, and Georgia.[22] Kosovo*[23] applied for EU membership in December 2022. Since five of the EU Member States do not recognise it as an independent country, it remains only a potential candidate for EU membership.

[21] Dr Vladimir Međak, *Treaty of Lisbon, Safe harbour or beginning of a new journey* (collection of papers), Official Journal, Belgrade, 2009, page 59.

[22] Countries are listed in accordance with the date they started accession negotiations, or when they received candidate status if they have not yet opened accession negotiations.

[23] This designation is without prejudice to the positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

1.2 EU competences, institutions, procedures and relations

The European Union is governed by the bodies established in the founding treaties that define the competences of the EU, and by the competences of the EU bodies and procedures through which decisions are taken.

1.2.1 Competences of the European Union

The competences of the EU are defined by Articles 2 to 6 of the Treaty on Functioning of the European Union.

Article 2 defines the different types of EU competence. **All competences are conferred by the Member States** through the Treaties.

Exclusive competences of the EU (Article 3 TFEU). When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts. The Union shall have exclusive competence in the following areas:

- customs union;
- the establishing of the competition rules necessary for the functioning of the internal market;
- monetary policy for the Member States whose currency is the Euro;
- the conservation of marine biological resources under the common fisheries policy;
- common commercial policy.

The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.

Shared competences of the EU (Article 4 TFEU). When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has

decided to cease exercising its competence. Shared competence between the Union and the Member States applies in the following principal areas:

- internal market;
- social policy, for the aspects defined in this Treaty;
- economic, social and territorial cohesion;
- agriculture and fisheries, excluding the conservation of marine biological resources;
- environment;
- consumer protection;
- transport;
- trans-European networks;
- energy;
- area of freedom, security and justice;
- common safety concerns in public health matters, for the aspects defined in this Treaty.

In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

Supporting and coordinative competences of the EU (Article 6 TFEU). In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas. The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

- protection and improvement of human health;
- industry;
- culture;
- tourism;
- education, vocational training, youth and sport;
- civil protection;
- administrative cooperation.

The **Member States shall coordinate their economic and employment policies** within arrangements as determined by this Treaty, which the Union shall have competence to provide **(Article 5 TFEU).** To this end, the Council shall adopt measures, in particular broad guidelines for these policies. Specific provisions shall apply to those Member States whose currency is the euro. The Union shall take measures to ensure coordination of the employment policies of the Member States, particularly by defining guidelines for these policies. The Union may take initiatives to ensure coordination of Member States' social policies.

The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to **define and implement a common foreign and security policy,** including the progressive framing of a common defence policy.

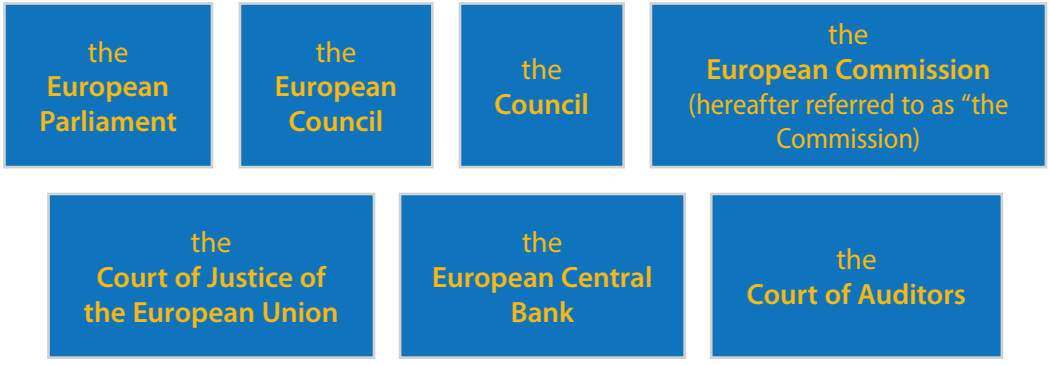
The competences of Member States not explicitly conferred on the EU are not covered by the Treaties. The EU cannot exercise competences not conferred upon it, or exercise competences above the level of the conferral defined by the EU. Possible breaches of the principle of conferral of competences are assessed by the Court of Justice of the European Union.

The integration level of the EU Member States can vary in accordance with the competences possessed by the EU. On the one hand, the EU is a customs union and regulates external trade for the Member States; on the other hand, the EU coordinates the policies of the Member States in the areas of education, culture, youth and sports. This difference is reflected in the number and scope of the acts that the EU adopts in different areas. This has resulted in different levels for the obligations Republic of Moldova must meet to harmonise its legislation with the EU acquis. While in some areas full transposition of EU legislation is required, with little room for deviation from EU norms, in other areas accession would require only a more intensive coordination between the policies of Republic of Moldova and the EU and its participation in various EU programmes.

1.2.2 EU institutions

Article 13 of the TEU defines the main institutions of the EU: "*The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.*"

The main institutions of the European Union are:



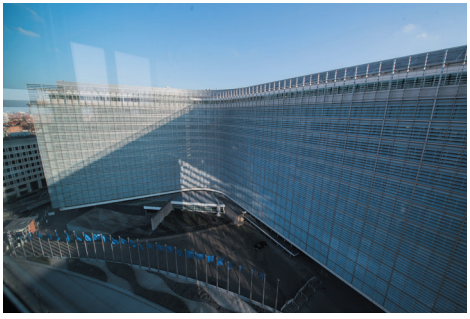
The institutions of the EU can be **supranational (European Parliament, Commission,** European Central Bank (ECB), Court of Justice of the European Union and Court Auditors), defending the interests of the EU as an entity and as an international organisation; or **intergovernmental (European Council and Council**), representing and protecting the interests of the Member States. These interests are not confrontational, meaning the Member States also have in mind the interests of the EU they have created, and the Commission and the European Parliament also take care of the interests of the Member States that compose the EU and whose citizens they represent. Decisions in the EU are adopted through the interaction of the different interests and perspectives that are represented by different actors and institutions, so the final outcome – the decision/position – represents the common accord of all its actors.

For the purpose of this Handbook we will describe the institutions in terms of the relevance of their engagement in the enlargement process, and will not elaborate on the Court of Justice of the European Union, the ECB and the Court of Auditors.

1.2.2.1 The Commission

The Commission's chief function is to promote the general interests of the Union and to take appropriate initiatives to that end. The Commission is a supranational body of the EU that protects the interests of the Union as a whole.

It ensures the application of the Treaties and the measures adopted by the institutions pursuant to them. It oversees the application of Union law under the control of the



The Berlaymont building
(© European Union)

Court of Justice of the European Union. It executes the budget and manages programmes. It exercises coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it will ensure the Union's external representation. It represents the EU during international negotiations, in particular in areas of trade policy and humanitarian aid. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements. The Commission has the exclusive right of legal initiative, except in the area of Justice and Home Affairs, where it shares the right of initiative with Member States. The Commission may be given the right to adopt non-legislative acts, in particular delegated and implementing acts, and has important powers to ensure fair conditions of competition between EU businesses. [24] Hence, the Commission can be seen as the executive branch of power in the European Union.

The Commission, consisting of 27 members, is composed on the basis of the principle of "one Member State – one member of the Commission", including the High Representative for Foreign Affairs and Security Policy, who at the same time is one of the vice presidents of the Commission.

Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its members. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. The President, the High Representative of the Union for Foreign Affairs and Security Policy, and the other members of the Commission, shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

The term in office of the Commission is five years. The incumbent Commission entered into office in December 2019, after the elections for the European Parliament

[24] Article 17 TEU and Articles 244-250 TFEU.

that were held in May 2019. The last elections for the European Parliament were held in June 2024, and the new Commission is scheduled to enter into office in November-December 2024. The seat of the Commission is in Brussels.

The European Council, acting by a qualified majority, and with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his term of office by the same procedure.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt. Members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. Therefore, the Commission, and each Commissioner, represents the interests of the Union and not the state from which they originate.

Members of the Commission cannot be dismissed by governments during their term in office. The European Parliament exercises democratic control over the Commission, which regularly submits reports to the Parliament, including an annual report on EU activities and the implementation of the budget. Once a year, the Commission President delivers a State of the Union address during a plenary session. Parliament regularly invites the Commission to initiate new policies, and the Commission is required to reply to oral and written questions from MEPs. The European Parliament has the right to dismiss the European Commission.

The Commission acts by a majority of its members. The European Commission is composed of the College of Commissioners. Each Commissioner is responsible for a portfolio assigned by the President of the Commission. Their work is supported by competent policy departments known as Directorates-General (DGs), and services, which are mainly located in Brussels and Luxembourg. DGs resemble ministries in a government. Every Commissioner is responsible for at least one DG.

The enlargement process falls under the responsibility of the Commissioner for Enlargement, who is supported by the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR).

Starting from October 2023, the Commission will adopt and publish an Annual Report on Republic of Moldova, assessing the country's progress towards meeting the EU

membership criteria, plus the progress made in the previous year. The preparation of the Annual Report is the responsibility of the Commissioner for Enlargement and DG NEAR. During the accession process the Commission plays the pivotal role in negotiating with the candidate country. It also serves as the interlocutor among EU Member States and the candidate country, to which it provides advice and guidance. However, decisions on the outcome of accession negotiations and the progress in the negotiations are made by Member States in the Council.

1.2.2.2 The Council

The Council is the intergovernmental institution of the EU, directly representing the interests of the EU Member States – or more precisely, the interests of the governments of EU Member States and their politics. The Council shares the legislative power in the EU with the European Parliament. No legislative act can be adopted without the approval of the Council, including international agreements with third countries. It has the most important role in the process of enlargement, where it must unanimously approve each new step made by an accession country.

The members of the Council are ministers of the Member States. Different line ministers from Member States convene in the Council, depending on the topic of the agenda being discussed. It should be stressed that the Council is a single entity, even though it meets in **10 different 'configurations'** that vary in accordance with the subject being discussed. There is no hierarchy among the Council configurations, although the General Affairs Council (where ministers of foreign affairs meet) has a special coordination role and is responsible for institutional, administrative and horizontal matters. The Foreign Affairs Council also has a special remit.

Any of the Council's 10 configurations can adopt an act that falls under the remit of a different configuration. Therefore, with any legislative act the Council adopts no mention is made of which configuration adopted it.

The Council's 10 configurations	
1. Agriculture and fisheries	6. Education, youth, culture and sport
2. Competitiveness	7. Foreign affairs
3. Economic and financial affairs	8. General affairs
4. Environment	9. Justice and home affairs
5. Employment, social policy, health and consumer affairs	10. Transport, telecommunications and energy

Council meetings are attended by representatives from each Member State at a ministerial level. Participants can therefore be **ministers or state secretaries**. They have the right to commit the government of their country and cast its vote. European Commissioners responsible for the areas concerned are also invited to Council meetings. The European Central Bank is invited when it has launched the legislative procedure. Meetings are chaired by the minister of the Member State holding the 6-month Council Presidency. The country holding the presidency delegates the chairs of all Council meetings and other bodies where Member States preside. The exception is the Foreign Affairs Council, which is usually chaired by the High Representative of the Union for Foreign Affairs and Security Policy.[25]

Below, we present the list of countries holding the Presidency of the Council, as determined in 2016, covering the period up to the end of 2030:[26]

Order of presidencies in the Council until 2031					
France	January-June	2022	Ireland	July-December	2026
Czech Republic	July-December		Lithuania	January-June	2027
Sweden	January-June	2023	Greece	July-December	
Spain	July-December		Italy	January-June	2028
Belgium	January-June	2024	Latvia	July-December	
Hungary	July-December		Luxembourg	January-June	2029
Poland	January-June	2025	Netherlands	July-December	
Denmark	July-December		Slovakia	January-June	2030
Cyprus	January-June	2026	Malta	July-December	

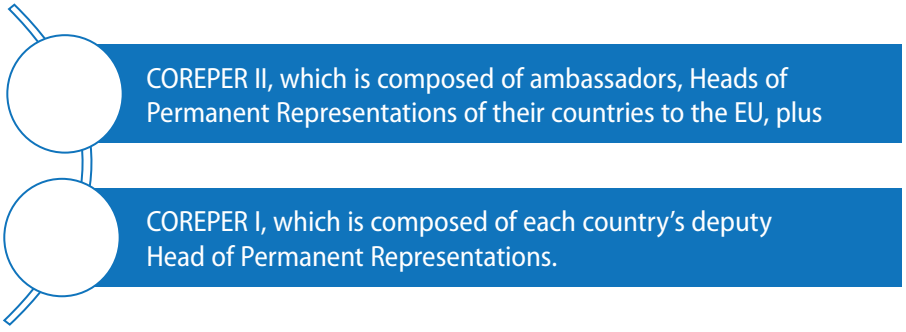
To secure continuity in the functioning of the Council, a system of presidency involving three countries with successive presidency periods covers 18 months of work. The countries making up the trio work together to define priorities and steer the EU during that period, with every country retaining some specific priorities during its 6-month presidency.

In 2023 the presidencies were held by Sweden and Spain, and are followed by Belgium and Hungary in 2024. The previous trio was made up of the presidencies of France, the

[25] https://www.consilium.europa.eu/en/council-eu/configurations/
[26] https://www.consilium.europa.eu/en/press/press-releases/2016/07/26/council-rotating-presidencies-revised-order/

Czech Republic and Sweden, and the following trio, starting in July 2023, consists of Spain, Belgium and Hungary.

Since the ministers of Member States spend the majority of their time in their national capitals, it is necessary to secure the continuity of the work of the Council between meetings. This is achieved through the work of the Committee of Permanent Representatives, known as the COREPER, which is responsible for preparing the work of the Council. COREPER consists of two levels:



COREPER II prepares the work of 4 Council configurations:	COREPER I prepares the work of 6 Council configurations:
▪ economic and financial affairs ▪ foreign affairs ▪ general affairs ▪ justice and home affairs.	▪ agriculture and fisheries (only financial issues or technical measures on veterinary, phytosanitary or food legislation) ▪ competitiveness ▪ education, youth, culture and sport ▪ employment, social policy, health and consumer affairs ▪ environment ▪ transport, telecommunications and energy.

COREPER prepares the meetings of the Council by discussing the issues on the agenda and making agreements regarding issues that do not require ministerial attention. Both configurations of COREPER (i.e. COREPER I and II) **meet every week**. If an agreement is made at the level of COREPER, the Council will approve it, and will only discuss an issue where agreement could not have been reached at the COREPER level.

For the enlargement process, a very important body in which negotiations among Member States are conducted is the **Working Party on Enlargement and Countries**

Negotiating Accession to the EU (COELA). This working party is in charge of the enlargement process and relations with the candidate countries negotiating their accession to the EU. It is mainly responsible for:

- preparation of the **accession negotiations** and the EU negotiating position
- **assessment of the progress made** by the candidate countries towards meeting the accession criteria
- relations with the candidate countries within the framework of the **Association Agreement**
- the **financial instrument** for Pre-Accession Assistance (IPA).

In COELA, the Member States are represented by diplomats working in the Permanent Representations of their countries to the EU, which are below the Deputy Head of Mission. COELA conducts the preparatory negotiations before the issue is referred to COREPER.

The initial (and sometimes decisive) debate in the Council, particularly on the substantive/technical progress of a candidate country in accession negotiations, is conducted in COELA. Political debates also take place in COELA, but the main political debate is conducted in COREPER II.

The Council takes its decisions by a **simple majority, qualified majority or unanimous vote**, depending on the type of decision that needs to be taken:

SIMPLE MAJORITY	QUALIFIED MAJORITY	UNANIMOUS VOTE
14 Member States must vote in favour	Used for approximately 80% of EU legislation[27] (55% of Member States, representing at least 65% of the EU population, must vote in favour)	All votes must be in favour[28]

The Council can vote only if a majority of its members is present. A member of the Council may authorise another Member State, to vote on its behalf. A member of the Council can act on the behalf of only one additional member.[29]

Even though qualified majority voting represents the general rule in decision making, Member States try to adopt as many decisions as possible by consensus. In 2014,

[27] https://www.consilium.europa.eu/en/council-eu/voting-system/qualified-majority/
[28] https://www.consilium.europa.eu/en/council-eu/voting-system/
[29] https://www.consilium.europa.eu/en/council-eu/voting-system/

the current qualified majority voting procedure was introduced whereby in order to be passed, a vote requires 55% of Member States representing at least 65% of the EU population. In cases where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy[30], the qualified majority shall be defined as comprising at least 72% of the members of the Council, representing Member States which themselves represent at least 65% of the EU population.[31] This double majority enables the interests of all Member States to be taken into account. It also addresses the challenge of reconciling two conflicting principles – equality between Member States possessing the same voting rights but having significantly different population sizes, such as Malta[32] and Germany[33]. The implementation of this dual-majority system seeks to uphold and balance both principles, promoting compromise and cooperation among Member States.

The Council usually meets behind closed doors. However, it meets in a public session when it discusses or votes on a proposal for a legislative act. In these cases, the meeting agenda includes a **'legislative deliberation'** component. The debates on the General Affairs Council's 18-month programme, the priorities of the other Council configurations, and the Commission's five-year programme, are all held in public.[34]

All decisions regarding enlargement are made in the Council, unanimously.

The seat of the Council is located in the Justus Lipsius building in Brussels.

During accession negotiations, most of the meetings (particularly the screening process) are held in the Centre Albert Borchette, near the Justus Lipsius building.

1.2.2.3 The European Council

The European Council consists of the heads of state or the heads of government of the Member States, the President of the European Council, and the President of the European Commission. The High Representative for Foreign Affairs and Security

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[30] Proposal can be initiated for example by a group of Member States, European Parliament or through European Citizens initiative.
[31] Article 238 TFEU.
[32] With around 520,000 inhabitants.
[33] With over 83 million inhabitants.
[34] https://www.consilium.europa.eu/en/council-eu/configurations/

The Justus Lipsius building (© European Union)

The Centre Albert Borchette (© European Union)

Policy participates in the work of the European Council. The European Council shall be assisted by the General Secretariat of the Council.

Legally speaking, the position of the European Council was not codified in the Treaties as being a part of the institutional structure of the EU until the Treaty of Lisbon came into force. As a body, the European Council was created in 1974, when it was decided to make the meetings of heads of state and heads of government regular events: previously, these meetings were held on an *ad hoc* basis.

The Treaty of Lisbon defines the role of the European Council as "providing the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions."[35] However, it takes the role of defining strategic directions and making the highest-level political decisions, like introducing the Euro or finalising/pushing forward the enlargement, which are later transformed into legally binding acts by other institutions of the EU. The European Council adopts strategic political decisions with enduring effects.

The European Council should not be confused with the Council of Europe, which is an independent international organisation situated in Strasbourg, France, and of which Republic of Moldova is a member.

The European Council meets at least four times per year. The main meetings, the so-called "summits", are organised at the end of every presidency, in June and December. Discussions during these meetings can encompass a wide array of topics concerning

[35] Article 15 TEU.

the Union. Their primary focus is on enhancing the Union's functionality and matters of foreign policy, including enlargement.

The European Council plays an important role in setting foreign policy directions. These are then implemented by the Foreign Affairs Council, the High Representative, and the European External Action Service (EEAS). As a rule, the European Council adopts decisions by consensus, unless otherwise defined by the Treaty. If unanimity is required to adopt an act, abstentions by members present in person or represented shall not prevent its adoption by the European Council.

The Treaty of Lisbon introduced the position of the **President of the European Council**. The term in office of the President is 2.5 years, renewable once.

The Treaty of Lisbon envisages the election of the President by a qualified majority vote. However, the Member States try to reach consensus on the election of this official.

The duties of the President of the European Council are to:
- chair the European Council and drive forward its work
- ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council
- endeavour to facilitate cohesion and consensus within the European Council
- present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.[36]

The seat of the President of the European Council is located in Brussels in the Justus Lipsius building, which is also the seat of the Council.

[36] Article 15 TEU.

The European Parliament in Strasbourg
(© European Union)

The seat of the European Parliament in Brussels
(© European Union)

1.2.2.4 The European Parliament

The European Parliament is the supranational institution of the EU and represents the citizens of the EU. It has strong democratic capacity and legitimacy, because the members of the European Parliament (MEPs) have been directly elected since 1979. The official seat of the European Parliament is in Strasbourg, France, and the plenary sessions are held there.

However, the European Parliament has a second seat in Brussels, where the majority of its work (outside the plenary sessions) is conducted.

The number of MEPs is defined by the TEU and must not exceed 750 members, plus the President of the EP.[37] The representation of citizens is degressively proportional, with a minimum threshold of 6 members per Member State and a maximum of 96 seats. The number of seats per country is decided by the European Council. The current composition of the EP, after Brexit, is defined with the Decision of the European Council 2018/937 of 28 June 2018 establishing the composition of the European Parliament. When the UK left the EU its 73 seats in the EP remained vacant. Of those 73 seats, 27 seats were shared out among EU Member States and 46 remained vacant, so the total number of MEPs was cut from 751 to 705 in term 2019-2924. In the 2024-2029 convocation the EP will have 15 additional seats, reaching the total number of 720 MEPs.[38]

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[37] Article 14 TEU.

[38] European Council Decision (EU) 2023/2061 of 22 September 2023 establishing the composition of the

The number of representatives in the European Parliament for each Member State is set as follows for the 2024-2029 parliamentary term[39]:

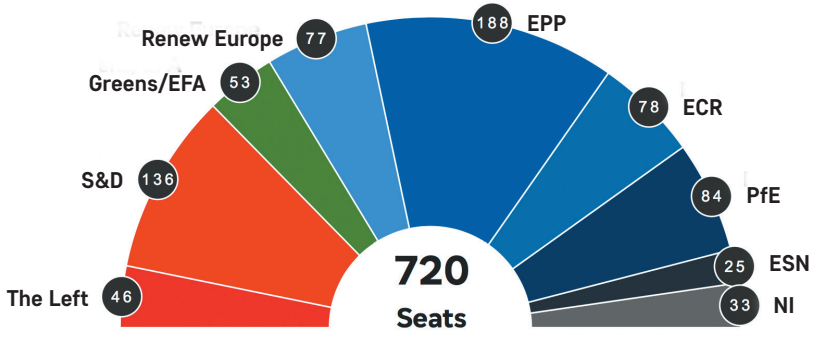
Belgium	22
Bulgaria	17
Czech Republic	21
Denmark	15
Germany	96
Estonia	7
Ireland	14
Greece	21
Spain	61
France	81
Croatia	12
Italy	76
Cyprus	6
Latvia	9
Lithuania	11
Luxembourg	6
Hungary	21
Malta	6
Netherlands	31
Austria	20
Poland	53
Portugal	21
Romania	33
Slovenia	9
Slovakia	15
Finland	15
Sweden	21

Members of the European Parliament (MEPs) represent the citizens of the EU and their political parties. MEPs are not organised as national groups but in accordance with their political affiliation to party groups. It takes 23 MEPs to form a party group.

European Parliament.

[39] The elections for the European Parliament took place on 6-9 June 2024.

The 2024-2029 convocation of the EP consists of the following party groups[40]:



The general rule set out in the Treaties is that the President of the Commission is drawn from the party group in the EP with the greatest number of members. Therefore, the incumbent President of the Commission is from the EPP party group. In the current convocation, the two largest groups combined – EPP and S&D – failed to achieve 50% of the seats (taking approximately 45% of MEP seats), for the second time in the EP's' history. Consequently, they had to rely on the support of the Renew Europe group to obtain the majority needed to elect the Commission. These three political groups comprised the previous (2019-2024) and the current (2024-2029) Commission.

The EP is not comparable to the Member States' national parliaments, since its powers are different from those of the national parliaments. Unlike national parliaments, the EP is not a sole legislator, but shares its legislative power with the Council. The EP also has a very limited power of legal initiative – unlike in national parliaments, where MPs can propose legislation. The strongest powers of the EP are associated with its role in overseeing the Commission, plus its budgetary powers. However, over the years the power of the EP has grown steadily, from having a mostly consultative role before 1986 to achieving equal footing with the Council today (following a successive strengthening of its role with every Treaty change since 1986).

With the entry into force of the Treaty of Lisbon, the EP's role of exercising political control over the work of the Commission has grown stronger, since the EP cannot pass a vote of no confidence to the Commission. The EP elects the President of

[40] See: https://results.elections.europa.eu/en

the Commission, and all candidate commissioners must undergo a rigorous and demanding hearing in the EP. This does not necessarily end with a positive vote. The EP also has a restricted power of legal initiative. The President of the European Council reports to the EP after every meeting of the European Council.

Apart from strengthening the role of the EP, the Lisbon Treaty introduced a role for the national parliaments in the legislative process at the EU level. Specifically, all national parliaments are informed about the annual legislative programme of the European Commission, and every proposal is submitted to the national parliaments at least 8 weeks before they are placed into the legislative process at the EU level. If one third of the national parliaments raise serious concerns about the implementation of the principles of subsidiary and proportionality of the Commission proposal, the proposal must be reviewed.[41]

1.2.3 Relations between the Council and the European Parliament in the legislative process

To describe the EU's decision-making process – namely, how legislation is adopted – we will briefly explain the relationship between the Council and the European Parliament as the co-legislators in the EU's legislative process. In practice, this means examining the role of the European Parliament during the process, since the role of the Council remains the same in all procedures.

The EU has three legislative procedures:

ORDINARY LEGISLATIVE PROCEDURE, which is the main procedure, plus	
two **special procedures:**	**CONSULTATION PROCEDURE**
	CONSENT PROCEDURE

[41] Protocol 1 to the TFEU on the role of national parliaments in the European Union, and Protocol 2 to the TFEU on the application of the principles of subsidiary and proportionality.

1.2.3.1 Ordinary legislative procedure

This procedure was first introduced in the EU's legal system with the Treaty of Maastricht in 1993, when it was known as the "co-decision" procedure. This procedure places the Council and the EP on the same footing in the legislative process. Since 1993, with every change of the founding treaties decisions have been adopted through this procedure in increasingly more number of areas of EU policy.

The ordinary legislative procedure is defined by Articles 289 and 294 of the TFEU. It requires that, at the proposal of the Commission, the EP and the Council submit their positions to each other through two readings. If they cannot agree on the text of the act, then the Conciliation Committee is convened. This consists of an equal number of members representing the Council and the EP. If, within six weeks of being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted. If common accord is reached, then the Council and the EP will approve the corresponding text in line with their internal procedures. If there is no agreement between the Council and the EP, no decision will be made. The Council cannot adopt a decision without the EP.[42]

Legislative acts adopted under the ordinary legislative procedure must be signed by both the President of the European Parliament and the President of the Council.

1.2.3.2 Consultation procedure

According to this procedure, after receiving the proposal from the Commission, the Council must ask the opinion of the European Parliament before adopting the decision. The EP should provide its opinion within 3 months. The Council is not bound by the opinion of the EP, but the Council must ask for it. Otherwise, the decision of the Council is invalid, and the European Court of Justice will annul it if the EP brings the case before the Court (which has occurred on a couple of occasions). This procedure is now used very restrictively, mostly in the area of the Common Agricultural Policy (CAP).

[42] Article 294 TFEU.

1.2.3.3 Consent procedure

Under this procedure the Parliament must approve the decision of the Council before the Council can adopt it. However, the EP cannot amend the proposed text of a decision; it can only approve or reject it. But though it cannot amend the decision, the EP can condition its approval. This procedure is used very restrictively, for:

- the process of adopting the EU budget
- the accession of new Member States
- the ratification of international agreements signed by the EU (such as the Association Agreement)[43]
- specific aspects of criminal law.

The use of this procedure is described in a particular article of the TFEU which outlines the process for adopting policies in that specific area.

[43] Article 218 TEFU.

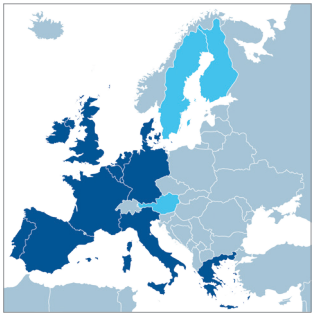
2 EU and the enlargement process: key insights

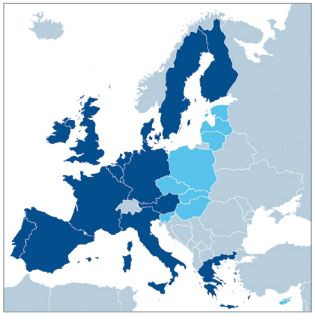
2.1 The history of EU enlargement up to the present day

The history of the EU is also the history of its enlargement. As has been mentioned earlier, the EU's roots go back to the establishment of three communities in the 1950s. Membership of those communities was initially offered to all the democratic countries of Europe in the 1950s. However, the pioneering move was made by six nations – Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, and the Netherlands – which decided to establish the first European Communities. These six countries are the founding members of the EU, with its remaining nations joining the Union only later.

During their initial period of existence, these communities began to provide their members with significant benefits, demonstrating in practice that deep integration – especially on the economic front – could ensure significant advantages compared with what those countries not belonging to these communities. This increased the appeal of European Community membership among Europe's democracies.

In the 1960s Denmark, Ireland, Norway, and the United Kingdom applied to join the European Communities. While Denmark, Ireland, and the United Kingdom successfully concluded their accession negotiations, the citizens of Norway decided not to proceed in a referendum held in 1972. The other three countries became part of the communities in 1973, marking the





first round of enlargement (often referred to as the "northern enlargement"). Notably, these countries were initially members of the European Free Trade Association (EFTA) – which was established in 1960 as an alternative model for economic integration based solely on free trade – without the establishment of supranational institutions or conferral of sovereign powers on joint institutions. By 1969, when these countries were seeking EU membership, it was evident that the European Economic Community (EEC) offered more significant economic benefits to its members than EFTA.

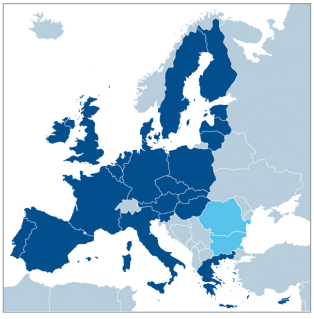
The **second round of enlargement** is also known as the "southern enlargement". During this phase, three southern European countries joined: Greece in 1981, and Portugal and Spain in 1986. This expanded the EU to 12 countries (which are sometimes known as the "EU12").

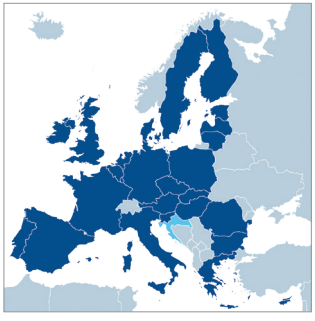
This particular enlargement was characterized by the perception that EEC membership provided a safeguard which ensured the reinforcement and continued development of the newly established democracies and democratic institutions of these three nations, which had endured decades of authoritarianism.

The fall of the Berlin Wall in 1989 marked a tectonic change in Europe's political landscape that triggered the process of continental unification. This transformative event influenced the perspectives of many European countries regarding EU membership. An immediate outcome was that four EFTA countries saw it as an opportune moment to join the EU.

The **third round** of enlargement, known as the "EFTA round," took place in 1995. During this period, three EFTA members – Austria, Finland, and Sweden – joined the EU, consequently withdrawing their EFTA membership. Norway, the fourth country to complete its accession

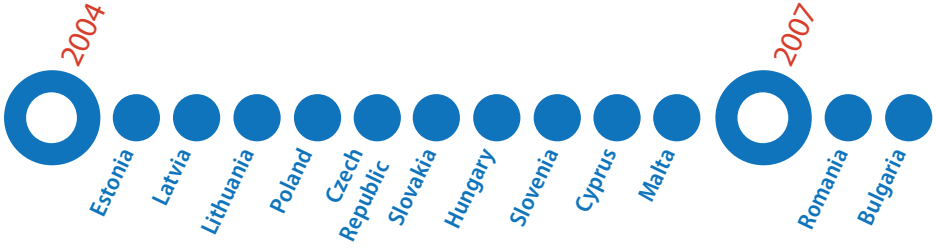
negotiations, again opted not to join the EU, following a negative referendum vote in 1994. Switzerland applied for EU membership in 1992 but withdrew its application the same year, as its citizens rejected membership in the European Economic Area – a distinctive association agreement with the EU allowing participation in the single market without EU accession. The result was the "EU15".





The subsequent phase, or the **fourth round** of enlargement, often referred to as the "Big Bang enlargement", when almost all the Eastern and Central European countries plus two Mediterranean countries applied for membership.

With this wave, which lasted from 2004 to 2007, 12 new countries joined the EU:



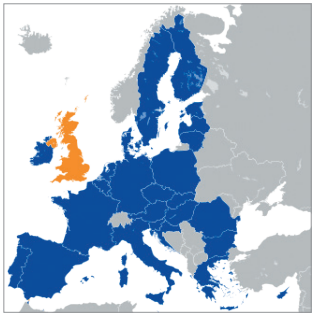
The last country to join the EU was Croatia, in 2013. This was the first member country from the Western Balkans, and it joined the EU via the Process of Stabilization and Association.

Currently, four Western Balkans countries – Montenegro, Serbia, North Macedonia, and Albania – are EU membership candidates and actively engaged in accession negotiations, while the Council greenlighted the opening of accession negotiations with Bosnia and Herzegovina on 21 March 2024.

In 2022 Ukraine, Republic of Moldova, and Georgia all submitted applications for EU membership. Ukraine and Republic of Moldova were granted candidate status in 2022; Georgia achieved it in December 2023.

On 25 June 2024 the 1st Intergovernmental Conference (IGC) on accession of Republic of Moldova to the EU was held, marking the official opening of accession negotiations of Republic of Moldova. Ukraine opened accession negotiations with the EU on the same day.

Country	Candidate status granted	Accession negotiations opened
Turkey	1999	2005
Montenegro	2010	2012
Serbia	2012	2014
North Macedonia	2005	2022
Albania	2014	2022
Republic of Moldova	**2022**	**2024**
Ukraine	2022	2024
Bosnia and Herzegovina	2022	2024
Georgia	2023	



Despite the historical trend towards the enlargement of the European Union, this process is not necessarily a one-way street. In 2019 the United Kingdom became the first country to take the decision to exit the EU in a process commonly referred to as “Brexit”, based on Article 50 of the Treaty on European Union (TEU).

This was the result of the referendum held in 2016 in which the citizens of the UK voted to leave the EU after 43 years of membership. The EU’s current (post-Brexit) membership stands at 27 states.

2.2 Legal framework for enlargement

The legal basis for the enlargement of, and accession to, the EU is Article 49 of the TEU, which states the following:

"Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements."

Article 2 of the TEU, to which Article 49 refers, states that:

"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. [44]These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Article 49 lays out the fundamental parameters of accession negotiations. It defines the conditions for accession, which are the "respect and promotion" of the fundamental values of the EU, as defined by Article 2 of the TEU; and the subsequent conclusions of the European Council which further elaborated and defined the "conditions for eligibility", referring first and foremost to the Conclusion of the 1993 Copenhagen European Council. These conclusions also form part of this conditionality.

Article 49 also defines the main organ of the EU which will conduct the accession negotiations, namely the Council. This means that each candidate country has to negotiate with all members of the EU. The entirety of the negotiations is conducted in the Intergovernmental Conference (IGC) involving the governments of the EU Member

[44] Organisation and the structure of clusters is explained on pages 68-70.

States and the government of the candidate country. These negotiations assist the candidate countries to prepare for EU membership.

Article 49 states that an application for membership by a European country must be accepted unanimously by all Member States. It also states that the final agreement containing the conditions of admission of a new Member State must be unanimously agreed by the existing Member States, and that the Treaty of Accession must be ratified by the EU Member States in accordance with their constitutional procedures.

2.3 The Copenhagen criteria for enlargement

As has previously been mentioned, the most important set of criteria (conditions) for membership are defined by the European Council conclusion adopted in the Copenhagen meeting in 1993, henceforth referred to as the "Copenhagen criteria".

The Copenhagen criteria are as follows:[45]

- **Political criteria**, requiring stable democratic institutions guaranteeing democracy, the rule of law, human rights and the protection of minorities.
- **Economic criteria**, requiring a functioning market economy and the capacity to cope with the competitive forces which exist in the EU.
- The ability to take on the obligations of membership (harmonisation with the existing EU legislation – the **EU acquis**). This condition is further strengthened by the 1995 Madrid European Council Conclusions, which added a component to this criterion that obliges new Member States to perform the adjustments of their administrative structures necessary for fulfilling the obligations of membership.[46]
- From that moment onward, Public Administration Reform (PAR) became an integral part of the accession process. Since 2020, with the revised enlargement methodology, PAR forms a part of the Cluster 1 Fundamentals.

The fourth condition for enlargement is that "the Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries".[47]

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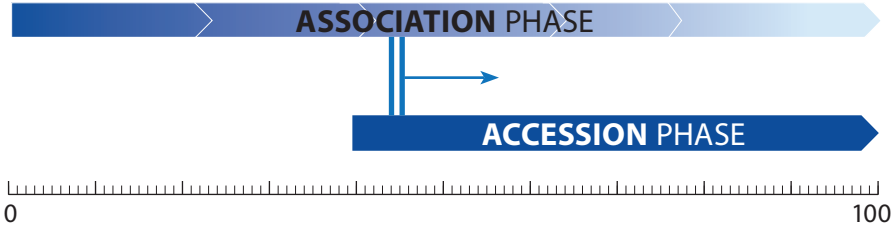
[45] *Council conclusions, Copenhagen 21-22 June 1993, point 7.a.iii.*
[46] *Madrid European Council 15/16 December 1995, Presidency conclusions.*
[47] *Council conclusions, Copenhagen 21-22 June 1993, point 7.a.iii.*

In 2020 the EU adopted Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget. The Regulation further elaborates on the substance of political criteria, establishing a clear link between complying with the Copenhagen criteria and access to the EU budget after accession. It stipulates that the laws and practices of the Member States must continue to comply with the common values on which the Union is founded after their accession to the EU. The Regulation (Article 2) defined what the "rule of law" consists of for the EU, namely the values of the Union enshrined in Article 2 TEU. The rule of law includes the principles of legality implying a transparent, accountable, democratic and pluralistic law-making process; legal certainty; prohibition of arbitrariness of the executive powers; effective judicial protection, including access to justice, by independent and impartial courts, also as regards fundamental rights; separation of powers; and non-discrimination and equality before the law. The rule of law is to be interpreted in conjunction with the other Union values and principles set forth in Article 2 of the TEU.

The enlargement process is conducted in two phases: the Association phase – that is, preparing the country for the opening up of its market and establishing the closest possible political and economic connections with the EU; and the Accession phase, which prepares a country for membership. After the opening of accession negotiations, these two processes run in parallel and complement each other, with EU membership being the ultimate goal.



The Copenhagen criteria form the basis for the relationship between Republic of Moldova and the EU after Republic of Moldova received candidate status; after 2022 Republic of Moldova is assessed against those criteria. However, the obligations assumed by Republic of Moldova in the Association Agreement will remain, and will be incorporated into the accession process as an integral part of it.

The main tool for assessing the progress and readiness for EU membership is the Annual Report of the European Commission. The first document in which Republic

of Moldova was assessed against the Copenhagen criteria was the "Opinion of the European Commission on the application of Republic of Moldova to become an EU Member State". The part relating to the political and economic criteria was published in June 2022,[48] and the part relating to the third criterion was published in February 2023.[49]

The first Annual Report of the European Commission on Republic of Moldova was published on 8 November 2023.[50] This report was prepared on the basis of multiple sources of information, the most important being the contribution made by the Government of the Republic of Moldova regarding its activities and progress, which was submitted to the European Commission during April-June 2023. This will become a yearly obligation for the Government throughout the entire accession process.

2.4 EU-Republic of Moldova Association Agreement

The **EU-Republic of Moldova Association Agreement** (AA) was signed on 27 June 2014. It represented a significant deepening of the relations between the EU and Republic of Moldova, and represents one of the so-called "new generation" of EU association agreements. Developed within the European Neighbourhood Policy and Eastern Partnership policy framework[51] of the EU, it is an ambitious mechanism for promoting political association and economic integration with the EU. It succeeded the EU-Republic of Moldova Partnership and Cooperation Agreement (PCA). The PCA was signed on 28 November 1994 and entered into force on 1 July 1998 for an initial period of 10 years, with the tacit possibility of prolongation.

Most sections of the AA as well as Title V (covering the Deep and Comprehensive Free Trade Agreement – DCFTA) were provisionally applied as from 1 September 2014.[52] The entire AA, including the DCFTA section/Title V, entered into full legal force on 1 July 2016, after being ratified by the Republic of Moldova and European Parliament

[48] https://neighbourhood-enlargement.ec.europa.eu/opinion-moldovas-application-membership-european-union_en

[49] https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-02/SWD_2023_32_%20Moldova.pdf

[50] https://neighbourhood-enlargement.ec.europa.eu/moldova-report-2023_en

[51] Replacing the Partnership and Cooperation Agreement (PCA) of 1994.

[52] See Council Decision of 16 June 2014 on the signing, on behalf of the European Union, and the provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part *(2014/492/EU), Official Journal of the EU, 30.08.2014, L260/1.*

and all EU Member States.[53] After the entry into force of the entire AA, Republic of Moldova became an EU Associated Country.

The **EU-Republic of Moldova Association Agreement** (AA) is a legally binding and comprehensive international treaty forming the legal framework for the political association and gradual economic integration of the EU and its Member States with Republic of Moldova. It is concluded for an unlimited period.[54] It will stay in force until Republic of Moldova becomes an EU member, or until it is replaced by some other EU-Republic of Moldova agreement.

A key section of the AA is devoted to the establishment of a deep and comprehensive free trade area (DCFTA) that is intended to assist the modernisation of Republic of Moldova's economy and its integration with the EU internal market through the adoption of the trade-related EU acquis.

It should be noted that the AA/DCFTA is not a standard EU free trade agreement, as it includes a strong political component which neither specifically promises nor rules out eventual accession to the EU.[55]

Article 1 of the AA defined the aims of the Association Agreement as follows:

- to promote **political association and economic integration** between the Parties based on common values and close links, including by increasing the Republic of Moldova's participation in EU policies, programmes and agencies;
- to strengthen the framework for enhanced **political dialogue** in all areas of mutual interest, providing for the development of close political relations between the Parties;

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[53] See the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (OJ L 260, 30.8.2014, p. 4); the latest Consolidated version of Association Agreement is dated 23 January 2020 and is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX-%3A02014A0830%2801%29-20200123. Entry into force: See Information concerning the entry into force of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, available at: https://eur-lex.europa.eu/EN/legal-content/summary/association-agreement-with-moldova.html

[54] AA Article 460(1).

[55] The AA preamble text includes the following statements: *"Acknowledging the European aspirations and the European choice of the Republic of Moldova;" "Taking into account that this Agreement will not prejudice, and leaves open, the way for future progressive developments in EU-Republic of Moldova relations;" and "Acknowledging that the Republic of Moldova as a European country shares a common history and common values with the Member States and is committed to implementing and promoting those values, which for the Republic of Moldova inspire its European choice".*

- to contribute to the **strengthening of democracy** and to political, economic and institutional stability in the Republic of Moldova;
- to **promote, preserve and strengthen peace and stability** in the regional and international dimensions, including through joining efforts to eliminate sources of tension, enhancing border security, promoting cross-border cooperation and good neighbour relations;
- to support and **enhance cooperation in the area of freedom, security and justice** with the aim of reinforcing the rule of law and respect for human rights and fundamental freedoms as well as in the area of mobility and people-to-people contacts;
- to support the efforts of the Republic of Moldova to **develop its economic potential** via international cooperation, also through the **approximation of its legislation to that of the EU;**
- to establish conditions for **enhanced economic and trade relations leading towards the Republic of Moldova's gradual integration in the EU internal market** as stipulated in this Agreement, including **by setting up a Deep and Comprehensive Free Trade Area,** which will provide for **far-reaching regulatory approximation and market access liberalisation**, in compliance with the rights and obligations arising out of WTO membership and the transparent application of those rights and obligations; and
- to establish conditions for increasingly close cooperation in other areas of mutual interest.

Article 2 sets forth the **general principles**[56] which both Parties shall respect and observe and which the AA defines as "essential elements" of the Agreement.

[56] These include the respect for democratic principles, human rights and fundamental freedoms; respect for the principles of the rule of law and good governance, as well as international obligations under the UN, the Council of Europe and the OSCE; commitment to the principles of a free market economy, sustainable development and effective multilateralism; commitment to foster cooperation and good neighbourly relations; preventing and combating corruption, criminal activities (organised or otherwise) and terrorism; countering the proliferation of weapons of mass destruction.

2.4.1 Structure of the EU-Republic of Moldova Association Agreement

The AA is a very complex and lengthy agreement totalling 735 pages. It includes seven Titles divided into 46 Chapters, 35 Annexes and four Protocols, which all form an integral part of the AA.[57] The AA/DCFTA contains 465 Articles. They include the following Titles:[58]

- **Title I – General Principles:** this sets forth the respect for democratic principles, human rights and fundamental freedoms as the general principles of the AA and its "essential elements", the violation of which may lead to the suspension of the AA.
- **Title II – Political dialogue and reform, cooperation in the field of Foreign and Security Policy**: this aims to further develop and strengthen political dialogue in all areas of mutual interest, including foreign and security matters, as well as to increase the effectiveness of political cooperation and promote convergence in foreign and security matters (including areas covered by the EU's Common Foreign and Security Policy and Common Security and Defence Policy).
- **Title III – Freedom, Security and Justice:** this describes cooperation in the area of freedom, security and justice as including the principles of the rule of law, respect for human rights and fundamental freedoms, and the protection of personal data; includes cooperation in preventing/combating organized crime, corruption and other illegal activities; it also includes cooperation for a comprehensive dialogue and cooperation on legal/illegal migration, trafficking of people, border management, asylum/return policies and movement of people; prescribes judicial cooperation in civil/commercial matters as well as in criminal matters.
- **Title IV – Economic and other Sectoral Cooperation**: consists of 28 Chapters setting forth cooperation in various sectors, such as energy, environment, transport, financial services, agriculture, information society, company law, consumer protection, public health, employment and social policy, taxation, and statistics, which include Annexes of EU legal acts to be implemented by Republic of Moldova; the other sectors do not include Annexes but refer to cooperation between the EU and Republic of Moldova to further develop specific sectors

[57] The EU-Republic of Moldova Association Agreement is much longer than the Stabilisation and Association Agreements (SAA) for the Western Balkans states: Serbia's SAA has 139 articles, seven Protocols and seven Annexes; Albania's SAA has 137 articles, and North Macedonia's SAA has 128 articles.
[58] See *Deepening EU-Moldovan Relations-What, Why and How,* 1st edition (2016) and 2nd edition (2018), edited by Michael Emerson and Denis Cenusa, for comprehensive descriptions of the various AA Titles. Available at https://3dcftas.eu/publications/deepening-eu-moldovan-relations-what-why-and-how-2

through an exchange of information and dialogue and other means. Title IV also includes a chapter which provides the possibility for Republic of Moldova to participate in 20 different EU agencies and 19 EU programmes.

- **Title V – Trade and Trade-Related Matters (DCFTA):** this is considered to be the "hard core" of the AA's economic content (with 14 Chapters), aiming to create a free trade area in goods between the EU and Republic of Moldova over a 10-year transitional period, and providing for extensive legislative and regulatory approximation through Annexes, including sophisticated mechanisms to ensure the uniform interpretation and effective implementation of the relevant EU legal acts necessary for deep economic integration. See Section 1.1.1.3 for a more in-depth description of Title V.
- **Title VI – Financial Assistance, and Anti-Fraud and Control Provisions:** this states that EU financial assistance to Republic of Moldova will be available through EU funding mechanisms and instruments in order to contribute to Republic of Moldova's achievement of the AA objectives; it sets forth the anti-fraud and control provisions/ measures applicable to any financing instrument concluded between EU and Republic of Moldova.
- **Title VII – Institutional, General and Final Provisions**: this provides a comprehensive joint institutional framework for monitoring the implementation of the AA and provides a platform for political dialogue; it describes two dispute settlement mechanisms (one for the Title V/DCFTA provisions plus a general mechanism for the rest of the AA); it includes various general provisions including provisional and final entry into force, the concepts of gradual and dynamic approximation, monitoring, and the assessment of approximation.

As has been mentioned, the AA established the entire system of bilateral EU-Republic of Moldova working bodies/cooperation structures necessary for its implementation. Political and policy dialogue, including on issues related to sectoral cooperation between the EU and Republic of Moldova, may take place at any level.[59] These bodies include high political-level participants, high-level operational level participants (senior civil servants), and operational-level participants (experts) from the executive branch; they also include the Parliamentary Association Committee for participants from the legislative branch (European Parliament and Republic of Moldova Parliament members), and the Civic Society Platform[60] for the representatives of civil society organisations. AA Articles 433-465 define the institutional framework for monitoring and evaluating the implementation of the AA.

[59] Article 433 of AA.

[60] https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-moldova-civil-society-platform

EU-Republic of Moldova Association Agreement – Common (Institutional) Bodies	
EU-Republic of Moldova Association Council	The Association Council is the highest-level body for ensuring political and policy dialogue between Republic of Moldova and EU. It consists of members of the Council of the EU and the European Commission on one side, and members of Republic of Moldova's Government on the other (usually including the Prime Minister as the head of delegation). The Association Council supervises and monitors the implementation of the AA. It usually meets once a year.
EU-Republic of Moldova Association Committee and Subcommittees	The Association Council is assisted in its efforts by the Association Committee, which is composed of senior civil servants from the European Commission and Republic of Moldova. The Association Committee may be formed in various configurations.[61] It may create, and is assisted by, various **subcommittees.**[62]Several subcommittees[63] have also been established In relation to DCFTA implementation.
EU-Republic of Moldova Parliamentary Association Committee	The Parliamentary Association Committee is a forum for Members of the European Parliament and of the Republic of Moldova Parliament to meet[64] and exchange views.
EU-Republic of Moldova Civil Society Platform	The Civil Society Platform consists of members of the European Economic and Social Committee (EESC) on the one side, and representatives of Republic of Moldova civil society, on the other, as a forum for meeting and exchanging views. It shall meet at self-determined intervals.

2.4.2 The Association Council

The Association Council is the highest AA implementation body and conducts high-level policy dialogue. It supervises and monitors the application and implementation of the AA and periodically reviews its functioning in the light of the AA's objectives. Its meetings, which take place at the ministerial level, are held at regular intervals (and

[61] For example, the Association Committee in Trade Configuration, which meets annually to analyse the progress and challenges registered in Title V (DCFTA) implementation.
[62] Subcommittees for Title III, IV and V chapters.
[63] For example, on customs, trade and sustainable development, geographical indications, and SPS.
[64] It usually meets twice a year.

at least once a year), and when circumstances require them. The Council examines any major issues arising within the framework of the AA, as well as any other bilateral or international issues of mutual interest.[65] It may take decisions that are binding on both Parties, as well as making non-binding recommendations; in both cases, they are adopted by consensus of both Parties.[66] The Council has the important power of being able to update or amend the AA Annexes, as it has already done on several occasions. The Rules of Procedure adopted by the Council also define the scope and functioning of the other bodies monitoring the implementation of the AA.[67] In line with the AA's stated objective of ensuring the gradual approximation of Republic of Moldova's legislation to that of the EU, the Council is a forum for exchanging information regarding EU and Republic of Moldova legislation (whether it is being drafted or is already in force), as well as measures for implementation, enforcement and compliance.[68]

2.4.3 The Association Committee

The Association Committee is established by the AA[69] as a body to assist the Association Council in the performance of its duties. The Committee is composed of representatives of the EU and Republic of Moldova, mainly at the senior civil servant level. It has two main configurations; one addresses all issues related to Title V[70] and is known as the **Association Committee in Trade configuration;** the other is responsible for all the other elements of the Agreement. The Committee must meet at least once a year.[71] The Committee (in both configurations) can adopt binding decisions for both Parties (including amendments to the AA Annexes), if so provided for in the AA or so authorised by the Council. It has adopted its own Rules of Procedure that define the scope and functions of the Title IV and V Subcommittees and the clusters for Title IV Subcommittees.

[65] Article 434.
[66] Article 436.
[67] Article 438.
[68] Article 436.
[69] Article 437.
[70] Trade and Trade-Related Matters/DCFTA.
[71] Article 438.

2.4.4 The Subcommittees

The Association Committee in Trade configuration covering Title V (DCFTA) includes four subcommittees:

Subcommittee on Customs	Subcommittee on Geographical Indications	Subcommittee for Sanitary and Phytosanitary Measures (SPS)	Subcommittee for Trade and Sustainable Development

The subcommittees under Title IV (Economic and other Sectoral Cooperation) are divided into the following six clusters (these clusters should not be mistaken for six accession negotiation clusters):

Cluster I	Economic dialogue, Management of public finances, Financial services, Statistics, Financial cooperation with anti-fraud provisions
Cluster II	Industrial and enterprise policy, Mining and metals, Tourism, Company law and corporate governance, Consumer protection, Taxation
Cluster III	Energy, Transport, Environment, Climate action, Civil protection
Cluster IV	Science and technology, Information society, Audio-visual policy, Education, Training and youth, Culture, Sport and physical activity
Cluster V	Agriculture and rural development, Fisheries and maritime policies, Regional development, Cross-border and regional-level cooperation
Cluster VI	Employment, Social policy, Equal opportunities, Public health

Note: *These clusters should not be confused with the accession negotiation clusters, which contain 33 negotiation chapters.*

In addition, there is an Association Subcommittee on Justice, Freedom and Security, which covers issues under Title III (Freedom, Security and Justice).

2.4.5 The Parliamentary Association Committee[72]

The Parliamentary Association Committee (PAC) is a political monitoring committee which consists of an equal number of Members of the European Parliament and MPs from the Parliament of the Republic of Moldova. Its main task is to monitor progress

[72] Articles 440-441.

in the implementation of the AA. The PAC may request relevant information regarding AA implementation from the Association Council. It adopts Joint Conclusions and may make recommendations which are adopted by consensus and sent to the Association Council.

The joint bodies instituted to oversee the implementation of the Association Agreement (AA) will serve as a forum during the accession negotiations; here, both sides will assess Republic of Moldova's progress in the negotiations at the relevant level.

After the **screening**, as the first phase of accession negotiations is completed, the two sides will regularly meet on an annual basis, at the expert level, to discuss progress in the individual chapters during the meetings of the competent subcommittees. In between, the progress made will be monitored through reporting, EU field missions, peer reviews, external evaluations, etc.

2.5 EU and Republic of Moldova – where Republic of Moldova stands in the EU accession process as of September 2024

After the Russian Federation launched its aggression against Ukraine on 24 February 2022, the EU opened up the prospect of EU membership for those countries encompassed by the European Neighbourhood and Partnership policy, namely Ukraine, Republic of Moldova and Georgia. On 3 March 2022 Republic of Moldova applied for membership of the EU.

In April 2022, Republic of Moldova received the Questionnaire from the Commission, which contained 2,191 questions: 369 questions regarding the Political and Economic criteria (Part I of the Questionnaire) and 1,822 questions pertaining to the 33[73] Chapters of the EU acquis (Part II of the Questionnaire).

The complete set of responses, which Republic of Moldova submitted in May 2022, provided the Commission with a clear view regarding the readiness of Republic of Moldova, and especially that of its public administration, to conduct accession negotiations. The Questionnaire was structured in line with the accession negotiations format, which is organised in accordance with the Copenhagen accession criteria defined in 1993.

[73] Chapter 34, *Institutions,* and Chapter 35, *Other issues,* were not covered by the Questionnaire.

On the basis of the responses, the Commission proposed that Republic of Moldova should be granted candidate status**. On the basis of the Commission's recommendation, on 23 June 2022 the European Council granted Republic of Moldova the status of a candidate for EU membership.**

In December 2022, Republic of Moldova created the basis for conducting accession negotiations by establishing a coordination system aligned with the Copenhagen criteria and comprising 35 negotiation chapters.[74]

Even though Republic of Moldova was awarded its candidate status without any conditions being imposed, the status was granted "on the understanding that the following steps are taken"[75]:

- *"complete essential steps of the recently launched comprehensive justice system reform across all institutions in the justice and prosecution chains, to ensure their independence, integrity, efficiency, accountability and transparency, including through efficient use of asset verification and effective democratic oversight; in particular, fill all the remaining vacancies of the Supreme Council Magistracy and in its specialised bodies;*
- *across all these areas, address shortcomings identified by OSCE/ODIHR and the Council of Europe/the Venice Commission;*
- *deliver on the commitment to fight corruption at all levels by taking decisive steps towards proactive and efficient investigations, and a credible track record of prosecutions and convictions; substantially increase the take up of the recommendations of the National Anticorruption Centre;*
- *implement the commitment to "de-oligarchisation" by eliminating the excessive influence of vested interests in economic, political, and public life;*
- *strengthen the fight against organised crime, based on detailed threat assessments, increased cooperation with regional, EU and international partners and better coordination of law enforcement agencies; in particular, put in place a legislative package on asset recovery and a comprehensive framework for the fight against financial crime and money laundering, ensuring that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF);*

[74] With the adoption of the Government Decision No. 868 of 14.12.2022 on the approval of the mechanism for the coordination, organization and preparation of the EU accession process, later replaced by Government Decision No. 180 of 13.03.2024 on the coordination mechanism of the process of accession of the Republic of Moldova to the European Union and the way of organization and operation of the negotiation team within this process.

[75] Commission Opinion on the Republic of Moldova's application for membership of the European Union Brussels, 17.6.2022

- *increase the capacity to deliver on reforms and provide quality public services including through stepping up implementation of public administration reform; assess and update the public administration reform strategy;*
- *complete the reform of Public Financial Management including improving public procurement at all levels of government;*
- *enhance the involvement of civil society in decision-making processes at all levels;*
- *strengthen the protection of human rights, particularly of vulnerable groups, and sustain its commitments to enhance gender equality and fight violence against women."*

The European Commission is monitoring the progress of the implementation of these conditions and regularly reports to the Member States.

On 8 November 2023, as one component of the presentation of the Enlargement package and Annual Report for Republic of Moldova, the European Commission recommended to the Council the opening of accession negotiations with Republic of Moldova and Ukraine.

During the European Council meeting held on 14 December 2023, the EU Member States decided to open accession negotiations with Republic of Moldova and Ukraine.

On 25 June 2024 the 1st IGC on accession of Republic of Moldova was held officially marking the opening of accession negotiations with the EU.

Even though the official opening of negotiations was on 25 June 2024, the first step in accession negotiations the screening, started already in February 2024 with the meetings of explanatory screening. The screening will continue until November 2025.

3 EU accession negotiations

3.1 The subject of the negotiations: what are we negotiating?

The key subject of the accession negotiations revolves around the conditions and modalities guiding the candidate country's entry into the EU. Essentially, this pertains to meeting the third criterion outlined in Copenhagen, specifically the alignment of domestic legislation with the EU acquis. While the first (political) and second (economic) Copenhagen criteria are benchmarked against EU standards, the legislation encompassing these criteria is distributed across 35 negotiation chapters, each being negotiated within the scope of its respective chapter.

The negotiations will result in the signing of the Treaty on the accession of the Republic of Moldova to the European Union. A prerequisite for EU membership is the acceptance of all the rights and obligations that form the basis of the EU, encompassing its institutional framework.

For the purposes of negotiations, the EU acquis covering:

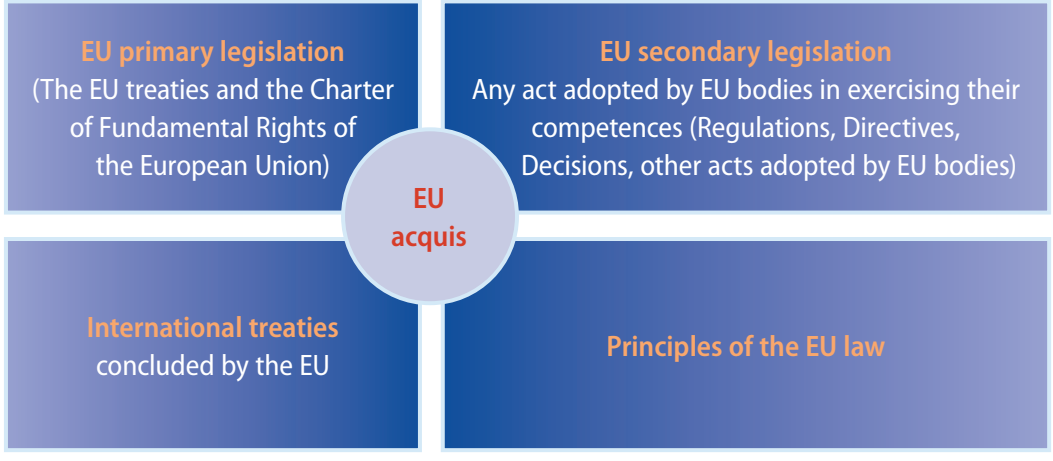
- primary legislation (e.g. founding treaties, Charter of Fundamental Rights of the European Union) and secondary legislation (decrees, directives, decisions, recommendations and opinions; other acts: resolutions, statements, guidelines, joint actions, etc.), and
- other sources of law (e.g. principles defined in judgments of the EU Court of Justice, general principles of law, international agreements)

are divided into 35 negotiation chapters. Each chapter is negotiated separately. However, the guiding principle of negotiations is that "nothing is agreed until everything is agreed", so all the chapters will be only provisionally closed until the final chapter is also closed. The closing of the final chapter will mean that all the chapters are conclusively closed and cannot be reopened.

The EU legislation (the EU acquis) is the body of common rights and obligations that is binding on all the EU Member States.[76] It is constantly evolving and comprises:

- the content, principles and political objectives of the Treaties;
- legislation adopted pursuant to the Treaties and the case law of the Court of Justice;
- declarations and resolutions adopted by the Union;
- instruments under the Common Foreign and Security Policy;
- international agreements concluded by the Union, plus those entered into by the Member States among themselves within the scope of the Union's activities.

The EU acquis originates from multiple sources[77], namely:



[76] https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/glossary/acquis_en

[77] For more information on the EU acquis and harmonisation with it, see "Handbook on the Legal Approximation as a key element for the successful integration process of the Republic of Moldova to the European Union", Vladimir Međak and Primož Vehar, available at: https://eu4moldova.eu/ro/manual-armonizarea-legislatiei-ca-element-cheie-pentru-succesul-procesului-de-integrare-a-republicii-moldova-in-uniunea-europeana/

Ever since the first enlargement in 1973, the basic principle of accession negotiations is that the EU acquis is not negotiable. A new Member State must accept the established EU acquis as it is and adapt to the economic and institutional set-up of the EEC/EC/EU in order to join it. Each candidate country must incorporate the acquis into its national legal set-up by the date of its accession to the EU, and is obliged to apply it from that date.

Since **the EU acquis is not subject to negotiation**, in practice the candidate country is negotiating the modalities of its transposition and implementation, namely when and how it will carry them out. However, there are exceptions to this rule. Certain **derogations,**[78] **transitional arrangements** and **transitional periods** in relation to the application of the acquis from the date of accession can be negotiated and granted during the accession negotiations, but only in exceptional circumstances. It should be borne in mind that these exceptions are **limited in time and scope**, meaning that after the agreed period, a newcomer country will have to implement the EU acquis in its territory. The latest country to join, Croatia, agreed the longest transitional period, which lasted until 1 January 2024 – meaning that as from that date, Croatia is functioning in all areas like every other Member State.

These exceptions can be agreed only for areas (and individual EU acts) where a candidate country would be unable to implement the membership obligations before the date of its accession. The possible reasons for such an inability vary: usually they are the high cost of the required investments (environment, energy, transport, agriculture), or situations when the fulfilment of the obligations is not possible in the short and medium term. Every exception must be properly justified and supported by a **realistic plan** for how the full implementation will be achieved in the post-accession period. These derogations are not granted by the EU in all chapters. The experience from the "Big Bang" enlargement of 2004 is that exceptions were granted in 15 out of 31 negotiating chapters.[79] This means that exemptions were granted in less than half of the chapters.

[78] Derogations are permanent exemptions from implementing the EU acquis that are granted to individual countries. They are authorized only in exceptional cases.

[79] Negotiations were then conducted with a format of 31 chapters. For Croatia, the format was modified to consist of 35 chapters by splitting some chapters into two or three separate chapters; for example, chapters 23 and 24 were a single chapter in 2004, and chapters 11, 12 and 13 took the form of a single Agriculture chapter in 2004.

Additional negotiations are conducted regarding the financial package and availability of/access to EU development and agricultural funds after accession that will enable a newcomer country to catch up with the other Member States more easily and quickly.

On the other hand, the EU itself might (and probably will) ask for transitional periods of its own, during which a candidate country would not have the same rights as other Member States.

3.2 The EU's methodology for conducting accession negotiations

The way the EU conducts the accession negotiations is also known as the "methodology of accession negotiations". This methodology defines the main requirements for joining the EU, how they will be measured and assessed, the steps in the process, the procedure for conducting negotiations, and the documents to be used by the two sides in the negotiation process.

The emphasis of negotiations is shifting during the various rounds of enlargement, depending on the issues presented by the candidate countries and those perceived within the EU. Thus the focus has intermittently gravitated towards economic matters, the harmonization of legislation, and political criteria such as democracy, the rule of law, and corruption.

In February 2020, the Commission proposed the new methodology for accession negotiations that was endorsed by the Council in March 2020 and is now being used during the ongoing negotiations. The document is titled the "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Enhancing the accession process - A credible EU perspective for the Western Balkans".[80]

Every change of methodology represents an updated response by the EU to the new challenges presented by the process, and an attempt to adapt the process to the needs of the candidate countries. It is self-evident that the enlargement to EFTA countries in 1995 could not be conducted the same way as during the "Big Bang" or with the Western Balkans countries, since the issues on the table today are quite different to those of the 1990s.

[80] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0057

The main principle of the accession negotiations is that the negotiations are aimed at **full alignment with, and implementation of, the acquis** at a cut-off date (because the acquis is constantly developing), so that a new member will be able to implement the EU policies and take full advantage of its accession to the EU from that moment.

This means that a candidate country does not negotiate the substance of the EU acquis itself (a principle that has operated since the first enlargement took place in 1973). Each candidate country negotiates **how** and **when** full harmonisation will be achieved, and what targets it needs to meet for the EU Member States to regard it as fulfilling the accession criteria. The candidate country also negotiates the financial package that will allow it to function as a Member State after the accession. As has already been mentioned, candidate countries have the opportunity to negotiate transitional periods (starting from the date of accession) during which they may not immediately be obliged to implement the full EU acquis. These negotiations also include specific arrangements to facilitate a smoother and more seamless adaptation to EU membership. These exemptions will be limited in time and scope, and must be agreed with the EU Member States. We may thus speak about **"adapting the country"** during the accession negotiations.

The new methodology places a focus on issues covered by the Cluster Fundamentals relating to the political criteria, the rule of law, the fight against corruption, and adjacent issues. (The content of the clusters is described in the next subchapter.)

It is envisaged that the chapters from the "Fundamentals" cluster will be opened at the beginning of the accession negotiations and will be closed at the end of accession negotiations.

After opening the "Fundamentals" cluster all the other clusters could be opened – not in numerical order, but in the order of their readiness for opening.

It is important to stress that all the chapters are opened together in clusters, but are closed individually when they are ready for it, namely when a country fulfils the closing benchmarks.

The negotiations on the Fundamentals will be guided by the following:

- A **road map for the rule of law,** covering chapters 23 and 24, equivalent to the previous action plans. This will constitute the opening benchmark. Interim benchmarks will continue to be set.

- A **road map on the functioning of democratic institutions** and public administration reform.
- A **stronger link with the process of the economic reform programme** to help a candidate country to meet the economic criteria.

The Commission will also further strengthen the measures regarding the rule of law and institution-building. Positive results stemming from these reforms will be required for deeper sectoral integration and overall progress. In addition, anti-corruption work will be mainstreamed through a strong focus in relevant chapters.

Clustering the chapters will allow **a stronger focus on the core sectors in the political dialogue** and improve the framing for higher-level political engagement. It will allow the **most important and urgent reforms in each sector to be identified.** This will give the overall reform processes more traction on the ground, by better incentivising sectoral reforms in the interests of citizens and businesses.

Negotiations on each cluster will be opened as a whole after the opening benchmarks are fulfilled, rather than on the basis of individual chapters. As a result of the screening process – which is to be carried out for each cluster – the priorities for accelerated integration and key reforms will be agreed between the EU and the candidate country. When these priorities have been sufficiently addressed, the cluster (covering all its associated chapters) is opened without further conditions, and closing benchmarks are set for each chapter. In cases where significant reforms have been implemented before the opening of a cluster, the timeframe between opening a cluster and the provisional closing of individual chapters should be restricted, ideally to a year or less. This timeframe will be contingent on the progress of the reforms, with a particular emphasis on addressing any outstanding measures necessary to achieve complete alignment.

The **clusters will be aligned with AA sub-committees,** so that the progress in each cluster can be monitored and specific measures for accelerated alignment can be undertaken in the framework of the AA bodies. This will allow for targeted dialogues and the identification of **opportunities for accelerated alignment** and integration in all EU policy areas, with clear benefits for the European Union and the candidate countries.

The adoption of a road map for the rule-of-law chapters (*23 - Judiciary and fundamental rights* and *24 - Justice, Freedom and Security*), will comprise the

opening benchmark for the Fundamentals cluster. No other negotiating cluster will be opened before the Fundamentals cluster is opened. Progress under the Fundamentals cluster will determine the overall pace of negotiations, and will be taken into account when the decision to open or close new clusters or chapters is made. This is the so-called "imbalance clause" by which a lack of progress in reforms in the Fundamentals cluster might lead to the halting of negotiations in other clusters and chapters until sufficient progress is made. Given the importance of the Fundamentals cluster, **interim benchmarks** will be set for the rule-of-law chapters (23 and 24), and **no other chapter will be provisionally closed before these interim benchmarks are reached**.

Candidate countries will also be invited to prepare and adopt a **road map on the functioning of democratic institutions and public administration reform**, for which the Commission will provide guidance. This road map will set out the general commitments of the country for reforms in the respective areas, with a clear timetable being laid out and the key steps envisaged. The implementation of this road map will be constantly monitored and regularly addressed at the intergovernmental conferences that will take place during the implementation process.

Similarly, the progress made in fulfilling the economic criteria will be continually monitored and addressed during the IGCs', taking as the starting point the assessments in the Commission's regular reports and the Commission's assessments of the candidate countries' Economic Reform Programmes (ERP). A **stronger link with the economic reform programme process** should help the countries to meet the economic criteria. Targeted policy recommendations which are intended to guide the countries in their efforts to meet the economic criteria targets will be jointly adopted within the framework of the annual Economic and Financial Dialogue.

The **Council's decisions to open clusters and to close individual chapters** will take into account the improvement of the candidate countries' **administrative capacity within the respective clusters and their component chapters**. Moreover, **anti-corruption policies will be mainstreamed** throughout all relevant chapters. Accordingly, a chapter will not be provisionally closed before sufficient anti-corruption polices in that particular chapter have been implemented.

3.3 Organisation of negotiations: clusters and negotiation chapters

The accession negotiations are conducted using a format that consists of 35 negotiation chapters. The Political and Economic criteria and legislation stemming from those criteria are allocated to appropriate chapters. In accordance with the new methodology for accession negotiations adopted by the EU in 2020[81], the chapters are organised into **six main thematic clusters**:

Cluster	Chapters and criteria within each cluster
1. FUNDAMENTALS (5 chapters)	Ch. 23 - Judiciary and Fundamental Rights Ch. 24 - Justice, Freedom and Security - Public administration reform - Economic criteria - Functioning of democratic institutions Ch. 5 - Public procurement Ch. 18 - Statistics Ch. 32 - Financial control
2. INTERNAL MARKET (9 chapters)	Ch. 1 - Free movement of goods Ch. 2 - Freedom of movement for workers Ch. 3 - Right of establishment and freedom to provide services Ch. 4 - Free movement of capital Ch. 6 - Company law Ch. 7 - Intellectual property law Ch. 8 - Competition policy Ch. 9 - Financial services Ch. 28 - Consumer and health protection

[81] The new accession negotiation methodology can be accessed here: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0057

Cluster	Chapters and criteria within each cluster
3. COMPETITIVENESS AND INCLUSIVE GROWTH (8 chapters)	Ch. 10 - Information society and media Ch. 16 - Taxation Ch. 17 - Economic and monetary policy Ch. 19 - Social policy and employment Ch. 20 - Enterprise and industrial policy Ch. 25 - Science and research Ch. 26 - Education and culture Ch. 29 - Customs union
4. GREEN AGENDA AND SUSTAINABLE CONNECTIVITY (4 chapters)	Ch. 14 - Transport policy Ch. 15 - Energy Ch. 21 - Trans-European networks Ch. 27 - Environment and climate change
5. RESOURCES, AGRICULTURE AND COHESION (5 chapters)	Ch. 11 - Agriculture and rural development Ch. 12 - Food safety, veterinary and phytosanitary policy Ch. 13 - Fisheries Ch. 22 - Regional policy and coordination of structural instruments Ch. 33 - Financial and budgetary provisions
6. EXTERNAL RELATIONS (2 chapters)	Ch. 30 - External relations Ch. 31 - Foreign, security and defence policy

Note: *Chapter 34 - Institutions* and *Chapter 35 - Other Issues do not form part of any of the clusters.*

The clustering of chapters is designed to encourage candidate countries to adopt a strategic approach. Under the previous methodology, individual chapters could be opened without addressing related issues in other chapters. For instance, addressing the environment (Chapter 27) without defining the future energy strategy and policy (Chapter 15) could render the entire negotiation position on the environment ineffective and unimplementable. This was quite a feasible scenario if accession negotiations ended up extending beyond the term of office of a particular government. Clustering the chapters compels a candidate country to provide a strategic response to an entire area, ensuring coherence and harmonization across

its responses. This prompts the government to make challenging political decisions before it opens any cluster. Once a cluster is ready for opening, a government can simultaneously open up to 9 chapters during one IGC, garnering a positive public response to this collective success.

Clusters are organised thematically, combining chapters which are fairly technical and where no major political issues can arise, with highly political chapters where the highest level of national decision-making power has to get involved. This also provides for the involvement of national high-level politics as a necessary condition for implementing the complex internal reforms required as part of the EU accession process.

3.4 Format of negotiations: key actors and the Intergovernmental Conference (IGC)

Negotiations are conducted within the format of the Intergovernmental Conference (IGC). This means that a candidate country will negotiate with 27 EU Member States. The EU's position on behalf of the Member States is presented by the Council Presidency. Meetings of the IGC are chaired by the head of the Union delegation, who as a rule is the minister of foreign affairs of the country holding the Presidency of the Council.

This is the main difference between the negotiation of the Treaty of Accession and the earlier negotiation of the Association Agreement with the European Commission in the name of the EU.

Here, the Commission is the main interlocutor with the candidate country. The Commission is also a guide and a counsellor to the candidate country, providing advice on preparation and the membership requirements. A candidate country will also consult the Commission on its position before submitting it to the Council, since the Commission will present that position to the Member States. The candidate country is not a part of the internal debate among the EU Member States and thus cannot defend its position before the Council, where EU decisions are made. Therefore, all the positions of a candidate country are firstly (unofficially) tested with the Commission before they are submitted to Council (representing the EU Member States). For this reason, it is often informally said that the Commission is a candidate country's "best friend " during the accession process.

The IGC is organised by the country presiding over the Council (the Presidency), on the margins of General Affairs Council (GAC) – the same way that the Association Council is organised. Up to four IGC meetings can be organised in any given year – two per presidency. The IGCs of June and December are organised at the level of ministers (Chief Negotiators), and those of April and October are organised at the level of the heads of the negotiation teams (Deputy Chief Negotiators).

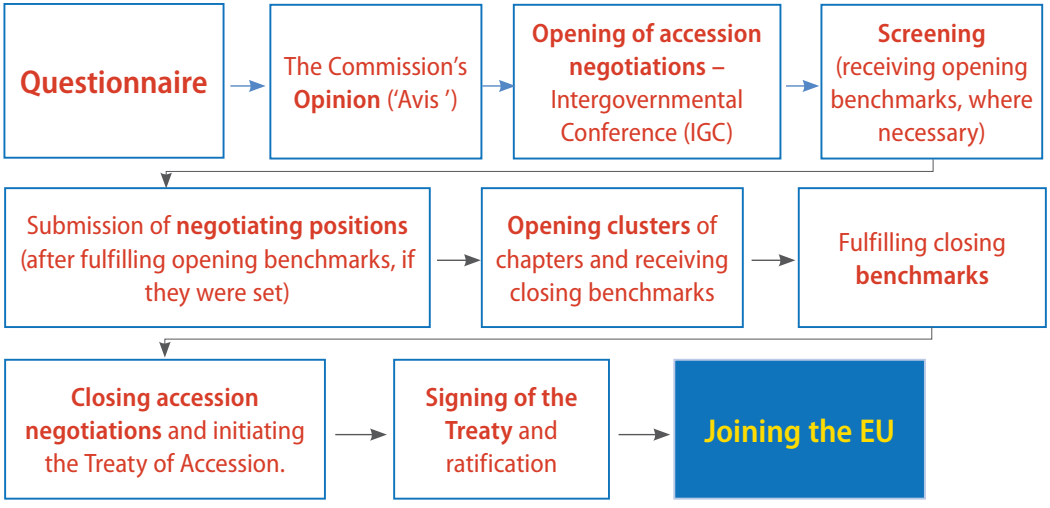
An IGC is convened once some progress has been made, when conclusions on progress can be reached that favour either opening a cluster or closing a chapter. If no progress was made, an IGC will not be called. During the final IGC, when the final chapter is closed and the terms of accession are agreed, the Treaty of Accession is initiated. Six months after that, the Treaty is signed. Then the process of its ratification begins, which takes approximately 18 months.

This means that there is a two-year gap between the moment of initiating the Treaty of Accession and the date on which the country formally joins the EU. It is very important to keep this in mind when planning the reforms necessary for closing the accession negotiations.

In the case of Republic of Moldova, these two years will be dedicated to: ratification of the Accession Treaty in all the national parliaments of the EU Member States, the European Parliament and the Parliament of Republic of Moldova; the fulfilment of all the obligations that have been negotiated up to the date of accession, as well as the introduction of Republic of Moldova's constitutional changes (if any are needed).

3.5 Steps in accession negotiations: from screening to joining the EU

The figure below depicts the key stages in the accession process:



We will outline each step, placing particular emphasis on screening as the initial phase following the political decision to commence accession negotiations.

The process begins with the Commission's recommendation to initiate accession negotiations, which was issued on 8 November 2023. On 14 December 2023, the European Council decided to open accession negotiations with Republic of Moldova.

Once the decision to initiate accession negotiations has been made, the first Intergovernmental Conference (IGC) had to be scheduled. On 25 June 2024 the 1st Intergovernmental Conference (IGC) on accession of Republic of Moldova to the EU was held, marking the official opening of accession negotiations of Republic of Moldova.

During this conference, the EU presented its Negotiation Framework for negotiations with Republic of Moldova[82], as tailored to the adapted methodology introduced in 2020. These frameworks are customized for each candidate country, addressing the key issues that are pivotal to their accession negotiations.

[82] The Negotiation framework for negotiations with Republic of Moldova could be found on the following website: https://gov.md/sites/default/files/negotiating_framework.pdf

At the IGC, Republic of Moldova presented its General Negotiation Position also known as the Opening statement[83]. This document outlined Republic of Moldova's strategic perspective on the accession negotiations, specifying areas of particular interest and focus. Republic of Moldova declared "**its aim to achieve domestic readiness to align its legislation with the EU acquis and tend to ensure its efficient implementation by 2030**".

Following the official opening of accession negotiations at the 1st IGC, the meeting of the bilateral screening started.

3.6 Screening – analytical examination of the level of harmonisation with the EU acquis

Screening is a precisely defined, formal and technical exercise during the accession process in which the two sides share information relevant to the negotiations. It is conducted by the European Commission (Directorate-General for Enlargement (DG NEAR) in consultation with the competent Directorates), and is organised for each chapter individually. All screening meetings with countries previously starting accession negotiations have thus far been held in Brussels (except for the screening for Chapter 18 – Statistics, which was organised in Luxembourg, where Eurostat is located).

The screening process is intended to:

- acquaint the candidate countries with the acquis and prepare them for the negotiations
- enable the Commission and the Member States to evaluate the degree of preparedness of the candidate countries; be informed about their further plans; and obtain preliminary indications concerning the issues that will be the most salient during the negotiations.

For each chapter, the screening consists of two phases: **explanatory** screening and **bilateral** screening.

Explanatory screening is the first component of the negotiations in each chapter. Here, the European Commission presents the EU legislation and the EU system relating to that chapter to the candidate country, thereby providing it with all the relevant information about what its EU membership will require. This is performed on an area-by-area and act-by-act basis by experts of the European Commission, the European Central Bank, Eurostat, and other specialised agencies, depending on the chapter.

[83] Opening statement of Republic of Moldova could be found on the following website: https://gov.md/sites/default/files/general_position_rm_3.pdf

Bilateral screening is the procedure in which experts from a candidate country explain their national legislation and the national system to the Commission in the relevant chapter. Meetings for the bilateral screening are usually organised 6-12 weeks after the explanatory screening. The candidate country is expected to indicate the differences between the EU system and their national system. The candidate country is also expected to indicate where problems in attaining full harmonisation might arise, and to outline its general plans for achieving full harmonisation. The candidate country is expected to provide an explanation of the level of transposition and administrative capacities for implementing every EU act that the Commission clarified during the explanatory screening. To conduct bilateral screening successfully, the candidate country should also prepare a comprehensive national plan before the screening commences, outlining the steps for achieving full harmonization with the EU acquis.

The screening is implemented by chapters, except for Chapter 34 - Institutions and Chapter 35 - Other Issues, which are subject to the negotiations conducted during the later phases of the accession process.

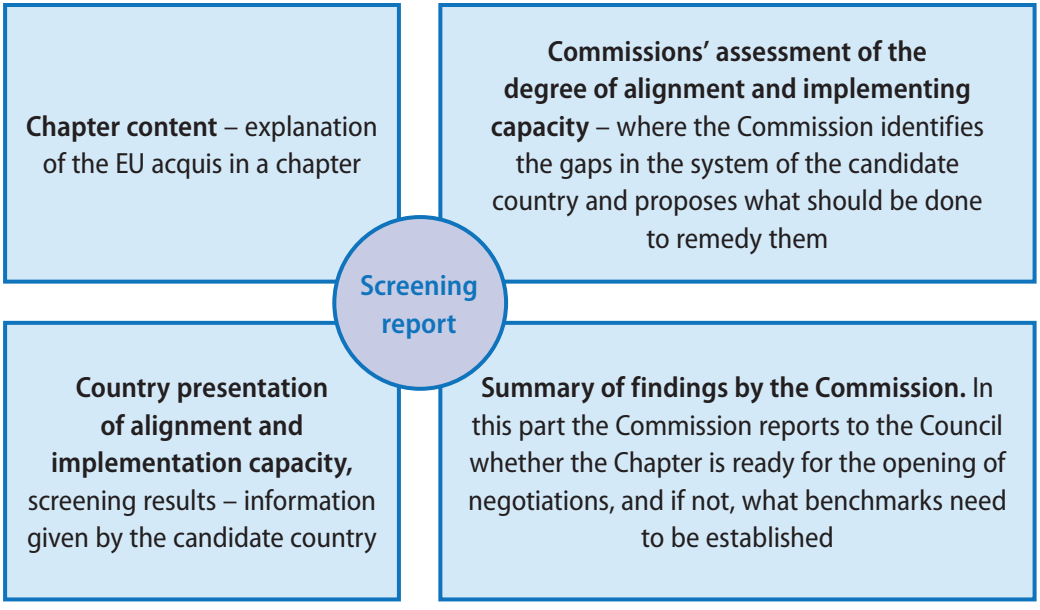
The Member States do not participate in the screening process except in the cases of Chapters 23 - Judiciary and Fundamental Rights, 24 - Justice, Freedom and Security, and 31 - Common Foreign and Security Policy, where they participate only as observers and so cannot intervene in the meeting or pose questions.

Screenings (both explanatory and bilateral) can last from one to five days each, depending on the size of the EU acquis pertaining to a given chapter. The process itself can last up to 18 months and it involves a substantial amount of travel to Brussels, incurring expenses for the candidate country's budget.

The result of the screening process is a **Screening Report**. In essence, this is the assessment of the situation in a candidate country, plus a gap analysis between the current situation and the full harmonisation required for membership. Screening reports are prepared by the Commission and adopted by the Council. The screening reports will be generated for an entire cluster as a single document that covers all the chapters within the cluster.[84]

[84] Example of a screening report for Cluster 1 for North Macedonia: https://neighbourhood-enlargement.ec.europa.eu/screening-report-north-macedonia_en. Example of a screening report for Cluster 1 for Albania: https://neighbourhood-enlargement.ec.europa.eu/screening-report-albania_en

The **screening report** includes four parts for **each chapter** in the cluster:



Therefore, the Commission has two options:

a) to conclude that the candidate country is **advanced enough** that it can be invited **to submit the negotiation position** in the given chapter, **or**

b) to conclude that the candidate country is **not advanced enough,** and that before being invited to submit the negotiation position it must meet certain **opening benchmarks** (i.e. conditions) that will enable it to advance enough to be able to submit the negotiation position.

After a country fulfils the opening benchmark(s) listed in screening reports, it will be invited to submit the **negotiation position** for that chapter.

3.7 Benchmarks

Benchmarks are essentially the precisely defined conditions which are proposed by the Commission and approved by the EU Member States in the Council that a country must meet in a particular chapter before it can progress further in the negotiation process.

There are three types of benchmark:

Opening

Interim

Closing

3.7.1 Opening benchmarks

Opening benchmarks are typically linked to the development of strategies or action plans, illustrating the candidate country's vision for achieving full harmonization with the EU acquis. This often involves the adoption of particular laws that are crucial for making progress. In many instances, unmet obligations from the Association Agreements signed by Western Balkans countries comprised the opening benchmarks in the respective chapters.

Opening benchmarks are typically linked to the development of strategies or action plans, illustrating the candidate country's vision for achieving full harmonization with the EU acquis. This often involves the adoption of particular laws that are crucial for making progress. In many instances, unmet obligations from the Association Agreement will comprise the opening benchmarks in the respective chapters.

Point 47 of the Negotiation Framework with Republic of Moldova defined that such obligations will become part of closing benchmarks, *"where relevant, [closing] benchmarks will also include the fulfilment of commitments under the Association Agreement, including a Deep and Comprehensive Free Trade Area, in particular those that mirror requirements under the acquis"*.

Examples:

Chapter 1 (Montenegro)

- *Montenegro presents to the Commission a strategy and an action plan with milestones for the implementation of EU legislation in this chapter covering implementation plans for both*

vertical ('New Approach' and 'Old Approach') and horizontal legislation and for the relevant horizontal organizations (standardization, accreditation, metrology, and market surveillance), as well as target dates and clear responsibilities for introducing and effectively implementing legislative measures and ensuring the necessary administrative capacity.

- *Montenegro amends its relevant legislation to ensure that it does not imply an obligation to apply the CE marking to goods that are put on the Montenegrin market.*

- *Montenegro provides the Commission with an action plan for compliance with articles 34 -36 TFEU, with milestones for the internal screening of domestic legislation and administrative practices, the introduction of mutual recognition clauses, and the necessary subsequent amendments.*

Similar benchmarks were set also for Serbia and Croatia in their respective chapter 1's.

The incorporation of unfulfilled obligations from the Association Agreement into opening benchmarks is illustrated in the following case:

Chapter 8 - Competition (Serbia)

- *Serbia complements and amends its legislation on State aid for the purpose of implementing its obligations under the* ***SAA***[85].
- *Serbia ensures that the State aid authority is* ***operationally independent*** *and that it has the powers and the resources necessary for the full and proper application of State aid rules.*
- *Serbia completes its inventory of existing State aid measures within the meaning of Article 73(6) of the SAA and defines an action plan, accepted by the Commission, with a clear timetable for the alignment of all remaining existing aid schemes or equivalent measures identified as incompatible with the obligations resulting from the* ***SAA****.*
- ***Serbia aligns the existing fiscal aid schemes, namely the Law on Corporate Income Tax, the Law on Personal Income Tax and the Law on Free zones, with EU State aid acquis****.*
- *Serbia ensures the compliance of the aid granted to "Zelezara Smederevo"*[86] *with all the conditions laid down in Protocol 5 to the* ***SAA*** *on State aid to the steel industry.*
- *Serbia complies with its obligation under Article 73(5) and Protocol 5 to the SAA to provide complete information on individual aid cases to the Commission so as to enable the Commission to assess and monitor the compliance of these aid measures with Serbia's obligations* ***under the SAA.***

[85] SAA – Stabilisation and Association Agreement. This is the name of the Association Agreements the EU has signed with countries from the Western Balkans.
[86] "Zelezara Smederevo" is the largest steel mill in Serbia.

Below we present a good example of benchmarks targeting legislative changes:

Chapter 5 - Public procurement (Croatia)

- *Croatia ensures that, during the pre-accession period, an organisation for procurement guarantees a coherent policy in all areas related to public procurement, and steers its implementation, in order to facilitate the process of alignment to the acquis, and to facilitate the future negotiations on the chapter.*
- *Croatia presents to the Commission its comprehensive strategy, which should include all reforms necessary in terms of legislative alignment and institutional capacity-building in order to comply with time-schedules and milestones. This strategy would cover all aspects and in particular:*
  - *Alignment of the legislation for public contracts and concessions ensuring at the same time coherence of any legislative initiative on public-private partnerships with the transposed acquis;*
  - *Outlines of the intended modifications to sector-specific acts in the area of concessions as well as of the content of the framework law;*
  - *Alignment of the legislation on review procedures with the remedies directives;*
  - *Strengthening of the administrative capacity at all.*

Opening benchmarks are not necessarily set for all chapters, but only for those where the Commission considers it necessary. Additionally, they are set in accordance with the individual situation in each country, so they are not necessarily set in the same chapters for different countries.

When the country has met the opening benchmarks, the Commission submits the **Opening Benchmark Assessment Report (OBAR)** to the Council, and recommends that the candidate country should be invited to submit the negotiation position. Together with this recommendation, the Commission proposes the list of **closing benchmarks** to be set by the Council.

So far, the only exception to this rule have been Chapters 23 - Judiciary and Fundamental Rights, and 24 - Justice, Freedom and Security, where the Commission recommended interim benchmarks as an additional step before moving forward to the closing benchmarks.

3.7.2 Interim benchmarks

Interim benchmarks are set only in Chapters 23 - Judiciary and Fundamental Rights, and 24 - Justice, Freedom and Security. These benchmarks are set at the opening of these two chapters. In case of Serbia, 52 interim benchmarks were set in Chapter 23,[87] and 40 in Chapter 24[88].

A relevant example of an opening benchmark and an interim benchmark can be found here for Serbia's Chapter 23:

Chapter 23 (Serbia)

Opening benchmark

- *Serbia adopts one or more detailed action plan(s), comprising related timetables and setting out clear objectives and timeframes and the necessary institutional set-up together with adequate cost evaluations and financial allocations, in the following areas:*
  - *Judiciary, Anti-Corruption and Fundamental Rights.*

Interim benchmarks (s) (52 in total). This is example of one interim benchmark.

- *Serbia strengthens the independence of the judiciary, in particular:*
  - *Serbia adopts **new Constitutional provisions** bearing in mind the Venice Commission recommendations, in line with European standards and based on a wide and inclusive consultation process. Serbia subsequently amends and implements the **Laws on the Organization of Courts**, on **Seats and Territorial Jurisdiction of Courts** and **Public Prosecutors' Offices**, on **Judges**, on **Public Prosecutor's Office**, on **the High Judicial Council** and on the **State Prosecutorial Council** as well as **the Law on Judicial Academy** (8 laws in total)*

In the case presented above, the opening benchmark is the comprehensive action plan for achieving full harmonization with EU standards in this particular area.

Interim benchmarks, on the other hand, are designed to mark the candidate country's progress in implementing its initial Action Plan/Road Map. Once the interim

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[87] All interim benchmarks defined for Serbia in chapter 23 can be found on this website: https://www.mei.gov.rs/eng/documents/negotiations-with-the-eu/accession-negotiations-with-the-eu/negotiating-positions/chapter-23/

[88] All interim benchmarks for Serbia in chapter 24 can be found on this website: https://www.mei.gov.rs/eng/documents/negotiations-with-the-eu/accession-negotiations-with-the-eu/negotiating-positions/chapter-24/

benchmarks have been completely achieved, the Commission will compile an **Interim Benchmark Assessment Report (IBAR)** and recommend closing the benchmarks for this chapter to the Council.

Montenegro was the first country to fulfil interim benchmarks, in June 2024, and it received closing benchmarks in Chapters 23 and 24. Republic of Moldova will be tasked with preparing a road map for the rule-of-law chapters (23 and 24) as a single document, drawing on the experiences of North Macedonia and Albania. As was stated previously, no chapter can be closed until the interim benchmarks are achieved.

3.7.3 Closing benchmarks

Closing benchmarks are set as target values that must be reached before a chapter can be closed. They are set in all chapters except Chapters 25 - Science and Research and 26 - Education and Culture. These two chapters were closed during the same IGC meeting in which they were opened.

Closing benchmarks are in most cases directly linked to the implementation of the legislation and the building up of a **track record** of the capacity to implement the EU acquis before accession.

Examples:

Chapter 5 - Public procurement (Montenegro)

- *Montenegro aligns its national legislative framework covering all areas of public procurement, including in particular concessions, public-private partnerships, and defence procurement, in accordance with EU procurement legislation and in conformity with the Treaty on the Functioning of the EU and other relevant provisions of the acquis.*
- *Montenegro puts in place adequate administrative and institutional capacity at all levels and takes appropriate measures to ensure the proper enforcement and implementation of national legislation in this area in good time before accession. This includes, in particular:*
  - *the implementation of Montenegro's Strategy for the Development of the Public Procurement System 2011-2015 and the Action Plan for its implementation to improve its administrative capacity, including proper training at all levels for all stakeholders;*
  - *the preparation of practical implementing and monitoring tools (including administrative rules, instructions, manuals, and standard contract documents);*

- *the strengthening of control mechanisms which are necessary to ensure full knowledge and reliability of the system, including close monitoring and enhanced transparency of the execution phase of public contracts based on systematic risk assessments with prioritisation of controls in vulnerable sectors and procedures;*
- *effective functioning of the remedies system, including in the area of concessions, public private partnerships and defence procurement;*
- *measures/actions related to the prevention of and fight against corruption and conflict of interest in the area of public procurement at both, central and local level.*

- *Montenegro demonstrates a track record of a fair and transparent public procurement system, which provides value for money, competition, and strong safeguards against corruption.*

Chapter 29 - Customs Union (Serbia):

- *Serbia **continues to adopt legislation in the areas requiring further alignment**; it should in particular align its legislation on duty relief, customs risk management and security aspects, cultural goods, and drug precursors.*
- *Serbia **applies its customs rules consistently and efficiently across its customs offices,** notably in the areas of declaration processing, origin, simplified procedures, intellectual property rights, and selectivity of controls and risk analysis (including automated pre-arrival/ pre-departure risk analysis across all modes of transport).*
- *Serbia presents to the Commission comprehensive and coherent Customs Business and IT strategies and reaches sufficient progress in developing all the required IT interconnectivity systems.*

When the Commission assesses that the closing benchmarks have been achieved, it will prepare a **Closing Benchmark Assessment Report (CBAR)** and submit it to the Council for adoption. When the Council approves the CBAR, an IGC meeting will be called, and the chapter will be *provisionally* closed.

All chapters remain provisionally closed until the closure of the final chapter. Only at the concluding Intergovernmental Conference (IGC) meeting all chapters are conclusively closed. The provisional closure of a chapter implies that any chapter can be reopened until the final IGC, should a country take a significant backward step in the harmonization process, or if a new EU acquis is adopted after the chapter is provisionally closed, requiring negotiation with the candidate country.

3.8 Negotiation position: importance and content

It is crucial to distinguish between the **general negotiation position (GNP)** and the **individual negotiation positions** submitted for each chapter.

The **general negotiation position** is a document prepared and adopted by the Government for the first IGC when negotiations are officially opened. During this IGC, the EU presented its Negotiation Framework, delineating the goals, focus areas, technical procedures, and the overall structure of the accession negotiations. For its part, Republic of Moldova presented its general negotiating position, outlining its vision for the negotiations, emphasizing key points (parts/chapters), identifying challenges, and presenting its perspective on the dynamics of the negotiations. There is no predefined format for this document: each country tailors this document in accordance with its unique vision and style.

However, some elements and feature are commonly found in the General Negotiation Position (GNP). This strategic document serves a declaratory purpose whereby the candidate country states its reasons for applying to join the EU, confirms its alignment with the values on which the EU is founded (as defined in Article 2 of the TEU), and commits to promoting these values and contributing to the EU's objectives. The GNP allows the candidate country to define its priorities for negotiations, specifying focus areas such as agriculture, environmental issues, cohesion and development, plus security and defence, among others. It provides a strategic rationale for why these areas are important and outlines the candidate country's goals for each of them. In addition, the candidate country may elaborate on the roles of various actors within its own system, such as the Parliament and civil society. It may also set an internal target date for its readiness for EU membership, although this does not impose any obligation on the EU to accept that date. Furthermore, the candidate country may indicate whether it plans to hold a referendum on EU accession.

Conversely, an **individual negotiation position** for each chapter is the most important document prepared by the Government during the negotiations pertaining to a given chapter. This policy document articulates the vision and a detailed plan of the Government, specifying how and when Republic of Moldova (for example) aims to achieve full harmonization with the membership requirements in that particular chapter. In this document, Republic of Moldova may request transitional periods and specific arrangements where they are needed, particularly with situations where full

harmonization with the EU acquis prior to membership may pose challenges. It is noteworthy that the EU's approach in accession negotiations is to limit the number and scope of requests for transitional periods and derogations. Consequently, in many chapters the EU may not be willing to concede transitional periods and specific arrangements.

Point 29 of the Negotiation framework of the EU for accession negotiations with Republic of Moldova states that: *„The Union **may agree to requests from Republic of Moldova for transitional measures provided they are limited in time and scope, and accompanied by a plan with clearly defined stages for application of the** **acquis.** For areas linked to the extension of the internal market, regulatory measures should be **implemented quickly,** and transition **periods should be short and few;** where considerable adaptations are necessary requiring substantial effort including large financial outlays, appropriate transitional arrangements can be envisaged as part of an ongoing, detailed and budgeted plan for alignment. In any case, transitional arrangements must not involve amendments to the rules or policies of the Union, disrupt their proper functioning, or lead to significant distortions of competition. In this connection, account must be taken of the interests of the Union and of Republic of Moldova".*

Drawing on insights gained from previous rounds of enlargement is very helpful in this context. The EU applies such experiences from those negotiations, being aware of where such arrangements proved beneficial for the acceding country and the EU, and where they fell short.

A negotiation position in an individual chapter is a document intended as a response to the screening report. It should adhere to the structure outlined in the screening report prepared by the European Commission and adopted by the Council. **Every point raised in the screening report should be covered in the negotiation position**. Most importantly, all recommendations and identified gaps must be addressed by the negotiation position. This document must present a detailed plan for how to address the gaps and resolve each open issue identified by the EU.

The (individual) negotiation position should provide an overview of the current status for the chapter, covering all those developments which have occurred since the conclusion of the bilateral screening and which were not captured in the Screening report. Additionally, it should outline the concrete plans for achieving full

harmonization. This encompasses the **legislative actions**, the development of the **administrative capacity for implementation**, and the **timeframe** within which these goals will be realized. For complex chapters, such as Chapter 27 on the Environment, detailed and budgeted plans will be required for individual EU acts. Moreover, for certain chapters, an impact analysis or assessment of costs will be required to accompany the negotiation position.

Once all negotiation positions within a cluster are approved by the EU and the cluster is opened, the Council will set closing benchmarks for each chapter[89], taking the proposals put forth by the Commission and Republic of Moldova's negotiation position as its starting points. The Commission will supervise the implementation of Republic of Moldova's negotiation position in each chapter.

The progress achieved will be deliberated during the annual meetings of bodies established for the implementation of the Association Agreement, particularly at the expert level during the sessions of the relevant subcommittee.

[89] Exemption from this rule are chapters 23 and 24 where the Council will set interim benchmarks first, and only after they were fulfilled the Council will set closing benchmarks for these two chapters.

4 Lessons learnt from ongoing accession negotiations

The EU will rely on its experience from previous rounds of enlargement. The analysis of the experiences of the countries that joined the EU during 2004-2013 can provide a relevant guide as to what the EU is willing to negotiate and what is not negotiable, and where transitional periods and specific arrangements are possible. The EU approach so far has been that **transitional periods and derogations should be limited in number and scope** and, as far as possible, **identified at an early stage**.

The experiences of Croatia and the other Western Balkans countries currently negotiating their accessions can offer insights into the achievement of benchmarks and an understanding of the EU's requirements for the closing of individual chapters.

The opening chapters will focus on the development of strategies and action plans for achieving full harmonization with the EU acquis by the end of negotiations. The closing benchmarks will mostly be dedicated to demonstrating a country's willingness and ability to implement the EU acquis, as would be required for any Member State, and the existence of the necessary administrative capacity for implementing the EU acquis.

Since the EU-Republic of Moldova Association Agreement is concluded for an indefinite period of time, it will remain in force and define the legal framework of EU-Republic of Moldova relations until it is repealed by the Treaty of Accession of Republic of Moldova to the EU. Unfulfilled obligations arising from the Association Agreement will, in the majority of cases, become opening benchmarks in the relevant chapter.

The first step in accession negotiations, namely the screening (conducted by the Commission) has risen in importance when compared to the 2004/2007 accession negotiations, and has become an essential part of the process. With the new methodology of chapter clustering, the most difficult and demanding part of planning the process is front-loaded to the initial steps of the accession negotiations.

Early in this process, Republic of Moldova faces the challenge of making crucial decisions regarding the opening of an entire cluster of chapters, because a lack of decisions in one chapter can obstruct the entire cluster to which it belongs. The screening process, which prompts the candidate countries to supply their plans, requires strategic decisions and choices to be set in motion from the outset. **The involvement of the top political level is crucial even during the screening phase**. These decisions, particularly in critical areas like energy, environment, and agriculture, carry substantial financial implications and will shape the country's development over the next few decades.

Engaging in such long-term strategic planning and decision-making requires the organised involvement of key stakeholders in the country, including the business community, trade unions, and civil society organizations (CSOs).

Active communication with the public is essential for ensuring transparency and winning the necessary support for these decisions.

For effective strategic planning, a comprehensive EU-only dedicated programming document is imperative. This document should encompass the plan for full harmonization with the entire EU acquis, thereby serving as a programme of transposition. It should be accompanied by an assessment of necessary capacity-building activities, including aspects like new employment, equipment, training, procedures, etc., along with a thorough evaluation of the associated costs. This plan lays the basis for the preparation for screening, particularly concerning the harmonization plans and the formulation of negotiation positions in individual chapters. It also functions as a monitoring tool for the implementation of the plan, offering the best method for tracking progress in the accession negotiations and the fulfilment of the commitments made via the negotiation positions.

The development of a robust coordination mechanism for the accession negotiations, involving direct access to the top-level decision-makers of the country, is a *conditio sine qua non* for the successful implementation of the accession negotiations. The main components of this mechanism include working groups, clearly defined lines of communication and document flow, and explicitly outlined responsibilities being specified for the various actors in the coordination system.

Special attention must be paid to the internal (domestic) process of preparing general and individual negotiating positions and the related role of the national parliament.

The national parliament, through its own rules of procedure, defines its role during the negotiations led by the Government, which is responsible for the accession negotiations. **Though the Government leads the negotiations, the Parliament must be involved.** The Parliament's role varies by country, ranging from a purely consultative role to a more influential one in which no negotiation position can be adopted without parliamentary approval. **Deciding on the role of the Parliament should be carried out very early in the process**, as there is no one-size-fits-all model. Within the Parliament, the EU Affairs/Integration Committee plays a crucial role, serving as the focal point for all EU accession issues.

At the end of the accession negotiations, it is crucial to make a strategic decision on the Parliament's role after joining the EU, and to define how the Parliament will monitor the Government's activities at the EU level. This decision is prompted by the fact that, at the EU level, the Council (composed of national ministers) acts as a co-legislator alongside the European Parliament, while the national parliament is not part of that legislative process. To address this, the **national parliament must be empowered to oversee the work of ministers at the EU level**.

Given the constitutional implications of this shift in legislative power to the national executive level, the relationship between the Parliament and the Government in dealing with EU matters may be defined by the Constitution itself or through a special law, or through a combination of these approaches. The Republic of Slovenia, for example, has adopted a combination of these options.[90]

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[90] Example: new Article 3a of the Constitution of Slovenia:
"*In accordance with the Treaty, which was ratified by the National Assembly by a two-thirds majority of all members, Slovenia can confer the exercise of part of its sovereign rights to an international organization based on respect for human rights and fundamental freedoms, democracy and the rule of law, and can enter into defence alliances with countries based on those values.*
Before ratification, the National Assembly can call a referendum. The proposal was adopted at the referendum if the majority of the voters voted for it. The National Assembly is bound by the result of the referendum. In the event that such a referendum was held, a referendum on the law on the ratification of that agreement cannot be called.
Legal acts and decisions adopted within international organizations to which Slovenia has conferred the exercise of part of its sovereign rights will be applied in Slovenia in accordance with the legal regulations of those organizations.
In the process of adopting legal acts and decisions in international organizations to which Slovenia has conferred the exercise of part of its sovereign rights, the Government will without delay inform the National Assembly about the proposals of those acts and decisions as well as about its activities. The National Assembly can adopt a position, which the Government will take into account in its activities. The relationship between the National Assembly and the Government on issues from this paragraph will be regulated by a law that will

Joining the EU may necessitate changes to the Constitution of a candidate country for a variety of reasons. Many countries joining the EU have done so to enable the direct application of EU law on their territory after the accession; to grant EU citizens the right to vote in European and local elections in the territory of Member States where they have legal residency but not citizenship; or to permit the extradition of their citizens to other EU Member States after the issuing of a European arrest warrant. Some countries, like Croatia and Serbia, have made constitutional changes to safeguard the independence of the central bank or the judiciary system. Slovenia amended its Constitution among others to redefine the relations between the Parliament and the Government and to allow citizens of other EU Member States to purchase real estate. Given the complexity and political sensitivity of amending the Constitution in any country, these issues should be identified as early as possible in the process in order to align the EU's expectations with the country's capabilities and political realities.

Any country that seeks accession should be aware of whether there is a constitutional requirement to hold a referendum on joining the EU. If such a requirement exists, the country must manage public expectations accordingly. In cases where there is no constitutional mandate, the decision to hold a referendum on EU membership becomes a matter of political discretion for the country's leadership. It is noteworthy that membership referendums have been conducted in 11 out of the 13 countries that have joined the EU since 2004, except in the cases of Cyprus and Bulgaria.[91]

be approved by a two-thirds majority of the members of the National Assembly present.".

[91] Referendums on EU issues, see https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/729358/EPRS_IDA(2022)729358_EN.pdf