

Article 49: rejoining the EU ^[1]



What is Article 49? ^[2]

Article 49 of the Treaty on European Union establishes how a country can join the EU.

As the UK left the EU on the 31 January 2020, it is now considered a third country under EU law. If it wanted to rejoin the EU one day, the UK would join through the framework set out by Article 49.

But Article 49 is only part of the membership process. The 1993 Copenhagen criteria also outlines some of the requirements for EU membership. Candidate states may also be subject to other specific conditions.

What does Article 49 say? ^[3]

Under Article 49, any country applying to become an EU member state must meet the following criteria:

- Be a European state
- Respect and commit to promote Article 2 values – including human dignity, freedom, democracy, equality, the rule of law, human rights (specifically minority rights), pluralism, non-discrimination, tolerance, justice, solidarity and equality
- Have its application unanimously approved by the Council of the EU
- Have its application approved by a majority vote of the European Parliament

What are the 1993 Copenhagen criteria? ^[4]

These criteria were decided at a European Council meeting in Copenhagen in 1993.

They are additional requirements that a candidate country must meet to become a member state of the EU:

- Political: broadly the same values as those outlined in Article 2, with an additional requirement for sound institutions and robust checks and balances
- Economic: a functioning and resilient market economy
- Administrative and institutional: the capacity to implement and absorb the EU's acquis, i.e. the full sum of EU law

Would the UK have to meet any other conditions? ^[5]

Possibly. Member states must agree to open accession talks. They can decide to ask for more specific eligibility criteria after consultation with the European Commission.

The EU has asked countries from the Western Balkans to undergo a 'Stabilisation and Association process', which involves making certain political and economic reforms, before formal accession talks could formally begin.

Joining the Euro and Schengen area are requirements for new member states – although Denmark has an opt-out from the Euro and Ireland has an opt-out from Schengen. Croatia, Cyprus, Romania and Bulgaria have yet to join the Schengen area but are legally obliged to do so.

Would the UK secure a rebate and opt-outs? ^[6]

As an EU member, the UK negotiated a financial rebate of around two thirds of its net contribution. It also negotiated an opt-out from the monetary union and – had it remained a member – would have secured an opt-out from the EU's desire for an ever closer (political) union.

But as a new member state, the UK would have no such privileges. It could attempt to negotiate opt-outs and a rebate as part of the accession process, or after it had joined the EU, but these would almost

certainly required the approval of all member states and a majority in the EU Parliament.

What is the likelihood of a UK application being approved? [7]

There may be some questions over the UK's economic eligibility, especially if it had different level playing field rules to the EU. In 2013, Croatia's application was predicated in part on its privatisation of its shipyards to bring it in line with EU market rules. If the UK chose to implement a more protectionist industrial policy than that allowed under EU state aid rules, it may need to make changes to fall in line with EU rules again.

The issue of legal divergence would also be a problem. If the UK creates a different set of rules and standards, it could make it more difficult for it to meet all the Copenhagen criteria.

The UK would also need to secure the support of all member states to open and conclude accession talks. Considering the UK's historical reluctance to integrate with the EU fully, this may be a concern to the bloc. The UK would also need to secure the support of MEPs.

Any country dissatisfied with the prospect of the UK as a member state could veto membership, as France did when the UK applied to become a member of the European Economic Community in 1963 and 1967.

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