

LAW & DATA

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University of Padova

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APPLICATION FOR EU MEMBERSHIP

ART. 2 TEU

«any European state which **respects the common values of the Member States** and undertake to promote them may apply to become a member of the Union. These **values** include **human dignity, freedom, democracy, equality, the rule of law and respect for human rights**, including the rights of persons belonging to minorities»

ART. 49 TEU

«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»



COPENAGHEN CRITERIA FOR EU ACCESSION

- **Political**

stability of institutions guaranteeing democracy, the **rule of law***¹, **human rights** and respect for and protection of minorities

- **Economic**

a functioning market economy and the capacity to cope with competition and market forces

- **Administrative and institutional** capacity

to effectively implement the **acquis communautaire***² and ability to take on the obligations of EU membership

*1 RULE OF LAW

ALL PUBLIC POWERS MUST ACT
WITHIN THE **CONSTRAINTS** SET OUT BY LAW

- **LAW-MAKING PROCESS**: transparent, accountable, democratic and pluralistic
- **JUDICIAL PROTECTION**: effective → access to justice, independent and impartial courts, separation of powers
- **EQUAL PROTECTION**: everyone enjoys equal protection under the law and prevents the arbitrary use of power by governments.
- **POLITICAL AND CIVIL RIGHTS**: protection of basic political and civil rights, civil liberties



***2 ACQUIS COMMUNAUTAIRE**

**BODY OF COMMON RIGHTS AND OBLIGATIONS
BINDING UPON EU MEMBER STATES**

HIERARCHY OF SOURCES OF EUROPEAN UNION LAW

PRIMARY LAW

INTERNATIONAL AGREEMENTS

SECONDARY LAW

SUPPLEMENTARY LAW

<https://eur-lex.europa.eu/homepage.html>



PRIMARY LAW

○ **TREATIES**

- **Founding treaties** (establishing EC → EU)
- Amending treaties
- Protocols annexed to Treaties
- **Accession treaties**

○ **CHARTER OF FUNDAMENTAL RIGHTS**

(since 2009 Lisbon Treaty – same value as Treaties)

○ **GENERAL PRINCIPLES ESTABLISHED BY THE ECJ**



TREATIES

○ TREATY ON THE EUROPEAN UNION

- objectives and principles of the EU
- institutions of the EU

○ TREATY ON THE FUNCTIONING OF EUROPEAN UNION

- organisational, functional provisions to reach EU objectives
- procedures for the functioning of EU institutions

○ TREATY ON THE EUROPEAN UNION

Art. 2

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**.

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.

Art. 3

1. The Union's aim is to **promote peace**, its **values** and the **well-being** of its **peoples**.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the **free movement of persons** is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an **internal market**. It shall work for the **sustainable development** of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the **environment**. It shall promote **scientific and technological advance**.
It shall combat **social exclusion and discrimination**, and shall promote social justice and protection, **equality** between women and men, **solidarity between generations** and protection of the **rights of the child**.
It shall promote economic, social and territorial **cohesion**, and **solidarity among Member States**.
It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.
4. The Union shall establish an **economic and monetary union** whose currency is the euro.
5. **In its relations with the wider world**, the Union shall **uphold and promote its values and interests** and contribute to the **protection of its citizens**. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.
6. The Union shall pursue its objectives **by appropriate means** commensurate with the **competences** which are conferred upon it in the Treaties.

○ TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Art. 16(1)

Everyone has the right to
the **protection of personal data** concerning them.

EU CHARTER OF FUNDAMENTAL RIGHTS

ART. 6(1) TEU

«The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties»

CHAPTERS:

- I **DIGNITY** *«Human dignity is inviolable, it must be respected and protected»*
- II **FREEDOMS**
 - Respect for private and family life
 - Protection of personal data
- III **EQUALITY**
- IV **SOLIDARITY**
- V **CITIZENS' RIGHTS**
- VI **JUSTICE**
- VII **GENERAL PROVISIONS** Safeguard clause

GENERAL PRINCIPLES OF EU LAW ESTABLISHED BY THE COURT OF JUSTICE

legal principles developed by the Court of Justice over time
no exhaustive list - under constant development
stemming from constitutional traditions of EU Member States

examples

Legal certainty

Legitimate expectation

Primacy of EU Law

Direct effect of EU Law

Protection for fundamental rights → art. 6(3) TEU

«Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law»