

Suspension and withdrawal of a Member State from the European Union


Caption: Raquel Valls outlines how the arrangements for the suspension and withdrawal of a Member State from the European Union have developed since the 1997 Amsterdam Treaty.

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Suspension

Following its reform by the 1997 **Treaty of Amsterdam**, the Treaty on European Union now makes provision, in Article 7, in the case of a Member State which seriously and persistently breaches principles referred to in Article 6 (freedom, democracy, the rule of law, respect for human rights and fundamental freedoms), for a procedure for suspending ‘certain of the rights deriving from the application of this Treaty [...], including the voting rights of the representative of the government of that Member State in the Council.’

After inviting the government of the Member State in question to submit its observations, it is the responsibility of the Council, meeting in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, to determine the existence of such a breach. It is only when such a determination has been made that the Council, acting by a qualified majority, may decide to suspend certain rights, taking into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons. The Council may decide subsequently to vary or revoke the measures it has taken, in response to changes in the situation which led to their being imposed. It is also laid down that the Council acts without taking into account the vote of the representative of the government of the Member State in question.

Since the reform introduced by the **2001 Treaty of Nice**, the Treaty on European Union also makes provision, as a preventive measure, for the possibility of appropriate recommendations being addressed to any Member State when there is a clear risk of a serious breach by that Member State of the principles referred to above. Accordingly, on a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach of the principles in question. Before making such a determination, the Council has to hear the Member State in question and may call on independent persons to submit a report on the situation in the Member State in question. The Council then regularly checks whether the grounds on which such a determination was made continue to apply.

Withdrawal

Neither the Founding Treaties, which, with the exception of the ECSC Treaty, came into force for an unlimited period, nor the successive treaties which amended them make any provision for withdrawal. The absence of any such provision emphasises the particularly binding nature of the commitment entered into by the Member States of the Communities and of the European Union. Moreover, the objective of the original Signatory States, namely ‘to lay the foundations of an ever closer union among the peoples of Europe’ (see the Preamble to the EEC Treaty) has tended to be reinforced with each new reform which is undertaken ‘in view of further steps to be taken in order to advance European integration’ (see the Preamble to the EU Treaty).

However, the principle of acceptance of the *acquis communautaire*, together with the fact that it is impossible for a Member State to renegotiate its own Accession Agreement — any such renegotiation being limited, in principle, to the adoption of transitional measures — combined with the open and evolving nature of the Communities and the Union, argue in favour of the implicit possibility of voluntary withdrawal. This argument is supported by the fact that the principle of respect for the national identity of the Member States is incorporated into the EU Treaty. In practice, it is confirmed by the fact that no Member State contested the possible withdrawal of the United Kingdom in 1974, when the British Government was demanding the renegotiation of its accession terms and when it held a referendum on whether the country should remain in the Community.

In that sense, Article I-60 of the Constitutional Treaty signed in Rome in 2004 makes provision for

voluntary withdrawal from the Union. This possibility is enshrined in Article 1 (58) of the 2007 Treaty of Lisbon, inserting into the Treaty on European Union a new Article 49 A on withdrawal.