

# How Kosovo can become the 47th member of the Council of Europe

ESI background document  
28 February 2022



The Council of Europe is a club of European democracies committed to the European Convention on Human Rights.

Kosovo is a European democracy. It has held a series of free and fair elections. There are no political prisoners. There are no allegations of inhumane treatment. There are minority rights provisions. 34 of the 46 members of the Council of Europe have recognised Kosovo's independence.

Admitting Kosovo – after Russia's suspension last week - now demonstrate that the Council of Europe remains the most relevant institution bringing together European democracies committed to the European Convention on Human Rights.

## How to join

Any European democracy can become a member of the Council of Europe, as regulated by **article 3** of the **statute**:<sup>1</sup>

“Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.”

Any European state able to fulfil these provisions can be invited by the Committee of Ministers to become a member, as specified in **article 4**:

“Any European State which is deemed to be able and willing to fulfil the provisions of Article 3 may be invited to become a member of the Council of Europe by the Committee of Ministers. Any State so invited shall become a member on the deposit on its behalf with the Secretary General of an instrument of accession to the present Statute.”

Such an invitation is issued by the Committee of Ministers in the form of a resolution. As specified in **article 20, paragraph c**, of the Statute, resolutions under article 4 “require a **two-thirds majority** of all the representatives entitled to sit on the Committee.”

### Concrete steps - the example of Montenegro

A country hands in an application. Montenegro, the last country to become a new member of the Council of Europe, did this on 6 June 2006.

In two letters from the Montenegrin Minister for Foreign Affairs to the Secretary General of the CoE, dated 6 and 12 June 2006, Montenegro made it known that, as a newly independent state, “it would like to establish its successor status to all conventions, charters or agreements of the Council of Europe to which Serbia and Montenegro was party or member, including any partial agreement under the conditions established in each of them, including the financial ones, and which was in force in respect of its territory”.

In a decision dated 14 June 2006, the Committee of Ministers decided, as an interim measure, that the Republic of Montenegro could take part as an observer in all the intergovernmental committees of experts in which it expressed an interest and decided that, pending the examination of the Republic of Montenegro’s application for membership to the Council of Europe, representatives of the Government of the Republic of Montenegro would be invited to attend the meetings of the Committee of Ministers.

On the same day, 14 June 2006, the Committee of Ministers invited PACE to express an opinion on this application, in accordance with Statutory Resolution (51) 30.

Following a decision taken by the bureau of PACE, on 5 July 2006 PACE asked two “eminent legal experts” to “assess the conformity of the legal order in the Republic of Montenegro with the fundamental principles of the Council of Europe”. They submitted their report in September.

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<sup>1</sup> Statute of the Council of Europe, London, 5.V.1949, available here: <https://rm.coe.int/1680935bd0>.

On 17 April 2007 PACE adopted Opinion 261 on the “Accession of the Republic of Montenegro to the Council of Europe”. In essence this was a list of commitments that “that the Republic of Montenegro is determined to honour” – the signing and/or ratification of various agreements, conventions, charters; the inclusion of specific provisions in its yet to be adopted new constitution; and the adoption of specific domestic legislation.<sup>2</sup>

On 11 May 2007 Montenegro became the Council of Europe’s 47<sup>th</sup> member state, following a resolution by the Committee of Ministers.

### **Getting to a two thirds majority**

The following 34 member states have recognised Kosovo as a sovereign state. With Russia suspended, 31 members constitute the 2/3 majority “of all the representatives entitled to sit on the Committee”:

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|-------------------|---------------------|
| 1. Albania        | 18. Lichtenstein    |
| 2. Andorra        | 19. Lithuania       |
| 3. Austria        | 20. Luxembourg      |
| 4. Belgium        | 21. Malta           |
| 5. Bulgaria       | 22. Monaco          |
| 6. Croatia        | 23. Montenegro      |
| 7. Czech Republic | 24. Netherlands     |
| 8. Denmark        | 25. North Macedonia |
| 9. Estonia        | 26. Norway          |
| 10. Finland       | 27. Poland          |
| 11. France        | 28. Portugal        |
| 12. Germany       | 29. San Marino      |
| 13. Hungary       | 30. Slovenia        |
| 14. Iceland       | 31. Sweden          |
| 15. Ireland       | 32. Switzerland     |
| 16. Italy         | 33. Turkey          |
| 17. Latvia        | 34. United Kingdom  |

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<sup>2</sup> PACE, “Opinion 261 – Accession of the Republic of Montenegro to the Council of Europe”, available here: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17528&lang=en>.