



**Parliament of Montenegro
Parliamentary Institute
Research Centre**

Research paper:

**NATO: Timetable and procedures for the ratification of Protocols on
Accession to the North Atlantic Treaty in national parliaments of NATO
Member States**

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FOREWORD

The North Atlantic Alliance, respectively NATO (North Atlantic Treaty Organization) represents a political and military alliance bringing together 28 member states from Europe and North America. It was established on 4 April 1949, in Washington, with the signing of the North Atlantic Treaty by 12 founding members: Belgium, Denmark, France, the Netherlands, Iceland, Italy, Canada, Luxembourg, Norway, Portugal, United States of America and United Kingdom. From 1949 until today, the number of member countries has increased from 12 to 28, through six rounds of enlargement: 1952, 1955, 1982, 1999, 2004 and 2009.¹

NATO's "open door policy" is based on Article 10 of the North Atlantic Treaty which states that membership is open to any "European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area". Any decision to invite a country to join the Alliance is taken by the North Atlantic Council on the basis of consensus among all Allies. No third country has a say in such deliberations.² Once the Allies have decided to invite a country to become a member of NATO, they officially invite the country to begin the accession talks with the Alliance. This is the first step in the accession process towards formal membership of a given country. These are the following steps in the process:

1. Accession talks with a NATO team;
2. Invitee sends letters of intent to NATO, along with timetables for completion of reforms;
3. Accession Protocols are signed by all NATO member states;
4. Accession Protocols are ratified by all NATO member states;
5. The Secretary General invites the potential new members to accede the North Atlantic Treaty
6. Invitee accede the North Atlantic Treaty in accordance with their national procedures
7. Upon depositing their instruments of accession with the US State Department, invitee formally become NATO members.³

During a meeting of the North Atlantic Council at the level of Foreign ministers, held on 2 December 2015, Montenegro was invited to start accession talks to become a member of the Alliance, with the incentive to continue making further progress in the field of reforms. In accordance with the aforementioned steps, following the negotiations, an invitee sends a letter of intent to NATO, thus recognizing the country's interest, aspiration and capacity to join the Alliance, and submits timetables for completion of reforms. Subsequently, NATO prepares Protocols on Accession to the North Atlantic Treaty, which represent amendments to the Treaty, and only after the Allies have signed and ratified them, the invitee becomes a member of the Alliance.⁴

In order to collect the data, and in accordance with the subject of the request for preparation of a research paper, i.e. timetable and procedures for the ratification of Protocols on Accession to the North Atlantic Treaty in national parliaments of NATO member states⁵, the Research Centre of the Parliament of Montenegro submitted a questionnaire to parliaments of NATO member states, through the European Centre for Parliamentary Research & Documentation (ECPRD)⁶. The questionnaire covered questions concerning the date of receipt and ratification by member states' parliaments of the: Protocols on the accession of Croatia and Albania (sixth enlargement); Protocols on the accession of Latvia, Lithuania, Estonia, Slovenia, Slovakia, Romania and Bulgaria (fifth enlargement); Protocols on the accession of Czech Republic, Hungary and Poland (fourth enlargement), as well as the Protocol on the accession of Spain (third enlargement). Furthermore,

¹ Enlargement, http://www.nato.int/cps/en/natolive/topics_49212.htm (accessed on 20 January 2016)

² Ibid.

³ Ibid.

⁴ Mehmedin Tahirović, Renato Petrić. Integration of Montenegro into NATO (*Integracija Crne Gore u NATO*). Human Resources Management Authority, Podgorica, 2015, p. 22. After the member states have signed the protocol, the invitee may participate in the work of the Alliance and its bodies, however, it may not participate in the decision-making process until it has joined the Alliance. Infografik: *Šta nakon pozivnice za NATO*, CDT, 2015 <http://www.test.cdtmn.org/nato/nato-analize/sta-nakon-pozivnice-za-nato-infografik/> (accessed on 1 January 2016)

⁵ With the exception of Canada the United Kingdom, where the Government is responsible for the ratification of the Protocol on Accession to the North Atlantic Treaty.

⁶ ECPRD Request 3010, *Ratification of Protocols on Accession to the North Atlantic Treaty*, 22 December 2015

there were questions concerning the description of procedures for ratification of Protocols on Accession to the North Atlantic Treaty in national parliaments of NATO member states, including the manner of reaching the decision on the ratification of the Protocol, respectively the majority required for making such decision.

The research paper consists of four chapters, whereby the first chapter provides a narrative overview of main research findings. The second chapter consists of an overview of key concepts, instruments and programmes of the NATO Alliance open door policy, as well as the main characteristics of the last four rounds of enlargement, *inter alia*, on the basis of the data available on the official website of the North Atlantic Treaty Organization.

Table: Key dates concerning the process of Montenegro's accession to NATO

MONTENEGRO – Key dates

29 November 2006: NATO member states invite Montenegro to join the Partnership for Peace.

14 December 2006: Montenegro joins the Partnership for Peace.

2 – 4 April 2008: At the Bucharest Summit, Montenegro was officially invited to start an Intensified Dialogue with the Alliance on political, military, financial, security issues and public diplomacy.

9 March 2009: First meeting between North Atlantic Council and Montenegro.

3 – 4 December 2009: At the meeting of NATO Foreign Ministers in Brussels, Montenegro was invited to begin the implementation of the Membership Action Plan (MAP).

25 June 2014: At the meeting of NATO Foreign Ministers, NATO leaders agreed to intensify the talks with Montenegro regarding its membership to NATO, so that a decision regarding the membership invitation is extended by the end of 2015.

4 – 5 September 2014: At the Wales Summit, the NATO Foreign Ministers have agreed to open intensified and focused talks with Montenegro. The members agreed to assess the Montenegro's progress no later than by the end of 2015 with a view to deciding on whether to invite Montenegro to join the Alliance.

2 December 2015: At the meeting of NATO Foreign Ministers, Montenegro was invited to start accession talks with the Alliance.

Development of relations between NATO and Montenegro – key dates, http://www.natomontenegro.me/nato-info/Kljucni_datumi/ (accessed on 24 December 2015)

NATO's relations with Montenegro, http://www.nato.int/cps/en/natolive/topics_49736.htm (accessed on 24 December 2015)

In accordance with the data collected on the basis of the received replies, the third chapter of the research paper provides information presented in tabular and graphic form, covering the time period from which the accession protocol was placed under parliamentary procedure⁷ until its adoption for the following countries: Belgium, Czech Republic, Denmark, Estonia, France, Greece, the Netherlands, Canada, Latvia, Lithuania, Hungary, Germany, Poland, Portugal, Romania, Slovakia, Slovenia and Spain. The information also covered the period of ratification of the protocol by countries acceding to the Alliance. In addition to the replies covered by the questionnaire, the research paper also contains information from other available sources, including the date of receipt and ratification of protocols in the last four rounds of enlargement by the U.S. Senate, on the basis of a 2009 document⁸ of Congressional Research Service.

The last chapter of the research paper provides a comparative overview describing the procedures for ratification of protocols, in accordance with the received replies, as well as provisions of current constitutions and rules of

procedure of all NATO member states involving the ratification of international agreements. At the end of the research paper, there is the Appendix I containing the text of the North Atlantic Treaty, as well as the Appendix II, respectively the text of the Protocol on Accession to the North Atlantic Treaty.

⁷ With the exception of Canada and the United Kingdom, where the Government is responsible for the ratification of the Protocol on Accession to the North Atlantic Treaty.

⁸ Michel John Garcia, NATO Enlargement: Senate Advice and Consent, CRS, 2009 <https://www.fas.org/sgp/crs/row/RL31915.pdf> (accessed on 24 December 2015)

1. MAIN RESEARCH FINDINGS

Given that the ratification of the protocol in effect represents the ratification of amendments to the North Atlantic Treaty, which are signed by all NATO member states, the ratification process, as a rule, unfolds in accordance with regular procedures envisaged for ratification of international agreements, unless otherwise provided by the constitution or other legal act. This area is most often defined in the constitution, while the details involving the procedure are more specifically defined by the rules of procedure.

However, during the ratification process, a great number of countries, especially the European countries, follow certain patterns shaped by parliamentary tradition. Specifically, in 26 out of 28 member states, the ratification process is conducted by the parliament, with the exception of Canada, where the Government is in charge of ratification, and the United Kingdom, where the minister of foreign affairs is in charge of conducting this procedure.

With regard to countries in which this procedure takes place in the parliament, ratification is most often conducted by adopting the law on ratification, whereas this decision is more seldom adopted in other forms, such as parliamentary resolution (for instance in Denmark). When it comes to bicameral parliaments, ratification is conducted in both chambers, whereas the lower chamber most often comes first, followed by the upper chamber (such as in Germany, Romania and Spain), but there are also cases such as Czech Republic, where there is no particular order, and the procedure is conducted in both chambers simultaneously. Belgium is the exception, where the ratification is conducted only by the lower chamber, as well as the United States of America, where the protocol is ratified by the upper chamber (Senate).

In addition, in countries where the executive power is in charge of ratification, and the legislative power is left with no say (i.e. Canada and United Kingdom), there is the practice of submitting international agreement texts (in this case protocols) to the parliament for consideration for 21 days, without the right to decide on the ratification.

When it comes to the voting procedure on this issue, out of 26 NATO member states which practice ratification of protocols in the parliament, 21 of them decide on ratification through a regular voting procedure, respectively through a simple majority of all MPs present. This procedure is implemented in Belgium, Bulgaria, Czech Republic, Denmark, France, Greece, the Netherlands, Iceland, Italy, Latvia, Lithuania, Hungary, Germany, Norway, Poland, Portugal, Romania, Slovenia, Spain and Turkey.

In the parliaments of Albania, Estonia and Slovakia, an absolute majority of votes is required for the ratification of the accession protocol.

The three remaining countries have the most demanding procedures with regard to ratification, thus, a successful ratification requires a qualified majority, respectively two-thirds of all MPs. Therefore, the two-thirds of all MPs is the majority for the ratification of the protocol required in the Parliament of Luxembourg, Croatian Parliament, as well as the Senate of the United States of America.

When it comes to the accession process, out of all the countries which joined NATO during the last four enlargements (13 countries), ten of them reached a decision on joining NATO through parliamentary procedure while two of them (Hungary and Slovenia) reached a decision through a referendum. In 1986, four years after joining the Alliance, there was a referendum in Spain regarding Spain's Remaining in NATO, and the option supporting Spain's remaining in the Alliance won, gaining 52,2% of the votes. In 1997, Hungary held a referendum on Hungary's membership in the Alliance, which was approved by 85,3 % of the voters. In addition, the Slovenian EU accession referendum was held in 2003, simultaneously with the NATO accession referendum, and the option supporting membership in the Alliance gained 66,2 % of the votes.

Concerning the duration of the entire ratification process, the data provided by countries through the ECPRD questionnaire, regarding the process of ratification were taken into account. Concerning enlargements in 1982, 1999 and 2004, a change in average duration of the process of ratification in national parliaments may be observed (the date from the receipt of the document, i.e. placing into procedure, to the date of its adoption by the parliament). Specifically, the number has increased from 50 days (1982) to 88 days (1999) and ultimately 99 days in 2004. This increase may be explained by the fact that the number of member states had also increased, along with the number of ratification procedures that must be conducted in order that the whole process is terminated. However, concerning the last enlargement round (accession of Croatia and Albania) of 2009, the average duration of ratification has declined significantly, and lasted on average 52 days.⁹

During Spain's accession in 1982, the mere process of ratification conducted in the countries covered by the survey lasted from 35 days in Greece to 70 days in Germany. When it comes to the ratification conducted by countries of the fourth enlargement round (Czech Republic, Hungary, Poland), the difference was slightly higher- the shortest procedure was in Greece (45 days), while the procedure that lasted the longest was in the Netherlands (203 days).

Fifth enlargement round had the ratification procedures which on average lasted the longest, when it was decided whether the seven new countries should join (the largest number in history). However, the mere procedure in the countries differed, thus, in Hungary the procedure lasted only 12 days, in Germany 160¹⁰ days, while in the Netherlands the procedure was terminated after 275 days.

During the last enlargement in 2009, average length of duration of a procedure was shorter, but also uneven – as such the procedure in Poland lasted only nine days, in Romania 11, in Belgium 15, while the longest was in Hungary (83), in Germany (86 days), and in the Netherlands 161 days. The data presented in the remainder of this document brings us to the conclusion that the ratification procedure which lasts the longest is in the Netherlands (200 days on average), while the second place appertains to Germany, where the procedure lasts 103 days.

The entire ratification procedure begins with the signing of the protocol by ministers of foreign affairs of all member states, which is, as a rule, performed at NATO summit, and its termination presents a precondition for becoming a full-fledged member. Spain became a full-fledged member of the Alliance on 30 May 1982, respectively, five months and 20 days after the signing of the accession protocol to the North Atlantic Treaty, which was on 10 December 1981. In the case of accession of Czech Republic, Hungary and Poland, protocols were signed on 16 December 1997, while the three countries acceded the Alliance on 12 March 1999, respectively almost 15 months later. Concerning the big, fifth enlargement, this process lasted slightly longer, and was terminated after 16 months and seven days (protocols were signed on 21 November 2002, while full-fledged membership was achieved on 29 March 2004). With regard to the last enlargement, respectively the accession of Albania and Croatia, between the signing of the protocol (3 April 2008) and full-fledged membership (1 April 2009), exactly one year has gone by.

The rest of the research paper consists of a chronological overview of NATO's Enlargement Process, a statistical overview of procedures of ratifying accession protocols in national parliaments, as well as a detailed overview of constitutional and legal provisions governing the ratification procedure.

The complete document in Montenegrin language can be found at:

<http://www.skupstina.me/images/dokumenti/biblioteka-i-istrazivanje/2017/11.pdf>

⁹ When it comes to the data involving the length of the ratification process, the research paper only covers the data submitted by parliaments through the ECPRD questionnaire.

¹⁰ In the case of Germany, the data covers the date from the receipt of the Law on ratification by the Parliament until its entry into force.