



The EU's *Acquis Communautaire*

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The *Acquis Communautaire* is the accumulated body of European Union (EU) law and obligations from 1958 to the present day. It comprises all the EU's treaties and laws (directives, regulations, decisions), declarations and resolutions, international agreements and the judgments of the Court of Justice. It also includes action that EU governments take together in the Area of Freedom, Security and Justice and under the Common Foreign and Security Policy.

New EU Member States must accept all the existing *acquis* - some elements of it during a transitional period - and put in place mechanisms to adopt future elements of the *acquis*.

The Court of Justice has ruled that the EU *acquis* takes precedence over national law if there is a conflict, and that the *acquis* may have direct effect in the Member States.

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1 What is the *Acquis*?

The *Acquis Communautaire* is the accumulated body of EU law and obligations from 1958 to date, generally estimated to be around 80,000 items.¹ It is a French expression, “acquis” meaning “that which has been acquired” or “achieved”, and “communautaire”, meaning “of the community”. The notion of the *acquis* originated during the EU accession negotiations with Denmark, Ireland, Norway and the UK (1969-1972).

Acquis is also used to describe laws adopted under the Schengen Agreement before it was integrated into the EU legal order by the *Treaty of Amsterdam*. *Acquis* has also been used by the World Trade Organization to refer to the accumulation of General Agreement on Tariffs and Trade (GATT) and WTO law (*acquis gattien*), and to describe the achievements of the Council of Europe in standard setting in democracy, the rule of law and fundamental human rights. It has been applied to the body of “principles, norms and commitments” of the Organization for Security and Co-operation in Europe (OSCE), and the Organisation for Economic Cooperation and Development (OECD) introduced the concept of the “OECD Acquis” in its “Strategy for enlargement and outreach”.

The *acquis* comprises all the EU's treaties and laws (directives, regulations, decisions), declarations and resolutions, international agreements and the judgments of the Court of Justice. It also includes action that EU governments take together in the area of Justice and Home Affairs (Freedom, Security and Justice) and the Common Foreign and Security Policy – but it excludes decisions to set up “enhanced cooperation” arrangements.²

When acceding states prepare to join the EU they must accept all the existing *acquis* (now covering 35 policy areas), sometimes over a transitional period, as well as put in place mechanisms to adopt future elements of the *acquis*. Thus, Articles 1 to 5 of the 1972 Act concerning the UK's (and others') accession to the EEC are all about the new Member States accepting the *acquis*, although this term is not actually used. Article 2 states:

From the date of accession, the provisions of the original Treaties and the acts adopted by the institutions of the Communities shall be binding on the new Member States and shall apply in those States under the conditions laid down in those Treaties and in this Act.³

The *acquis* is translated into 22 official EU languages and exists as parallel texts in Bulgarian, Czech, Danish, Dutch, English, Estonian, German, Greek, Finnish, French,

¹ For information on the size of the *acquis* see Research Paper 10/62, “[How much legislation comes from Europe?](#)” 13 October 2010

² These are arrangements among a few states only and so are not part of the EU *acquis*.

³ Cmnd. 5179 - I

Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish. The *acquis* is not translated on a regular basis into Irish.⁴

2 Is there a hierarchy of acts within the *Acquis*?

The EU Treaties themselves do not clarify the relationship between the various instruments that make up the *acquis*, although it is clear that some acts have a different status to others. Some instruments are legislative while others are not; certain treaties and conventions are international agreements among Member States, but do not involve the institutional mechanisms of the EU and may not be subject to the jurisdiction of the Court of Justice.

Both the Council and the Commission are empowered under the Treaty to make laws. The Council may adopt legislation only upon a proposal from the Commission, which has the sole right of initiative in proposing legislation. The Commission may also adopt legislation under delegated powers. This usually applies to implementing measures of a routine or mundane nature. In theory the two types of legislation should carry equal weight since the two institutions are not hierarchically different and are both empowered by the Treaty to make laws. It has been argued before the Court of Justice, however, that Council laws have greater weight than those of the Commission, and that in the event of a conflict between a Council regulation and an implementing Commission regulation, the former should prevail.

3 Court of Justice interpretation of the *Acquis*

The EU Courts interpret the *acquis* as and when it is challenged, and there have been landmark decisions concerning its status in relation to national law and on the matter of direct effect.⁵ Court of Justice rulings that have shaped the principle of the primacy of the *acquis* over national law are:

- Case 26/62 *Van Gend en Loos* [1963] ECR 1
- Case 6/64 *Costa v ENEL* [1965] ECR 505:
- Case 11/70 *Internationale Handelsgesellschaft (Solange I)* [1974] ECR 1125
- Case 106/77 *Simmenthal* [1978] ECR 629:

Van Gend en Loos also confirmed the principle of direct effect when the Court of Justice decided that a citizen was able to enforce a right granted by European Community legislation against the state. In Case 2/74, *Defrenne v. SABENA*, the Court of Justice decided that there were two varieties of direct effect: vertical direct effect and horizontal direct effect, the distinction being based on whom the right is to be enforced against.

4 Further reading

- Amichai Magen has looked at the unique nature of the Acquis in an article called “[The Acquis Communautaire as an Instrument of EU External Influence](#)”, *European Journal of Law Reform* Vol 9, 2007
- René Schwok has looked at how a non-EU state has adapted its laws to those of the EU in “[Switzerland’s Approximation of its Legislation to the EU Acquis: Specificities, Lessons and Paradoxes](#)”, *European Journal of Law Reform* Vol 9, 2007

⁴ See [Commission Directorate General for Translation website](#) and [Joint Research Centre website](#)

⁵ There is a useful summary of direct effect on the [Legal Norms](#) website, “[The Principle of Direct Effect](#)”

- Knud Erik Jørgensen, “[The Social Construction of the Acquis Communautaire: A Cornerstone of the European Edifice](#)”, *European Integration online Papers* (EIoP) Vol. 3 (1999) N° 5
- Dr. Stephen J. Silvia and Dr. Aaron Beers Sampson “[Acquis Communautaire and European Exceptionalism: A Genealogy](#)”, ACES Working Paper, 1 July 2003
- There is a useful breakdown of the components of the Acquis in “[Integration of the Acquis Communautaire into the Legal Order of New and Future Member States of the EU](#)” Jacques Ziller, European Institute of Fiesole, Italy, 24 - 28 October 2005
- *International Political Science Review* “European Union Conditionality and the Acquis Communautaire”, Heather Grabbe, July 2002 vol. 23 no. 3 249-268
- A detailed analysis of how candidate EU states now prepare to accept the 31 areas of the EU acquis in “[Guidelines to the acquis communautaire: support to promotion of reciprocal understanding between the European Union and the Western Balkans](#)”, November 2004
- Institute for European Integration Research, “[Move Closer! New Modes of Governance and Accession to the European Union](#)”, Tanja A. Börzel, Working Paper No. 01/2011, January 2011