



1. Given that the House of Commons has rejected leaving the European Union (EU) without a Withdrawal Agreement and framework for the future relationship, the Government motion tabled for debate on Thursday 14 March seeks Parliament's approval to request an extension to Article 50, and sets out that in light of the procedural and legal parameters and the position of the EU, there are two possible types:
 - a. a **short, technical extension**, if a deal is approved before the March European Council, to allow for the passage of domestic legislation to implement the deal (this legislation must be passed in order for a deal to be ratified); or
 - b. a **longer extension**, if a deal is not approved before the March European Council, to provide time for the Government and Parliament to determine what course of action the UK should pursue and take that forward, and which would require the UK to participate in the European Parliament (EP) elections.
2. This paper provides a factual summary to inform Parliament's debate on that motion.

What are the legal requirements for an Article 50 extension set out in the EU Treaties?

3. The Article 50 period is set at two years unless, as provided for in Article 50, "*the European Council, in agreement with the Member State concerned, unanimously decides to extend [it]*". Article 50 does not establish any upper limit on the length of an extension. However, given the Article 50 period is explicitly time-limited, any extension would have to set a specific end date, because it is necessary for reasons of legal certainty to be clear on the date on which the UK will leave the EU.
4. The UK's status during any extended period would remain that of a full Member State, subject to all rights and obligations set out in the EU Treaties and under EU law. This also means that the UK could not use an extended period to commence negotiations on the legal agreements necessary to give effect to the future relationship – the EU can only negotiate these with the UK after it has left.

Has the EU placed any conditions on the UK's request?

5. A statement issued on behalf of the President of the European Council on 12 March recorded that "*the EU27 will expect a credible justification for a possible extension and its duration*". Other EU leaders, including Mark Rutte and Emmanuel Macron, as well as Michel Barnier and numerous Members of the European Parliament (MEPs), have also set out this requirement.

What is the process for the UK requesting an extension?

6. While Article 50 does not set out how either party should request an extension, the Government believes it would be appropriate for the Prime Minister to write to the President of the European Council, setting out why the UK was requesting an extension and for how long.

What is the process for the EU agreeing a UK request?

7. The European Council has to approve an extension by unanimity, meaning it requires the agreement of the Heads of State or Government of the other 27 EU Member States.
8. While Article 50 does not set out how this decision should be taken, and in theory the European Council could act by written procedure, to date it has taken all decisions under Article 50 in scheduled meetings. The Government therefore understands that the UK will need to request any extension in advance of the March European Council, which takes place on 21 and 22 March and is the last scheduled meeting before the end of the current Article 50 period, in order that the European Council at 27 can discuss and decide whether to agree to any UK request.

Why does the UK have to participate in the EP elections if it seeks a long extension?

9. The EP elections are scheduled to take place across the EU between 23 and 26 May, with the new EP meeting for the first time on 2 July.
10. If the UK were to seek an extension beyond 1 July, and hence remain a Member State beyond that point, it would need to participate in the EP elections for two reasons:
 - a. first, the EU Treaties provide that EU citizens have the right to be represented in the EP, and there is no legal mechanism by which the UK could return MEPs to the new EP other than by participating in the elections; and
 - b. second, for it to perform its functions, including the appointment of the Commission and the adoption of any legislation, the EP needs to be properly constituted under the EU Treaties, with duly elected representatives from all Member States.

Would it be possible to seek a short extension initially, and then extend again if necessary?

11. The interaction with the EP elections means that a short extension would in practice preclude the possibility of a subsequent one if elections had not been held.
12. If the UK did not participate in the EP elections, it would not have any duly elected MEPs when the new EP plenary begins on 2 July. In these circumstances, a second extension is not considered to be viable, because without UK MEPs the EP would be improperly constituted - putting the functioning of the EU's institutions at risk.
13. In addition, for the UK to participate in the EP elections, Returning Officers must publish notice of the poll by 12 April, before which the Government must appoint the date of the poll by Order made under the European Parliamentary Elections Act 2002.

What is the interaction between the EP elections and the requirement for the EP to approve the deal?

14. The EP needs to consent to the deal before it can come into force, and due to the elections in May the final EP plenary ends on 18 April.