

# PECULIARITIES OF THE NEGOTIATION PROCESS FOR THE EUROPEAN UNION ACCESSION

Dir Ihor

**Annotation.** *The aim of the work is a comprehensive analysis of the procedure peculiarities of the negotiation process during the accession of the candidate state to the European Union.*

*The methodological basis of the study was the official EU treaties, in which the procedure of the negotiation process was prescribed, and the official websites of the EU institutions appeared, which contain provisions relating to negotiations.*

*Results.* According to the results of the conducted research, it was found that the Treaty on the Functioning of the European Union serves as the legal basis during the negotiations. The following negotiation procedure is specified in this Treaty: the Council of the European Union is responsible for negotiations. It initiates the beginning of the negotiation process, adopts the directives that were concluded during the negotiation process, and authorizes the signing of contracts. In addition, it was found that the official start of negotiations begins with the adaptation of domestic legislation to the EU acquis, as well as the implementation of judicial, administrative, economic, and other reforms that must be implemented in the candidate state to fulfill the Copenhagen criteria. According to the results of the study, membership negotiations with the candidate state begin after the unanimous consent of all EU member states, which is highlighted in an official document of the Council of the European Union. These negotiations take place at various intergovernmental conferences between the governments of the EU member states and the candidate state. The article also found that no one chapter of the EU acquis is considered closed until the government of each member state of the alliance is satisfied with the progress made by the candidate state, as the negotiation process is finally completed after the closure of each chapter. At the final stage, all member states of the European Union sign the treaty, where the candidate state receives a special status, and the ratification process between the parties to the treaty begins, following the constitutional norms adopted in the states.

*Conclusions.* As a result of the study, it was found that the EU accession procedure has a clear structure, which can generally be formed into seven main stages. Each of these steps is important and must be unanimously agreed by EU member states.

**Key words:** *European Union, treaty, state, ratification, candidate state, negotiations, acquis EU.*

## 1. Introduction.

With Ukraine receiving the status of a candidate for joining the European Union in June 2022, it became necessary to study the peculiarities of the procedure of the negotiation process, which has a clear and consistent structure in the European Union. It was formed over a long period. Thus, the EU has gone through seven stages of expansion: the first – in 1973, the accession of Denmark, Great Britain, and Ireland, the second – in 1981, the accession of Greece, the third – in 1986, the accession of Portugal and Spain, the fourth – 1995, the inclusion of Austria, Finland, Sweden, the fifth – 2004 and the incorporation of the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia, the sixth stage – 2007 the entry of Bulgaria and Romania, and finally the seventh stage – 2013 the accession of Croatia. The procedure developed as part of the EU enlargement in 2004 and subsequent periods is particularly noteworthy. That is why the chosen topic is very relevant.

## 2. Analysis of scientific publications.

Separate provisions of the study of this issue were considered by several domestic scientists, including M. Denysiuk, L. Melnychuk, N. Nichuk, M. Olhovyk, V. Pastushenko, L. Prokopenko, N. Teremtsova, Ya. Turchyn, and others, as well as several foreign scientists, including O.O. Calligaro, Elgström, A. Eisl, E.S. Hurd, J. Levis, P. Mirts, P. Nicolaides, K. Sevinch, M. Smith, B. Sotendorp, J. Tallberg, S.J. Schneider, F. Zede, etc.

**3. The aim of the work** is a comprehensive analysis of the procedure peculiarities of the negotiation process during the accession of the candidate state to the European Union.

## 4. Review and discussion.

The procedure of the negotiation process of the European Union has a clear structure. Thus, the basis of the negotiations is the conditions under which the candidate state will be accepted into the European Union, and it focuses on the implementation of EU legal acts (*acquis*) into the internal legislation of the state. Their main purpose is that the candidate state must fulfill the conditions of membership, which are better known as the Copenhagen criteria [1].

Article 218 of the Treaty on the Functioning of the European Union [2] serves as the legislative basis during negotiations. Thus, the following negotiation procedure is specified in this Agreement: The Council of the European Union is responsible for conducting negotiations. It initiates the beginning of the negotiation process, adopts the directives that were concluded during the negotiation process, and authorizes the signing of contracts.

The European Commission, or in some cases the High Representative of the European Union for Foreign Affairs and Security Policy, provides recommendations to the Council of the EU, which decides on the start of the negotiation process.

The Council of the EU can send each directive, which is being negotiated, to a special committee that, on behalf of the EU member states, checks the implementation of individual directives into the legislation of a candidate state for joining the European Union.

In general, the procedure for the EU accession consists of three stages:

1. Obtaining the status of a candidate for accession to the EU by the state.
2. Transition to official membership negotiations. This procedure includes the adaptation of domestic legislation to the EU *acquis*, as well as the implementation of judicial, administrative, economic, and other reforms that must be implemented in the candidate state to fulfill the Copenhagen criteria.
3. After the negotiations are completed, the state can join the European Union [3].

It is also worth noting that negotiations on membership with a candidate state begin after the unanimous consent of all EU member states, which is highlighted in an official document of the Council of the European Union. These negotiations take place at various intergovernmental conferences between the governments of EU member states and the candidate state [4].

The first intergovernmental conference is an important political step that marks the official start of the negotiation process. This conference has a ceremonial character, at which representatives of EU member states and candidate states express their expectations for future negotiations. The delegation from the European Union includes representatives of the EU Council and the European Commission, and the delegation is headed by the Minister of Foreign Affairs, who at the time of the conference chairs the EU Council, as well as the EU Commissioner responsible for enlargement policy. On behalf of the candidate state, the delegation includes the prime minister, the minister of foreign affairs, and the person responsible for the negotiations (appointed by the state). Bilateral

conferences are held twice a year: once a year at the level of ministers and once at the level of the deputy head of the delegation [5].

Negotiations on each chapter of the EU acquis consist of the following elements:

1. Screening – the European Commission carries out a detailed analysis together with the candidate country for each chapter and cluster of the EU acquis. This analysis is carried out to check how prepared the state is for joining the alliance. Based on the results of the inspection, a report is prepared and sent to the member states. This report consists of three main parts:

1) Contents of the chapter – this part provides a brief overview of the EU acquis, as well as the main legislative acts that require coordination with domestic legislation.

2) Compliance with domestic legislation and the state's ability to implement it – this part is formed based on information that the European Commission received from the candidate state during the inspection. The most important part of this report is precisely the part that is devoted to coordination with domestic legislation. The European Commission may also request any other additional information, including from the public sector.

3) Assessment of the level of consistency with domestic legislation and assessment of the state's ability to implement it is the most important part because, in this component of the report, the European Commission assesses the ability of state bodies to approximate domestic legislation with the acquis. In addition, it is here that the Commission provides recommendations to the candidate state on the necessary additional steps for each chapter.

In addition, the European Commission provides a recommendation on whether to start negotiations on the next cluster or chapter with the candidate state, or to give more time for the implementation of the provisions of the EU acquis. The duration of negotiations depends on this report. As soon as the European Commission provides a satisfactory assessment of the implementation of the acquis, a report with a positive assessment is sent to the Council of the EU, which, based on the conclusions of this document, starts negotiations on the chapter with the candidate state.

2. Negotiating positions – before the beginning of the negotiation process, the candidate state presents its negotiating position, and the leaders of the European Union must accept it. It should also be noted that for most clusters, the EU sets benchmarks, the fulfillment of which involves closing the cluster. Chapters 23 and 24 are open based on a developed action plan that includes interim benchmarks. They must be fulfilled. The duration of the negotiations also depends on the speed and quality of the reforms, which involve harmonization with the legislation of the European Union. In addition, Chapters 34 and 35 are not considered at the first stages, they are considered at the stage that precedes the conclusion of negotiations. Negotiating positions are prepared for each chapter separately by the candidate state and the European Union, which bases its negotiation process on the report of the European Commission. The negotiating positions of the parties are discussed on a specially created platform for each chapter of EU law.

To speed up and help the states in the implementation of reforms, the implementation of which is necessary directly for accession, the EU is developing a special strategy before the start of negotiations. Yet, within the framework of these strategies, assistance is provided for the candidate state, which can be both in the form of consulting with the responsible authorities and in the form of financing [6].

In turn, the procedure for concluding negotiations includes the following components:

1. Chapter closure – no chapter of the EU acquis is considered closed until the government of each member state of the alliance is satisfied with the progress made by the candidate state, as the negotiation process is finally concluded after the closure of each of the 35 chapters.

After closing all the chapters, the European Commission prepares a special report in which it assesses the readiness of the candidate state to undertake the obligations of EU membership. The report also provides a recommendation for ending the negotiations. This report is sent to the EU Council, which confirms the decision and appoints a final intergovernmental conference at which the accession treaty will be signed. In addition, the Council of the EU officially sets the date when the candidate state will become a full member of the EU. This date is formed according to the completion of transitional periods.

2. Accession treaty – this instrument defines the procedure and obtaining full membership in the European Union by a candidate state. This agreement specifies the terms of membership, defines all transitional arrangements and deadlines, etc [3].

At the final stage, when all the political components of the treaty have been agreed upon, and the key institutions of the European Union have given satisfactory conclusions and confirmed their readiness for enlargement, as well as, all the transition periods have been defined, which are usually adopted at the final stage of negotiations, and which stipulate the rules that can be introduced gradually for adaptation of the candidate state [7], the treaty is sent to the European Parliament for approval. It is then submitted to the Council of the EU, where it must be adopted unanimously. After that, all the member states of the European Union sign the treaty, where the candidate state receives the status of “accessing state”, and the ratification process between the parties to the treaty begins, under the constitutional norms adopted in the states. Some states (except Greece, Spain, Portugal, Cyprus, Bulgaria, and Romania) may put the ratification of the accession treaty to a referendum. In most cases, a ratification vote in the national parliament is sufficient to ratify a treaty among the EU member states, but in Belgium, for example, a treaty of this type must also undergo a ratification procedure among the Senate and the House of Representatives [8].

It is also worth noting that in the period between the signing and ratification of the treaty, the acceding state enjoys special conditions. Thus, the state receives consultations on EU legislation. In addition, the state gets the right to comment on new legislative provisions being developed by the European Union.

Secondly, the state receives “active observer status” in EU institutions and agencies, where it can express its opinion on this or that provision, but does not have the right to vote [9].

## 5. Conclusions.

Therefore, as a result of the conducted research, it can be concluded that the procedure of the negotiation process regarding the accession of the state to the European Union has a clear structure, which can be generally classified as follows: at the first stage, the state sends an application for accession to the Council of the EU. After that, the European Commission analyses the application and provides its opinion. In the third stage, EU member states vote to grant the applicant state candidate status. In the fourth stage, the negotiation procedure officially begins with the consent of all member states. In the next stage, the European Commission is developing a draft of the negotiation structure. Next, the candidate state begins the process of implementing EU laws and standards into domestic legislation. In the seventh stage, when the candidate state has completed the implementation of the EU *acquis*, the European Commission provides its opinion on the state’s readiness to join the European Union. After that, the Council of the EU together with the European Parliament voted to end the negotiation process. And, finally, at the last stage, all EU member states and the candidate state begin the process of ratifying the treaty.

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**Ihor Dir,**

*Extraordinary and Plenipotentiary Ambassador of Ukraine*

*Honored Lawyer of Ukraine*

*Ph.D., Associate Professor*

*Doctoral Candidate at Uzhhorod National University*

*E-mail: [ihor.dir@uzhnu.edu.ua](mailto:ihor.dir@uzhnu.edu.ua)*

*ORCID ID: 0000 0001 9829 4294*