

The conduct of accession negotiations

1) Negotiating framework

Accession negotiations are held based on the so-called Negotiating framework, focusing on the conditions under which the candidate country adopts, implements and applies the *acquis communautaire*, divided into 35 thematic chapters.

Following the decision of the European Council on 28 June 2013 to open accession negotiations with Serbia, the draft negotiating framework, drafted by the European Commission, was presented. The General Affairs Council adopted the Negotiating framework at the meeting on 19 December 2013 and it was endorsed by the European Council on 19-20 December 2013.

The draft negotiating framework prepared for Serbia by the European Commission is divided into three parts: principles governing the accession negotiations, substance of the negotiations and the negotiations procedure, with also some specific provisions relating primarily to progress of Belgrade-Pristina relations.

Serbia developed its own negotiating platform, which contains its commitment to the EU objectives, readiness to comply with the EU *acquis*, explanation of the manner and timescale for alignment with the EU *acquis* in a given sector, as well as general indications of the areas where a transitional period for the adoption of the *acquis* or special arrangements or exemptions/opt-outs might be necessary.

2) First Intergovernmental Negotiating Conference

Negotiations on accession are conducted within the framework of an Intergovernmental Conference of EU Member States, on the one hand, and the candidate country, on the other.

The first meeting of the Intergovernmental Negotiating Conference is an important political milestone, as it constitutes **the formal commencement of the negotiations with the EU**. It is an opportunity to exchange general positions between the EU and the candidate country, to present the negotiating teams and propose the calendar of meetings within the screening process which precedes the substantial negotiations. The First Intergovernmental Conference with Serbia was held on 21 January 2014, which marked the formal opening of accession negotiations between Serbia and the EU.

3) Legislation screening reports

The opening stage of accession negotiations was followed **by the phase of analytical screening of the legislation of the candidate country and assessment of the extent to which it has been aligned with the EU *acquis***, in respect of each negotiating chapter. One of the basic objectives of screening is to **identify the differences** existing between the legislation of the candidate country and the EU *acquis*, in each of the negotiating chapters.

The phase of analytical screening of the legislation begins with the so-called **explanatory screening** within which the EC presents to the candidate country the *acquis* divided into negotiating chapters. Subsequently, an assessment is being made, through the so-called **bilateral screening**, of the level of alignment of the candidate country's legal system with the EU *acquis* and

it is determined what still needs to be done to achieve alignment with the EU acquis pending full membership.

Screening process for Serbia started in September 2013 and lasted until May 2015.

After the screening meetings, **the EC presented to the Member States a Screening report containing recommendations on the commencement of the negotiations** on a specific chapter or, if so assessed by the EC, also the opening benchmarks for specific chapters. Opening benchmarks are related to requests for the adoption of strategies and action plans, meeting the contractual obligations towards the EU, primarily the implementation of the Stabilization and Association Agreement, requests for the adoption of laws and by-laws, etc. **Opening of the negotiations** on chapters for which opening benchmarks have been set **can begin only after the EU Council decides that the candidate country has fulfilled those benchmark.**

As soon as the benchmarks for opening the negotiations on a particular chapter are fulfilled, the EU Council **invites Serbia to present its negotiating platform/position** for a specific chapter where the reached level of alignment with the EU acquis is presented, as well as the programme of the remaining alignment, the review of the administrative implementation capacities, requests for transition periods or derogations as permanent waivers in the implementation of the acquis in a particular.

4) Draft European Union Common Position

After the presentation of Serbia's negotiating position, **the EC submits to the EU Council** for adoption **the Draft European Union Common Position** where the EU can note that the candidate country has achieved in the particular chapter a **sufficient level of alignment** with the EU acquis and that further negotiations on that chapter were not necessary. In that case, the chapter is being temporarily closed.

In most cases, the EU concludes that **the level of alignment does not allow for chapters to be temporarily closed** and that **the EU will determine the closing benchmarks** that the candidate country will have to fulfil before the chapter may be closed.

For chapters 23, 24 and 35 (in case of Serbia), the EU determined **temporary (interim) benchmarks** and only after their fulfilment, the closing benchmarks will be defined.

Furthermore, in its Common Position, the EU requests the candidate country to submit additional information and analyses, primarily in the areas for which transition periods or derogations have been requested.

5) Opening of chapters

Based on the Commission's proposal, the EU Council unanimously decides on opening of negotiations on a given chapter, which is followed by an Intergovernmental Conference at which the chapter is opened.

In rare instances where there are no interim benchmarks and closing benchmarks, a chapter can be opened and closed at the same Intergovernmental Conference.

6) Negotiations and closing of chapters

Negotiations on specific chapters are opened and temporarily closed within the framework of the Intergovernmental Conference.

If **closing benchmarks** have been agreed, the candidate country will continue the work on their fulfilment and regularly submit to the Commission a progress report to that effect.

When the Commission notes that closing benchmarks have been fulfilled, the chapter can be formally closed at an Intergovernmental Conference, provided that all Member States agreed. Furthermore, the chapters are considered temporarily closed pending conclusion of the accession negotiations.

In the event of serious violation of the basic EU principles, the EU Council may decide, at the recommendation of the Commission or one third of EU Member States, on **temporary suspension of the negotiations and the conditions** that the candidate must fulfil before the negotiations can resume.

The duration of the negotiations largely depends on the period of time in which the candidate country will be ready to fully respect the obligations emanating from EU membership. On the other hand, it also depends upon EU readiness to admit new Member States.

7) Closing of all chapters

The negotiations on EU accession are concluded once the EU and the candidate country have reached agreement on all 35 chapters, and when that is confirmed by the European Council. Prior to this, there is a possibility of reopening the chapters if a candidate country does not deliver on the commitments it has assumed. Ahead of the conclusion of the accession negotiations, it is necessary to determine the entry date because of the need to close, in particular, those chapters having financial implications.

After closing the negotiations on every single chapter, the EC will draw up a **special report with an overview of the situation and assessment of the overall preparedness of the candidate country** to undertake responsibilities based on EU membership, with a recommendation to conclude the accession negotiations. This recommendation will undergo the same procedure on the level of the EU Council, which will agree that the Final Intergovernmental Conference formally takes note of the fact that the negotiations have been concluded and proposes the signing of the Accession Treaty and the date of receiving the status of an EU Member State.

8) Signing of the Accession Treaty

The results of the negotiations are incorporated into the draft Accession Treaty which contains: accession date, negotiation results, conditions for accession and transitional measures in areas identified by the Commission as requiring further harmonization, adaptation of institutions and agreements, distribution of votes in the EU Council and the European Parliament, number of Members of the European Parliament envisaged for the candidate country, etc.

The Treaty will be examined by the Commission and the European Parliament before a unanimous decision is adopted by the Council of the European Union. The Treaty is, subsequently signed by the candidate country and by representatives of all EU Member States.

9) Ratification and full membership

In the period between concluding the Accession Treaty and the envisaged accession date, the Treaty is subject to ratification in the EU Member States and the acceding State. Only after ratification has been completed in all of the above states, the candidate country will actually become a full-fledged EU member.