

EU enlargement policy – general framework, conditionality policy, process, policy analysis and key documents

Ass. Prof. Dr Fjorda Shqarri

Faculty of Law, University of Tirana

I. General considerations about the creation and nature of European Union

During the years of World War II, several attempts were made to define the lines of the European future, ideas which later laid the foundations of a common European future. The one who is known as the spiritual father of a united Europe is Jean Monet, who declares that *"There will be no peace in Europe if the foundations are rebuilt on the basis of national sovereignty through which the policy of prestige and protection is promoted. economic ... European countries are very close to each other and can ensure the prosperity of their peoples that modern conditions require and therefore are necessary ... Their prosperity and subsequent social developments are impossible if that the states of Europe do not form a federation or a European entity that brings about a common economic unity."*

The fact is, that history itself has shown in some cases that the European balance has been destroyed precisely as a result of the breakdown of Franco-German relations and their hostilities, so it was rightly thought that it should be found a mechanism to balance these two factors and often is said that at the heart of post-war European reconstruction efforts have been "a French initiative to overcome a German problem".

However, the recovery of Europe at that time took place in a climate of tension and obstacles from the main victorious states, at a time when in the east the Soviet Union had established supremacy over the countries of Eastern Europe and in the west the

United States of America were actively working for economic-political progress. The co-operation of the states of Western Europe, despite different points of view, had essentially three common motives:

- a) the need to maintain peace and the non-recurrence of conflicts;
- b) the purpose of the economic, social and political recovery of post-war Europe;
- c) the aim of returning Europe to the role of potential leader at world level;

These conditions and circumstances gave impetus to the projects to create a United Europe, capable of maintaining peace and stability in the region, to restore the economy and make Europe a world leader, but we must keep in mind that European leaders weren't in agreement on the formula of this union. Regarding the nature of European integration, three main theories have been outlined:

The objective of the federalist theory was to create a European federal state, which, respecting the national identity of the state, would be able to establish a real cooperation between the European peoples and avoid the recurrence of conflicts in the future. The draft envisioned Europe as a federation with a central government and the transfer of sovereignty to the federal authorities. It is clear that a union that requires total delegation of sovereignty to a Europe with rivalries and tensions would be impossible to succeed.

Confederalist theory provided for various forms of agreements between states for a wider and deeper cooperation, but without affecting the state mechanisms that express the state sovereignty. So European cooperation within this theory should be intergovernmental and leave intact the sovereign privileges of the member states, which could express their will through agreements on what would be the path to be followed in the cooperation process.

According to this theory, cooperation between states can continue only if there is a common will and that joint organizations would be created only to fulfil the set by member states, to pursue common policies. This formula of cooperation allows the creation of interstate organizations for the realization of confederal objectives, but which depend on the will of the member states, implying that this union itself would be weak and non-solid. In fact, the confederations themselves as forms of union of states

are not consistent unions and such a form would not be appropriate to ensure interaction and to achieve those objectives that European states had in this regard.

The third theory is the functionalist one, which has an intermediate position between the two theories mentioned above. According to this theory, European integration could only be achieved through successive sectoral integrations. This integration would be achieved through the gradual transfer of tasks and functions to well-defined sectors. This gradual transfer of competencies will create institutions independent from the states, able to lead this union. This idea found extensive support as it enabled cooperation by overcoming the many problems that arise due to the possible transfer of all sovereign competencies. On the basis of this theory, three European Communities were subsequently built.

Based on the theory on which it was created, the question that naturally arises is : what is the status of the European Union today in the context of international law? If we analyse it from this point of view, certainly not having the character of a federation we say that is not a state, but as long as it is characterized by the partly transfer of competencies from member states to the union bodies, we are dealing with a special organization by sui generis nature.

II. Characteristics of EU system as a sui generis entity

This supranational body has a sui generis political system, because it is multi-layered, with a decision-making character and with special decision-making procedures. It is clear that the European Union functions are different from states, but also different from international organizations and it is currently something intermediate.

With the creation of the Community, the member states have given life to an independent legal order, destined to be integrated with the various national legal orders and to be able to directly influence the legal situations of particular citizens. It is precisely the ability to exercise power over states legal framework that makes this union different from any other body in international law.

III. Enlargement policy

The EU enlargement policy aims to unite European countries in a common political and economic project. Guided by the Union's values and subject to strict conditions, enlargement has proved to be one of the most successful tools in promoting political, economic and societal reforms, and in consolidating peace, stability and democracy across the continent.

Enlargement policy also enhances the EU's presence on the global stage. According to the European Commission: *"A credible enlargement policy is a geostrategic investment in peace, stability, security and prosperity in Europe. It is based on fair and rigorous conditionality and the principle of own merits. It requires candidate countries to implement complex reforms in many areas such as the rule of law, the economy, the fight against corruption and organised crime. Reconciliation, good neighbourly relations and regional cooperation are of utmost importance."*

The orientation of the European Union has been towards its future enlargement and this is based on the fact that the EU treaties themselves have provided the accession article in them. The method and strategy followed for enlargement then changed from time to time. This depends on the state which aims to join as well as the specific conditions in which the Union has been at different historical moments. The biggest dilemma in terms of enlargement policy has always been between deepening or expanding integration, but over time it has been realized that the inclusion of the European region is important not only in terms of economic-political development but also in terms of international geopolitics.

Thus, the EU enlargement process is moving forward, sometimes at a fast pace and sometimes at a slow pace. After the largest enlargement of the union with the membership of Eastern European countries, there was a big discussion of "enlargement fatigue", which increased the voices of Euroscepticism. However, we must keep in mind that especially in the last 12 years, the Union has recognized several crises such as the Eurozone crisis in 2009, the refugee crisis in the east in 2015, the crisis in relations with Russia and Ukraine, and most recently the Brexit vote, that influenced the slowing down of the enlargement process, but also the increase of the membership conditions.

It must also be acknowledged that in fact the accession process with the candidate countries of the Western Balkans and Turkey has lasted much longer than in other cases and that the enlargement strategy and conditions have changed from time to time, as well as the methodology and structure of the negotiations. Enhanced negotiation framework of the EU enlargement policy towards the Western Balkans countries is based on specific, so-called six “C” principles. Conditionality, consolidation, communication, credibility, economic crisis as strong limiting factor of EU integration dynamic and the principle of presenting concrete results in the most sensitive areas through track-record mechanisms presented for the Western Balkans countries in the EU enlargement strategy.

IV. Evolution of EU enlargement

The history of European Union begins with the 6 Founding Members States: France, Germany, Luxembourg, Italy, Holland, Belgium, that concluded a consensus to create 3 European Communities with the hope to prosperity and economic cooperation.

Since the 1960s, the positive effects of Community cooperation on national economies have begun to be felt and customs duties and barriers have been reduced. During these years the Community developed various cooperative relations with Greece, Turkey and 17 African countries. In the same period, the European Free Trade Association was established, leading the United Kingdom, as a free trade area for industrial products. However, the United Kingdom, although it managed to create a common market of its own, began to be interested in becoming part of the Community and in 1961 formally submitted its candidacy for membership.

The UK's candidacy was not well received by the French government that in some cases became an obstacle to its approval, which caused a crisis between the community members, crisis that was definitively overcome with the Hague Summit in December 1970 (while in France came to power Pompidou who had a friendlier approach to enlargement). Negotiations with the United Kingdom, Ireland, Denmark and Norway opened in 1970, from which UK, Ireland and Denmark joined the union at 1973, while the Norway was welcomed to join but through a referendum Norwegian people refused the membership.

The first enlargement of the Community shifted its centre of gravity to the north of Europe, and maintaining equilibrium required the area of the enlargement to be shifted to Southern Europe. Association agreements were signed with some of these countries, such as Spain, Portugal, Greece, Turkey, Cyprus, Malta, to help them meet the political, economic and social standards required by the Treaty of Rome. The fall of totalitarian regimes and the return of Mediterranean countries to democracy opened the possibility for their membership into the European Community.

The enlargement of the Community to the Mediterranean countries undoubtedly offered new development perspectives for it, but the enlargement itself presented obvious problems because it could change the delicate political and trade balances between the Community members, especially in the agricultural sector. For this reason, a pre-accession period was set for these countries in order to fulfil the necessary reforms, and after the end of the negotiations came the second round of Community enlargement with Greece, Spain and Portugal. These countries were accepted in different moments because of national and political developments: Greece in 1981 and Spain and Portugal 1986 (also called sometimes as round three).

In 1993 the Community institutions started a series of negotiations with countries that had long applied for EU accession: Austria, Finland, Sweden and Norway. These countries in fact met the conditions for EU membership, but for various reasons, especially due to the status and neutrality between the two blocs, had not previously applied for membership, except Norway. The question of when these states could be admitted became part of the debate between the Council and the Commission, until the Maastricht European Council decided that negotiations should begin immediately after the ratification of the Maastricht Treaty. In the Maastricht Treaty it was agreed to open negotiations, the conditions of accession were specified and these countries were asked to recognize the Maastricht Treaty and the *acquis communautaire*.

Negotiations began in 1993 and were organized in parallel, but independently of each other. Due to a crisis that broke out in some EU member states, the accession act was officially signed on 24 June 1994 and subsequently ratified by the member states. On 1 January 1995, in the third round of enlargement, Austria, Finland and Sweden formally became members of the EU, while in Norway the referendum on membership was rejected for the second time.

Until the 1990s, Europe was divided into two parts: on the one hand, the countries of Western Europe with allies the United States of America, and on the other hand, Eastern Europe, the allies of the Soviet Union. Immediately after the fall of the communist regime in 10 countries of the former socialist bloc, they presented their candidacy for EU membership. Malta and Cyprus also applied for membership. The democratic reunification of Europe had many advantages both from a political, economic, strategic point of view, as well as from a cultural and social point of view, but although this was considered an irreversible process, it remained a great historical challenge.

The fact that immediate accession of candidate countries would lead to increased budget expenditures and a good portion of funding would go to the new member states, as well as the difficulties of the post-communist transition and social backwardness, forced European leaders to pursue a new enlargement strategy, and thus the Copenhagen European Council adopted the criteria that candidate countries must meet before accession. After that, negotiations were opened with these countries. The pre-accession process was not easy for these countries, however after many efforts in 2004 came the fourth EU enlargement round with 8 Eastern European and Baltic countries, Malta and Cyprus. Three years later, the accession treaty with Romania and Bulgaria was signed, marking the fifth enlargement of the EU.

While the Union was preparing for the fourth and fifth rounds of enlargement, a number of new states, most of which had been created by the disintegration of the former Yugoslavia, had submitted their membership applications. These countries of Southeast Europe, which later in the EU strategic documents are named after the Western Balkans states, were included after 1999 in the process of stabilization and association, a process created by the EU specifically for this region. All these countries sign the Stabilization and Association Agreements, with hope that with the progress of reforms and internal developments they could join in the future this union. Of these countries, only Croatia managed to join the European Union in 2013, which also marked the sixth round of enlargement. Croatia's membership increased the number of EU members to 28, but after the United Kingdom withdrew from the union the number of member states dropped to 27.

V. Future of EU enlargement

The EU enlargement policy, as mentioned above, is considered one of the most successful EU policies, as it has given it new incentives and created the opportunity to be a global factor and increase Europe's influence in the international arena. By this we mean that EU enlargement policy will certainly continue to be a priority for it, but the mechanisms that will be used for new memberships or evaluation of fulfilment of acceptance criteria will be further refined and sophisticated. As we discussed in the enlargement rounds, in the years '99 were submitted the applications for EU memberships from the Western Balkan countries, and was opened the process of stabilization and association. Of course, from the moment of the pre-accession phase of the Eastern European countries, were evident a part of the challenges and difficulties that could be posed by the future membership of the countries, which come from dictatorial and authoritarian systems, countries which have a small economic and political development but also have another perception in the state functioning and policies, and construction of relations and social formations.

We must keep in mind that the countries of the Western Balkan region came from a difficult period of conflicts that had created hostilities and serious wounds between them, and between people, destroying part of the interpersonal relations between them. In these conditions, Europe found itself in a more problematic multidimensional context and facing big dilemmas.

On the one hand there was the dilemma of what would be the most appropriate strategy for enlargement, in a situation when these countries had new characteristics and the transitional justice processes had not progressed, and if was a good idea to expand in a situation where the risk of importing a political tension climate was evident. On the other hand, being these countries with a small economic development, it would take a lot of work in terms of adapting markets and other indicators to the EU and many investments and assistance from it, will be required.

However, the idea of the European political elite and EU leaders was that the Balkan is an integral part of Europe and its unification would not be called complete until its south-eastern part was included. So, from the EU point of view the Western Balkans mattered, and it set itself some objectives for this region where we could mention the creation of a lasting peace, the building of strong states with an efficient administration,

the strengthening of the rule of law, the improvement of conditions economic growth, increased regional cooperation and reconciliation.

However, it must be said that for various reasons, the EU's policy and determination towards the Western Balkans has had its ups and downs. Thus, after Croatia's membership, also due to the Eurozone crisis, it was declared that there will be no new memberships for a period of 5 years. EU attention returned strongly after the Brexit process and the secession of the United Kingdom gave a new impetus to the enlargement policy towards the Western Balkans. Despite this increased attention in 2018, the EU developed a new Enlargement Strategy and what is more important a new methodology for the conduct of negotiations.

The future of EU enlargement seems somewhat unclear in terms of perspective and moment when enlargement may come. Currently in the Balkan region are holding the status of candidates for membership Serbia and Montenegro with which negotiations have begun, Albania and the Republic of North Macedonia, for which the opening of negotiations has been approved but have not yet officially started and the status of potential candidate Bosnia and Herzegovina and Kosovo. Out of the region Turkey also holds the status of candidate country in the negotiation process. Recent communications from the institutions initially envisioned Serbia and Montenegro gaining membership in 2025, but further communications say it could be a very ambitious and difficult goal to achieve.

VI. Accession as an institute of the law of treaties

EU membership means accession to its treaties, so it is important to understand something more about the concept of accession itself, before moving on to other issues related to enlargement policy. Accession is an important institute of international law, especially of the law of treaties. The process of concluding a treaty between its parties goes through several stages such as negotiations, the expression of consent to be bound by a treaty and its entry into force. The meaning of accession is given in article 2 / b of the Vienna Convention "On the Law of Treaties" according to which "*accession*" means in each case the international act so named where a State establishes on the international plans its consent to be bound by a treaty"; Whereas Article 15 of this

Convention stipulates that *“The consent of a State to be bound by a treaty is expressed by accession when: (a) the treaty provides that such consent may be expressed by that State by means of accession; (b) it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or (c) all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.*

Thus, according to this convention, accession is a tool of expressing the consent of a state to be bound by an international treaty, but unlike other means of expressing consent, the peculiarity of accession is the fact that in this it means the membership of a the state in a treaty at a later time than its signature or entry into force for the other parties. Thus, a state that becomes part of a treaty through accession means that it has lost the opportunity to participate in the negotiation process and at the moment of accession is obliged to accept its content as it is. On the other hand, the accession and the conditions to which a state adheres to a treaty depend on the provisions and content of the treaty itself.

As we know, international organizations are derivative subjects of international law as they are created by states through treaties, which in this case have a constitutive nature. States which sign and ratify such a treaty before the commencement of the organisation's activities shall be deemed to be its original members. All other states that want to become members of organizations after this moment must do it through the process of accession to the treaty that created the organization. Usually the accession to a treaty of this nature does not simply require the expression of consent to be bound of the state that seeks to join, but there are also conditions and procedures that must be followed for this type of accession.

Usually through the bodies that the organization has, is verified the fulfilment of the conditions for membership or accession and then the consent of other member states of the organization is required. The means of expressing the consent from the existing parties may vary from one treaty to another as they may require the consent of a majority of the members or the expression of consent unanimously. The case of the European Union is one of those cases where a state which seeks membership, not only must comply with some very strict conditions but also must have the consent of all states participating in these treaties to provide accession to them.

Actually, the conditions for accession in the EU are foreseen in the art.49 of the EU Treaty (as we will discuss below) which provides the necessity for the consensus of all existing parties to new membership “...*The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements*”.

VII. Conditionality - Who can join???

Each international organization in its constitutional treaty also provides the conditions for the accession / membership of new members, according to the purpose and objectives of its activity provided in this treaty. In addition to the conditions for new accessions to this treaty, is defined also the procedure to be followed for new membership and this may vary depending on each organization. Meeting the criteria set out in the treaty establishing the organization for new admissions does not in fact make a state automatically a member, but a potential candidate to join in the future on the basis of the membership procedure.

Also these criteria are minimal or basic ones which should not necessarily be the only ones applied on the candidate, as the organization itself can set other additional criteria whether these are of a general nature or even only for specific candidates (this is discussed by the International Court of Justice in the First Admission Case). Today in international law there is no rule to oblige an organization to accept new members against its will or to prevent it from setting new criteria and on the other hand the fulfilment of the assessing criteria is a procedure that will be evaluated by the organization itself.

Regarding the European Union and the new memberships, we can say that works the same principle. The EU Treaty stipulates the main conditions that an applicant must fulfil and then, additional conditions are set for each of them depending on individual characteristics.

Eligibility to join the EU has been mentioned in the article 2 and article 49 of TEU as

they set general conditions, without the fulfilment of which, a state cannot even apply to become part of the union, so they make a *conditio sine qua non* for future membership. So this process in terms of conditionality goes through several stages: the fulfilment of general conditions; meeting Copenhagen Criteria; meeting other conditions imposed by special agreements; following the procedure provided in TEU and special agreement between EU and applicant states.

P9 The first stage is defined by Article 2 and specifically for a state to be eligible to apply for membership it must first be a European state, given that the European Union is an organization of regional character. This applicant must share the same values with other member states of the European Union in particular respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, the rights of persons belonging to minorities. For a state to be acceptable, its political and economic developments must also be taken into account, as Article 2 clarifies that these EU values are common in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

P10 Once this requirement has been met, we can talk about the second phase provided for in Article 49 of the TEU, which explains the criteria set by the Copenhagen Council in 1993 and subsequently met by the Madrid Council in 1995. The criteria for membership require the candidate country to provide the political, economic and legal criteria, namely:

1. stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
2. a functioning market economy and the capacity to cope with competition and market forces in the EU;
3. the ability to take on and implement effectively the obligations of membership, including the aims of political, economic and monetary union.
4. the candidate country must be able to apply EU law and must be able to ensure that the EU law transposed into national legislation is implemented effectively through appropriate administrative and judicial structures.- The European Council of Madrid, December 1995.

Candidate countries must fully respect and accept the *acquis communautaire* and this is achieved through the process of approximation of existing legislation with that of the

EU. Based on the Stabilization and Association Agreements, the approximation of legislation is realized in two phases: in the first phase the approximation covers some areas and essential elements that have to do mainly with the common market, while in the second phase all the other areas that weren't included at the first phase. Approximation is carried out on the basis of a program agreed between the Commission and the associated state.

P11 After that it is possible to move on to other phases related to the special conditions that the EU sets for each candidate, since the advancement and membership is done on the basis of individual achievements and progress.

VII. Procedure for joining EU

The main steps/ procedure to access the EU is foreseen in the art. 49, and according to which *“Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union. The European Parliament and national Parliaments shall be notified of this application. The Applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.”*

From the interpretation of this article we understand that the journey to the EU passes through various phases, which need to be fulfilled in a chronological order from the moment of application until the moment of full EU membership.

The first stage is the moment of application, which expresses the will of a state and its will to join. This formal application is lodged with the Council of the EU by the European country fulfilling criteria contained in Article 2 of the TEU. The Council of

the EU informs the European Parliament, the European Commission and national parliaments about the application.

After this moment, starts the review of the application by the European Commission, which for this process also consults the Council of the EU and then drafts an opinion on the admissibility or not of this application. The opinion of the Commission opens the procedure for the voting of this candidacy by the member states, which, if they agree unanimously, can give the applicant the candidate status.

After obtaining the candidate status, the relations between the EU and the country in question are established for the pre-accession period, during which the candidate country with the support of the EU, tries to meet the necessary conditions to become part of the union. This phase is usually accompanied by the EU Enlargement Strategy which sets out the EU criteria and priorities for the candidate country. For the countries of the Western Balkans, as we will explain in other topics of this course, has been created the Process of Stabilization and Association and the pre-accession phase has been accompanied by new successive conditions for them during this time.

After conditions are met and the Member States are satisfied, following a recommendation from the Commission, they may decide unanimously to open negotiations with the candidate country. The negotiations framework is proposed by the Commission.

The question that may arise is why negotiations are needed when it is assumed that at the end of the pre-accession phase the state has met the accessing conditions?

The first reason is related to the member states, all sovereign states that have their impact at the EU organization and functioning and each of them should express the consent to welcome the future members.

The second reason is related to the legislation of EU, which mostly refers to member states and Union itself more than new future member states

and the third reason is the political will of the parties to accept new states into the union.

Negotiations take place in intergovernmental conferences between the governments of the EU countries and of the candidate country. The *acquis* (the body of EU law) is

divided into policy areas in view of the effective organisation of negotiations and there are currently 35 ‘chapters’. The Council of the EU may set opening or closing benchmarks for all chapters or interim benchmarks for certain specific chapters. With the new negotiations methodology, as we will discuss below, the chapters are converted in 6 clusters and each of the candidate countries should closed each of them in order to achieve accession.

A decision to set benchmarks is based on a report resulting from the evaluation of the fulfilment of each cluster and usually the negotiations begin from the easiest ones. A cluster can only be provisionally closed when the candidate country shows that it has already implemented the acquis of a given cluster — or that it will implement it by the date of accession and fulfilled benchmarks where such have been set. During the pre-accession phase, the Commission monitors the candidate country's efforts to implement the acquis. It also assists the candidate countries during the process with pre-accession funding instruments, such as TAIEX.

This was the structure of the negotiations until 2020 and on the basis of this structure the first chapters were opened with Serbia and Montenegro. The EU’s Commission revised the accession tasks framework and on February 2020 published the “New methodology for the accession negotiations”, which was adopted by the Council in March 2020. According to this new methodology, the negotiations will take place with six thematic clusters, namely 1) fundamentals, 2) Internal market, 3) Competitiveness and Inclusive Growth 4) Green Agenda and Sustainable Connectivity 5) Resources, Agriculture and Cohesion 6) External Relations.

Passing any of these phases will enable the candidate country to gradually join various EU agencies until it achieves full membership. What also changes in this new methodology is the fact that the Commission no longer has the role of leader during this process, as at the end of each cluster the approval of the member states is required and on the other hand if member states see a withdrawal of the candidate country in fulfilling of the criteria they may even withdraw the consent. This new methodology makes the process more challenging and difficult and also slows it down.

In addition, in the case of Albania, another procedure has been followed, because despite the fact that the opening of negotiations has been decided, for this country has been set 15 preconditions, the fulfilment of which will be discussed in 2

intergovernmental conferences and after their fulfilment the opening of negotiations can begin. However, this process has to be seen, because it is not yet known what will be the mechanism that will measure or evaluate the progress of these country in terms of fulfilling these preconditions set out from EU or what will be the satisfactory level of achievement of these objectives that will serve as a benchmark for their fulfilment.

As Albania and the Republic of Northern Macedonia are the first countries with which this new methodology will be used from the beginning of negotiations, it remains to be seen what will happen to other countries in the future.

During this phase transitional arrangements are also discussed and decided. The parties discuss whether (and how) some rules can be introduced gradually to allow the accession country or EU Member States (countries) time to adapt. This is mainly discussed during the final stages of the negotiations. Once negotiations on all areas are finalised, Commission gives its Opinion on the readiness of the country to become a Member State.

The Commission informs the Council of the EU and the European Parliament throughout the process, in particular by means of the annual enlargement packages composed of a horizontal strategy paper in the form of a communication on enlargement policy and country reports.

These documents are discussed in the European Parliament which submits its observations in resolutions adopted by plenary meetings. Candidate countries also draw up annual national programmes in which they assess their own progress in implementing the different parts of the acquis. Based on this Opinion, EU Member States decide unanimously to close the negotiation process. The European Parliament must also give its consent for this process because after this point the candidate state is ready to go to the final status – member state.

Once accession negotiations have been accomplished after final closing of all chapters in a package or clusters according to the new methodology, an accession treaty is prepared and finalised by a drafting conference of the EU Member States (countries). The accession treaty must be approved unanimously by the Council of the EU and must receive the consent of the European Parliament. The treaty is then signed by each of the EU Member States and by the accession country. Before coming into force, the

accession treaty must be ratified by each EU Member State and by the accession country, according to their respective constitutional procedures.

VIII. Withdrawal (as a possibility)

The withdrawal of a state from the EU Treaties was not foreseen until 2009 and was considered as a possibility only with the Lisbon Treaty. The possibility to withdraw from EU is provided in art. 50 of EU Treaty, which permit the member state to notify the EU for its intention and after this a withdrawal agreement, will be negotiated between the union and this member state. If the parties will not come to a joint conclusion then the withdrawal will be possible 2 years after the notification.

The notification of the withdrawal is made to the European Council and then the withdrawal agreement is concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament. So this process has 2 stages: the process of negotiations, given the way the EU works, it is clear that the parties must discuss many issues before definitively cutting relations between them, which are very complicated due to delegation of competencies and portions of sovereignty. So practically with the membership a state delegates parts of sovereignty and state competencies to the EU bodies, while with the withdrawal it is the opposite the EU bodies have to transfer their competencies to the state bodies and this process definitely has its own specifics. The second stage is the definition of the future relations of the withdrawing state with EU, because as the EU is an order that directly affects the national order and the situation of individuals, it should be clarified what would happen to the rights acquired in the framework of participation in the union up to that moment and how the problems will be solved.