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RESEARCH ARTICLE



On the Accession of Spain to the European Communities

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Abstract

The article deals with the enlargement of the European Communities (hereinafter EC). Author outlines key questions of the accession of Spain to the EC. Main attention is paid to the characteristics of the conditions of the accession of Spain to the EC. The article explores the role of public authorities of Spain in the implementation of EC documents in Spain. Author investigates the doctrine of relationship between EC norms and Spanish national law.

Keywords: European Communities; EC enlargement; Spain; the accession of Spain to EC; the conditions of accession of Spain to the EC.

Introduction

The relations between Spain's General Franco and Communities were not easy [see: 26]. The Spanish authorities having received considerable military and political support during the Civil war of 1936-39 and assisted Germany after that were perceived by many European politicians as «the remnants of the age" [see: 10; 14; 32; 34; 39].

After the war Spain paid a high price for its "sins". Spain was forbidden membership in the United Nations and in the specialized agencies of the United Nations. The country was excluded from the projects of the organizations arisen on the basis of the US policy on the reconstruction of the countries of the European continent [29].

Materials and methods

The main sources for writing this article became the official documents of the EC, Spain, materials of the journal publications and archives.

The study used the basic methods of cognition: the problem-chronological, historical and situational, systemic and the method of comparative law. Author's arguments are based on problem-chronological approach. The use of historical and situational method allows to reproduce assessment approach to the problem of the Spanish law and EC law. Method of comparative law defines the difference in views on actual rules of activity of Spanish authorities. A systematic method does achieve a variety of disciplines (international law, EC law, Spanish law etc) accessible and comparable, as present is determined by the past and the future - by the present and the past.

Discussion

Spain not invited to participate at the early stages of European integration [27]. The creation of the European coal and steel community in 1951 happened without Spain. Spain was also excluded from the negotiations that led to the signing of the Treaties of Rome in 1957 which included the creation of Euratom and the European economic community. The creation EEC in 1957 led to discussions about the future of this European project within the framework of the Spanish government, as well as political and economic problems that it could create for Franco.

The removal of the state from major continental markets prompted the Spanish government to improve bilateral relations with the leading States of the EC. Spain began to interact with France successfully and in 1957 the Agreement on trade [31] was signed. In 1959 the tercentenary of the Iberian peace Treaty was celebrated. The Spanish government was doing everything possible to gain the trust of Germany which actively tried to restore its national sovereignty. Consequently, Spain could benefit from Association with France and Germany where the absence of a strong supranational institutions could give the leading countries decisive right to vote when considering future applications for membership [21].

Article 237 of the Treaty of Rome 1957 provided that "any European state may apply to become a member of the Community". However, the adoption of new members in the EC demanded not only the unanimous support of the governments of all the States of the Communities, but also the approval of the national parliaments. Italy and the Benelux countries were hostile towards Spain.

The signing of the agreement EC of cooperation with Greece in July 1961, as well as the beginning of negotiations with other countries, confirmed that Spain had no other choice but to join the EC. At the same time, F. Franco feared that any attempt to establish closer relations with Brussels would make Spain more vulnerable to external pressure. However, Madrid underestimated the importance of the discussions taken place in the Parliamentary Assembly of the Communities in January 1962 on the report of W. Birkelbach. He stated that "states which governments did not have democratic legitimacy, the people did not participate in decisions of the government, either directly or indirectly freely elected representatives, could not rely on the presumption in the circle, which form the European Community ... the Existence of a democratic state, in the sense of free political order, is a necessary condition for membership in the Community" [33]. However, on February 9, 1962, the Spanish government officially requested "to start negotiations for the possible establishment of Association with the Community, able to lead to full integration" [11. P. 98].

On February 20, 1962 W. Birkelbach officially appealed to the Council of the EEC and the European Commission with the question: is it possible to consider the application of the regime, "political philosophy and economic practice which are in complete opposition to the concept and structure of the European Communities" [37. P. 1197-1201]. However, W. Birkelbach referred to the status of full member, not membership-based Association agreement (article 238 of the Treaty of Rome) which was originally claimed by Spain.

The representatives of Franco's regime claimed that the status of associate member could accelerate the political evolution of the country. However, the opposition argued that that would make the regime incentive to withdraw from authoritarianism [11]. In October 1962, the Committee decided that all applicants for membership in the EU had been postponed until the completion of negotiations with England. That fact allowed Madrid to blame the internal crisis in the Communities for the failure of its application [22].

In July 1967 Brussels offered Spain just the Agreement on commercial trade with politically neutral formula. Spain received support in the Community [35. P. 24].

On June 29, 1970 the efforts of the Spanish government culminated in signing of the agreement on preferential trade between Spain and the EC [3]. The agreement was quite favourable to Spanish interests. However, the value of the Agreement on Preferential Trade was significantly undermined by the entry of Great Britain into the Community on January 1, 1973 [8. P. 233-267].

The murder Prime Minister of Spain by members of ETA caused a new wave of repressions and led to the imposition of the death penalty. The refusal of the authorities to commute the sentences on that occasion led to the most serious crisis in the history of the Spanish-European relations [40]. All the EU member-states recalled their ambassadors from Spain in protest.

The Assembly (Euro parliament) and the European Commission demanded the Council to freeze negotiations on extension of validity of the Agreement on Preferential Trade 1970.

Thus, the negotiations for membership in the EC reached a deadlock. Only in April 1977, the negotiations for the settlement of the relations between Spain and Communities began [40]. On July 25, 1977 it was decided to exchange the letters in order to ensure the application of the provisions of the agreement between the new three members-states and Spain separately from the Agreement with the EU from July 1, 1977.

The death of F. Franco on November 20, 1975, was met by the Spanish with a sense of hope. At the coronation in his speech king Juan Carlos declared the commitment of Spain into integration into the main institutions in Europe [24]. So we can distinguish the following stages in the process of accession to the EC.

The first stage of joining of Spain the Community began with the fact that the EC Council agreed to resume negotiations in Madrid at the beginning of 1976 [12]. That circumstance became the basis for a stormy debate in the European Parliament during which the deputies rejected the program by A. Navarro, because it contained "partial action plan" on the liberalization of the political system in Spain [19].

In 1976 the EC Assembly adopted the text of the Rapporteur on Spain M. Faure, who condemned the plans of Spain on the creation of bicameral Parliament, where a democratically elected Chamber of deputies would coexist with the "corporate" Senate. "This will not meet democratic standards, which we in the West European countries had set" [20].

The appointment in July 1976, the new Prime Minister A. Suarez improved the relationship between Spain and the EC. The parliamentary Assembly expressed satisfaction with the success of the referendum on the Act on Political Reform [4] which included the holding of free elections in June 1977, In July, the parliamentary Assembly welcomed the first since 1936 free elections in Spain by a special resolution. It expressed "hope to see Spain occupied its place in the European Community» [6]. Immediately after that, the government of A. Suarez submitted its application for membership in the Community [5]. In the autumn of 1977, the Prime Minister of Spain went on a tour to nine capitals of the EC countries-members. During the visit it became clear that the path to membership would be difficult [23. P. 215-230]. The Accession negotiations began when in 1979 Europe was in the second economic crisis, not having recovered from the first one.

The second stage was opened by applying of Spain on July 28, 1977 [5]. The Commission responded with a positive conclusion in November 1978 [7]. After approval by the Council of Ministers and the European Parliament the official negotiations began in February 1979. However, France immediately began to look for a variety of reasons for delay. The fears of Spain were confirmed in June 1980, when the President of France stated that the EC enlargement at the expense of Spain would have to wait until the consequences of the first extension of the Communities fully "not digested» [40. P. 19].

F. Mitterrand after winning the presidential election was to pursue a similar policy. In June 1982 during his first official visit in Spain, he demanded the European Commission to make "an inventory" of the problems associated with the possible extension [15]. Thus, the negotiations stalled. France insisted on the reform of the financing of the Common agricultural policy to expand to prevent the accession of Spain to the detriment of their interests, while Germany refused to increase its overall contribution to the EU budget, to make that possible.

Problems in the negotiations coincided with a deep political crisis in Spain itself, which led to the resignation of A. Suarez from the post of the Prime Minister in January 1981. The coup attempt in February of 1981 aggravated the position of Spain in the negotiations. However, the Commission formally condemned the coup and the European Parliament called for the acceleration of the accession negotiations [15]. By that time, the idea that the EC membership would help to support democratic consolidation in the country "captured the masses".

The lack of progress in the negotiations contributed to the fact that the society switched to the analysis of possible economic consequences of accession. The Spanish Confederation of entrepreneurial organizations [18] feared that the elimination of tariffs on industrial goods would lose in the fight with more effective European manufacturers. Industries feared that because of their internal political difficulties the Spanish government would accept disadvantageous conditions of accession in a desperate attempt to conclude the negotiations at any price [36. P. 33].

The successor of A. Suarez - K. Sotelo had a different point of view to the role of Spain in the world. He promised to develop "European, democratic and Western" foreign policy [16]. The application of Spain to membership in NATO filed in December 1981 was partly aimed at strengthening the attractiveness of Spain in the eyes of other participants of the Washington Treaty which were also the EC members. Spain argued that it wanted to take responsibility for the protection of the West. For K. Sotelo the EC and NATO were not only compatible but complementary institutions [13].

The third stage. The victory of the socialist party of F. Gonzalez in the October elections 1982 contributed the creation of a new government with a strong popular support. The EC membership became a priority of foreign policy of F. Gonzalez.

From the economic point of view, the EC membership was far more necessary in 1982 than in 1977. Economic indicators of Spain during the past years were bad. The government faced the task of reforming outdated agriculture, poorly adjusted financial system, as well as the industrial sector, managed by inefficient state firms [16. P. 35]. The prospect of the EC membership became a catalyst for economy modernization and openness to the outside world and for adapting legacy of the state mechanism to the new demands of the Spanish society [30. P. 415-419].

In the process of preparation for membership in the EC is crucial not only the number of bilateral negotiations between Brussels and a candidate country, as the negotiations between the current members-states which are to reach consensus on the value of extension. Actually it was on the level of its compliance with the community rules. In the case of Spain the consent required of mutual understanding between France and Germany which were main trading partners for Spain.

The government of F. Gonzalez focused on the development of bilateral relations with Paris and Bonn. In December 1982, F. Mitterrand announced that the reform of the Common agricultural policy and the decision of the British contribution to the EC budget should precede the extension [28].

Madrid tried to get the support of the German Chancellor, G. Kohl, who fully supported the extension. G. Kohl directly linked to the successful resolution of a fiscal crisis with the EC accession of Spain and Portugal [28]. It became clear until the official Bonn took such a position, France would not increase the communitarian funds needed for the reform of the Common agricultural policy. The position of G. Kohl improved favourable impression of Germany in the eyes of most of the Spaniards [25. P. 28].

Nevertheless, the support of Germany did not immediately help to overcome the resistance of France. King Juan Carlos and F. Gonzalez visited Paris at the end of 1983, in a desperate attempt to make F. Mitterrand to reconsider his position. The President of France finally admitted that the second option was undoubtedly more preferable [25].

The fourth stage. The point of no return was not passed before the European Council summit in Fontainebleau in June 1984. Then there were reached the agreements regarding the "British discounts and reform of the Common agricultural policy. That allowed the nation to announce the accession of Spain and Portugal to the European Communities on 1 January 1986. However, Madrid agreed to lift the blockade of Gibraltar imposed by the F. Franco's regime in 1969 in response to British requirements [38. P. 147].

In late 1984, the government of Spain managed to convince Brussels to provide six years (instead of three years, initially proposed by the Commission) transitional period for industrial products. Under the chairmanship of Italy in the EC in March 1985 a seven-year transition period for agricultural products (with possible extension up to 10 years) was also approved.

Legal registration of the membership of Spain in the European Communities

On May 8, 1985 the European Parliament adopted a special European Parliament resolution embodying the opinion on the conclusion of the negotiations with Spain and Portugal (8 May 1985) [1]. The European Parliament welcomed the successful completion of the negotiations with Spain and Portugal and indicated that the expansion would contribute to the strengthening of relations with third countries in the Mediterranean region.

On May 31, 1985 the European Commission gave a positive conclusion about the membership of Spain and Portugal in the Community.

The signing of the Treaty of Accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and the European atomic energy Community was held on June 12, 1985 in Madrid.

Documents concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Communities are following [2]:

1) Documents concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Communities, Commission Opinion of 31 May 1985 on the applications for accession to the European Communities by the Kingdom of Spain and the Portuguese Republic;

2) Decision of the Council of the European Communities of 11 June 1985 on the accession of the Kingdom of Spain and the Portuguese Republic to the European Coal and Steel Community;

3) Documents concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Communities, Decision of the Council of the European Communities of 11 June 1985 on the admission of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy community;

4) Treaty (signed on 12 June 1985) between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Communities) and the Kingdom of Spain and the Portuguese Republic concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and to the European Atomic Energy Community;

5) Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties.

Treaty of Accession consisted of a preamble and three articles. Article 1 stated that Portugal and Spain became members of the European Economic Community and the European Atomic Energy Community. It was not mentioned about the European coal and steel community as joining that organization was carried out in accordance with the decision of the Council of June 11, 1985.

According to Art. 2 (2) of the Treaty, it entered into force on January 1, 1986, provided that all the instruments of ratification to be deposited before that date, and all the instruments of the accession to the ECSC surrendered to the Depositary prior to that date.

In the Appendix to the Agreement it contained the Act on the terms of the accession and modification of Treaties. That document consisted of 403 articles and 36 applications and 25 protocols, which in accordance with article 400 of the Act of the accession were an integral part.

The Final act was also signed. It included 49 respective declarations, some of them were joint statements of 12 members-states, other statements belonged to 10 "old" members-countries and accordingly either Spain or Portugal, statements of one of the acceding states or, finally, the statement of the German government.

The process of adaptation of Spain to the membership was to be gradual with the help of the "transition period" temporary derogation from some communitarian rules. On January 1, 1986 the beginning of a seven-year transition period was marked during which the tariffs on trade between Spain and other countries of the Community were cancelled. Transitional periods applicable to the sphere of agriculture were one of the longest (for example, 10 years for vegetables). Full freedom of movement of the labour force was achieved only by 1993, although the rights of Spanish workers in the countries-members of the Communities were guaranteed.

The results of the negotiations were satisfactory at the institutional level. The European institutions were broadened with the entry of new members into the Community. Spain was proposed ten votes of the Board and one Commissioner, or eight votes and two commissioners. Spain chose the last option which certainly reflected the respect of Spanish officials to the Commission. The Commission increased members from 14 up 17 with the addition of two commissioners from Spain and one from Portugal. The European Parliament received 60 new members from Spain and 24 from Portugal. In addition, Spain received a post of the thirteen judges in the European Court of justice. Considering that in 1985 the population of Spain was only 12 % of the EC population, and Spanish share in the total GDP of all members-countries was only 6,5 %, the average representation in the institutional structure of the EU 11 % could be considered as a major diplomatic victory.

Conclusion

The entry of Spain into the Community can be considered as a logical completion of the process of socio-economic and political convergence that began a few years before. The turning point on the way membership of Spain in the European Communities was the signing of the Preferential Trade Treaty in 1970. The Treaty confirmed, on the one hand, Pro-European orientation of Spanish foreign policy and, on the other hand, the recognition of Communities of Spain as a major partner who left the European isolation.

The focus of Spain towards the membership in the Community was dictated by economic interests of the country (the necessity of modernization, the attraction of foreign investments, as well as the opening of the communitarian market for Spanish exports of goods). The position of the Community in relation to the membership of Spain was caused exclusively by political reasons, namely the need for democratic reforms in the country.

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