



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.9.2007  
COM(2007) 521 final

Proposal for a

**COUNCIL DECISION**

**concerning the provisional application of Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in European Community programmes**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

On 22 November 2004, a Framework Agreement was signed between the European Community and Serbia and Montenegro on the general principles for the participation of Serbia and Montenegro in Community programmes<sup>1</sup>. This Framework Agreement was approved by Council Decision 2005/527/EC<sup>2</sup>, and entered into force on 27 July 2005.

However, since Montenegro became independent, on 3 June 2006, this Framework Agreement is not applicable anymore to Montenegro.

In order to grant again to Montenegro the same advantages as the other Western Balkan countries, a specific Protocol has been attached to the Stabilisation and Association Agreement (SAA) which takes over the content of the previous Framework Agreement (Protocol 8). Article 132 of the SAA states: "Protocol 8 lays down the general principles for the participation of Montenegro in Community programmes."

Pending the entry into force of the SAA, after ratification by Montenegro, the Community and the Member States, the European Commission, in accordance with the negotiating directives and Article 139 of the SAA itself, is proposing to conclude an Interim Agreement (IA) to allow the trade and trade-related provisions of the SAA to enter into force as soon as possible following SAA signature.

Protocol 8, on general principles for the participation of Montenegro in Community Programmes, cannot be part of this Interim Agreement as it does not relate to trade.

Therefore, in order to allow Montenegro to have the possibility to participate to European Community Programmes, the Commission proposes to apply provisionally Protocol 8 of the Agreement, through an Exchange of Letters between the Community and the Republic of Montenegro.

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<sup>1</sup> OJ L192, 22.7.2005, p. 28.

<sup>2</sup> OJ L192, 22.7.2005, p. 84.

Proposal for a

## COUNCIL DECISION

**concerning the provisional application of Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in European Community programmes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 thereof in connection with Article 300(2), first paragraph, first and second sentence,

Having regard to the proposal from the Commission<sup>3</sup>,

Whereas:

- (1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part (hereafter: “the Agreement”) was signed on [...], subject to its possible conclusion at a later date.
- (2) Protocol 8 to the Agreement takes over, in substance, the content, in respect to Montenegro, of the Framework Agreement between the European Community and Serbia and Montenegro on the general principles for the participation of Serbia and Montenegro in Community programmes<sup>4</sup>, which the Council concluded by Decision 2005/527/CE<sup>5</sup>.
- (3) Due to its independence, this Framework Agreement is no longer applicable in respect to Montenegro. Montenegro should, however, continue to have the possibility, as all other Western Balkan countries, to participate in European Community programmes.
- (4) It is therefore necessary to provide for provisional application of Protocol 8 to the Agreement, pending the completion of the procedures required to bring the said Agreement into force,

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<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ L 192, 22.7.2005, p. 29.

<sup>5</sup> OJ L 192, 22.7.2005, p. 84.

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement in the form of an Exchange of Letters between the Community and the Republic of Montenegro, which provides for the provisional application of Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in European Community programmes, is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision, as well as the text of Protocol 8.

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in the form of an Exchange of Letters in order to bind the Community.

Done at Brussels,

*For the Council  
The President*

ANNEX

**AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS**

**concerning the provisional application of Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of Montenegro in European Community programmes**

*A. Letter from the Community*

Brussels, [...]

Sir,

I have the honour to refer to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, signed today, and in particular to Protocol 8 on the general principles for the participation of Montenegro in European Community programmes.

Pending the entry into force of the said Stabilisation and Association Agreement, I have the honour to propose to you that the European Community and the Republic of Montenegro apply provisionally as from today Protocol 8 on the general principles for the participation of Montenegro in European Community programmes.

If the above is acceptable to the Republic of Montenegro, this letter and your confirmation shall together constitute an agreement between the European Community and the Republic of Montenegro.

Please accept, Sir, the assurance of our highest appreciation.

*On behalf of the European Community*

[signatures]

*B. Letter from the Republic of Montenegro*

Brussels, [...]

Sir,

I have the honours to acknowledge receipt of your letter of today's date which reads as follows :

“ I have the honour to refer to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, signed today, and in particular to Protocol 8 on the general principles for the participation of Montenegro in European Community programmes.

Pending the entry into force of the said Stabilisation and Association Agreement, I have the honour to propose to you that the European Community and the Republic of Montenegro apply provisionally as from today Protocol 8 on the general principles for the participation of Montenegro in European Community programmes.

If the above is acceptable to the Republic of Montenegro, this letter and your confirmation shall together constitute an agreement between the European Community and the Republic of Montenegro.”

I am able to confirm that the Republic of Montenegro is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest appreciation.

*On behalf of the Republic of Montenegro*

[signature]

## PROTOCOL 8

### ON THE GENERAL PRINCIPLES FOR THE PARTICIPATION OF MONTENEGRO IN EUROPEAN COMMUNITY PROGRAMMES

#### *Article 1*

Montenegro shall be allowed to participate in the following European Community programmes:

- a) the programmes which are listed in the Annex to the Framework Agreement between the European Community and Serbia and Montenegro on the general principles for the participation of Serbia and Montenegro in Community programmes<sup>6</sup>,
- b) Programmes established or renewed after 27 July 2005 and which contain an opening clause which foresees the participation of Montenegro.

#### *Article 2*

Montenegro shall contribute financially to the general budget of the European Union corresponding to the specific programmes in which it participates.

#### *Article 3*

Montenegro's representatives shall be allowed to take part, as observers and for the points which concern Montenegro, in the management committees responsible for monitoring the programmes to which Montenegro contributes financially.

#### *Article 4*

Projects and initiatives submitted by participants from Montenegro shall, as far as possible, be subject to the same conditions, rules and procedures pertaining to the programmes concerned as are applied to Member States.

#### *Article 5*

The specific terms and conditions regarding the participation of Montenegro in each particular programme, in particular the financial contribution payable, will be determined by agreement, in the form of a Memorandum of Understanding, between the Commission, acting on behalf of the Community, and Montenegro.

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<sup>6</sup> OJ L192, 22.7.2005, p. 29.

If Montenegro applies for Community external assistance on the basis of Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)<sup>7</sup> or pursuant to any similar Regulation providing for Community external assistance to Montenegro that may be adopted in future, the conditions governing the use by Montenegro of the Community assistance shall be determined in a financing agreement.

#### *Article 6*

The Memorandum of Understanding shall stipulate, in accordance with the Community's Financial Regulation, that financial control or audits will be carried out by, or under the authority of, the European Commission, OLAF and the Court of Auditors of the European Communities.

Detailed provisions shall be made on financial control and auditing, administrative measures, penalties and recovery enabling the European Commission, OLAF and the Court of Auditors to be granted powers equivalent to their powers with regard to beneficiaries or contractors established in the Community.

#### *Article 7*

No later than three years after the date of entry into force of this Agreement, the Interim Committee may review the implementation of this Protocol on the basis of actual participation of Montenegro in one or more European Community programmes.

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<sup>7</sup> OJ L210, 31.7.2006, p. 82.