COMMISSION OF THE EUROPEAN COMMUNITIES

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sauf le NL.

Proposal for a

COUNCIL DECISION

on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina

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(presented by the Commission)

{SEC(2004) 375}

EXPLANATORY MEMORANDUM

The Thessaloniki European Council of 19 and 20 June 2003 reiterated its determination to fully and effectively support the European perspective of the Western Balkan countries and stated that "the Western Balkans countries will become an integral part of the EU, once they meet the established criteria". It endorsed the Council's Conclusions of 16 June 2003 on the Western Balkans including the annex "The Thessaloniki Agenda for the Western Balkans: moving towards European integration", which aims at further intensifying relations between the European Union and the Western Balkans, building also on practices used in the enlargement process, inter alia through the introduction of European Partnerships. The Commission has been invited to submit the first set of European Partnerships to the Council for approval with the next Annual Reports on the Stabilisation and Association process (SAp) due end of March 2004.

The European Partnership for Bosnia and Herzegovina is based on the provisions of Council Regulation (EC) No. 533/2004. It lists short- and medium term priorities for Bosnia and Herzegovina's preparations for further integration with the European Union identified in the Commission's 2004 Annual Report and serves as a checklist against which to measure progress. The European Partnership for Bosnia and Herzegovina reflects its current stage of preparation and is tailored to its needs. Bosnia and Herzegovina is expected to respond to the European Partnership by preparing a plan with a timetable and details of how it intends to address the European Partnership's priorities. The progress in implementing the priorities will be monitored regularly by the Commission, notably in the SAp Annual Reports and through the structures set up under the SAp.

The European Partnership priorities should form the basis for programming of the financial resources making up Community assistance, which will continue to be the assistance provided for under existing financial instrument(s), in particular Council Regulation (EC) No 2666/2000 of 5 December 2000 (CARDS).

The proposed Council Decision has no financial implications.

In view of the above, the Commission invites the Council to adopt the attached decision.

Proposal for a

COUNCIL DECISION

on the principles, priorities and conditions contained in the European Partnership with Bosnia and Herzegovina

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 533/2004 on the establishment of European Partnerships in the framework of the Stabilisation and Association process[1] and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) The Thessaloniki European Council of 19 and 20 June 2003 endorsed the "Thessaloniki Agenda for the Western Balkans: moving towards European integration" where the drawing-up of European Partnerships is mentioned as one of the means to intensify the Stabilisation and Association process.

(2) Council Regulation (EC) No 533/2004 sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities and conditions to be contained in the European Partnerships, as well as any subsequent adjustments.

(3) Council Regulation (EC) No 533/2004 states that the follow up of the implementation of the European Partnerships will be ensured through the mechanisms established under the Stabilisation and Association process, notably the Annual Reports.

(4) The Commission's 2003 Feasibility Study and 2004 Annual Report present an analysis of Bosnia and Herzegovina's preparations for further integration into the European Union and identify a number of priority areas for further work.

(5) In order to prepare for further integration into the European Union, Bosnia and Herzegovina should develop a plan with a timetable and details in terms of measures Bosnia and Herzegovina intends to take to this end.

[1] OJ L.

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 1 of Council Regulation (EC) No 533/2004, the principles, priorities and conditions in the European Partnership for Bosnia and Herzegovina are set out in the annex hereto, which forms an integral part of this Decision.

Article 2

The implementation of the European Partnership shall be examined through the mechanisms established under the Stabilisation and Association process.

Article 3

This Decision shall take effect on the third day following its publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council
The President

ANNEX

1. INTRODUCTION

The Thessaloniki Agenda identifies ways and means of intensifying the Stabilisation and Association process, inter alia through the introduction of European Partnerships.

Based on the Commission's Annual Report, the purpose of the European Partnership for Bosnia and Herzegovina is to identify priorities for action in order to support efforts to move closer to the European Union within a coherent framework. The priorities are adapted to Bosnia and Herzegovina's specific needs and stage of preparation and will be updated as necessary. The European Partnership also provides guidance for financial assistance to Bosnia and Herzegovina.

It is expected that Bosnia and Herzegovina will adopt a plan including a timetable and details in terms of how they intend to address the European Partnership priorities. The plan should also indicate ways to pursue the Thessaloniki agenda, the priorities on fighting organised crime and corruption identified at the 2002 London Conference and at the Ministerial meeting held in Brussels on 28 November 2003 in the framework of the EU-Western Balkans Forum and the measures presented by each of the Western Balkan countries at the meeting of 5 November 2003 in Belgrade as a follow-up to the Ohrid Conference on integrated border management.

2. PRINCIPLES

The Stabilisation and Association process remains the framework for the European course of the Western Balkan countries, all the way to their future accession.

The main priorities identified for Bosnia and Herzegovina relate to its capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the Stabilisation and Association process, notably the conditions defined by the Council in its Conclusions of 29 April 1997 and 21 – 22 June 1999, the content of the final declaration of the Zagreb summit of 24 November 2000 and the Thessaloniki agenda.

3. PRIORITIES

The Commission's Annual Report assesses progress made and notes areas where the country needs to increase its efforts. The priorities listed in this European Partnership have been selected on the basis that it is realistic to expect that Bosnia and Herzegovina can complete them or take them substantially forward over the next years. A distinction is made between short-term priorities, which are expected to be accomplished within one or two years, and medium-term priorities, which are expected to be accomplished within three to four years.

The European Partnership indicates the main priority areas for Bosnia and Herzegovina's preparations for further integration into the European Union, based on the analysis in the Feasibility Study and the 2004 Annual Report. It should be recalled that where legislative approximation is concerned, incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to prepare its full implementation.

3.1 SHORT-TERM

POLITICAL SITUATION

DEMOCRACY AND RULE OF LAW

- ***Prepare elections –*** BiH should assume full organisational and financial responsibility for the 2004 municipal elections.

- ***More effective governance -*** Implement the Law on the Council of Ministers and the Law on Ministries. Convene meetings of the Council of Ministers and of Parliament with sufficient regularity to tackle government business expeditiously. Ensure that new State ministries and institutions created by the 2002 Law on the Council of Ministers become properly operational. Implement fully the 2003 – 2004 "Action Plan for Priority Reforms" and establish for 2004 (and following years) a consolidated State-level government work plan matching policy priorities with budgetary resources. *(Feasibility Study recommendation)*

- ***Follow up security sector reforms -*** Implement the Law on Defence. Adopt and begin to implement the Law on the Intelligence and Security Agency.

- ***More effective public administration -*** Make further effort towards creating an effective public administration, including developing a comprehensive and cost-estimated Action Plan for public administration reform with a clear distribution of competences (for example in the areas of police and health). Fund and co-operate with the Civil Service Agencies at State and Entity levels. *(Feasibility Study recommendation)*

- ***Effective judiciary -*** Adopt legislation establishing a single High Judicial and Prosecutorial Council for BiH with the aim of consolidating appointment authority over the Entity judiciaries and strengthening the independence of the judiciary throughout BiH. Provide appropriate staff and funding for the State Court. *(Feasibility Study recommendation)*

HUMAN RIGHTS AND PROTECTION OF MINORITIES

- ***Effective human rights provisions -*** Adopt and bring into force outstanding legislation supporting refugee returns. In particular, introduce, adopt and implement legislation on the BiH Refugee Return Fund. Complete the transfer of the human rights bodies to BiH control. Ensure that unresolved cases of the Human Rights Chamber are dealt with and that the Chamber's responsibilities are transferred to the Constitutional Court. Provide adequate funding for the Court. Assume full national responsibility for the State Ombudsman and make progress on the merger of the State and Entity Ombudsmen. *(Feasibility Study recommendation)*

REGIONAL AND INTERNATIONAL CO-OPERATION

- ***Comply with existing conditionality and international obligations -*** Fully co-operate with ICTY, particularly on the part of RS, notably in bringing indicted war criminals to justice before the international tribunal […] Complete outstanding Road Map steps. Comply with the Dayton-Paris Peace Accords. Take steps to implement BiH's Council of Europe post-accession criteria, especially in areas of democracy and human rights. *(Feasibility Study recommendation)*

ECONOMIC SITUATION

EXISTENCE OF A FREE MARKET ECONOMY AND STRUCTURAL REFORMS

- ***Ensure macro-economic stability –*** Maintain a stable macro-economic framework in the context of International Monetary Fund programme and demonstrate compliance with international financial institution conditionality.

- ***Improve the business environment -*** Drive forward enterprise privatisation. Adopt and implement reforms identified as part of the "Bulldozer Initiative". Enact legislation on corporate governance.

- ***Reliable statistics -*** Implement the Law on Statistics, aiming at the creation of a functioning system of statistics with clear lines of responsibility and co-ordination mechanisms. *(Feasibility Study recommendation)*.

MANAGEMENT OF PUBLIC FINANCES

- ***Budget legislation -*** Adopt and start to implement a budget law covering multi-annual budget planning and forecasting and start to elaborate a consolidated government account. *(Feasibility Study recommendation)*

- ***Budget practice -*** Take steps to record all income accruing to public authorities at different levels of government, including grants and other forms of international assistance. *(Feasibility Study recommendation)*.

EUROPEAN STANDARDS

- ***European integration -*** Ensure the proper and full functioning of the Directorate for European Integration, including its aid co-ordination capacities. *(Feasibility Study recommendation)*

INTERNAL MARKET AND TRADE

- ***Respect international standards –*** Ensure the quick, complete and faithful implementation of all negotiated free trade agreements.

- ***Develop the BiH single economic space -*** Establish the Competition Council. Introduce provisions on the mutual recognition of products in the legal order of BiH and implement a consistent and effective public procurement regime throughout the country. Remove all duplicate licences, permits and similar authorisation requirements to allow service providers (including financial institutions) to operate throughout BiH without having to fulfil unnecessary administrative requirements. Create a single business registration system that is recognised throughout BiH. *(Feasibility Study recommendation)*

- ***Consistent trade policy -*** Establish a coherent and comprehensive trade policy and revise existing legislation to ensure a consistent policy on free zones. Establish at State-level certification and other procedures for the export of animal products and a phytosanitary office that are EC-compatible, with a view to promoting exports, but also enhancing standards and the single economic space. *(Feasibility Study recommendation)*

- ***Customs and taxation reform –*** Proceed with implementation of the recommendations of the Indirect Tax Policy Commission. Ensure parliamentary adoption of the Law on the Indirect Tax Authority, including the adoption of related enabling legislation. Ensure implementation, including the appointment of a Director for the Indirect Tax Authority and the functioning of the new customs authority. Demonstrate progress in preparing the introduction of VAT with a view to beginning on schedule. *(Feasibility Study recommendation)*

- ***Certificates of origin*** – Ensure the reliability of all BiH certificates of origin.

SECTORAL POLICIES

- ***Integrated energy market -*** Implement Entity Action Plans for the restructuring of the electricity market. *(Feasibility Study recommendation)*

- ***Public broadcasting -*** Adopt legislation on PBS in line with European standards and the Dayton – Paris Peace Accords and take steps to ensure the long-term viability of a financially and editorially independent single state-wide public broadcasting system for Bosnia and Herzegovina, whose constituent broadcasters share a common infrastructure. *(Feasibility Study recommendation)*

CO-OPERATION IN JUSTICE AND HOME AFFAIRS

- ***Tackling crime, especially organised crime -*** Build up a State-level law enforcement capacity by allocating the necessary resources and facilities to ensure the full functioning of the State Information and Protection Agency and the BiH Ministry of Security. Proceed with structural police reform with a view to rationalising police services. *(Feasibility Study recommendation)*

- ***Managing asylum and migration -*** Ensure the establishment and operation of proper structures dealing with asylum and migration. *(Feasibility Study recommendation)*

- ***Addressing terrorism*** – Increase international co-operation and implement relevant international conventions on terrorism. Improve co-operation and exchange of information between police and intelligence services within the State and with other states. Prevent the financing and preparation of acts of terrorism.

3.2 MEDIUM-TERM

POLITICAL SITUATION

DEMOCRACY AND THE RULE OF LAW

- ***Prepare elections -*** Assume full organisational and financial responsibility for the 2006 and other elections.

- ***Assume responsibility for government -*** Work towards full national responsibility for policy formulation and decision-making. All State-level ministries should be adequately financed and operational plans in place for institutions required by a future SAA and further European integration. Ensure proper policy-making co-ordination between all levels of government.

- ***Further improve the functioning of public administration -*** Implement the consolidated Action Plan on public administration reform and improve administrative procedures. Improve policy-making and co-ordination capacities and build a training capacity for civil servants within BiH (including those dealing with European integration issues)

- ***Further strengthen the judicial system -*** Ensure equal standards of appointment, promotion, discipline and training for judicial and prosecutorial staff throughout BiH. Ensure full BiH responsibility for the BiH State Court, the Prosecutor's Office and the High Judicial and Prosecutorial Council in terms of finance, administration and personnel.

- ***Advance police reform -*** Implement recommendations of functional and strategic reviews of the police sector and ensure co-operation among law enforcement agencies.

- ***Improve the fight against corruption*** – Make progress in combating corruption and demonstrate compliance with relevant international commitments. Adopt and implement an anti-corruption strategy, ensure effective implementation of the law on conflict of interests and enhance capacity to investigate and prosecute corruption.

HUMAN RIGHTS AND THE PROTECTION OF MINORITIES

- ***Ensure respect of human rights -*** Ensure a level of human rights protection comparable to or better than that achieved under international supervision and demonstrate effective protection of minority rights, including those of Roma. Ensure comprehensive implementation of the Law on the Rights of National Minorities.

- ***Complete refugee returns -*** Complete the refugee return process, facilitating refugees' economic and social reintegration.

- ***Consolidate the office of the Ombudsman -*** Complete the merger of State and Entity Ombudsmen and ensure the functioning of the new institution.

REGIONAL AND INTERNATIONAL CO-OPERATION

- ***Ensure effective prosecution of war crimes -*** Demonstrate success in apprehending ICTY-indictees and in dismantling networks supporting indicted war criminals. Ensure continuous availability to ICTY of all documentation, materials and witnesses relevant to ongoing investigations and / or prosecutions. Assume administrative and financial responsibility for the War Crimes Chamber of the State Court.

- ***Continue regional co-operation*** – Work to find solutions to outstanding bilateral border issues with neighbouring countries.

- ***Implement international commitments*** – Comply with Thessaloniki commitments in terms of co-operation in matters of justice and home affairs, trade, energy, transport and environment.

ECONOMIC SITUATION

EXISTENCE OF A FREE MARKET ECONOMY AND STRUCTURAL REFORMS

- ***Promote further structural reform*** – Further improve corporate governance, reduce labour rigidities and ensure that commercial courts implement bankruptcy legislation. Allow the

market to operate by reducing government interference and lowering the ratio between government expenditure and GDP.

- ***Facilitate business, in particular small and medium-sized enterprise (SME) development*** – Further develop co-ordination on SME policy and continue to implement the principles of the European Charter for Small Enterprises.

- ***Further develop State-level capacities in statistics -*** Elaborate and implement a multi-annual activity plan for statistics and produce regular, sound estimates of nominal and real GDP, including coherent data on (un)employment, inflation, balance of payments, wages and industrial production. Ensure co-operation with Eurostat.

MANAGEMENT OF PUBLIC FINANCES

- ***Ensure the operation of a consolidated government account -*** Ensure that a consolidated government account is fully operational within the State Ministry of Finance.

- ***Develop capacities in economic planning -*** Continue and reinforce the Medium-Term Economic Framework (MTEF) process for all budgetary users. Ensure transparent budget execution and regular financial reporting.

- ***Further reinforce budget preparation -*** Incorporate (currently) off-budget resources into budgets and maintain reasonable budgeting based on realistic revenue projections. Strengthen budget preparation processes in all ministries.

- ***Deal with domestic debt*** – Enforce the comprehensive plan on domestic debt agreed with the IMF.

EUROPEAN STANDARDS

- ***European integration –*** Implement a European integration strategy. Develop the capacity for progressive legal harmonisation with the acquis and expand BiH's role in CARDS programming and implementation with the long-term aim of allowing the decentralisation of assistance.

INTERNAL MARKET AND TRADE

- ***Single market and business -*** Demonstrate the effective functioning of the Competition Council and the Entity Offices for Competition and Consumer Protection. Further strengthen the implementation of a consistent and effective public procurement regime, including the functioning of the Public Procurement Agency and the Procurement Review body. Continue to ensure the free movement of goods and services within BiH. Ensure the full functioning of the institutes for standards, metrology and intellectual property and facilitate links / information flows with public / private enterprises. Ensure consistent implementation of related legislation (especially on intellectual property).

- ***Trade management capacity –*** Reinforce policy planning and negotiation capacities in the Ministry of Foreign Trade and Economic Relations.

- ***Trade standards –*** Further develop the capacity of the State Veterinary Office and ensure the full functioning of the Phytosanitary Office with a view to reaching EU standards.

Create a regulatory environment for technical standards, intellectual and industrial property rights in line with EU standards.

- ***Customs and taxation -*** Demonstrate that free zones are being managed in a manner compatible with the EU acquis. Complete the customs merger and ensure full implementation of the customs reform plan. Develop the ITA Governing Board into a Fiscal Council with a policy-setting capacity. Further strengthen administrative capacity for both customs and taxation. Monitor the implementation of State-level VAT and continue to develop collection and control strategies to reduce progressively the level of tax fraud for both direct and indirect taxation.

SECTORAL POLICIES

- ***Public broadcasting system*** - Fully implement agreed PBS reforms. Maintain the independence of the Communications Regulatory Agency.

- ***Integrated energy market*** – Ensure harmonisation of the regulatory environment for energy and the establishment of a single State regulatory body, including the implementation of the law on the formation of ISO and TRANSCO. Implement the commitments in the 2003 Athens Memorandum of Understanding.

- ***Environment*** – Strengthen State-level capacity in the field of environment by ensuring the full functioning of a State Environment Agency.

CO-OPERATION IN JUSTICE AND HOME AFFAIRS

- ***Border management -*** Implement international commitments made at the May 2003 Ohrid Conference on security and border management and the measures presented at the EU – Western Balkans ministerial forum on JHA of November 2003. Endorse and implement an Integrated Border Management Strategy. Facilitate regional co-operation and trade by improving border management and transport facilities. Further develop co-operation between the State Border Service, the customs service, the police and the Prosecutor's Office to interdict and prosecute trafficking and other cross-border crime. Further implement the national anti-trafficking plan. Improve the administrative capacity of the visa issuing regime, particularly the checking of visa applications.

- ***Organised crime -*** Demonstrate full implementation of all measures agreed in the Action Plan against Organised Crime presented at the Brussels JHA ministerial meeting of November 2003.

- ***Migration and asylum*** – Consistently enforce the Law on the Movement and Stay of Aliens and Asylum. Demonstrate effective national management of asylum and migration policies and monitor and report on operations. Continue to negotiate and conclude readmission agreements.

4. PROGRAMMING

Community assistance under the Stabilisation and Association process to the Western Balkan countries will be provided by the relevant financial instruments, and in particular by Council

Regulation (EC) No 2666/2000[2]; accordingly, this Decision will have no financial implications. In addition, Bosnia and Herzegovina will have access to funding from multi-country and horizontal programmes. The Commission is working with the European Investment Bank and the International Financial Institutions, in particular the European Bank for Reconstruction and Development and the World Bank, with a view to facilitate the co-financing of projects relating to the Stabilisation and Association process.

5. CONDITIONALITY

Community assistance under the Stabilisation and Association process to the Western Balkan countries is conditional on further progress in satisfying the Copenhagen political criteria and in particular progress in meeting the specific priorities of this European Partnership. Failure to respect these general conditions could lead the Council to take appropriate measures on the basis of Article 5 of Regulation (EC) No 2666/2000.

Community assistance shall also be subject to the conditions defined by the Council in its Conclusions of 29 April 1997 and 21 – 22 June 1999, in particular as regards the recipients' undertaking to carry out democratic, economic and institutional reforms.

6. MONITORING

The follow up of the European Partnership is ensured through the mechanisms established under the Stabilisation and Association process, notably the Annual Report on the Stabilisation and Association process.

[2] OJ L 306, 7.12.2000. p.1.