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**COMMUNICATION FROM THE COMMISSION
TO THE COUNCIL AND PARLIAMENT**

**Preparing for the participation of the Western Balkan countries in Community
programmes and agencies**

1. INTRODUCTION

According to the *“Thessaloniki Agenda for the Western Balkans: moving towards European integration”*, endorsed at the European Council on 20 June 2003, *“Community programmes will be opened to SAP countries along the lines established for the participation of candidate countries”* and *“SAP countries could be allowed to participate in Community agencies, in ways similar to those established for candidate countries.”*

The Community has a great deal of experience of opening up Community programmes to associated European countries, having done so with the candidate countries¹ and non-EU members of the European Economic Area. Agenda 2000 noted that the countries of central and eastern Europe’s participation in programmes for the implementation of the Community *acquis* would provide *“a useful preparation for accession in familiarising the candidate countries and their citizens with the Union’s policies and working methods”*, and enhance their ability to apply the *acquis* and not just incorporate it into national law. However, it is not an instrument solely for use in the final stages of preparations for accession. As the EEA countries have demonstrated, participation in Community programmes can also be of benefit to countries that are likely to remain associated countries for a long time or indefinitely, such as Norway or Iceland. In particular, it encourages the exchange of useful experience, especially helpful in cases where a pan-European approach is called for.

A similar approach should be taken to the countries of the western Balkans as the SAP countries will sooner or later all be associated countries (stabilisation and association agreements) and all are recognised as potential applicants for membership. Involvement in Community programmes and in the work of Community agencies will give them a firm symbolic, practical and operational foothold in the EU. It will enable the EU to support their efforts towards European integration by facilitating the transfer of know-how and good practice, particularly in those areas of the *acquis* that will serve as a central reference point for the reform process in the western Balkans.

¹ The idea of involving the candidate countries in Community programmes was put forward at the meeting of the European Council in Copenhagen in June 1993. Work on putting the idea into practice started in 1997. The Luxembourg European Council in December 1997 made it a pre-accession strategy instrument. A Commission Communication to the Council of 20 December 1999 on the thirteen candidate countries proposed new guidelines for consolidating this instrument, extending it to Cyprus, Malta and Turkey and simplifying procedures. For further information, see the enlargement pages on the Europa server at <http://europa.eu.int/comm/enlargement/pas/ocp/index.htm>

The Thessaloniki Agenda set out some basic ideas for the implementation of this decision² and invited the Commission to submit “*specific proposals to these ends, including draft framework agreements for the opening up of Community programmes, taking into account the needs and possibilities of each country, including financial constraints (CARDS contribution and national financing), and the necessary administrative capacity.*” This Communication sets out the Commission’s proposed guidelines on how the five western-Balkan countries included in the stabilisation and association process can be involved in Community programmes and agencies.³ The Commission recommends a gradual and selective approach that takes account of these countries’ needs and priorities.

The Communication also provides some useful explanations, for the authorities and the people concerned in the SAP countries as much as anyone, concerning what is a rather complicated process: it presents policies and procedures, the schedule and the administrative and financial implications. Lastly, it is worth noting that the five SAP countries will be starting to participate in Community programmes just as the configuration for associated-country involvement is changing: when the ten acceding countries join the EU on 1 May 2004, their status will change. This is an important step, which provides a good reason for following up on the previous Communication from December 1999.

2. GRADUAL AND SELECTIVE IMPLEMENTATION OF THE WESTERN BALKAN COUNTRIES’ PARTICIPATION IN COMMUNITY PROGRAMMES

2.1. Overview of Community programmes

The purpose of Community programmes⁴ is to support the European Union’s internal policies. They are action programmes, designed primarily as means of achieving objectives set by the EU and its Member States, based on internal budget headings.

The appropriations under these heading can be used to fund participation by Community nationals only. Consequently, candidate countries that are not yet members of the EU (and soon the SAP countries) cannot participate in Community programmes unless they pay into the Community budget a financial contribution to cover the estimated cost of participation by their citizens. Since the objectives and priorities of any given programme may be quite far removed from the needs and concerns of SAP countries, a progressive and selective approach is called for.

² Participation in Community programmes must be planned. On the basis of framework agreements to be signed between the Community and each of the SAP countries and providing for the opening in principle of such programmes, the Commission will gradually implement them, by deciding on the specific programmes that would be opened in each case and agreeing with the respective countries on the modalities (through the conclusion of Memoranda of Understanding). Priority areas for the opening of Community programmes could include education and training, culture, research, energy, environment, civil society, SME support, and anti-fraud co-ordination.”

³ Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia and Serbia and Montenegro.

⁴ The complete list of Community programmes open to candidate countries can be found at: <http://europa.eu.int/comm/enlargement/pas/ocp/programmes/>

There are also international programmes and internal Community programmes with an external component for which the countries of the western Balkans are already eligible. For instance, the Tempus programme (mobility and support for higher education), the “third country” section of the Life programme⁵ and the action programme for environmental NGOs all rely on external budget headings. The international section of the Sixth Framework Programme for Research is open to the countries of the western Balkans even though it is financed by an internal budget heading. Similarly, the Youth Programme relies on internal allocations but provides for special cooperation arrangements with non-member countries including those in the western Balkans.

Access to Community programmes does not extend to instruments such as Ispa, Interreg, Phare or Sapard.

2.2. Outline of procedures

Conclusion of bilateral framework agreements

The Europe Agreements provided the legal basis for the countries of central and eastern Europe’s involvement in Community programmes but, for the SAP countries, a legal basis must be created as not all the countries have signed a stabilisation and association agreement yet.⁶ The European Community will therefore have to use for the western Balkans the same approach as it used for Cyprus, Malta and Turkey, with which it concluded framework agreements in the absence of provisions relating to Community programmes in the Europe Agreements or elsewhere.⁷

At the beginning of 2004, the Commission will present to the Council a draft recommendation for negotiating directives for an agreement with each of the SAP countries. A mechanism will be set up to take account of Kosovo’s special status so that Kosovan people and organisations can also take part in the programmes.⁸

These framework agreements will be concluded in accordance with Article 300 of the EC Treaty and with reference to the internal legal bases for the various Community programmes. The agreements will lay down, for each country, the general principles governing participation in the programmes, including requirements with regard to administrative and financial capacity (e.g. provisions on financial control). The aim will be to conclude the framework agreements by the end of 2004.

⁵ LIFE-Third Countries is in principle open to countries with an Adriatic coastline because of the priority given to the Mediterranean basin and the Baltic Sea.

⁶ Two SAAs have been concluded to date, with Croatia and the Former Yugoslav Republic of Macedonia but these have not yet entered into force and do not in any case provide for participation in programmes. An SAA is currently being negotiated with Albania and feasibility studies are being carried out to determine whether negotiations can be opened with Bosnia and Herzegovina and Serbia and Montenegro.

⁷ A different approach was used for the countries of central and eastern and central Europe: the Europe Agreements provided scope for opening up Community programmes to them so the Association Councils were able to adopt framework decisions laying down general rules and conditions for participation.

⁸ In accordance with UN Security Council Resolution 1244.

SAA consolidation

Initially, the bilateral agreements will have to be concluded separately from the SAAs but it may make sense, later, to add a special protocol on this matter to the SAAs. At some stage, participation in Community programmes should be properly incorporated into the association framework and joint institutions should be given the appropriate powers, though initially participation will not be made conditional on this.

Clause opening up Community programmes

Access to Community programmes for candidate countries was made conditional on the insertion of an access clause in the measure establishing the programme (usually a Council Decision). As a result, the process of opening up the programmes to those countries took several years, as the decisions setting up or renewing the programmes were adopted. If this approach were to be used for the SAP countries, they would not be able to take part in many programmes until 2007: while eight programmes are to be created or renewed between now and 2005, the year when the framework agreements with the western Balkans is due to be implemented, sixteen programmes have already been set up and will run until 2007 at least and would not therefore be open until then.

The Commission is proposing a special approach that will facilitate access for the SAP countries and deliver results from 2005.

- Existing Community programmes will be declared open by a generic clause to be inserted into the bilateral framework agreements with the SAP countries. (The clause will apply to all programmes running on the day the framework agreements enter into force).
- However, for future Community programmes (created or renewed after the framework agreements enter into force) the approach used for the candidate countries is more appropriate, with a clause granting access to the SAP countries included in each Decision or Regulation setting up or renewing a programme.

Memoranda of understanding

The approach taken with the candidate countries will also be used for the SAP countries: for each programme, the Commission will conclude a memorandum of understanding with each country wishing to take part in the programme. The memorandum of understanding will lay down the rules governing participation, in particular the administrative capacities required, the planned financial contribution, the mechanisms for taking part in the management of the programme and the financial-control provisions.

The target will be to conclude memoranda of understanding for the first batch of programmes by the end of the first quarter of 2005, to enable the SAP countries to take part in those programmes from 2005 (see calls for proposals launched in 2005).

2.3. Administrative and financial implications of opening up Community programmes

General approach

The Commission's departments will coordinate their approach, to make best use of their operational experience with the candidate countries.

The countries of the western Balkans, for their part, will have to decide which programmes to apply for and what administrative and budgetary resources they want to spend on enabling their citizens to take part in the various programmes.

Not all of the existing 28 Community programmes are necessarily suitable for the SAP countries at present. Since the programmes are meant to accompany certain internal EU policies, there may not be a very good match between the programme objectives and the Balkan countries' own priorities. As a guide, there are currently sixteen programmes in which a majority of candidate countries are participating and eleven which all candidate countries have applied for.

Furthermore, a number of pre-conditions may be attached to participation in a certain programmes, such as:

- appropriate administrative capacity (e.g. the Socrates, Leonardo da Vinci et Youth programmes are managed through bodies set up specially in each participating country; certain preparatory measures have to be taken before these bodies can be set up and access to the programmes is subject to checks on the institutional capacity for enforcing the programme rules and ensuring sound financial management);
- coming into line, before participation, with the *acquis* and the way the *acquis* is implemented in practice (e.g. MEDIA and certain programmes relating to employment and social affairs).

The countries of the western Balkans should therefore be encouraged to be selective when deciding which programmes they want to take part in, and should be allowed to take a gradual approach to participation, in line with their administrative capacity and their ability to take advantage of what the programmes have to offer. Countries are advised to select:

- general, pan-European programmes;
- programmes that fit the priorities identified in the SAP framework;
- programmes that meet the country's needs.

Some programmes are unlikely to be of any real benefit to the SAP countries initially and may require some preparatory measures either because they are geared towards very specific aspects of internal EU policies or the *acquis*, or because they are

designed to support political cooperation between Member States in a particular field.⁹

For international programmes or the international sections of Community programmes to which the countries of the western Balkans already have access, (Tempus, the Sixth Framework Programme for Research, Life-Third Countries¹⁰ and Youth), the question is when they will be able to participate in the corresponding Community programme and how best to organise the transition from one to the other.

It is also worth bearing in mind the high-priority areas of the Cards programme, such as customs cooperation and justice and home affairs. The SAP countries should assess the potential benefits of taking part in programmes in these areas in terms of how well they will complement Cards activities and what value added they will bring.

The Commission will discuss the features of the various programmes with the SAP countries and, through dialogue, help them to select programmes that meet their needs.

Financial contribution, absorption capacity and administrative resources of the SAP countries

It must be made clear to the authorities in the SAP countries that effective participation in Community programmes will depend, above all, on their willingness to devote sufficient financial resources to it and on the availability of administrative capacity.

Each country will have to make an annual financial contribution to the Community budget to cover the estimated cost of participation in a given programme by its citizens. The size of these contributions will be negotiated with the Commission and set down in the memoranda of understanding referred to at point 2.3. Programming for the contributions will be on a three-year basis. They may be part-financed by the Cards Programme (see below).

The Community should draw on its experience with the candidate countries in estimating the absorption capacity of each SAP country and laying down appropriate rules on payment. It is essential to make sure that national contributions allocated to programmes rather than other priorities are used in full since unspent funds are not returned to the countries that contributed them.

Care must also be taken to ensure before participation that the administrative resources which the SAP countries intend to devote to programmes are both sufficient and operational.

⁹ In addition, some programmes, due to finish in the near future, are unlikely at this stage to be of any significant use to the western Balkans. In such cases, it would be better to wait until they are renewed before becoming involved.

¹⁰ Life-Third Countries must be extended to cover all countries with an Adriatic coastline.

Rules on financial assistance from the Cards Programme

The guidelines for the Cards Programme will be revised to incorporate rules on Cards co-financing for the SAP countries' contributions towards participation in Community programmes. The main rules are set out below.

- Cards co-financing will come from the existing budgets for each national Cards Programme.
- The amounts allocated to the co-financing of Community-programme contributions must not exceed 5% of the total annual budget for any given national Cards Programme. To encourage a gradual and selective approach to participation in Community programmes, it will only be possible to give Cards co-financing to 3-5 new programmes per programming year. Co-financing may not exceed 75% of the national contribution to any given programme and the proportion must be steadily reduced over the three-year programming period.
- Co-financing for participation in a Community programme must take the form of financial support over three years, to be paid to the recipient country at the beginning of the period. The amounts paid will then be used by the SAP countries to help pay the annual contribution to the Community budget required for each programme.

Multi-annual programming for 2005-06 and national annual programmes from 2005 will be adjusted accordingly.

2.4. Indicative implementation schedule

The aim is to start with an initial selection of programmes in 2005, i.e. to be operational within two years of the adoption of the Thessaloniki Agenda, which is a political imperative. The Commission must also consider how this exercise fits in with the current financial perspectives, with a view to anticipating a subsequent increase, and must ensure a smooth administrative transition, within the Directorate-Generals in charge of the programmes, from the ten accession countries to the five SAP countries.

The schedule is quite tight:

- the draft negotiating directives for the framework agreements will be submitted and endorsed by the Council in the first quarter of 2004, so that the agreements can be concluded by the end of 2004;
- the multi-annual programming schedule for 2005-06 will be adopted by the end of 2004 and the Cards guidelines will be updated at the same time;
- the first memoranda of understanding should be negotiated and concluded by spring 2005.

3. PARTICIPATION OF THE WESTERN BALKAN COUNTRIES IN THE WORK OF COMMUNITY AGENCIES

3.1. General approach

The Community agencies¹¹ are autonomous bodies set up by Council Regulation either to provide expertise in a given field and standard technical information both to the EU and to the Member States or to perform type-approval functions in a specific sector.

According to the Thessaloniki Agenda, “SAP countries could be allowed to participate in Community agencies, in ways similar to those established for candidate countries.” Initially, participation by the candidate countries took a variety of forms, ranging from “formative and informative” participation, consisting of seminars, special meetings following Management-Board meetings, joint working parties, secondment of national experts etc. to full participation in the agencies’ work without voting rights in the Management Boards. So far, full participation has proved possible only in the European Environment Agency¹², though most candidate countries have started negotiations on participation in the work of the European Aviation Safety Agency (EASA) and the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA).

The SAP countries’ involvement in the work of Community agencies can be approached in a similar way to their participation in Community programmes.

- A selective approach is called for as only five agencies can at present feasibly cooperate with the SAP countries¹³ since they are the only ones that: have a mandate for it; operate in a way that is compatible with a pan-European approach; and share common objectives with the SAP countries. These are: the European Environment Agency, the European Monitoring Centre for Drugs and Drug Addiction, the European Monitoring Centre for Racism and Xenophobia (EUMC), the European Maritime Safety Agency (EMSA) and the European Aviation Safety Agency.

¹¹ For a full list of the Community agencies in whose work the candidate countries can become involved, see <http://europa.eu.int/comm/enlargement/pas/ocp/agencies/>. Europol and Eurojust should also be added to that list although they are not strictly speaking Community agencies but EU agencies, set up in accordance with Title VI of the Treaty on European Union. The Council has authorised Europol to negotiate agreements with the countries of the western Balkans.

¹² Since 1 January 2002 for all candidate countries except Turkey, whose involvement in the EEA started only on 26 March 2003.

¹³ The other agencies are not suitable for opening up to the SAP countries either because, like the European Agency for Reconstruction (EAR) or the European Training Foundation (ETF), they run assistance programmes covering part or all of the western Balkans, or because they have a technical remit or function relating exclusively to EU internal policies and the internal market, e.g. the European Centre for the Development of Vocational Training, the European Foundation for the Improvement of Living and Working Conditions, the European Agency for the Evaluation of Medicinal Products, the European Food Safety Agency, Office for Harmonisation in the Internal Market (trade marks and designs), the European Agency for Safety and Health at Work, the Community Plant Variety Office and the Translation Centre for the Bodies of the European Union.

- A gradual approach is recommended, similar to the approach taken with the candidate countries: it would be sensible to start by launching cooperation programmes in 2005 and 2006 as part of the regional Cards Programme to familiarise the SAP countries with the Agencies' work. The aim would be to carry out the requisite preparations in terms of adoption of the Community *acquis* and upgrading administrative capacity, where this is pre-condition of participation. Only then, with the benefit of the experience gathered during the cooperation programmes, would it be appropriate to consider whether to conclude an agreement on involvement in the work of individual agencies.

- As with Community programmes, the Community agencies' budgets are, as a rule, internal budget headings. As a result, a non-member country can participate fully in the work of an agency only if it makes a contribution to the Community budget.¹⁴

- Since the agencies are very diverse and different countries will be interested in different things, the Community should examine with each country when it would be possible and desirable for them to start participating and to then begin negotiating a bilateral agreement.

3.2. The European Environment Agency (EEA)

The Cards programme has been providing support for a cooperation project between the EEA and the countries of the western Balkans since 2002, as part of the Regional Environmental Reconstruction Programme (REReP).

On 6 June 2003, ministers from the region wrote a joint letter to Ms Wallström, the Commissioner with responsibility for the environment, applying for full membership of the EEA. Ms Wallström replied on 23 July 2003, that their application could not yet be considered. Moreover, she added that, on the basis of the Thessaloniki Agenda, there was a possibility of greater involvement in the Agency's work as each country developed the capacity to fulfil the obligations and meet the costs that went along with it.

The REReP Task-Force is an appropriate forum for further discussions to determine exactly how, and how quickly, the countries of the western Balkans will be able to participate in the EEA's work. The short-term goal should be to continue with and if possible step up existing cooperation between the Agency and the SAP countries.

¹⁴ The countries in question must make an annual financial contribution, gradually increasing over the first three years in line with their increasing involvement in the agencies' work. Cofinancing may be available through the national Cards Programmes on the same basis as for participation in the Community programmes.

3.3. Indicative schedule

It is too early to plan a comprehensive schedule for SAP countries' involvement in the agencies since any such schedule will have to be preceded by discussions between the Commission and each SAP country for each agency. The experience acquired in the course of the preliminary cooperation programmes will be taken into account.

With regard to the Cards Programme:

- the guidelines can be amended at the same time as they are amended for participation in Community programmes in 2004;
- cooperation programmes and preparatory measures can be included in the regional programme from 2005.

Glossary

<i>Acquis</i>	Community laws, rules, legal precedents etc.
SAA	Stabilisation and Association Agreement
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
EEA	European Economic Area
Ispra	Instrument for Structural Policies for Pre-Accession
Ineterreg	European Regional Development Fund (ERDF) Community Initiative to promote cooperation between regions in the European Union
Life	Financial Instrument for the Environment
Media	Programme designed to enhance the competitiveness of Europe's audio-visual industry
NGO	Non-governmental organisation
SAP	Stabilisation and association process
REReP	Regional Environmental Reconstruction Programme
Sapard	Special Accession Programme for Agriculture and Rural Development
Socrates	Community action programme concerned with education
Tempus	Trans-European mobility programme for higher education
EU	European Union