

**CONFERENCE ON ACCESSION
TO THE EUROPEAN UNION
– CROATIA –**

Brussels, 29 June 2011

AD 34/11

LIMITE

CONF-HR 21

ACCESSION DOCUMENT

Subject: EUROPEAN UNION COMMON POSITION
Chapter 35 - Other issues
Item 4: Implementation and management of pre-accession funds in Croatia

EUROPEAN UNION COMMON POSITION

Chapter 35 – Other Issues

Item 4: Implementation and management of pre-accession funds in Croatia

This position of the European Union is based on its general position for the Accession Conference with Croatia (CONF-HR 2/05), and is subject to the negotiating principles endorsed by the Conference (CONF-HR 5/05), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements – even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 13, 16 and 26 of the Negotiating Framework.

The EU underlines the importance for Croatia of compliance with the Stabilisation and Association Agreement as well as the Accession Partnership, which constitute basic elements of the enhanced pre-accession strategy.

The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general to develop, already before accession, policies and instruments as close as possible to those of the EU.

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Item 4: Implementation and management of pre-accession funds in Croatia

With respect to the implementation and management of pre-accession funds in Croatia, the EU notes that the Articles on the phasing out of pre-accession financial assistance and on maintaining statutory staff in the Representation as set out in the Annex should be foreseen in the Act of Accession.

Subject to Croatia's acceptance of the above considerations, the EU notes that, at this stage, the issue of the implementation and management of pre-accession funds does not require further negotiations.

In view of all the above considerations, the EU will, if necessary, return to this chapter at an appropriate moment.

Legal Annex

ARTICLE ON THE PHASING OUT OF PRE-ACCESSION ASSISTANCE

to be inserted into the Act of Accession in:

Part IV

TEMPORARY PROVISIONS

TITLE III

FINANCIAL PROVISIONS

Article [xx]

1. Procurement, grant awards and payments for pre-accession financial assistance under the IPA Transition Assistance and Institution Building Component and the IPA Cross-Border Cooperation Component of the Instrument for Pre-Accession Assistance (IPA)¹, for funds committed before accession, with the exclusion of the cross-border programmes Croatia-Hungary and Croatia-Slovenia, and for assistance under the Transition Facility referred to in Article [31], shall be managed by Croatian implementing agencies as of the date of accession.

¹ Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, 31.7.2006, p. 82)

The ex-ante control by the Commission over procurement and grant awards shall be waived by a Commission decision to that effect, after the Commission has satisfied itself of the effective functioning of the management and control system concerned in accordance with the criteria and conditions laid down in Article 56(2) of the Financial Regulation applicable to the general budget of the European Union² and in Article 18 of the IPA Implementing Regulation³.

If this Commission decision to waive ex-ante control has not been taken before the date of accession, any contracts signed between the date of accession and the date on which the Commission decision is taken shall not be eligible under the pre-accession financial assistance and the Transition Facility referred to in the first sub-paragraph.

2. Budgetary commitments made before the date of accession under the pre-accession financial assistance and the Transition Facility referred to in paragraph 1, including the conclusion and registration of subsequent individual legal commitments and payments made after accession, shall continue to be governed by the rules applying to the pre-accession financial instruments and be charged to the corresponding budget chapters until closure of the programmes and projects concerned.
3. The provisions on the implementation of budgetary commitments of Financing agreements concerning the pre-accession financial assistance referred to in paragraph 1, 1st sub-paragraph, and the IPA Rural Development component, relating to financing decisions taken before accession, shall continue to be applicable after the date of accession. They shall be governed by the rules applying to the pre-accession financial instruments. Notwithstanding this, public procurement procedures initiated after accession shall be carried out in accordance with the relevant European Union Directives.

² Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 (OJ L 248, 19.9.2002, p. 1)

³ Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 170, 29.6.2007, p.1)

4. Pre-accession funds to cover administrative costs, as defined in Article [xx], may be committed in the first two years after accession. For audit and evaluation costs, pre-accession funds may be committed up to five years after accession.

TITLE IV

OTHER PROVISIONS

Article [xx]

The Commission may take all appropriate measures to ensure that the necessary statutory staff is maintained in Croatia for a maximum of 18 months following accession. During this period, officials, temporary staff and contract staff assigned to posts in Croatia before accession and who are required to remain in service in Croatia after the date of accession shall benefit from the same financial and material conditions as were applied before accession in accordance with the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68⁴. The administrative expenditure, including salaries for other necessary staff, shall be covered by the general budget of the European Union.

⁴ OJ L 56, 4.3.1968, p. 1.