



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.12.1999
COM(1999) 692 final

Proposal for a

DECISION OF THE COUNCIL AND OF THE COMMISSION

concerning the Community position within the Association Council on the transition to the second stage of the Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, pursuant article 6 of the Europe Agreement

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Europe Agreement (EA), establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, came into force on 1 February 1994.

Article 6 of the above-mentioned Agreement states that the Europe Agreement includes a transition period of a maximum duration of 10 years, divided into two successive stages, each in principle lasting five years as from the date of entry into force of the Agreement.

During the course of the 12 months preceding the expiration of the first stage, the Association Council shall meet to decide the transition to the second stage as well as on any possible changes to be brought about as regards measures concerning the implementation of the provisions governing the second stage.

The question regarding the transition to the second stage has been addressed by the Association Council on 10 November 1998. On that occasion, the Association Council invited the parties to exchange the necessary information to prepare the decision on the transition to the second stage of the Association as soon as possible. This exchange of information took place in the framework of the instances of the Europe Agreement and led to the conclusion that the parties are ready to comply with the obligations deriving from the transition to the second stage.

The transition to the second stage of the Association has the following implications for the parties :

Free movement of workers

- Following Article 42 of the EA, during the second stage referred to in Article 6, or earlier if so decided, the Association Council shall examine further ways of improving the movement of workers, taking into account inter alia, the social and economic situation in Hungary and the employment situation in the Community. The Association Council should make recommendations to this end.

Establishment

- Following Article 44 of the Europe Agreement, Hungary shall :
 1. as from the end of the first stage of the Association, grant for the establishment of Community companies and nationals a treatment no less favourable than that accorded to its own companies and nationals, save for the sectors referred to in Annexes XIIa and XIIb, where such treatment will be granted at the latest by the end of the transitional period referred to in Article 6 (1.02.2004).
 2. as from the end of the first stage of the Association, amend laws and regulations as necessary to ensure equal treatment of Community companies and nationals established in Hungary.

3. as from the start of the second stage of the Association, apply national treatment as described in paragraphs 1 and 3 of Article 44 of the EA, for EU branches, agencies and nationals establishing as self-employed persons in Hungary.
4. at the latest by the end of the first stage of the Association, grant to branches and agencies of Community companies and Community nationals established as self-employed persons in Hungary the right to acquire, use, rent and sell real property, and as regards natural resources, agricultural land and forestry, the right to lease, where these are directly necessary for the conduct of the economic activities for which they are established. This right does not include establishment for the purpose of dealing and agency in the area of real state and natural resources.

Hungary ensures the implementation of the above-mentioned provisions through the following legislation :

- Act I of 1994 on the Europe Agreement established between the European Communities and their Member States and the Republic of Hungary;
- Act CXLIV of 1997 (a new "Company Act", entry into force on 1.1.1998), which eliminated discrimination as regards EU companies establishing in Hungary;
- Act CCXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies (entry into force on 1.1.98) which has created proper framework for the establishment and operation of EU branches and offices in Hungary;
- Act LXXII of 1998 on Self-employed (entry into force 1.2.99), which grants Hungarian national treatment to the self-employed EU nationals in Hungary.
- Government Decree 157/1999 amending Government Decree 7/1996 on the acquisition of real estate by foreigners which provides for the possibility of granting licenses to foreigners establishing themselves as self employed persons in the territory of Hungary.
- Following Article 44 of the EA, the EU shall, as from the start of the second stage of the Association, apply national treatment as described in paragraphs 1 and 3 of Article 44 of the EA, for Hungarian branches, agencies and nationals establishing as self-employed persons in the EU.
- Following Article 50 of the Europe Agreement, Hungary, upon expiration of the first stage referred to in Article 6, or for the sectors included in Annexes XIIa and XIIb upon the expiration of the transitional period, will be able to introduce measures derogating the provisions of Chapter II of the EA (Establishment) only with the authorisation of the Association Council and under conditions determined by the latter.

Free movement of capital

- Following Article 60 of the Europe Agreement, Hungary shall:

1. by the end of the first stage of the Association, ensure the free movement, liquidation or repatriation for all investments linked to the establishment of branches and agencies of Community companies and of Community nationals establishing in Hungary as self employed persons pursuant to Chapter II of Title IV (Establishment)
2. as from the start of the second stage of the Association, Hungary shall not introduce any new foreign exchange restrictions on the movement of capital and current payments connected therewith between residents of the Community and Hungary and shall not make the existing arrangements more restrictive.

Hungary ensures the implementation of the above-mentioned provisions through the following legislation :

- Act I of 1994 on the Europe Agreement established between the European Communities and their Member States and the Republic of Hungary;
- Act XCV of 1995 on Foreign Exchange (entry into force on 1.1.96), which liberalises current payments, establishes the convertibility of the Forint and allows, on certain conditions, direct Hungarian investments abroad;
- Act CCXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Foreign-Registered Companies (entry into force on 1.1.98) which has created proper framework for the establishment and operation of EU branches and offices in Hungary.
- Government Decree 157/1999 amending Government Decree 7/1996 on the acquisition of real estate by foreigners which provides for the possibility of granting licenses to foreigners establishing themselves as self employed persons in the territory of Hungary.
- Article 61 of the EA states that during the first stage, the parties shall take measures permitting the gradual application of Community rules on the free movement of capital. During the second stage, the Association Council will examine ways on enabling to apply Community rules on the movement of capital to be applied in full.

In order to make the transition to the second stage possible, the Council is invited to adopt the annexed proposal for decision concerning the Community position within the Association Council with Hungary on the transition to the second stage.

Proposal for a

DECISION OF THE COUNCIL AND OF THE COMMISSION

concerning the Community position within the Association Council on the transition to the second stage of the Association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, pursuant article 6 of the Europe Agreement

THE COUNCIL OF THE EUROPEAN UNION,

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with Article 300 (2), first subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular the second paragraph of Article 101 thereof,

Having regard to the proposal from the Commission,

- (1) Whereas the Europe Agreement between the European Communities and their Member States, of the one part; and the Republic of Hungary, of the other part, signed in Brussels on 16 December 1991, entered into force on 1 February 1994,
- (2) Whereas Article 6 of the Europe Agreement provides for a transition period of a maximum of ten years divided into two successive stages, each in principle lasting five years,
- (3) Whereas the first stage began on 1st February 1994, date of entry into force of the Europe Agreement and terminates, in principle, on 31st January 1999,
- (4) Whereas the Association Council, in accordance with Article 6 (2) of the Europe Agreement, has regularly examined the application of the Europe Agreement and Hungary's accomplishments in the process leading to a market economy system,
- (5) Whereas the parties are determined to comply with the obligations deriving from the transition to the second stage of the Association,
- (6) Whereas the Association Council shall decide the transition to the second stage as well as on any possible changes to be brought about as regards

measures concerning the implementation of the provisions governing the second stage,

- (7) Whereas the Republic of Hungary has taken the measures necessary to ensure compliance with all obligations resulting from the transition to the second stage.

HAVE ADOPTED THIS DECISION:

Single Article

The decision to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, of the one part, and Hungary, of the other part, concerning the transition to the second stage of the Association, is the attached draft decision of the Association Council.

Done at Brussels,

For the Council
The President

For the Commission
The President

ANNEX

DRAFT DECISION NO. .../99 OF THE ASSOCIATION COUNCIL,

ASSOCIATION BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF HUNGARY, OF THE OTHER PART

OF ... 1999

ON THE TRANSITION TO THE SECOND STAGE OF THE ASSOCIATION BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE PART, AND THE REPUBLIC OF HUNGARY, OF THE OTHER PART, PURSUANT ARTICLE 6 OF THE EUROPE AGREE TEN YEARS TRANSITION PERIOD OF THE EUROPE AGREEMENT

The Association Council,

Having regard to the Europe Agreement between the European Communities and their Member States, of the one part; and the Republic of Hungary, of the other part, and in particular its Article 6, paragraph 3, thereof,

Whereas Article 6 paragraph 1 of the Europe Agreement provides for a transition period of a maximum of ten years divided into two successive stages, each in principle lasting five years,

Whereas the first stage began on 1st February 1994, date of entry into force of the Europe Agreement, and terminates, in principle, on 31st January 1999,

Whereas the Association Council, in accordance with Article 6 (2) of the Europe Agreement, has regularly examined the application of the Europe Agreement and Hungary's accomplishments in the process leading to a market economy system,

Whereas the parties are determined to comply with the obligations deriving from the transition to the second stage of the Association,

Whereas the Association Council shall decide the transition to the second stage as well as on any possible changes to be brought about as regards measures concerning the implementation of the provisions governing the second stage,

HAS DECIDED AS FOLLOWS :

Article 1

The transition to the second stage referred to in Article 6 (3) of the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, hereby takes effect.

Article 2

This decision shall enter into force on the day of its adoption by the Association Council.

Done at Brussels, 1999.

For the Association Council

The President