

## **EXPLANATORY MEMORANDUM**

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for the Czech Republic was decided in March 1998. In line with the provisions laid down in Regulation (EC) No. 622/98<sup>1</sup> (article 2), the Partnership was updated a first time in December 1999, taking into account further developments in the Czech Republic. Based on the analysis of the Commission's 2001 Regular Report on progress made by the Czech Republic towards accession, the Commission considers that the time has come for a further revision of the priorities and intermediate objectives identified in the Accession Partnership. The present proposal for such a revision draws on the findings of the Commission's 2001 Regular Report on progress made by the Czech Republic towards accession.

The attached draft decision does not have financial implications.

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

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<sup>1</sup> OJ L 85, 20.3.1998, p. 1

Proposal for a

## **COUNCIL DECISION**

### **on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Czech Republic**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 622/98 of 16 March 1998 on assistance to the applicant States in the framework of the pre-accession strategy, and in particular on the establishment of Accession Partnerships,<sup>2</sup> and in particular to Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Luxembourg European Council stated that the Accession Partnership is a new instrument and the key feature of the enhanced pre-accession strategy;
- (2) Regulation (EC) No 622/98 sets out that the Council is to decide, by a qualified majority and following a proposal from the Commission, on the principles, priorities, intermediate objectives and conditions contained in the individual Accession Partnerships, as they are submitted to each applicant State, as well as on subsequent significant adjustments applicable to them;
- (3) Community assistance is conditional on the fulfilment of essential elements, and in particular on the respect of the commitments contained in the Europe Agreements and on progress towards fulfilment of the Copenhagen criteria; where an essential element is lacking, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate steps with regard to any pre-accession assistance;
- (4) The Luxembourg European Council decided that the implementation of the Accession Partnership and progress in adopting the *acquis* will be examined in the Europe Agreement bodies;
- (5) The 2001 Commission's Regular Report presents an objective analysis on the Czech Republic's preparations for membership and identifies a number of priority areas for further work;
- (6) In order to prepare for membership, the Czech Republic should continue to update its national programme for the adoption of the *acquis*; this programme should set out a timetable for achieving the priorities and intermediate objectives established in the Accession Partnership;

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<sup>2</sup> OJ L 85, 20.3.1998, p. 1

- (7) The Czech Republic needs to ensure that the appropriate legal and administrative structures needed for the programming, co-ordination, management, control and evaluation of EC pre-accession funds are in place;

HAS DECIDED AS FOLLOWS:

*Article 1*

In accordance with Article 2 of Regulation (EC) No 622/98, the principles, priorities, intermediate objectives and conditions in the Accession Partnership for the Czech Republic are set out in the Annex hereto, which forms an integral part of this Decision.

*Article 2*

The implementation of the Accession Partnership shall be examined in the Europe Agreement bodies and by the appropriate Council bodies to which the Commission shall report regularly.

*Article 3*

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

Done at Brussels, [...]

*For the Council*  
*The President*  
[...]

## ANNEX

### 1. INTRODUCTION

At its meeting in Luxembourg in December 1997, the European Council decided that the Accession Partnership would be the key feature of the enhanced pre-accession strategy, mobilising all forms of assistance to the candidate countries within a single framework. In this manner, the Community targets its assistance towards the specific needs of each candidate so as to provide support for overcoming particular problems with a view to accession.

The first Accession Partnership for the Czech Republic was decided in March 1998. As provided for in Regulation (EC) No. 622/98 (article 2), the Accession Partnership was updated a first time in December 1999, taking into account further developments in the Czech Republic. The present revision is based on a proposal by the Commission following consultation with the Czech Republic, and draws on the analysis of the Commission's 2001 Regular Report on progress made by the Czech Republic towards accession.

### 2. OBJECTIVES

The purpose of the Accession Partnership is to set out in a single framework the priority areas for further work identified in the Commission's 2001 Regular Reports on the progress made by the Czech Republic towards membership of the Union, the financial means available to help the Czech Republic implement these priorities and the conditions which will apply to that assistance. The Accession Partnership provides the basis for a number of policy instruments which will be used to help the candidate States in their preparations for membership. These include *inter alia* the updated National Programme for the Adoption of the Acquis prepared by the Czech Republic, the pre-accession fiscal surveillance procedure, the Pre-accession Economic Programme, the Pre-accession pact on organised crime as well as the National Development Plans, the Rural Developments Plans, a national employment strategy in line with the European Employment Strategy, and sectoral plans necessary for the participation in the Structural Funds after membership and for the implementation of ISPA and SAPARD before accession. Each of these instruments is different in nature and is prepared and implemented according to specific procedures and may be supported by pre-accession aid. They are not an integral part of this Partnership but the priorities they contain will be compatible with it.

### 3. PRINCIPLES

The main priority areas identified for each candidate State relate to their ability to take on the obligations of meeting the Copenhagen criteria which state that membership requires:

- that the candidate State has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

At its meeting in Madrid in 1995, the European Council stressed the need for the candidate States to adjust their administrative structures to ensure harmonious operation of Community policies after accession and at Luxembourg, in 1997, it stressed that incorporation of the *acquis* into legislation is necessary, but not in itself sufficient; it is necessary to ensure that it is actually applied. The Feira and Gothenburg European Councils in 2000 and 2001 respectively confirmed the vital importance of the applicant countries' capacity to implement and enforce the *acquis*, and added that this required important efforts by the applicants in strengthening and reforming their administrative and judicial structures.

#### 4. PRIORITIES AND INTERMEDIATE OBJECTIVES

The Commission's Regular Reports have highlighted, besides the progress already made, the extent of the efforts which still have to be made in certain areas by candidate States to prepare for accession. This situation requires the definition of intermediate stages in terms of priorities, each to be accompanied by precise objectives to be set in collaboration with the states concerned, the achievement of which will condition the degree of assistance granted and the progress of the negotiations under way with the Czech Republic. The priorities listed in the revised Accession Partnership have been selected on the basis that it is realistic to expect that the Czech Republic can complete or take them substantially forward over the next two years (2002 –2003). Within this list, issues that require particularly urgent action have been highlighted as such. The progress made in meeting the priorities of the 1999 Accession Partnership is assessed in the 2001 Regular Report. This assessment has been used in formulating the priorities for the current Partnership.

The Czech Republic submitted an updated version of its National programme for the Adoption of the *Acquis* (NPAA) on 25 June 2001. The NPAA sets out a timetable for achieving priorities and intermediate objectives, based on the 1999 Accession Partnership, as well as necessary administrative structures and financial resources.

The Accession Partnership indicates the priority areas for the Czech Republic's membership preparations. The Czech Republic will nevertheless have to address all issues identified in the 2001 Regular Report. It is also important that the Czech Republic fulfils the commitments of legislative approximation and the implementation of the *acquis* in accordance with the commitments made under the Europe Agreement, and in the context of the negotiation process. It should be recalled that incorporation of the *acquis* into legislation is not in itself sufficient; it will also be necessary to ensure that it is actually applied to the same standards as those which apply within the Union. In all of the areas listed below there is a need for credible and effective implementation and enforcement of the *acquis*.

Drawing on the analysis of the Commission's Regular Report, the following priorities and intermediate objectives have been identified for the Czech Republic. These priorities are presented in accordance with the structure of the Regular Report.<sup>3</sup>

##### **Political criteria**

##### ***Democracy and rule of law***

- **In need of particularly urgent action:** complete the reform of public administration at national level by establishing a legal framework which provides for stability, independence

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<sup>3</sup> The order of presentation is that used in the 2000 Regular Report.

and professionalism; continue to strengthen training, including with regard to acquis related issues.

- Complete the reform of the judiciary, taking account of legal, organisational, administrative, training and budgetary aspects, with a view to ensuring effective application of the law, including EC legislation, and ensuring independence of the judiciary.
- Pursue efforts to more effectively fight against corruption and economic crime.

### ***Human rights and the protection of minorities***

- Ensure that an effective system for redressing police misconduct is established.
- Continue efforts, at national, regional and municipal level, to improve the condition of the Roma minority. Efforts should address employment opportunities, access to education, including appropriate measures to integrate Roma children into mainstream schools, measures to fight discrimination in society and access to housing. In particular, implement tasks contained in the government policy for Roma integration of June 2000.

### **Economic criteria**

- **In need of particularly urgent action:** Implement a restructuring plan for the steel sector in line with EC requirements and implement viability plans in the steel enterprises.
- Improve the business environment by: (i) improving the operation of the commercial register, (ii) improving bankruptcy legislation and its implementation, and (iii) resolving the bad loan problem in a transparent and economically efficient way.
- Complete privatisation in the enterprise sector and pursue the programme of liberalisation of utilities.
- Proceed in enterprise restructuring, in particular through the Revitalisation Programme and the Czech Consolidation Agency, and provide appropriate support to SME development.
- Continue fiscal reforms, including health care and pension system financing reforms.

### **Ability to assume the obligations of membership**

#### ***Free movement of goods***

- Complete alignment and effective implementation in the areas of foodstuffs; sectoral and horizontal legislation. Complete implementation of remaining New Approach Directives and the adoption of European standards.
- Ensure the effectiveness of implementing structures, complete reinforcement of market surveillance and conformity assessment. Set up a body for exchanging information and notification on technical requirements.
- Complete alignment in the area of public procurement; abolish national preference clause for public procurement by introducing access for all Community companies to award procedures in the Czech Republic.

- Proceed with screening of legislation in the non-harmonised area to ensure that it is in compliance with Articles 28-30 of the EC Treaty and complete administrative arrangements for the future monitoring in this area.

### ***Free movement of persons***

- With respect to professional qualifications obtained before harmonisation, the Czech Republic should give priority to introducing measures to ensure that all its professionals can, from accession, meet the requirements laid down by the directives.
- Complete alignment of mutual recognition of professional qualifications and diplomas and further develop required administrative structures, education and training programmes.
- Reinforce the administrative structures for the co-ordination of social security.

### ***Free movement of services***

- Complete alignment in the areas of insurance, data protection and information society legislation.
- Reinforce supervision of financial services.
- Ensure the effectiveness of the Office for Personal Data Protection.

### ***Free movement of capital***

- Continue efforts to abolish existing anonymous accounts.
- Ensure compliance with the Recommendations of the Financial Action Task Force.

### ***Company law***

- Strengthen enforcement of intellectual property rights in particular by Police and Customs authorities and improve co-operation among them. Increase efforts to fight against piracy and counterfeiting; intensify training for enforcement bodies including judges and prosecutors.

### ***Competition policy***

- Ensure enforcement of the rules in antitrust and State aid fields (including the implementation of the regional aid guidelines); improve transparency and flow of information especially with regard to State aid; increase awareness of the rules amongst all market participants and aid grantors; intensify the training of the judiciary in the specific fields of anti-trust and State aid.

### ***Agriculture***

- Up-grade the capacity of agricultural administration and complete preparations for the enforcement and practical application of the management mechanisms of the Common Agricultural Policy (CAP), in particular market information systems (including price reporting), the Integrated Administration and Control System, the Paying Agency, the Farm Accountancy Data Network and carcass classification.

- Reinforce the administrative structures needed for the design, implementation, management, monitoring, control and evaluation of EC funded rural development programs.
- Complete the system of animal identification; continue alignment with the veterinary and phytosanitary acquis and upgrade inspection arrangements; continue the upgrading of food processing establishments, in particular meat and dairy plants, so that they are in a position to respect EC food safety standards.

### ***Transport***

- Complete legislative alignment and strengthen administrative capacity in road transport (in particular on technical and safety standards, vehicle taxation and rules on road transport of dangerous goods) as well as in railway transport with a view to the implementation of the revised railway acquis, including rules on interoperability of railways and public service operations.
- Complete legislative alignment on air transport (particularly air safety - setting up of an independent aviation accident investigation authority - and air traffic management).

### ***Taxation***

- Ensure due alignment with the tax acquis, including the transitional VAT system.
- **In need of particular urgent action:** Alignment of VAT, and excise duty rates, to that of the Community acquis, as well as closure of duty-free shops at land borders with the EU.
- Ensure that existing and future legislation complies with the principles of the Code of Conduct for Business Taxation.
- Strengthen administrative capacity, including control and enforcement procedures, administrative co-operation and mutual assistance.
- **In need of particularly urgent action:** Develop IT systems so as to allow for the exchange of computerised data with the Community and its Member States.

### ***Economic and Monetary Union***

- **In need of particularly urgent action:** ensure alignment of the Act on the Czech National Bank with the acquis to consolidate its independence.

### ***Statistics***

- Further improve the quality and coverage of statistics; ensure adequate resources are available to further strengthen statistical capacities, including at regional level.

### ***Social policy and employment***

- Complete alignment of the EC legislation, in particular in the field of equal treatment for women and men and health and safety acquis, and increase enforcement efforts of the whole social legal acquis. Strengthen relevant institutional structures, in particular labour inspectorates. Continue adopting legislation in line with the anti-discrimination acquis and prepare for its implementation.

- Ensure transposition of the public health acquis and further develop measures in the area of surveillance and control of communicable diseases and health monitoring and information.
- Continue to support social partners' capacity building efforts, in particular with a view to their future role in the elaboration of EU employment and social policy, including the European Social Fund, notably through autonomous bipartite social dialogue.
- Prepare a national strategy, including data collection, with a view to future participation in the European strategy on social inclusion.

### ***Energy***

- Prepare for the internal energy market, notably through completion of alignment with the electricity and gas directives; eliminate remaining price distortions; strengthen the independence and resources of regulatory bodies.
- Continue aligning with oil stock requirements and make progress in ensuring the actual constitution of the stocks, including the necessary investments, towards the level of 90 days.
- Improve energy efficiency, enhance the use of renewable energy sources and strengthen the relevant institutions in this area.
- Implement the recommendations contained in the Council report on “Nuclear Safety in the Context of Enlargement” with due regard to the priorities assigned in the report.
- Continue to ensure a high level of nuclear safety at the Dukovany and Temelin Nuclear Power Plants.

### ***Telecommunications and information technologies***

- Complete transposition and implementation of the acquis including in particular cost orientation, asymmetry and local loop unbundling.
- Ensure independence of the National Regulatory Authority for telecommunications.
- Ensure effective functioning of the liberalised market through effective interconnection pricing.
- Secure the widespread availability of carrier selection facilities.

### ***Culture and audio-visual policy***

- Strengthen the administrative capacity of the Council of the Czech Republic for Broadcasting.

### ***Regional policy and co-ordination of structural instruments***

- **In need of particularly urgent action:** define attribution of legal and budgetary competencies between the central and regional levels, and define the framework for the implementation of the Structural Funds.
- Continue to develop, rationalise and streamline the National Development Plan and define the implementation structures of the final plan; develop project and programme generation

and implementation capacity at central and regional level; continue development of monitoring and evaluation capacity; ensure availability of all relevant statistical data.

- Define the bodies in charge of the implementation of Structural Funds and the Cohesion Fund, in particular the Managing and Paying authorities; establish a clear division of responsibilities and improve the administrative capacity, in particular in terms of recruitment and training; ensure effective inter-ministerial co-ordination.
- Align with the specific financial management and control procedures for future Structural and Cohesion Funds under the relevant EC Regulations.
- Develop the technical preparation of projects eligible for Structural and Cohesion Funds assistance (*project pipeline*).

### ***Environment***

- Complete transposition of the acquis, with particular emphasis on integrated pollution prevention and control and on amendments to the legislation non-complying with the acquis in particular in the waste and water sector.
- Complete implementation of the acquis, in particular as regards environmental impact assessment, water intended for human consumption, nitrates (designation of vulnerable zones, action plans) and dangerous substances (inventories, pollution reduction programmes), nature protection (list of sites of Community importance, special protected areas) and integrated pollution prevention control (institutions, integrated permits).
- Continue strengthening the administrative, monitoring and enforcement capacity at national, regional and local level. Particular attention needs to be paid to clear distribution of competencies, to improve co-operation between responsible authorities, to training and to strengthening the investment planning capacity.
- Continue integration of environmental protection requirements into the definition and implementation of all other sectoral policies with a view to promoting sustainable development.

### ***Consumers and health protection***

- Complete legislative alignment and ensure the effectiveness of administrative structures, including market surveillance.

### ***Justice and Home Affairs***

- Ensure due implementation of the Schengen Action Plan.
- Continue preparation for future participation in the Schengen Information System by developing national databases and registers.
- Strengthen border control management; improve co-ordination between organisations responsible for border management; improve the controls at the “green” borders.
- Further improve the system for granting of visas to take full account of migration risks; improve co-operation between all police units dealing with migration.

- Ensure implementation of the new Aliens Act; ensure the involvement of an independent body as the second instance in the asylum procedure.
- Ensure effective implementation of the new strategy for combating organised crime; establish a framework for co-operation between different law enforcement agencies, especially concerning the fight against financial crime and corruption, in particular concerning money-laundering, and as regards trafficking in human beings; provide further training for the police concerning organised crime and drugs; introduce modern equipment, such as an integrated computer-based investigation system.
- Take the necessary steps to ensure implementation of Community instruments in the area of judicial co-operation in civil matters.
- Take the necessary steps to align the legislation with the Convention on the Protection of the Communities' Financial Interests and its Protocols.

### ***Customs union***

- **In need of particularly urgent action:** continue the implementation of the IT strategy of the Czech customs administration. Develop IT systems so as to allow for the exchange of computerised data between the EC and the Czech Republic.
- Continue efforts to strengthen customs ethics, combat fraud and corruption, protect copyrights and industrial property rights, fight against economic crime and organised crime.
- Continue efforts to reduce waiting time at the border.

### ***External relations***

- Take the measures necessary to ensure that any international treaties or agreements including bilateral investment treaties incompatible with the *acquis* are renegotiated or terminated by accession.

### ***Financial control***

- Complete the legislative framework for public internal financial control.
- Implement the concept of managerial accountability.
- Set up an internal audit service with adequate functional independence directly under the highest management level in spending centres.
- Set up a central unit in the Ministry of Finance to deal with co-ordination and harmonisation of the methodology for financial management and control and internal audit throughout the government.
- Strengthen the fight against fraud and adopt the appropriate legislative framework to this effect.
- Agree on the framework for co-operation with OLAF for the protection of the Communities' financial interests and effectively start co-operating with OLAF through the central contact point.

- Continue efforts to ensure the correct use, control, monitoring and evaluation of EC pre-accession funding as a key indicator of the Czech Republic's ability to implement the financial control *acquis*.

## **5. PROGRAMMING**

For the period 2000-2006, in addition to Phare, financial assistance to the Czech Republic comprises support for pre-accession measures for agriculture and rural development through the pre-accession instrument SAPARD (Council Regulation (EC) No 1268/99, OJ L 161, 26.6.1999, p.87); and support for infrastructure projects in the fields of environment and transport through the structural instrument ISPA (Council Regulation (EC) No 1267/99, OJ L 161, 26.6.1999, p. 73), which gives priority to measures similar to the cohesion fund in the pre-accession period. Under these national allocations, the Czech Republic can also fund part of its participation in community programmes including the Research and Technological Development Framework Programmes and programmes in the areas of Education and Enterprise. In addition the Czech Republic will have access to funding from multi-country and horizontal programmes directly related to the *acquis*. Joint financing by the applicant States is systematically required for all investment projects. Since 1998 the Commission has worked 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 facilitating the co-financing of projects relating to pre-accession priorities.

## **6. CONDITIONALITY**

Community assistance for financing projects through the three pre-accession instruments Phare, ISPA and SAPARD is conditional on respect by the Czech Republic of its commitments under the Europe Agreement, further steps towards satisfying the Copenhagen criteria and in particular progress in meeting the specific priorities of this revised Accession Partnership. Failure to respect these general conditions could lead to a decision by the Council on the suspension of financial assistance on the basis of Article 4 of Regulation (EC) No 622/98.

## **7. MONITORING**

The implementation of the Accession Partnership is monitored in the framework of the Europe Agreement. As underlined by the European Council in Luxembourg, it is important that the institutions of the Europe Agreement continue to be the framework within which the adoption and implementation of the *acquis* can be examined. The relevant sections of the Accession Partnership are discussed in the appropriate sub-committee. The Association Committee discusses overall developments, progress and problems in meeting the Partnership's priorities and intermediate objectives as well as more specific issues referred to it from the sub-committees.

The PHARE Management Committee ensures that actions financed under all three pre-accession instruments, PHARE, ISPA, and SAPARD, are compatible with each other as well as with the Accession Partnerships as laid down in the Co-ordinating Regulation (Council Regulation (EC) No 1266/99, OJ L 161, 26.6.1999, p. 68).

The Accession Partnership will continue to be amended as necessary in accordance with Article 2 of Regulation (EC) No 622/98.