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*(Acts whose publication is obligatory)***COUNCIL REGULATION (EC) No 2257/2004****of 20 December 2004****amending Regulations (EEC) No 3906/89, (EC) No 1267/1999, (EC) No 1268/1999 and (EC) No 2666/2000, to take into account of Croatia's candidate status**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 181a(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) The European Council decided at its meeting in Brussels on 17 and 18 June 2004 that Croatia shall be a candidate country for membership, and requested the Commission to prepare a pre-accession strategy for Croatia, including the necessary financial instruments.
- (2) In order to provide pre-accession assistance to Croatia it is appropriate to include it as a beneficiary under Council Regulations (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe (PHARE)<sup>(1)</sup>, Council Regulation (EC) No 1267/1999 of 21 June 1999, establishing an instrument for structural policies for pre-accession<sup>(2)</sup> (ISPA) and Council Regulation (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in the pre-accession period<sup>(3)</sup> (SAPARD).
- (3) The Stabilisation and Association Agreement between the European Communities and their Member States and the Republic of Croatia, signed on 29 October 2001, in its Title III, requests Croatia to actively promote regional cooperation in the Western Balkans.
- (4) The regional dimension of Community assistance to the Western Balkans is receiving a special attention through Council Regulation (EC) No 2666/2000 of 5 December 2000 on assistance for Albania, Bosnia and Herzegovina,

Croatia, the Federal Republic of Yugoslavia and the Former Yugoslav Republic of Macedonia<sup>(4)</sup> (CARDS), with the view to promote regional cooperation, and Croatia should remain eligible for projects and programmes with a regional dimension.

- (5) Decision 2004/648/EC<sup>(5)</sup> determines the principles, priorities and conditions contained in the European Partnership with Croatia.
- (6) The Memorandum of Understanding on the development of the South East Europe Core Regional Transport Network should facilitate the process of selecting priority measures for developing a pan-European transport network during the pre-accession period.
- (7) The entry into force of Regulation (EC, Euratom) 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>(6)</sup> necessitates certain adaptations of the Regulations to bring terminology and current practises in line with the abovementioned Regulation.
- (8) Although the new Member States are not mentioned in this Regulation, Article 33 of the 2003 Act of Accession provides for the application of Regulations (EC) No 3906/1989 and (EC) No 1267/1999 for these Member States during a transitional period.
- (9) The Commission has adopted Regulation (EC) No 1419/2004<sup>(7)</sup> and Regulation (EC) No 447/2004<sup>(8)</sup> which constitute the legal basis for the financing of measures under SAPARD under commitments which had not yet been brought to an end by the date of accession. Any decisions by the Commission which might still become necessary until the finalisation of such commitments and which cannot be based upon the two abovementioned Regulations may still be based on Regulation (EC) No 1268/1999 as it was in force prior to the amendment of that Regulation by the present Regulation.

<sup>(1)</sup> OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 769/2004 (OJ L 123, 27.4.2004, p. 1).

<sup>(2)</sup> OJ L 161, 26.6.1999, p. 73. Regulation as last amended by Regulation (EC) No 769/2004.

<sup>(3)</sup> OJ L 161, 26.6.1999, p. 87. Regulation as last amended by Regulation (EC) No 769/2004.

<sup>(4)</sup> OJ L 306, 7.12.2000, p. 1. Regulation as amended by Regulation (EC) No 2415/2001 (OJ L 327, 12.12.2001, p. 3).

<sup>(5)</sup> OJ L 297, 22.9.2004, p. 19.

<sup>(6)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(7)</sup> OJ L 258, 5.8.2004, p. 11.

<sup>(8)</sup> OJ L 72, 11.3.2004, p. 64.

- (10) Regulations (EEC) No 3906/89, (EC) No 1267/1999, (EC) No 1268/1999 and (EC) No 2666/2000 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### Article 1

Council Regulation (EEC) No 3906/89 is hereby amended as follows:

1. Article 3 shall be amended as follows:

- (a) paragraph 3 shall be replaced by the following:

‘3. For applicant countries with accession partnerships with the European Union, funding under the PHARE programme shall focus on the main priorities for the adoption of the *acquis communautaire*, i.e. building up the administrative and institutional capacities of the applicant States and investment, except for the type of investments financed in accordance with Council Regulations (EC) No 1267/1999 of 21 June 1999 establishing an instrument for structural policies for pre-accession (\*) and (EC) No 1268/1999 of 21 June 1999 on Community support for pre-accession measures for agriculture and rural development in the applicant countries of central and eastern Europe in pre-accession period (\*\*), provided the conditions for funding measures under those two Regulations are met. PHARE funding may also be used to finance the measures in the fields of environment, transport and agriculture and rural development which form an incidental but indispensable part of integrated industrial reconstruction or regional development programmes.

(\*) OJ L 161, 26.6.1999, p. 73. Regulation as last amended by Regulation (EC) No 769/2004 (OJ L 123, 27.4.2004, p. 1).

(\*\*) OJ L 161, 26.6.1999, p. 87. Regulation as last amended by Regulation (EC) No 769/2004.’

- (b) the following paragraphs shall be added:

‘4. Assistance may be used to cover the participation of recipient countries under this Regulation in regional, cross-border, and, where appropriate, transnational and interregional cooperation among themselves and between them and EU Member States.

5. Where appropriate, aid may also be used to cover a recipient country's participation in regional programmes under other legal instruments.’

2. in Article 8, the following subparagraph shall be added:

‘The Commission may, within the limits established in Article 54 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (\*), decide to entrust tasks of public authority, and in

particular budget implementation tasks to the bodies listed in Article 54(2) of that Regulation. The bodies defined in Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002 may be entrusted with tasks of public authority if they are of recognised international standing, comply with internationally recognised systems of management and control, and are supervised by a public authority.

(\*) OJ L 248, 16.9.2002, p. 1.’

3. the list in the Annex shall be replaced by the following list:

‘Bulgaria

Croatia

Romania’.

#### Article 2

Regulation (EC) No 1267/1999 is hereby amended as follows:

1. in Article 1, paragraph 1 shall be replaced by the following:

‘1. The Instrument for Structural Policies for Pre-Accession, hereinafter referred to as “ISPA” is hereby established.

ISPA shall provide assistance to contribute to the preparation for accession to the European Union of Bulgaria, Croatia and Romania, hereinafter referred to as the “beneficiary countries”, in the area of economic and social cohesion, concerning environment and transport policies in accordance with the provisions of this Regulation.’

2. the following subparagraph shall be added at the end of Article 3:

‘Notwithstanding the above, Community assistance to Croatia shall be granted during the period from 2005 to 2006.’

3. the following subparagraph shall be added at the end of Article 4:

‘By way of derogation from the first and second sentence of this Article, the allocation for Croatia for 2005 and 2006 under this instrument shall be determined by the Commission on the basis of an assessment of the administrative absorption capacity and accession-driven investment needs of this beneficiary country.’

4. in Article 9, paragraph 1, lit. (a), the words ‘as from 1 January 2000 and in any event not later than 1 January 2002,’ shall be deleted.

*Article 3*

Regulation (EC) No 1268/1999 is hereby amended as follows:

1. paragraph 1 of Article 1 shall be replaced by the following:

‘1. This Regulation establishes the framework for Community support for sustainable agriculture and sustainable rural development for the pre-accession period for Bulgaria, Croatia and Romania. The Regulation shall also remain applicable for the finalisation of any of the programmes started under it in the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia prior to their accession to the European Union.’;

2. at the end of Article 4(2) the following subparagraph shall be added:

‘By way of derogation from the first subparagraph, for Croatia the plan shall, under the same conditions as stipulated in the first subparagraph, cover a period of up to two years from the year 2005.’;

3. at the end of Article 5(1) the following sentence shall be added:

‘However, with regard to Croatia, the respective programme shall not be subject to a mid-term appraisal.’;

4. Article 7 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

‘1. Community assistance under this Regulation shall be granted during the period from 2000 to 2006, with the exception of Community assistance for Croatia which shall be granted during the period from 2005 to 2006. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.’;

- (b) at the end of paragraph 3 the following subparagraph shall be added:

‘However, for Croatia the annual financial allocation shall be fixed separately.’;

5. Article 11 shall be replaced by the following:

*‘Article 11*

The Commission shall allocate the available resources to the applicant countries for the implementation of Article 7(2). Within three months of the decision to make a country eligible for assistance under this Regulation, the Commission shall communicate its decision on the indicative financial allocation for the ongoing financial perspective to that applicant country.’.

*Article 4*

Regulation (EC) No 2666/2000 is hereby amended as follows:

1. at the end of paragraph 1 of Article 1 the following sentence shall be added:

‘From 2005 Croatia shall be eligible as a recipient country only for projects and programmes with a regional dimension, such as outlined in Article 2(2). Notwithstanding the preceding sentence, Croatia shall remain eligible for projects and programmes under Decision 1999/311/EC.’;

2. Article 7 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

‘1. The Commission shall implement the Community assistance in accordance with Council Regulation (EC) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (\*).

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(\*) OJ L 248, 16.9.2002, p. 1.’

- (b) the following paragraph shall be inserted:

‘2a. The Commission may, within the limits established in Article 54 of Regulation (EC) No 1605/2002, decide to entrust tasks of public authority, and in particular budget implementation tasks to the bodies listed in Article 54(2) of said Regulation. The bodies defined in Article 54(2)(c) of said Regulation may be entrusted with tasks of public authority if they are of recognised international standing, comply with internationally recognised systems of management and control, and are supervised by public authority.’.

*Article 5*

For the implementation of the pre-accession instruments, and for the implementation of Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy <sup>(1)</sup>, where reference is being made to the Accession Partnership <sup>(2)</sup> and the Europe Agreement, this shall be understood in the case of Croatia to refer to the European Partnership <sup>(3)</sup> and the Stabilisation and Association Agreement.

*Article 6*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 December 2004

*For the Council*  
*The President*  
P. VAN GEEL

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<sup>(1)</sup> OJ L 161, 26.6.1999, p. 68.

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

<sup>(3)</sup> OJ L 86, 23.3.2004, p. 1.