

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 30 November 2006

providing exceptional Community financial assistance to Kosovo

(2006/880/EC)

THE COUNCIL OF THE EUROPEAN UNION,

framework conducive to the creation of a sound economy based on market principles.

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(3) Since its establishment, UNMIK has transferred significant areas of competence to the Provisional Institutions of Self Government (PISG). In particular, responsibility for the budget has been transferred from UNMIK to the Ministry of Economy and Finance within the PISG, with the Special Representative of the UN Secretary-General retaining the ultimate power of approving the budget.

(4) On 24 October 2005, the UN Security Council approved the UN Secretary-General's proposal to launch the political process to determine the future status of Kosovo.

(1) The United Nations Security Council adopted Resolution 1244 (1999) (UNSCR 1244 (1999)) on 10 June 1999 aiming at promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo within the former Federal Republic of Yugoslavia.

(2) The International Community, basing itself upon UNSCR 1244 (1999), has set up an international security presence (KFOR) and an interim civil administration — the United Nations Interim Mission in Kosovo (UNMIK). UNMIK consists of four components (pillars) and the European Union is funding the fourth pillar responsible for economic reconstruction and development. UNMIK, and particularly Pillar IV thereof, has achieved substantial progress in setting up an institutional, legal and policy

(5) The authorities of Kosovo entitled to receive Community assistance and responsible for agreeing to and fulfilling the financial and economic conditions attached to this assistance are therefore UNMIK and the PISG or, when the future status of Kosovo will have been determined, the institution or institutions designated to take on these tasks and responsibilities.

(6) Within the stabilisation and association process, which is the framework for EU relations with the region, it is desirable to support efforts to sustain political and economic stabilisation in Kosovo, with a view to evolving towards the development of a full cooperation relationship with the Community making the European future of Kosovo more tangible.

⁽¹⁾ Opinion delivered on 12 October 2006 (not yet published in the Official Journal).

- (7) The Community has already found it an appropriate measure to help ease Kosovo's financial constraints in exceptionally difficult circumstances and, pursuant to Council Decision 2000/140/EC of 14 February 2000 providing exceptional Community assistance to Kosovo⁽¹⁾ and Council Decision 2001/511/EC of 27 June 2001 on further exceptional financial assistance to Kosovo⁽²⁾, provided exceptional financial assistance in the form of straight grants amounting to EUR 35 million and EUR 30 million in 2000 and 2001 respectively. The last payment under such assistance was released in December 2002.
- (8) This exceptional financial assistance complements other Community assistance programmes for the western Balkans.
- (9) In November 2005 the authorities of Kosovo agreed with the International Monetary Fund (IMF) a Letter of Intent and a Memorandum of Economic and Financial Policies laying out a fiscal framework for 2006, including medium-term orientations. They completed in the beginning of March 2006 a medium-term expenditure framework. The framework identifies budget and off-budget financing needs in 2006 to 2008. Accordingly, it is estimated that budget external financial assistance of some EUR 81 million (EUR 14 million in 2006 and EUR 67 million in 2007, respectively) would be needed until the end of 2007.
- (10) Although economic activity resumed after the conflict, Kosovo is at a low level of economic development. Kosovo is not in a position to borrow either domestically or on the international financial market and under its current status it is not eligible for membership in the international financial institutions. It may therefore not benefit from lending assistance associated with their programmes.
- (11) In view of current arrangements under UNSCR 1244 (1999), given Kosovo's relatively low level of economic development and its precarious public finance and external accounts, financial assistance from the Community in the form of straight grants, in liaison with other donors, continues to be the appropriate form of support.
- (12) Such assistance will provide crucial bridge support pending a settlement of Kosovo's status. It would be unrelated to new status arrangements under negotiation and not pre-empt further Community and international support likely to be required upon status resolution beyond 2007.
- (13) The release of this grant assistance is without prejudice to the powers of the budgetary authority.
- (14) This financial support should be provided after verifying whether the financial and economic conditions to be agreed with the authorities of Kosovo upon approval of this Decision can be satisfactorily fulfilled.
- (15) In order to ensure efficient protection of the Community's financial interests linked to the present financial assistance, it is necessary to provide for appropriate measures by Kosovo in relation to the prevention of and fight against fraud and other irregularities linked to this assistance, as well as for controls by the Commission and audits by the Court of Auditors.
- (16) This assistance should be managed by the Commission in consultation with the Economic and Financial Committee.
- (17) The Treaty does not provide, for the adoption of this Decision, powers other than those of Article 308,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall make available to Kosovo an exceptional financial assistance in the form of a grant of up to EUR 50 million with a view to alleviating the financial situation in Kosovo, supporting the development of a sound economic and fiscal framework, facilitating the continuation and strengthening of essential administrative functions and addressing public investment needs.
2. This Community financial assistance shall be managed by the Commission in consultation with the Economic and Financial Committee and in a manner consistent with the agreements or understandings reached between the IMF and the authorities of Kosovo.
3. The Community financial assistance shall be made available for two years starting from the first day after the entry into force of the Memorandum of Understanding referred to in Article 2(1). However, if circumstances so require, the Commission, after consultation of the Economic and Financial Committee, may decide to extend the availability period by a maximum of one year.

⁽¹⁾ OJ L 47, 19.2.2000, p. 28.

⁽²⁾ OJ L 183, 6.7.2001, p. 42.

Article 2

1. The Commission is empowered to agree with the authorities of Kosovo, after consultation with the Economic and Financial Committee, the economic policy and financial conditions attached to this assistance, to be laid down in a Memorandum of Understanding. These conditions shall be consistent with the agreements or understandings referred to in Article 1(2).

2. Before proceeding with the actual implementation of the Community assistance, the Commission shall monitor the soundness of Kosovo's financial circuits, administrative procedures, as well as the internal and external control mechanisms which are relevant to this Community macro-financial assistance.

3. The Commission shall verify at regular intervals, in collaboration with the Economic and Financial Committee and in coordination with the IMF, that economic policies in Kosovo are in accordance with the objectives of this assistance and that the agreed economic policy and financial conditions are being satisfactorily fulfilled.

Article 3

1. The assistance shall be made available by the Commission to Kosovo in two or, if appropriate, three instalments. The first instalment shall be released after the entry into force of the Memorandum of Understanding referred to in Article 2(1), and on the basis of a satisfactory assessment of the monitoring referred to in Article 2(2).

2. The second and any further instalments shall be released on the basis of a satisfactory compliance with the economic policy and financial conditions referred to in Article 2(1), satisfactory progress towards fulfilling the conditions set out in the Memorandum of Understanding provided for in Article 2(1), and not before three months have elapsed since the release of the previous instalment.

3. The funds shall be paid to the Ministry of Economy and Finance of the PISG, or when the future status of Kosovo will have been determined, to the institution designated to take on its tasks and responsibilities, exclusively in support of Kosovo's budgetary financing needs.

Article 4

The implementation of this assistance shall take place in accordance with the provisions 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 ⁽¹⁾ and its implementing rules. In particular, the Memorandum of Understanding referred to in Article 2(1) shall provide for appropriate measures by Kosovo related to the prevention of and the fight against fraud, corruption and other irregularities linked to this assistance. It shall also provide for controls by the Commission, including the European Anti-Fraud Office (OLAF), with the right to perform on the spot checks and inspections, and for audits by the Court of Auditors and independent auditors, where appropriate, to be carried out on the spot.

Article 5

At least once a year, and before 15 September, the Commission shall submit to the European Parliament and to the Council a report, including an evaluation on the implementation of this Decision in the previous year.

Article 6

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 30 November 2006.

For the Council
The President
L. HYSSÄLÄ

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.