



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.10.2004
COM(2004) 660 final

Proposal for a

COUNCIL DECISION

concerning the Community position within the Association Council established by the Europe Agreement between the European Communities and their Member States, on the one part, and Romania, on the other part, on the participation of Romania in the RAPEX system under Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Europe Agreement¹ (EA) establishing an Association between the European Communities and their Member States, on the one part, and Romania, on the other part, signed in Brussels on the 1st of February 1993, states in its Article 93 that the Parties shall co-operate with the aim of achieving full compatibility of the systems of consumer protection in Romania and the Community. To this end, co-operation shall comprise, amongst other things and within existing possibilities, the exchange of information and access to Community databases.

Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety establishes, in its Article 12, that access to RAPEX shall be open to applicant countries, within the framework of agreements between the Community and those countries, according to arrangements defined in these agreements. Any such agreements must be based on reciprocity and include provisions on confidentiality corresponding to those applicable in the Community.

By letter dated 2 December 2003, addressed by the Mission of Romania to the European Communities to the Director General for Health and Consumer Protection, Romania requested the Commission to initiate the procedures to enable Romania's access to the EU RAPEX system.

Romania has actively participated, since its start in May 1999, in TRAPEX (transitional system for rapid exchange of information), system that mirrors the activities of RAPEX for the applicant countries.

The attached Proposal has no financial implications.

For the reasons set out above, the Council is invited to adopt the annexed decision.

¹ OJ L 357, 31.12.1994, p. 1.

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concerning the Community position within the Association Council established by the Europe Agreement between the European Communities and their Member States, on the one part, and Romania, on the other part, on the participation of Romania in the RAPEX system under Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part [²], signed in Brussels on the 1st of February 1993, and in particular Article 93 thereof,

Having regard to the Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety and in particular Article 12 thereof,

Having regard to the proposal from the Commission,³

Whereas:

- (1) The Europe Agreement between the European Communities and their Member States, on the one part, and Romania, on the other part, establishes in its Article 93 that the Parties shall co-operate with the aim of achieving full compatibility of the systems of consumer protection in Romania and the Community;
- (2) Article 12(4) of Directive 2001/95/EC establishes that access to RAPEX shall be open to applicant countries, within the framework of agreements between the Community and those countries, according to arrangements defined in these agreements. Any such agreements must be based on reciprocity and include provisions on confidentiality corresponding to those applicable in the Community;
- (3) Romania has actively participated, since its start in May 1999, in TRAPEX (transitional system for rapid exchange of information), system that mirrors the activities of RAPEX for the applicant countries,

² OJ L 357, 31.12.1994, p. 1.

³ OJ C [...] [...], p. [...]

HAS DECIDED AS FOLLOWS:

Sole Article

The position to be taken by the Community within the Association Council established by the Europe Agreement between the European Communities and their Member States, on the one part, and Romania, on the other part, on the participation of Romania in the RAPEX system under Directive 2001/95/EC is contained in the attached draft decision of the Association Council.

Done at Brussels, [...]

*For the Council
The President*

ANNEX

Proposal for a

**DECISION No/2004 OF THE ASSOCIATION COUNCIL between
the European Communities and their Member States, of the one part, and Romania,
of the other part of --/--/--**

on the participation of Romania in the RAPEX system under Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety⁴

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part [⁵], signed in Brussels on the 1st of February 1993, and in particular Article 93 thereof,

Having regard to the Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety and in particular Article 12 thereof,

Having regard to the letter, dated 2 December 2003, addressed by the Mission of Romania to the European Communities to the Director General for Health and Consumer Protection requesting the Commission to initiate the procedures to enable Romania's access to the EU RAPEX system,

Whereas:

- (1) Article 93 of the Europe Agreement establishes that the Parties shall co-operate with the aim of achieving full compatibility of the systems of consumer protection in Romania and the Community. To this end, co-operation shall comprise, amongst other things and within existing possibilities, the exchange of information and access to Community databases;
- (2) Article 12(4) of Directive 2001/95/EC establishes that access to RAPEX shall be open to applicant countries, within the framework of agreements between the Community and those countries, according to arrangements defined in these agreements. Any such agreements must be based on reciprocity and include provisions on confidentiality corresponding to those applicable in the Community;
- (3) Annex II of Directive 2001/95/EC establishes the procedures for the application of RAPEX and Guidelines for notification;

⁴ OJ L 11, 15.1.2002, p. 4.

⁵ OJ L 357, 31.12.1994, p. 1.

- (4) The Commission has adopted guidelines for the management of RAPEX, as required by point 8 of ANNEX II of the Directive on the 29th of April 2004⁶;
- (5) Romania has actively participated, from its start in May 1999, in TRAPEX (transitional system for rapid exchange of information), system that mirrors the activities of RAPEX for the applicant countries,

HAS DECIDED AS FOLLOWS:

Article 1

Romania shall participate in the RAPEX system with the same rights and obligations as the current members, in accordance with the relevant provisions of Directive 2001/95/EC and the RAPEX guidelines.

Article 2

Romania shall apply the same confidentiality principles as those applied by the other members of RAPEX.

Article 3

In co-operation with the Commission services, Romania shall make the necessary practical arrangements to ensure that it is in a position to comply fully with the requirements set out in the directive and the procedures included in the RAPEX guidelines.

The Commission will in particular provide initial training of Romanian officials for use of the RAPEX application.

Article 4

Any problems that may arise from the application of this decision should be solved through direct contacts between the Commission services and the Romanian authorities in the context of RAPEX. Whenever this does not lead to a mutually acceptable solution, an exchange of views shall take place in the Association Council at the request of one Party within three months following the request.

Following this exchange of views, or after expiry of the period referred to in the above paragraph, the Association Council may take appropriate recommendations for the settlement of those problems.

These procedures in the Association Council are without prejudice to any action under the respective consumer protection laws in force in the territory of the Parties.

⁶ OJ L151, 30.4.2004, p. 83, as corrected in OJ L 208, 73, 10.6.2004, p. 73.

Article 5

This Decision shall enter into force on the day of its adoption. It is applicable from 01.12.2004.

Done at [...], [...]

For the Association Council

The President