



EUROPEAN COMMISSION

Brussels, 20.7.2011
COM(2011) 446 final

2011/0193 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
**amending Council Regulation (EC) No 1085/2006 establishing an Instrument for Pre-
Accession Assistance (IPA)**

EXPLANATORY MEMORANDUM

1. BACKGROUND

Iceland and Montenegro

The European Council of 17 June 2010, in its conclusions, noted that Iceland meets the political criteria set by the Copenhagen European Council in 1993 and welcomed the opinion of the Commission on Iceland's application for membership of the EU. On those grounds, the European Council decided to open negotiations with Iceland. Iceland is therefore a candidate country.

The European Council of 16-17 December 2010 endorsed the Council's conclusions of 14 December 2010 on enlargement and agreed to give Montenegro the status of candidate country.

The Commission therefore proposes to the Council and the Parliament to amend Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) with a view to transferring Iceland and Montenegro from the list of potential candidate countries (Annex II) to the list of candidate countries (Annex I).

Article 19

The Commission proposes to the Council and the Parliament an amendment to Article 19 "Rules of participation and origin, eligibility for grants" of the IPA Regulation (EC) No 1085/2006 in order to align its provisions with those of Article 21 "Participation in tenders and contracts" of the ENPI Regulation (EC) No 1638/2006.

This amendment addresses the concern, expressed by EU Member States involved in IPA cross-border cooperation (CBC) programmes, with regard to the participation in calls for proposals. Member States asked for participation in calls for proposals to be limited to applicants from countries participating in the relevant IPA CBC programme, as is already the case for the ENPI CBC programmes. The Council invited the Commission to propose a possible solution at the earliest opportunity.

The Commission has carried out an assessment of the possible implications of a revision of Article 19, in particular with regard to coherence with other external aid instruments, and specifically the ENPI which also includes a CBC component. The Commission therefore proposes that Article 19 should be aligned with Article 21 of the ENPI Regulation (EC) No 1638/2006 by inserting a new paragraph 9 which, considering the local nature of the CBC programmes, would allow participation in calls for proposals to be limited to local actors.

Assistance to the Turkish Cypriot community and the IPA management committee

The Commission proposes to amend the IPA Regulation with the aim of allowing the Phare committee to continue to assist the Commission in the management of the financial assistance to the Turkish Cypriot community, as provided for in Regulation (EC) No 389/2006 on assistance to the Turkish Cypriot community.

Existing provisions in the area of the proposal

Regulation (EU) No 540/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)⁽¹⁾.

Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an Instrument for Pre-Accession Assistance (IPA)⁽²⁾.

Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 of 5 December 2000 on the European Agency for Reconstruction⁽³⁾.

Consistency with the other policies and objectives of the Union

The Commission has assessed the possible implications of a revision of Article 19 in two respects:

- 1) Assessment of consistency with Regulation 2112/2005 (the so called "untying Regulation")
- 2) Coherence with other external aid instruments.

As a result of the assessment, it has been concluded that Article 19 of the IPA Regulation (EC) No 1085/2006 should be aligned with Article 21 "Participation in tenders and contracts" of the ENPI Regulation (EC) No 1638/2006 by inserting a new paragraph 9 in the IPA Regulation.

2. CONSULTATION OF INTERESTED PARTIES AND COLLECTION AND USE OF EXPERTISE

The Commission has carried out an internal consultation. There was no need for external expertise.

Impact assessment

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action: three amendments to the Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA).

- I. Iceland and Montenegro will be transferred from the list of potential candidate countries (Annex II) to the list of candidate countries (Annex I), following the decisions of the European Council.

⁽¹⁾ [OJ L 210, 31.7.2006, p.82](#)

⁽²⁾ [OJ L 170, 29.6.2007, p. 1](#)

⁽³⁾ [OJ L 65, 7.3.2006, p.5](#)

II. A new paragraph 9 will be added to Article 19.

III. In Article 25 paragraph 1, the second subparagraph is modified.

Legal basis

Article 212 (2) of the Treaty of the Functioning of the European Union.

Subsidiarity principle

Not applicable.

Proportionality principle

Not applicable.

Choice of instruments

Proposed instrument: amendment to the Council Regulation. Other means would not be adequate for the following reason: a Regulation must be amended by a Regulation.

4. BUDGETARY IMPLICATIONS

This measure does not involve any additional expenditure.

5. ADDITIONAL INFORMATION

Simplification

Not applicable.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Council Regulation (EC) No 1085/2006 establishing an Instrument for Pre-Accession Assistance (IPA)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the Functioning of the European Union and in particular Article 212 (2) thereof,

Having regard to the proposal from the European Commission ⁽⁴⁾,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 1085/2006 of 17 July 2006 ⁽⁵⁾ establishing an Instrument for Pre-Accession Assistance provides for assistance to candidate countries and potential candidates in their progressive alignment with the standards and policies of the Union, including where appropriate *EU acquis* with a view to membership.
- (2) Council Regulation (EC) No 1085/2006 makes a clear distinction between candidate countries and potential candidates.
- (3) The European Council of 17 June 2010 welcomed the Commission opinion on Iceland's application for membership of the Union, noted that Iceland meets the political criteria set by the Copenhagen European Council in 1993 and decided to open accession negotiations with Iceland. Iceland is therefore a candidate country.
- (4) The European Council of 17 December 2010 endorsed the Council's conclusions of December 2010 on enlargement and agreed to grant Montenegro the status of a candidate country.
- (5) The Council has invited the Commission to propose an amendment to Article 19 of Council Regulation (EC) No 1085/2006 with a view to clarifying the rules regarding the participation in the award of grant contracts financed under the IPA Cross-Border Cooperation component and ensuring coherence with other external aid instruments and in particular with the European Neighbourhood and Partnership Instrument.

⁽⁴⁾ OJ C , , p. .

⁽⁵⁾ [OJ L 210, 31.7.2006](#), p. 82.

(6) Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction⁽⁶⁾, designates the committee provided for in Council Regulation (EEC) No 3906/89 of 18 December 1989⁽⁷⁾ (the "Phare committee") to assist the Commission in the management of the assistance to the Turkish Cypriot community. In accordance with Article 25 of Regulation (EC) No 1085/2006, Regulation (EEC) No 3906/89 has been repealed, however continues to apply for legal acts and commitments implementing the budget years preceding 2007. As Regulation (EC) No 389/2006 continues to be the basic act for financial support to the Turkish Cypriot community beyond these budget years, the Phare committee should also be continued for that purpose.

(7) Regulation (EC) No 1085/2006 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1085/2006 is hereby amended as follows:

(1) In Article 19, the following paragraph is added:

"9. Paragraph 1 to 8 shall be without prejudice to the participation of categories of eligible organisations by nature or by localisation in regard to the objectives of the action."

(2) In Article 25 paragraph 1, the second subparagraph is replaced by the following:

"These Regulations, as well as Regulation (EC) No 2666/2000, shall continue to apply for legal acts and commitments implementing the budget years preceding 2007, for the implementation of Article 31 of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded(*) and for the implementation of Article 3 of Council Regulation (EC) No 389/2006(**).

*OJ L 157, 21.6.2005, p. 203.

**OJ L 65, 7.3.2006, p. 5."

(3) In Annex I, the following entries are inserted after the entry concerning Croatia:

"— Iceland

— Montenegro".

⁽⁶⁾ OJ L 65, 7.3.2006, p. 5.

⁽⁷⁾ OJ L375, 23.12.1989, p. 11.

(4) In Annex II, the following entries are deleted:

"— Iceland

— Montenegro".

Article 2

This Regulation shall enter into force on the 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,

For the European Parliament
The President

For the Council
The President