



EUROPEAN COMMISSION
DIRECTORATE-GENERAL EDUCATION AND CULTURE

The Director-General

Brussels, 31 OCT. 2011
EAC C4/CH/ ARES(2011)1163545

Her Excellency
Ms Roksanda NINČIĆ
Ambassador of the Republic of Serbia
To the European Union
Boulevard du Régent 53
B – 1000 Brussels

Subject: Commission proposal for a Memorandum of Understanding on the participation of Serbia in the Lifelong Learning Programme

Your Excellency,

I have the pleasure of transmitting to you the Commission proposal for a Memorandum of Understanding establishing the terms and conditions for your country's participation in the activities of the Lifelong Learning programme which are not managed by National Agencies. This proposal was adopted by the Commission on Wednesday 26 October 2011.

I would be grateful if you could communicate the proposed Memorandum of Understanding to the relevant authorities of your country to allow them to complete the decision making process and internal procedures necessary for its signature and provisional application and prepare the steps necessary for its entry into force.

The Memorandum of Understanding includes a provision whereby, pending its entry into force, it will apply provisionally after its signature, starting from the budget year 2012.

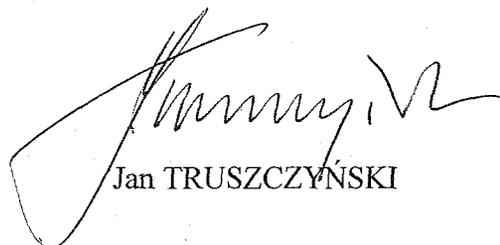
To ensure better conditions for the accession of your country to the programme, our objective should be the signing of the Memorandum of Understanding by the end of the year, i.e. sufficiently early before the main application deadlines for the year 2012.

Then, at the beginning of the year 2012, I will send to you the call for funds requesting the payment of the contribution of Serbia. Please be aware that Serbia should pay its contribution at the earliest convenience after the call for funds is sent, because the Commission will not issue any grant agreement with the beneficiaries from Serbia before the payment is made. An early payment of the contribution of Serbia would facilitate the implementation of projects by the beneficiaries from your country.

I would suggest that your staff inform Ms. C. Henriot (catherine.henriot@ec.europa.eu, phone number: 02 295 14 44), or Ms. Aline Paulissen (aline.paulissen@ec.europa.eu, tel: +32 (0)2 296 49 46) as soon as the procedures are completed from the side of your country. Ms. Henriot remains at your disposal if you have any questions.

I thank you for your cooperation, and I look forward to the early completion of this process, which will allow Serbia to participate in the programme as from the budgetary year 2012.

Yours faithfully,



Jan TRUSZCZYŃSKI

Cc.: Mr. Vincent Degert, Head of the EU Delegation in Serbia
Mr. Stefano Sannino, Director-General, DG Enlargement, European Commission
Mr. Philippe Brunet, Head of Cabinet of Commissioner Vassiliou

MEMORANDUM OF UNDERSTANDING

between the European Union and the Republic of Serbia

on the participation of the Republic of Serbia in the action programme in the field of lifelong learning (2007-2013)

THE EUROPEAN COMMISSION, hereinafter referred to as “the Commission”, on behalf of the European Union,

of the one part, and

THE REPUBLIC OF SERBIA, hereinafter referred to as “Serbia”,

of the other part,

Whereas:

- (1) Framework Agreement of 22 November 2004 between the European Community and Serbia and Montenegro¹ establishes the general principles for the participation of Serbia and Montenegro in Community programmes, leaving the Commission and the competent authorities of Serbia and Montenegro to determine the specific terms and conditions, including financial contribution, with regard to such participation in each particular programme.
- (2) The action programme in the field of lifelong learning was established by Decision No 1720/2006/EC² of the European Parliament and of the Council of 15 November 2006.
- (3) Participation in the actions listed in point A.1 of the Annex of Decision No 1720/2006/EC is subject to the fulfilment of the criteria mentioned in Article 6.2 concerning the management capacity of National Agencies and supervision by the national authorities,

HAVE AGREED AS FOLLOWS:

Article 1

Serbia shall participate in the action programme in the field of lifelong learning (hereinafter called « the Lifelong Learning programme »), in accordance with the conditions laid down in Framework Agreement of 22 November 2004 between the European Community and Serbia and Montenegro on the general principles for the participation of the Serbia and Montenegro in Community programmes, and under the terms and conditions set out in the Annexes I, II and III of this Memorandum of Understanding.

¹ OJ L 192, 22.7.2005, p. 29.

² OJ L 327, 24.11.2006, p.45.

Article 2

This Memorandum of Understanding shall apply for the duration of the Lifelong Learning programme. Nevertheless, should the European Union decide to extend the programme duration without any substantial change within the programme, this Memorandum would also be extended correspondingly and automatically if no party denounces it within one month following the extension decision.

Annexes I, II and III form an integral part of this Memorandum of Understanding.

This Memorandum of Understanding may only be amended in writing by common consent of the parties.

This Memorandum of Understanding shall enter into force on the date of the written notification by which Serbia notifies the Commission through diplomatic channels that its internal legal requirements for its entry into force have been fulfilled. Pending its entry into force, this Memorandum of Understanding shall apply provisionally, starting from the budget year 2012.

In the event of Serbia notifying the Commission that it will not ratify the signed Memorandum of Understanding, provisional application shall end from the budget year following this notification. Notification terminating provisional application shall not affect the Parties' obligations concerning the projects and activities financed under the general budget of the European Union of the year of notification, nor payment by Serbia of its contribution for the year of notification.

Done at Brussels

Done at Brussels

on

on

For the Republic of Serbia,

*For the Commission,
on behalf of the European Union,*

ANNEX I
Terms and conditions for the participation of Serbia
in the Lifelong Learning programme

1. Serbia will participate in all the programme actions listed in Point A.2 of the Annex to Decision No 1720/2006/EC of 15 November 2006 of the European Parliament and of the Council establishing the Lifelong Learning programme, except eTwinning.
2. Serbia will participate in conformity, unless otherwise provided in this Memorandum of Understanding, with the objectives, criteria, procedures and deadlines as defined in Decision No 1720/2006/EC of 15 November 2006 of the European Parliament and of the Council establishing the Lifelong Learning programme.
3. To participate in the programme, Serbia will pay each year a contribution to the general budget of the European Union according to the modalities described in Annex II.

If necessary in order to take into account programme developments, or the evolution of Serbia's absorption capacity, this contribution may be adapted in writing by common consent of the parties, so as to avoid budgetary imbalance in the implementation of the programme.

4. The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of Serbia will be the same as those applicable to eligible institutions, organisations and individuals of the European Union.
5. With a view to ensuring the European Union dimension of the programme, to be eligible for European Union financial support, projects and activities will have to include at least a partner from one of the Member States of the European Union.
6. The Member States of the European Union and Serbia will make every effort, within the framework of existing provisions, to facilitate the free movement and residence of students, teachers, trainees, trainers, university administrators, young people and other eligible persons moving between Serbia and the Member States of the European Union for the purpose of participating in activities covered by this Memorandum of Understanding.
7. Without prejudice to the responsibilities of the Commission and the Court of Auditors of the European Union in relation to the monitoring and evaluation of the programme, the participation of Serbia in the programme shall be continuously monitored on a partnership basis involving the Commission and Serbia. Serbia shall submit to the Commission relevant reports and take part in other specific activities provided for by the European Union in that context.

Rules concerning financial control, recovery and other antifraud measures are laid down in Annex III.

8. The language to be used in all contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative arrangements for the programme, will be any of the official languages of the European Union.

9. The European Union and Serbia may terminate activities under this Memorandum of Understanding at any time upon twelve months' notice in writing. Projects and activities in progress at the time of termination shall continue until their completion under the conditions laid down in this Memorandum of Understanding, as well as the contractual arrangements applying to these projects and activities and the provisions of Annex III.

ANNEX II

Financial contribution of Serbia to the Lifelong Learning programme

1. The annual financial contribution to be paid by Serbia to the budget of the European Union to participate in the Lifelong Learning programme will be € 370 000.
2. Serbia may finance the contribution mentioned above partly from Serbia's State budget, and partly from Serbia's pre-accession funds, subject to annual programming procedures within the framework of Council Regulation (EC)1085/2006 of 17 July 2006³. The requested pre-accession funds will be transferred to Serbia each year according to a Financing Agreement, as a reimbursement of part of the annual financial contribution actually paid in response to annual calls for funds from the Commission.
3. The financial regulation applicable to the general budget of the European Union will apply, notably to the management of the contribution of Serbia.

Travel costs and subsistence costs incurred by representatives and experts of Serbia for the purposes of taking part as observers in the work of the committee referred to in Article 10 of the Decision of the European Parliament and of the Council establishing the action programme in the field of lifelong learning or taking part in other meetings related to the implementation of the programme shall be reimbursed by the Commission on the same basis as and in accordance with the procedures currently in force for representatives and experts of the Member States of the European Union.

4. At the beginning of each year, the Commission will send to Serbia a call for funds corresponding to its contribution to the programme under this Memorandum of Understanding.

This contribution shall be expressed in Euros and paid into a Euro bank account of the Commission.

Serbia will pay its contribution by 1 April, provided that the call for funds is sent by the Commission before 1 March, or at the latest one month after the call for funds is sent if later.

Any delay in the payment of the contribution shall give rise to the payment of interest by Serbia on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, increased by 3.5 percentage points.

³ OJ L 210, 31.7.2006, p.82

ANNEX III
Financial control, Recovery and other Antifraud measures

I. CONTROLS AND ANTIFRAUD MEASURES BY THE EUROPEAN UNION

- (1) In accordance with the financial regulation applicable to the general budget of the European Union, and with the other rules referred to in this Memorandum of Understanding, the contracts concluded with beneficiaries of the programmes established in Serbia shall provide for financial or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Commission agents or by other persons mandated by the Commission.
- (2) Commission agents and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts concluded to implement the instruments referred to in this Memorandum. The European Court of Auditors shall have the same rights as the Commission.
- (3) Within the framework of this Memorandum, the Commission/OLAF (the European Anti Fraud Office) shall be authorised to carry out on-the-spot checks and inspections on Serbia's territory, in accordance with the procedural provisions of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996⁴.

These checks and inspections shall be prepared and conducted in close collaboration with the competent authorities designated by Serbia, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help.

If the authorities concerned of Serbia so wish, the on-the-spot checks and inspections may be carried out jointly with them.

Where the participants in the programmes resist an on-the-spot check or inspection, the authorities of Serbia, acting in accordance with national rules, shall give Commission/OLAF inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

Commission/OLAF shall report as soon as possible to the authorities of Serbia any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event Commission/OLAF shall be required to inform the above-mentioned authority of the result of such checks and inspections.

II. INFORMATION AND CONSULTATION

- (1) For the purposes of proper implementation of this Annex, the competent authorities of Serbia and European Union authorities shall regularly exchange information and, at the request of one of the Parties, shall conduct consultations.

⁴ OJ L 292, 15.11.1996, p.2

- (2) The competent authorities of Serbia shall inform the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts concluded in application of the instruments referred to in this Memorandum.

III. ADMINISTRATIVE MEASURES AND PENALTIES

Without prejudice to application of the criminal law of Serbia, administrative measures and penalties may be imposed by the Commission in accordance with the financial regulation applicable to the general budget of the European Union.

IV. RECOVERY

Decisions taken by the Commission within the scope of this Memorandum which impose a pecuniary obligation on persons other than States shall be enforceable in Serbia. The enforcement shall be governed by the rules of civil procedure in force in Serbia. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of Serbia shall designate for this purpose and shall make known to the Commission. When these formalities have been completed on application by the Commission, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. The legality of the Commission decision shall be subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause in a contract within the scope of this Memorandum shall be enforceable on the same terms.

V. DIRECT COMMUNICATION

The Commission shall communicate directly with the programme participants established in Serbia and with their subcontractors. They may submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Memorandum and of the contracts concluded to implement them.