



Brussels, 6.10.2016
COM(2016) 641 final

2016/0312 (NLE)

Proposal for a

COUNCIL DECISION

**on the signing, on behalf of the European Union and its Member States,
and provisional application of the Protocol
to the Stabilisation and Association Agreement between
the European Communities and their Member States, of the one part,
and Bosnia and Herzegovina, of the other part,
to take account of the accession of the Republic of Croatia to the European Union**

EXPLANATORY MEMORANDUM

The attached proposal constitutes the legal instrument for the signing and provisional application of a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession of the Republic of Croatia to the European Union (hereinafter referred to as 'the Protocol').

According to its Act of accession, Croatia shall accede to the international agreements signed or concluded by the European Union and its Member States by means of a Protocol to those agreements.

The Stabilisation and Association Agreement between the European Communities and its Member States, of the one part, and Bosnia and Herzegovina, of the other part, hereinafter referred to as 'the Agreement', was signed in Luxembourg on 16 June 2008 and entered into force on 1 June 2015.

On 24 September 2012 the Council authorised the Commission to open negotiations, on behalf of the European Union and its Member States and the Republic of Croatia, with Bosnia and Herzegovina in order to conclude a Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession of the Republic of Croatia to the European Union.

Several rounds of negotiations took place between 13 December 2012 and 28 April 2016. Following further technical consultations and correspondence, the Protocol was initialled by the Commission and Bosnia and Herzegovina on 18 July 2016.

The Commission proposes that the Council decides on the signature and provisional application of the Protocol and concludes the Protocol on behalf of the European Union and its Member States. The conclusion of the Protocol on behalf of the European Atomic Energy Community (EAEC) follows a separate procedure, by which the Commission recommends that the Council gives its approval pursuant to the second paragraph of Article 101 of the Treaty establishing the EAEC.

The attached proposal is for a Council decision on the signature and provisional application of the Protocol. The Commission proposes that the Council:

- decides on the signature and provisional application of the Protocol on behalf of the European Union and its Member States

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the Act of Accession of the Republic of Croatia, and in particular the second subparagraph of Article 6(2) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part was signed on 16 June 2008 and entered into force on 1 June 2015¹.
- (2) The Republic of Croatia became a Member State of the Union on 1 July 2013.
- (3) In accordance with the second subparagraph of Article 6(2) of the 2012 Act concerning the conditions of accession of the Republic of Croatia to the European Union, the accession of Croatia to the Stabilisation and Association Agreement between the European Communities and its Member States, of the one part, and Bosnia and Herzegovina, of the other part, should be agreed by the conclusion of a protocol ('the Protocol') to such agreement by the Council acting unanimously on behalf of the Member States and by the third country concerned.
- (4) On 24 September 2012, the Council authorised the Commission, on behalf of the Union and its Member States and the Republic of Croatia, to open negotiations with Bosnia and Herzegovina for the adaptation of agreements signed or concluded between the Union or the Union and its Member States with one or more third countries or international organisations, in view of the accession of the Republic of Croatia to the Union.
- (5) These negotiations were completed by initialling the Protocol on 18 July 2016.

¹ OJ L 164, 30.6.2015, p. 2.

- (6) The Protocol should be signed on behalf of the Union and its Member States, subject to its conclusion at a later date.
- (7) The conclusion of the Protocol is subject to a separate procedure as regards matters falling under the Treaty establishing the European Atomic Energy Community.
- (8) The Protocol should be applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union and its Member States of the Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession of the Republic of Croatia to the European Union is hereby authorised, subject to the conclusion of the Protocol.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Protocol on behalf of the Union and its Member States.

Article 3

The Protocol shall be applied on a provisional basis, in accordance with Article 8(2) thereof, as from the first day of the second month following the date of its signature, pending the completion of the procedures for its conclusion.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council
The President*