COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.9.2006
COM(2006) 526 final

Proposal for a

COUNCIL DIRECTIVE

adapting certain directives in the field of freedom to provide services, by reason of the accession of the Republic of Bulgaria and Romania

(presented by the Commission)

EXPLANATORY MEMORANDUM

Article 4(3) of the Treaty of Accession of the Republic of Bulgaria and Romania enables the institutions of the Union to adopt before accession measures referred to, inter alia, in Article 56 of the Act of Accession. These measures shall enter into force only subject to and on the date of the entry into force of the Treaty of Accession.

Article 56 of the Act of Accession stipulates that where acts of the institutions adopted prior to accession require adaptation by reason of accession, and the necessary adaptations have not been provided for in this Act or its Annexes, the Council or the Commission (if the original acts was adopted by the Commission) shall adopt the necessary acts.

Point 2 of the Final Act refers to the political agreement reached on a set of adaptations to acts adopted by the institutions. The Council and the Commission shall complete and update these adaptations and adopt them according to the procedure set out in Article 56 of the Act of Accession.

The completing and updating of adaptations to the acquis takes into account acquis adopted after the cut-off date for the Treaty of Accession, 1 October 2004. The form of the acts adopted under Article 56 of the Act of Accession follows that of the amended acts. Five types of acts are foreseen to adapt the acquis: Council and Commission directives to adapt the directives, Council and Commission regulations to adapt the regulations and decisions and a Commission Recommendation to adapt a Commission Recommendation.

The attached proposal for a Council Directive covers adaptations in the area of freedom to provide services to Directives adopted until 1 July 2006. These adaptations are of a technical nature. To technically adapt the acquis in view of accession has no financial impact.

Other acts, which require adaptation in view of an enlarged Union, and which, for example, because of timing reasons, could not be taken into account in this proposal for a Council Directive, have to be adapted at a later stage or, as appropriate, through a normal procedure. Article 56 stipulates that adaptations adopted after the accession may be applied as from the date of accession.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Republic of Bulgaria and Romania, and in particular Article 4(3) thereof,

Having regard to the Act of Accession of the Republic of Bulgaria and Romania, and in particular Article 56 thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) Pursuant to Article 56 of the Act of Accession, where acts which remain valid beyond 1 January 2007, and require adaptation by reason of accession, and the necessary adaptations have not been provided for in the Act of Accession or its Annexes, the necessary acts shall be adopted by the Council, unless the Commission adopted the original act.

(2) The Final Act of the Conference which has drawn up the Treaty of Accession has indicated that the High Contracting Parties have reached political agreement on a set of adaptations to acts adopted by the Institutions required by reason of accession and that the Council and the Commission are invited to adopt these adaptations before accession, completed and updated where necessary to take account of the evolution of the law of the Union.

(3) Directives 73/239/EEC[2], 74/557/EEC[3] and 2002/83/EC[4] should therefore be amended accordingly,

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1 OJ C , , p. .
2 OJ L 228, 16.8.1973, p. 3.
3 OJ L 307, 18.11.1974, p. 5.
4 OJ L 345, 19.12.2002, p. 1.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directives 73/239/EEC, 74/557/EEC and 2002/83/EC are amended as set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by the date of accession of Bulgaria and Romania to the European Union at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

   When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article3

This Directive shall enter into force subject to, and as from the date of, the entry into force of the Treaty of Accession of the Republic of Bulgaria and Romania.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX