

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION

Relations with the associated countries of Central
and Eastern Europe
Task Force on Approximation of Laws
(Follow-up of the European Council of Copenhagen)

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The European Council of Copenhagen (21-22 June 1993) underlined the importance of approximation of laws of the associated countries of central and Eastern Europe with legislation applicable in the Community. It called upon the Commission and the relevant administrations in the Member States to mobilize their efforts towards further approximation of legislations, including the offering of training in Community law and practice to officials from the associated countries. It concluded that a Task Force composed of representatives of the Commission and the Member States should be established in order to coordinate and direct the operation. This communication is a response to that call.

The proposal concerning the structure and the role of the Task Force follows after a description of the relations with the associated countries of Central and Eastern Europe in the area of approximation of laws.

However, since the Commission first put forward its proposal to create a Task Force a number of Europe Agreements have entered into force. The organs of these Agreements have set up sub-committees to deal with the issue of approximation of legislation. The Commission now believes that those sub-committees provide a better forum for dealing with these issues since they can cater directly for the specific situation of each associated country. Therefore, although the Commission is submitting a proposal for a Task Force as decided by the European Council, it would recommend dealing with the approximation of legislation directly through the relevant sub-committees, rather than through the setting up of a Task Force.

I. The Europe Agreements and Approximation of Laws

1. The Europe Agreements

Between 1991 and 1993 the European Community negotiated and signed the Europe Agreements which establish an association between the Community and its Member States on the one part and each one of a number of countries of Central and Eastern Europe, emerging from four decades of communist rule, on the other part. These countries are Poland, Hungary, Slovakia, the Czech Republic, Romania and Bulgaria. A Europe Agreement is in the process of being negotiated

with Slovenia. Approximation of the legislations of the associated countries to legislation applicable in the Community is one of the objectives of the Europe agreements.

2. Approximation of laws

The countries of Central and Eastern Europe need to support their effort to transform their economies and their drive towards joining the Community and, through it, the world economy by the development of an appropriate legal framework. The development of the legal framework has to be designed in such a manner as to serve both the transformation of the economies of the associated countries to market economies and their gradual integration into the Community.

In the short term, a legal environment compatible with Community law is a major incentive for foreign investment, a vehicle for improved access to Community markets and a guarantee of undistorted and fair trade. In the longer term, it represents an indispensable preparation of the associated countries for their future accession to the European Union. The overall transformation of the legal systems of the associated countries through approximation to Community law should be seen as a lengthy process which will encompass not only existing Community law but also its future developments. The need to transform legal traditions and conceptions distorted by decades of command economy adds a further difficulty to the operation.

3. Obligations of the associated countries

In the Europe Agreements the associated countries have signed up to a number of concrete obligations, with specific deadlines, to approximate their legislation to Community law in certain areas. These areas are notably competition law and protection of intellectual property. Legislation governing the provision of transport services must also be included in this category.

a) Competition

There is an obligation to put in place the implementing rules of the competition provisions of the Europe/Interim agreements three years after the entry into force of the agreements. Though no concrete timetable is given for the introduction of national competition rules, the implementing rules and their efficient application must rely to a large extent on viable national rules.

b) Intellectual property

The associated countries have undertaken to continue to improve the protection of intellectual, industrial and commercial property rights in order to provide, by the end of the fifth year from the entry into force of the Interim/Europe agreements, a level of protection similar to that existing in the Community, including comparable means of enforcing such rights.

c) Transport Legislation

In the area of transport services the associated countries have undertaken to adapt progressively, during the transitional period, their legislation to Community legislation governing air and inland transport in so far as it serves liberalization purposes and mutual access to markets of the Parties and facilitates the movement of passengers and of goods.

d) Remaining areas

In all areas cited in the Europe agreements (which include in particular customs law, company law, banking law, company accounts and taxes, intellectual property, protection of workers in the workplace, financial services, protection of health and life of humans, animals and plants, food legislation, consumer protection including product liability, indirect taxation, technical rules and standards, transport and the environment) the associated countries commit themselves gradually to approximate their legislation to Community law and to make sure that future legislation is compatible with Community legislation as far as possible. Approximation of laws is an important prerequisite for the implementation of the Europe agreements, given the fact that the provisions of the agreements were based on concepts deriving directly from the Treaty of Rome.

The associated countries should increasingly deploy substantial efforts to ensure rapid and effective approximation, notably through :

- the establishment of control mechanisms ensuring compatibility of new legislation with that of the Community,
- the setting up of appropriate inter-ministerial coordination units,
- the compilation of an overview of present and proposed legislation in order to identify areas and priorities for future harmonization.

II. Technical assistance and mechanisms for monitoring approximation of laws

1. Technical assistance

The Community has undertaken to assist the associated countries in fulfilling their commitment to approximate their laws to those applicable in the Community by providing technical assistance which may notably take the form of :

- the exchange of experts
- the provision of information
- organization of seminars

- training activities
- aid for the translation of Community legislation in the relevant sectors.

The PHARE programme is the main instrument for the Community's financial assistance in support of implementation of the Europe Agreements. Assistance undertaken under PHARE for adaptation and approximation of laws has been requested by all the countries which have signed Europe Agreements. The support foreseen consists mainly in the provision of expertise and training and is often related to drafting legislation and institution-building.

a) Legislative components of technical assistance programmes

Projects undertaken in areas such as private sector development, enterprise restructuring, reform of the banking sector, customs reform, fiscal reform, telecommunications policy reform, safety and health at the workplace often have a legislative component. This implies the provision of technical assistance aiming at legal reform and approximation of the new regulatory framework which is thus put in place to Community law.

b) Specific programmes

- Competition

General programmes of assistance (provision of experts to assist in the drafting of the relevant laws, regulations and implementing rules, to prepare inventories of existing State aids and Monopolies of commercial character and undertakings with exclusive rights, as well as training and provision of books and documentation) are being provided to all countries having signed Europe Agreements.

- Intellectual property

A regional programme for the protection of industrial property (RIPP) addressed to all PHARE beneficiaries is currently being implemented. Another regional programme focusing on the non-industrial intellectual property rights (droits d'auteur) is under preparation.

- Harmonisation of standards and technical regulations

A regional programme for quality assurance (PRAQ) addressed to all PHARE beneficiary countries is currently under implementation through the overall management of the European Committee for standardisation (CEN). This programme also provides for the provision, translation and transposition (or harmonisation) of European norms, standards and technical EC directives and regulations.

- Consumer protection

A regional programme for the development of consumer protection addressed to all PHARE beneficiary countries is currently under implementation.

c) Administrative reform, education and development of democracy

- Programmes designed to favour administrative efficiency and overall quality of public administration, and multi-sector financial instruments (known as EURO-GTAFs) made available to the authorities of the countries concerned to assist implementation of Europe Agreements comprise activities aiming at the approximation to Community law. In addition, the regional programme SIGMA (Support for Improvement in Governance and Management), which is a joint initiative of OECD and the Community, assists the associated countries in the reform of their public administrations.
- The on-going PHARE democracy programme has legislative components which involve notably the organization of seminars and training in areas of law and legal practice which have a bearing upon the functioning of democracy (justice system, equal treatment, etc.).
- The TEMPUS programme of exchanges between universities has played a role in the establishment of contacts between Law Schools in the Community and in the associated countries.

The above list is not exhaustive. The results achieved seem to have been quite satisfactory in certain areas (e.g. in the area of customs legislation). Progress can be measured, mainly, by the introduction of legislation in the country concerned and by other achievements (1) having multiplier effects which influence indirectly the transformation of the regulatory framework.

2. Mechanisms for monitoring approximation of laws

The fulfilment at the specific obligations undertaken by the associated countries under the Europe Agreements is monitored by the organs of the Agreements, on the basis, in most cases, of preparatory work accomplished in the framework of working groups such as the working group for the implementation of competition rules and the sub-committee for transports.

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- (1) Development of local human resources, translation of legal texts and manuals, development of terminology, exchange of officials, etc.

Overall monitoring of approximation of laws, in the remaining areas of Community law, is also ensured by the organs of the Europe Agreements on the basis of preparatory work accomplished in the sub-committees on approximation of laws. The tasks of the organs of the Agreements, in this respect, include establishing priorities and monitoring their implementation as well as addressing recommendations to the authorities of the associated country which are responsible for the programming of the technical assistance.

III. The Task Force

The European Council of Copenhagen (21-22 June 1993) called upon the Commission and the Member States to mobilize their efforts towards further approximation of legislation, including the offering of training in Community law and practice to officials from the associated countries. It concluded that a Task Force composed of representatives of the Commission and of the Member States should be established in order to coordinate and direct this work. Approximation of competition law, in line with the Europe Agreements, is mentioned as an immediate priority, whereas approximation in the remaining areas, including the protection of workers, the environment and consumers is linked to the prospect of accession of the associated countries to the European Union.

1. Structure and organisation

The Task Force shall be composed of representatives of the Commission and the Member States and it will be chaired by the Commission.

Upon request of the Commission, each Member State will appoint a representative who will be in a position to provide information about the actions undertaken by the Member State and serve as the contact person between the Task Force and the administration of that Member State.

The Task Force shall meet twice a year. If necessary, extraordinary meetings may be held.

Working groups for specific tasks may be established.

2. Role and tasks

The Task Force shall be the appropriate forum for exchange of information between the Commission and the Member States about the activities of technical assistance undertaken by each of them in the area of approximation of the legislations of the associated countries of Central and Eastern Europe to Community law. The Commission reports on the meetings of the sub-committees on approximation of laws of the Europe Agreements. The Commission and the Member States also exchange any other relevant information.

The Commission and the Member States meeting in the framework of the Task Force shall fulfill in particular, the following tasks, in the light of the discussions held within the organs of the Europe Agreements :

- giving general orientations for the approximation of laws of the associated countries and for relevant technical assistance activities;
- ensuring continuity of the various actions and coherence between the activities of the Community and of the Member States;
- evaluating the progress of approximation of laws.

IV. Proposal

It is proposed that the Council decides to establish the Task Force on the basis of the point III above.

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DOCUMENTS

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