

MEMORANDUM OF UNDERSTANDING

between the European Union and the Republic of Albania

on the participation of the Republic of Albania in the Culture programme

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

of the one part, and

THE REPUBLIC OF ALBANIA, hereinafter referred to as “Albania”,

of the other part,

Whereas:

- (1) Framework Agreement of 22 November 2004 between the European Community and the Republic of Albania¹ establishes the general principles for the participation of Albania in Community programmes, leaving the Commission and the competent authorities of Albania to determine the specific terms and conditions, including financial contribution, with regard to such participation in each particular programme.
- (2) The Culture programme was established by Decision No 1855/2006/EC² of the European Parliament and of the Council of 12 December 2006.

HAVE AGREED AS FOLLOWS:

Article 1

Albania shall participate in the Culture programme (hereinafter called « the Programme »), in accordance with the conditions laid down in Framework Agreement of 22 November 2004 between the European Community and the Republic of Albania on the general principles for the participation of the Republic of Albania in Community programmes, and under the terms and conditions set out in the Annexes I, II and III of this Memorandum of Understanding.

Article 2

This Memorandum of Understanding shall apply for the duration of the 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.

¹ OJ L 192, 22.7.2005, p. 2.

² OJ L 372, 27.12.2006, p..



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 Albania 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 Albania 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 Albania of its contribution for the year of notification.

Done at Brussels

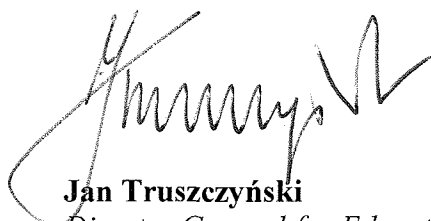
Done at Brussels

on 20 December 2011

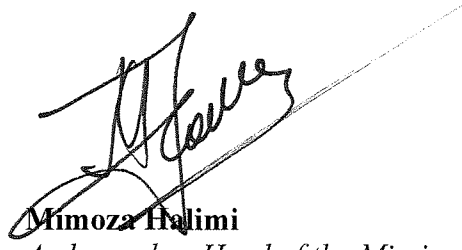
on 20 December 2011

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

For the Republic of Albania,



Jan Truszczyński
Director General for Education and Culture



Mimoza Halimi
*Ambassador, Head of the Mission of the
Republic of Albania to the European Union*

ANNEX I

Terms and conditions for the participation of Albania in the Culture programme

- (1) Unless otherwise provided in this Memorandum of Understanding, Albania will participate in the activities of the Culture programme (hereinafter called "the Programme") in conformity with the objectives, criteria, procedures and deadlines as defined in Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 establishing this European Union programme.
- (2) To participate in the Programme, Albania 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 Albania'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.
- (3) The terms and conditions for the submission, assessment and selection of applications related to eligible institutions, organisations and individuals of Albania will be the same as those applicable to eligible institutions, organisations and individuals of the European Union.
- (4) With a view to ensure the European Union dimension of the Programme, to be eligible for financial support, cooperation projects will have to include at least a co-organiser from one of the Member States of the European Union.
- (5) The maximum amount of financial support for the activities of the Cultural Contact Point of Albania will not exceed 50 % of the total budget for its activities, and will not exceed two thirds of the financial contribution of the country specified in Point 1 of Annex II.
- (6) 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 Albania in the Programme shall be continuously monitored on a partnership basis involving the Commission and Albania. Albania shall submit to the Commission relevant reports and take part in other specific activities provided for by the European Union in that context.

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

- (7) The language to be used in all sorts of contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative arrangements for the Programme, will be one of the official languages of the European Union.
- (8) The European Union and Albania 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 Albania to the Culture programme

- (1) The annual financial contribution to be paid by Albania to the budget of the European Union to participate in the Culture programme will be € 41 000.
- (2) Albania will finance the contribution mentioned above partly from Albania's State budget, and partly from Albania'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 Albania 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 provisional schedule concerning the pre-accession funds is the following:

| Year 2012 (IPA 2009) | Year 2013 (IPA 2011 or 2012) |
|-------------------------|---------------------------------|
| 37 000 | 35 000 |

The remaining part of the contribution of Albania will be covered from Albania's State budget.

Should these indicative amounts not be confirmed in the pre-accession annual programming procedure, Albania's State budget will cover the difference between the total financial contribution indicated in point 1 above and the pre-accession support available.

- (4) The financial regulation applicable to the general budget of the European Union will apply, notably to the management of the contribution of Albania.

Travel costs and subsistence costs incurred by representatives and experts of Albania for the purposes of taking part as observers in the work of the committee referred to in Article 9 of Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 or 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.

- (5) After the entry into force of this Memorandum of Understanding and at the beginning of each following year, the Commission will send to Albania a call for funds corresponding to its contribution to the budget of the programme under this Memorandum of Understanding.

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

Albania 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.

³ OJ L 210, 31.7.2006, p.82

Any delay in the payment of the contribution shall give rise to the payment of interest by Albania 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.



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 Albania 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 Albania'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 Albania, 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 Albania 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 Albania, 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 Albania 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 Albania 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 Albania 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 Albania, 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 Albania. The enforcement shall be governed by the rules of civil procedure in force in Albania. 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 Albania 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 Albania 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.