

MEMORANDUM OF UNDERSTANDING

between the European Community and Montenegro

on the participation of Montenegro in the Culture programme (2007 to 2013)

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

of the one part, and

MONTENEGRO,

of the other part,

Whereas:

- (1) Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part¹, establishes the general principles for the participation of Montenegro in Community programmes, leaving the Commission and the competent authorities of Montenegro 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/EC of the European Parliament and of the Council of 12 December 2006².

HAVE AGREED AS FOLLOWS:

Article 1

Montenegro shall participate in the Culture programme (hereinafter called «the Programme»), in accordance with the conditions laid down in Protocol 8 to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, on the general principles for the participation of 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 43, 19.2.2008, p.11.

² OJ L 372, 27.12.2006, p.1.

Article 2

This Memorandum of Understanding shall apply for the duration of the Programme. Nevertheless, should the European Community decide to extend the 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 take effect from the budget year 2010.

Done at Brussels

Done at Brussels

on 23 November 2009

on 23 November 2009

For Montenegro,

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



Slavica Milačić
*Ambassador, Head of the Mission of
Montenegro to the European Union*



Odile Quintin
Director General for Education and Culture



ANNEX I
Terms and conditions for the participation of Montenegro
in the Culture programme

- (1) Unless otherwise provided in this Memorandum of Understanding, Montenegro 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 Community programme.
- (2) To participate in the Programme, Montenegro 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 Montenegro'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 Montenegro will be the same as those applicable to eligible institutions, organisations and individuals of the Community.
- (4) With a view to ensure the Community dimension of the Programme, to be eligible for Community financial support, cooperation projects will have to include at least a co-organiser from one of the Member States of the Community.
- (5) Montenegro will finance the total cost of activities of its Cultural Contact Point.
- (6) Without prejudice to the responsibilities of the Commission of the European Communities and the Court of Auditors of the European Communities in relation to the monitoring and evaluation of the Programme, the participation of Montenegro in the Programme shall be continuously monitored on a partnership basis involving the Commission of the European Communities and Montenegro. Montenegro shall submit to the Commission relevant reports and take part in other specific activities provided for by the Community 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 Community.
- (8) The Community and Montenegro 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 Montenegro to the Culture programme

- (1) The annual financial contribution to be paid by Montenegro to the budget of the European Union to participate in the Culture programme will be € 20 000.
- (2) Montenegro will finance the contribution mentioned above partly from Montenegro's State budget, and partly from Montenegro's pre-accession funds, subject to annual programming procedures within the framework of Council Regulation (EC)1085/2006 of 17 July 2006. The requested pre-accession funds will be transferred to Montenegro 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 2010 (funds 2009)	Year 2011 (funds 2010)	Year 2012 (funds 2011)	Year 2013 (funds 2012)
18 000	17 500	17 000	16 500

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

Should these indicative amounts not be confirmed in the pre-accession annual programming procedure, Montenegro'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 Montenegro.

Travel costs and subsistence costs incurred by representatives and experts of Montenegro 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 Montenegro 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.

Montenegro 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 Montenegro 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 Communities, in force on the first calendar day of the month in which the due date falls, increased by 3.5 percentage points.

9 h4

ANNEX III

Financial control, Recovery and other Antifraud measures

I. CONTROLS AND ANTIFRAUD MEASURES BY THE COMMUNITY

- (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 Montenegro 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 Montenegro's territory, in accordance with the procedural provisions of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996.

These checks and inspections shall be prepared and conducted in close collaboration with the competent authorities designated by Montenegro, 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 Montenegrin authorities concerned 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 Montenegrin authorities, 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 Montenegrin authorities 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 Montenegrin and Community authorities shall regularly exchange information and, at the request of one of the Parties, shall conduct consultations.

- (2) The competent Montenegrin authorities 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 Montenegrin criminal law, 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 Montenegro. The enforcement shall be governed by the rules of civil procedure in force in Montenegro. 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 Montenegro 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 Communities.

Judgments given by the Court of Justice of the European Communities 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 participants in the Culture programme established in Montenegro 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.

