Establishing a separate liability of Montenegro and reducing proportionately the liability of Serbia with regard to the long-term loans granted to the State Union of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia)

2008/0086(CNS) - 29/04/2008 - Legislative proposal

PURPOSE: to establish a separate liability of Montenegro and reducing proportionately the liability of Serbia with regard to the long-term loans granted by the Community to the State Union of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia) pursuant to Council Decisions 2001/549/EC and 2002/882/EC.

PROPOSED ACT: Council Decision.

CONTENT: the Commission proposes the adoption of a new Council Decision to establish a separate liability for Montenegro for the repayment of a part of the Community macrofinancial assistance ("MFA") loans granted to the former Federal Republic of Yugoslavia ("FRY"), later renamed the State Union of Serbia and Montenegro ("SUSaM"). MFA loans of a total amount of EUR 280 million were disbursed to the FRY/SUSaM between October 2001 and May 2005 pursuant to the now expired Council Decisions 2001/549/EC (see CNS/2001/0112) and 2002/882/EC (CNS/2002/0192).

Following the declaration of independence of Montenegro in June 2006, the SUSaM was dissolved and Serbia declared itself the successor state of the SUSaM. As a consequence, Serbia has succeeded the SUSaM as the legal entity liable for state debts contracted by the FRY or the SUSaM, including the above mentioned MFA loans.

However, on 10 July 2006 Serbia and Montenegro concluded a bilateral agreement on the distribution of the financial liabilities of the now dissolved SUSaM. According to this agreement, financial liabilities towards the European Community in respect of MFA loans are serviced in the proportion of 90% for Serbia and 10% for Montenegro.

In the event of a default, the Community would therefore be obliged to direct its claim against Serbia regardless of whether the non-payment or delayed payment occurs on a part of the loan for which Montenegro is liable according to the bilateral agreement.

As a consequence, the Commission proposes: (i) to adopt a new Council Decision, establishing (a) a separate liability of Montenegro to the European Community and (b) that Serbia's liability to the European Community is being reduced accordingly; and (ii) upon the adoption of the attached draft Council Decision, to conclude a loan agreement with Montenegro establishing its liability vis-à-vis the Community with regard to the proportion of the MFA loans for which Montenegro has assumed the liability vis-à-vis Serbia. At the same time, the Commission proposes to agree the appropriate amendments to the existing loan agreements with Serbia which will reduce its liability accordingly.

More specifically, the proposal states that:

- Montenegro shall assume separate liability for the payments of principal, interest and expenses associated with the servicing of EUR 6 703 388,62 out of the Community long-term loans of in total EUR 280 million granted to the FRY/SUSaM. To this end, the Commission is authorised to sign with the authorities of Montenegro a new loan agreement for the amounts attributed to Montenegro and essentially on the terms and conditions set out in the existing loan agreements;
- Serbia's liabilities to the Community under the existing loan agreements in its capacity of successor state to the SUSaM shall be reduced proportionately upon the signature of the new loan agreement between the Community and Montenegro. The Commission is to the extent appropriate authorised to conclude with Serbia arrangements to amend the existing loan agreements.

All related costs and expenses incurred by the Community in concluding and carrying out the arrangements set out in this proposal shall be borne by Montenegro and Serbia , respectively.