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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2015) 458 final

Subject: Recommendation for a COUNCIL DECISION concerning the accession of
Croatia to the Convention of 26 July 1995, drawn up on the basis of Article
K.3 of the Treaty on European Union, on the protection of the European
Communities' financial interests, the Protocol of 27 September 1996,
drawn up on the basis of Article K.3 of the Treaty on European Union, to
the Convention on the protection of the European Communities' financial
interests, the Protocol of 29 November 1996, drawn up on the
basis of Article K.3 of the Treaty on European Union, on the interpretation,
by way of preliminary rulings, by the Court of Justice of the European
Communities of the Convention on the protection of the European
Communities' financial interests and the Second Protocol of 19 June
1997, drawn up on the basis of Article K.3 of the Treaty on European
Union, to the Convention on the protection of the European
Communities' financial interests

Delegations will find attached document COM(2015) 458 final.

Encl.: COM(2015) 458 final

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Brussels, 16.9.2015
COM(2015) 458 final

2015/0210 (NLE)

Recommendation for a

COUNCIL DECISION

concerning the accession of Croatia to the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests, the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests and the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Act concerning the conditions of accession of the Republic of Croatia to the European Union¹ has introduced a simplified system for the accession of Croatia to the conventions (and protocols) concluded by the Member States on the basis of Art. 34 TEU (previously Art. K.3 TEU). It is indeed not anymore necessary, as in the past, to negotiate and conclude specific accession protocols to these conventions (which would have implied ratification by 28 Member States): Article 3(4) and 3(5) of the Act provides simply that Croatia accedes to these conventions and protocols by virtue of the Act of Accession.

Article 3(5) of the Act of Accession provides that, to that effect, the Council shall adopt a decision in order to determine the date on which these conventions shall enter into force for Croatia and to make all the necessary adjustments to these conventions required by reason of the accession of the new Member State (which would include, in any event, the adoption of the conventions in the Croatian language, so that these versions can be "equally authentic"). The Council shall act on a recommendation of the Commission, after consulting the European Parliament.

Annex I to the Act of Accession gives the list of the conventions and protocols concerned. The list includes the Convention on the protection of the European Communities' financial interests of 26.7.1995,² its Protocols of 27.9.1996³, of 29.11.1996⁴ and the 2nd Protocol of 19.6.1997,⁵ all adopted under Title VI EU Treaty, set out to establish a common base for the criminal-law protection of the EC's financial interests. The Convention and its Protocols of 27.9.1996 and of 29.11.1996 entered into force on 17 October 2002 following ratification by the then 15 Member States, the Protocol of 19. 6. 1997 entered into force on 19 May 2009 following ratification by the then 27 Member States.

There is no need for this Commission Recommendation to make the adjustments required by reason of the accession of Croatia to the aforementioned Convention and its Protocols, in accordance with Article 3(5) of the Act of Accession.

In view of the foregoing the Commission recommends that the Council takes a decision concerning the accession of Croatia to the Convention on the protection of the European Communities' financial interests and its Protocols.

¹ OJ L 112, 24.4.2012, p. 10.

² Convention on the protection of the European Communities' financial interests, OJ C 316, 27.11.1995, p. 49.

³ Protocol to the Convention on the protection of the European Communities' financial interests, OJ C 313, 23.10.1996, p. 2.

⁴ Protocol on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests, OJ C 151, 20.5.1997, p. 2.

⁵ Second Protocol to the Convention on the protection of the European Communities' financial interests, OJ C 221, 19.7.1997, p. 12.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultations and impact assessments are not applicable for this proposal since Croatia's accession to this Convention and its Protocols was agreed in the Articles 3(4) and 3(5) of the Act concerning the accession of the Republic of Croatia to the European Union.

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis for this proposal is the Article 3.5 of the Act concerning the accession of the Republic of Croatia to the European Union.

Recommendation for a

COUNCIL DECISION

concerning the accession of Croatia to the Convention of 26 July 1995, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests, the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European Communities' financial interests and the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Act of Accession of Croatia, and in particular Article 3(4) and 3(5) thereof,

Having regard to the recommendation from the Commission⁶,

Having regard to the opinion of the European Parliament⁷,

Whereas:

1) The Convention on the protection of the European Communities' financial interests⁸, signed on 26 July 1995 and drawn up on the basis of Article K.3 of the Treaty on European Union (hereinafter referred to as “the Convention on the protection of the European Communities' financial interests”) entered into force on 17 October 2002.

2) The Convention on the protection of the European Communities' financial interests was complemented by the Protocol of 27 September 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests⁹ (hereinafter referred to as “the Protocol of 27 September 1996”) and the Protocol of 29 November 1996, drawn up on the basis of Article K.3 of the Treaty on European Union, on the interpretation, by way of preliminary rulings, by the Court of Justice of the European Communities of the Convention on the protection of the European

⁶ OJ C [...], [...], p. [...].

⁷ OJ C [...], [...], p. [...].

⁸ OJ C 316, 27.11.1995, p. 49

⁹ OJ C 313, 23.10.1996, p. 2.

Communities' financial interests¹⁰ (hereinafter referred to as “the Protocol of 29 November 1996”), which both entered into force on 17 October 2002.

3) The Convention on the protection of the European Communities' financial interests was further complemented by the Second Protocol of 19 June 1997, drawn up on the basis of Article K.3 of the Treaty on European Union, to the Convention on the protection of the European Communities' financial interests¹¹ (hereinafter referred to as “the Second Protocol of 19 June 1997”) which entered into force on 19 May 2009.

4) Article 3 (4) of the Act of Accession of Croatia¹² provides that Croatia accedes to the conventions and protocols concluded between the Member States, listed in Annex I to the Act of Accession. This comprises, inter alia, the Convention on the protection of the European Communities' financial interests, including the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Second Protocol of 19 June 1997. It is necessary to determine the date on which that Convention and these Protocols are to enter into force in relation to Croatia.

5) Furthermore, in accordance with Article 3(5) of the Act of Accession of Croatia, it is necessary to proceed to the adjustment required by reason of accession of Croatia and to that end, to draw up an authentic version of that Convention and these Protocols in the Croatian language.

HAS ADOPTED THIS DECISION:

Article 1

The texts of the Convention on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Second Protocol of 19 June 1997, annexed to this Decision, shall be authentic in the Croatian language.

Article 2

The Convention on the protection of the European Communities' financial interests, the Protocol of 27 September 1996, the Protocol of 29 November 1996 and the Protocol of 19 June 1997 shall enter into force for Croatia on the first day of the first month following the date of publication of this Decision.

Article 3

This Decision shall take effect on the day following that of its publication in the Official Journal of the European Union.

¹⁰ OJ C 151, 20.5.1997, p. 2.

¹¹ OJ C 221, 19.7.1997, p. 12.

¹² OJ L 112, 24.04.2012, p. 21.

Done at Brussels,

*For the Council
The President*