

ALGERIA



Decision of 18.7.2005
[OJ L 265/1 of 10.10.2005](#)

Agreement: art. 63
[OJ L 265/17](#)

Protocol No 7
[OJ L 265/214](#)

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 July 2005

on the conclusion of the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part

(2005/690/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, was signed on behalf of the European Community in Valencia on 22 April 2002, subject to its possible conclusion at a later date.
- (2) The said Agreement should be concluded,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, including Annexes and Protocols annexed thereto and the joint declarations and declarations of the European Community attached to the Final Act are hereby approved on behalf of the European Community.

2. The texts referred to in paragraph 1 are attached to this Decision.

Article 2

1. The position to be taken by the Community within the Association Council and the Association Committee shall be determined by the Council on the basis of a proposal by the Commission or, where appropriate, by the Commission, each in accordance with the corresponding provisions of the Treaties.

2. In accordance with Article 93 of the Euro-Mediterranean Association Agreement, the President of the Council shall preside over the Association Council. A representative of the Commission shall preside over the Association Committee in accordance with the Rules of Procedure thereof.

3. The decision to publish the decisions of the Association Council and the Association Committee in the *Official Journal of the European Union* shall be taken on a case-by-case basis by the Council and the Commission respectively.

Article 3

The President of the Council, on behalf of the European Community, is hereby authorised to designate the person or persons empowered to deposit the act of notification provided for in Article 110 of the Agreement.

Done at Brussels, 18 July 2005.

For the Council
The President
J. STRAW

⁽¹⁾ OJ C 279 E, 20.11.2003, p. 115.

- the dissemination of advanced information and telecommunication technologies, including satellite technology and information services and technologies,
- the promotion and implementation of joint projects for research, technical development or industrial applications in information technologies, communications, telematics and information society,
- giving Algerian bodies the opportunity to participate in pilot projects and European programmes under the specific arrangements pertaining to them in the sectors concerned;
- the interconnection and interoperability of Community and Algerian networks and telematic services,
- technical assistance with the planning and management of the radio frequency spectrum with a view to coordinated and effective use of radio communications in the Euro-Mediterranean region.

Article 61

Energy and mining

The aims of cooperation in the energy and mining sectors shall be:

- (a) institutional, legislative and regulatory upgrading to ensure that activities are regulated and investment promoted;
- (b) technical and technological upgrading to prepare energy and mining companies for the requirements of the market economy and competition;
- (c) the development of partnerships between European and Algerian companies in the activities of exploration, production, processing, distribution and services in the energy and mining sectors.

The priority areas of cooperation in this respect shall be:

- adaptation of the institutional, legislative and regulatory framework of activities in the energy and mining sectors to market economy rules by means of technical, administrative and regulatory assistance,
- support for efforts to restructure public enterprises in the energy and mining sectors,
- building partnerships in the areas of,
 - oil and gas exploration, production and processing,
 - electricity production,
 - distribution of petroleum products,

- production of equipment and services used in the production of energy products,
- developing and transforming the potential of mining,
- development of gas, oil and electricity distribution,
- support for the modernisation and development of energy networks and for their linking to European Community networks,
- the setting-up of databases on the mining and energy sectors,
- the support and promotion of private investment in energy and mining sector activities,
- the environment, the development of renewable energies and energy efficiency,
- the promotion of technology transfers in the energy and mining sectors.

Article 62

Tourism and the craft sector

Cooperation in this field will principally be aimed at:

- stepping up the exchange of information on flows and policies on tourism, spa tourism and craft trades,
- stepping up hotel administration and management training schemes and training in other areas of the tourism and craft sectors,
- promoting exchanges of experiences with a view to the smooth and sustainable development of tourism,
- encouraging youth tourism,
- helping Algeria to develop its potential in the area of tourism, spas and crafts and to improve the image of its tourism products,
- supporting privatisation.

Article 63

Cooperation in customs matters

1. The aim of cooperation shall be to ensure compliance with the free trade arrangements. The priority areas shall be:

- (a) the simplification of customs controls and procedures;

(b) the introduction of a single administrative document similar to the Community's and a possible link-up between the Community and Algerian transit systems.

(h) assistance with the organisation and introduction of a warning system to be integrated into the European system.

Technical assistance may be provided where necessary.

Article 66

2. Without prejudice to other forms of cooperation envisaged in this Agreement, notably for the fight against drugs and money laundering, the administrative authorities of the Contracting Parties shall provide mutual assistance in accordance with the provisions of Protocol No 7.

Given the particularities of the Algerian economy, both Parties shall establish the methods and procedures for implementing the economic cooperation activities agreed pursuant to this Title in order to support the process of modernising the Algerian economy and the creation of the free trade area.

Article 64

Cooperation in statistics

The main objective of cooperation in this sphere should be to ensure, in particular through the harmonisation of the methods used by the Parties, the comparability and usefulness of statistics on foreign trade, public finance and balance of payments, population, migration, transport and communications, and generally all the fields covered by this Agreement. Technical assistance may be provided where necessary.

The identification and evaluation of requirements and the procedures for implementing the economic cooperation activities shall be examined in a framework to be introduced in accordance with the conditions laid down in Article 98.

The Parties shall agree on the priorities to be carried out in the abovementioned framework.

Article 65

Cooperation on consumer protection

1. The Parties agree that cooperation in this area should be aimed at making their respective consumer protection systems compatible.

2. Cooperation shall focus mainly on:

- (a) the exchange of information on legislative activities and exchanges of experts, in particular consumer interest representatives;
- (b) the organisation of seminars and training courses;
- (c) the establishment of permanent systems of mutual information on dangerous products, i.e. those which constitute a hazard to health or consumer safety;
- (d) improving information provided to consumers especially on prices, characteristics of products and services offered;
- (e) institutional reforms;
- (f) technical assistance;
- (g) the establishment of Algerian laboratories for comparative analysis and testing and assistance with the introduction of a decentralised consumer information system;

TITLE VI

SOCIAL AND CULTURAL COOPERATION

CHAPTER 1

Workers

Article 67

1. Each Member State shall accord to workers of Algerian nationality employed in its territory treatment which is free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals.

2. All Algerian workers allowed to undertake paid employment in the territory of a Member State on a temporary basis shall be covered by the provisions of paragraph 1 with regard to working conditions and remuneration.

3. Algeria shall accord the same treatment to workers who are nationals of a Member State and employed in its territory.

Article 68

1. Subject to the provisions of the following paragraphs, workers of Algerian nationality and any members of their families living with them shall enjoy, in the field of social security, treatment free from any discrimination based on nationality relative to nationals of the Member States in which they are employed.

PROTOCOL No 7
on mutual administrative assistance in the field of customs

Article 1

Definitions

For the purposes of this Protocol:

- (a) 'customs legislation' shall mean any legal or regulatory provisions applicable in the territories of the Contracting Parties governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (b) 'applicant authority' shall mean a competent administrative authority which has been designated by one of the Contracting Parties for this purpose and which makes a request for assistance on the basis of this Protocol;
- (c) 'requested authority' shall mean a competent administrative authority which has been designated by one of the Contracting Parties for this purpose and which receives a request for assistance on the basis of this Protocol;
- (d) 'personal data' shall mean all information relating to an identified or identifiable individual.
- (e) 'operation in breach of customs legislation' shall mean any violation or attempted violation of customs legislation.

Article 2

Scope

1. The Contracting Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular in order to prevent, investigate and combat operations in breach of that legislation.
2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Contracting Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.
3. Assistance to recover duties, taxes or fines is not covered by this Protocol.

Article 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.
2. At the request of the applicant authority, the requested authority shall inform it:
 - (a) whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods;
 - (b) whether goods imported into the territory of one of the Contracting Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure surveillance of:
 - (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are engaging in or have engaged in operations which contravene customs legislation;
 - (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
 - (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

*Article 4***Spontaneous assistance**

The Contracting Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- activities which are or appear to be operations in breach of customs legislation and which may be of interest to another Contracting Party;
- new means or methods employed in carrying out operations in breach of customs legislation;
- goods known to be subject to operations in breach of customs legislation;
- natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
- means of transport for which there are reasonable grounds for believing that they have been, are or might be used in operations in breach of customs legislation.

*Article 5***Delivery/notification**

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures to:

- deliver any documents,

or

- notify any decisions

emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents and notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

*Article 6***Form and substance of requests for assistance**

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:

- (a) the applicant authority;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) the legal or regulatory provisions and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

*Article 7***Execution of requests**

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Contracting Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority in application of this Protocol when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Contracting Party.

3. Duly authorised officials of one of the Contracting Parties may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other authority concerned in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Duly authorised officials of a Contracting Party may, with the agreement of the other Contracting Party involved and within the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate the results of enquiries to the applicant authority in writing together with all relevant documents, certified copies and other items.

2. This information may be supplied in computerised form.

3. Original documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

Article 9

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to the satisfaction of certain conditions or requirements, in cases where a Party is of the opinion that assistance under this Protocol would:

(a) be likely to prejudice Algeria's sovereignty or that of a Member State of the Community whose assistance has been requested pursuant to this Protocol;

or

(b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2);

or

(c) be likely to violate an industrial, commercial or professional secret.

2. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons for it must be communicated to the applicant authority without delay.

Article 10

Exchange of information and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Contracting Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Contracting Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Contracting Party which may receive them undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Contracting Party that may supply them. To that end, the Contracting Parties shall inform each other of their applicable rules, including, where appropriate, legal provisions in force in the Member States of the Community.

3. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Contracting Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

4. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol is considered to be for the purposes of this Protocol. Therefore, the Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

Article 11

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such items, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority such an official will have to appear, on what matters and by virtue of what title or qualification he will be questioned.

Article 12

Assistance expenses

The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol except, as appropriate, for expenses relating to experts and witnesses and to interpreters and translators who are not public service employees.

Article 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Algeria and on the other hand to the competent services of the Commission of the European Communities and, where appropriate, the customs

authorities of the Member States. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection in particular. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. The Contracting Parties shall consult each other and keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14

Other agreements

1. Taking into account the respective competencies of the European Community and the Member States, the provisions of this Protocol shall:

- not affect the obligations of the Contracting Parties under any other international agreement or convention;
- be deemed complementary with agreements on mutual assistance which have been or may be concluded between individual Member States and Algeria;
- not affect the Community provisions governing the communication between the competent services of the Commission of the European Communities and the customs authorities of the Member States of any information obtained in the domains covered by this Protocol which could be of interest to the Community.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States and Algeria insofar as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the application of this Protocol, the Contracting Parties shall consult each other to resolve the matter in the framework of the Cooperation Committee set up under Article 41 of Protocol 6 to the Association Agreement.