

TREATY
establishing the Transport Community

The Parties, being

THE EUROPEAN UNION, hereinafter referred to as 'the Union' or 'the European Union',

and

THE SOUTH EAST EUROPEAN PARTIES, the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo * (hereinafter referred to as Kosovo), Montenegro, the Republic of Serbia,

all the above-mentioned parties hereinafter referred to together as 'the Contracting Parties',

BUILDING on the work done in the framework of the Memorandum of Understanding on the development of the South East Europe Core Regional Transport Network, signed in Luxembourg on 11 June 2004, and NOTING that this Memorandum of Understanding will not be relevant anymore;

RECOGNISING the integrated character of international transport and DESIRING to create a Transport Community between the European Union and the South East European Parties based on the progressive integration of the transport market of the Contracting Parties on the basis of the relevant *acquis*;

CONSIDERING that the rules concerning the Transport Community are to apply on a multilateral basis within the Transport Community and therefore specific rules need to be defined in that respect;

NOTING the Interim Accord and the relevant Memorandum on Practical Measures that the Hellenic Republic and the former Yugoslav Republic of Macedonia have signed in 1995;

AGREEING that it is appropriate to base the Transport Community rules on the relevant legislation in force within the European Union, as laid down in Annex I to this Treaty, under the Treaty on European Union and the Treaty on the Functioning of the European Union, and TAKING INTO ACCOUNT the modifications contained therein, including the replacement of 'European Community' by 'European Union';

BEARING IN MIND that integration of transport markets cannot be achieved in one step, but rather by means of a transition facilitated by specific arrangements of limited duration;

EMPHASISING that transport operators should be treated in a non-discriminatory manner regarding their access to transport infrastructures;

BEARING IN MIND the desire of each of the South East European Parties to make its laws on transport and associated matters compatible with those of the European Union, including with regard to future developments of the *acquis* within the Union;

RECOGNISING the importance of technical assistance in this regard;

BEARING IN MIND the necessity to protect the environment and to combat against climate change, and that the development of the transport sector needs to be sustainable;

BEARING IN MIND the necessity to consider the social dimension of the Transport Community and to establish social dialogue structures in the South East European Parties;

BEARING IN MIND the European perspective of the South East European Parties as confirmed by several recent European Council Summits;

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.

NOTING that the former Yugoslav Republic of Macedonia, Montenegro, the Republic of Serbia and the Republic of Albania are candidate countries for membership of the European Union and that Bosnia and Herzegovina has also applied for membership;

NOTING that the internal procedures of the Member States of the European Union may apply when receiving documents issued by Kosovo authorities under this Treaty;

NOTING the determination of candidate countries and potential candidates to move closer to the European Union and to implement the *acquis*, in particular in the field of transport,

HAVE DECIDED TO CREATE A TRANSPORT COMMUNITY:

Article 1

Objectives and principles

1. The aim of this Treaty is the creation of a Transport Community in the field of road, rail, inland waterway and maritime transport as well as the development of the transport network between the European Union and the South East European Parties, hereinafter referred to as 'the Transport Community'. The Transport Community shall be based on the progressive integration of transport markets of the South East European Parties into the European Union transport market on the basis of the relevant *acquis*, including in the areas of technical standards, interoperability, safety, security, traffic management, social policy, public procurement and environment, for all modes of transport excluding air transport. For this purpose, this Treaty sets out the rules applicable between the Contracting Parties under the conditions set out hereinafter. These rules include the provisions laid down by the acts specified in Annex I.
2. The provisions of this Treaty shall apply to the extent that they concern road, rail, inland waterway, maritime transport and transport networks, including airport infrastructure, or an associated matter referred to in Annex I.
3. This Treaty consists of articles, setting out the general functioning of the Transport Community, hereinafter referred to as 'the Main Treaty', of Annexes, of which Annex I contains the European Union acts applicable between the Contracting Parties in the framework of the Main Treaty, and of Protocols, of which at least one for each South East European Party establishes the transitional arrangements applicable to it.

Article 2

1. For the purposes of this Treaty:
 - (a) the term 'Treaty' means the Main Treaty, its Annexes, the acts referred to in Annex I as well as its Protocols;
 - (b) the term 'South East European Parties' means the Republic of Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro and the Republic of Serbia;
 - (c) none of the terms, wording or definitions used in this Treaty, including the Annexes and protocols thereto, constitute recognition of Kosovo by the European Union as an independent State nor does it constitute recognition by an individual Member State of Kosovo in that capacity where they have not taken such a step;
 - (d) the term 'Convention' means any international convention or agreement on international transport, opened for signature, other than this Treaty;
 - (e) the term 'EU Member State' means a Member State of the European Union.
 - (f) the term '*acquis*' means the corpus of legislation adopted by the European Union in order to fulfil its objectives.
2. The use of the terms 'country', 'national', 'nationals', 'territory' or 'flag' shall be without prejudice to the status of each Contracting Party under international law.

Article 3

1. The applicable provisions of acts referred to or contained either in Annex I, adapted in accordance with Annex II, or in decisions of the Regional Steering Committee shall be binding upon the Contracting Parties.
2. Such provisions shall be, or be made, part of their internal legal order of the South East European Parties as follows:
 - (a) an act corresponding to a European Union regulation shall be made part of the internal legal order of the respective South East European Party within a period of time to be laid down for the South East European Parties by the Regional Steering Committee;
 - (b) an act corresponding to a European Union directive shall leave to the competent authorities of the respective South East European Party the choice of form and method of implementation;
 - (c) an act corresponding to a European Union decision shall be made part of the internal legal order of the respective South East European Party within a period of time and in a way to be laid down for the South East European Parties by the Regional Steering Committee.
3. Where applicable provisions of the acts referred to in paragraph 1 give rise to obligations on the part of EU Member States, those obligations shall apply to EU Member States, following a decision adopted under the rules applicable within the European Union based on an assessment by the European Commission with regard to the full implementation by the South East European Parties of the European Union acts referred to in Annex I.

Article 4

The Contracting Parties shall take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising out of this Treaty and shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 5

Social issues

The South East European Parties shall implement the relevant social *acquis* with regard to transport as set out in Annex I. The Transport Community shall reinforce and promote the social dialogue and the social dimension through the reference to the *acquis* in social matters, the workers' fundamental rights and the involvement of the European Economic and Social Committee and the national and European social partners acting in the transport sector, at the appropriate level.

Article 6

Environment

The South East European Parties shall implement the relevant environmental *acquis* with regard to transport, in particular the Strategic Environmental Assessment, Environmental Impact Assessment, nature-related, water-related and air quality-related directives as set out in Annex I.6.

Article 7

Public procurement

The South East European Parties shall implement the relevant public procurement *acquis* with regard to transport as set out in Annex I.7.

Article 8

Infrastructure

1. The maps of the indicative trans-European transport network (TEN-T) extension of comprehensive and core networks to the Western Balkans are attached to this Treaty in Annex I.1. The Regional Steering Committee shall report every year to the Ministerial Council on the implementation of the TEN-T described in this Treaty. Technical Committees shall assist the Regional Steering Committee in drawing up the report.

2. The Transport Community shall support the development of the indicative TEN-T extension of the comprehensive and core networks to the Western Balkans according to the Commission Delegated Regulation (EU) 2016/758 ⁽¹⁾ as set out in Annex I.1. It shall take into account the related bilateral and multilateral agreements concluded by the Contracting Parties, including the development of key links and interconnections needed to eliminate bottlenecks and to promote the interconnection of national networks and with the EU TEN-T networks.