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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on individual agreements between the European Union and Republic of Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, the Republic of North Macedonia and the Republic of Serbia on roaming on public mobile communications networks

* 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.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

• Reasons for and objectives of the recommendation

The roaming policy is a European success story, enabling millions of consumers and businesses in the EU to stay connected in their daily life without surcharges in the digital single market. Since 15 June 2017, EU residents have access to mobile services (voice, SMS and data) at no extra costs when travelling periodically in the EU. The Roaming Regulation (EU) 2022/612 also notes that roaming charges with third countries remain high. The EU roaming area already extends to the European Economic Area (EEA) and was extended to Ukraine and Moldova as of 1 January 2026. Both Ukraine and Moldova have successfully approximated their domestic legal systems to the EU roaming *acquis*¹.

The six Western Balkan partners² (WB6) established a regional Roam Like at Home area effectively replicating the EU Roam Like at Home regime as of 1 July 2021. Furthermore, in December 2022, the EU and WB6 operators signed a voluntary roaming agreement for lower retail data roaming charges between the EU and WB6, which began its application on 1 October 2023.

The EU has close links with its WB6 partners that also have a European integration perspective, which is integrated into the respective bilateral Stabilisation and Association Agreements (SAAs)³. Five of the six WB6 partners have candidate status, while Kosovo* is a potential candidate.

The SAAs aim to open up trade and align the region with EU standards. They provide the overall framework for the relations of the EU with the Western Balkans partners. The six SAAs contain an obligation to strengthen cooperation in the area of electronic communications networks and associated services⁴, with the ultimate objective of the

¹ The extension of the EU roaming area to non-EU countries requires these countries to incorporate the so-called “EU roaming *acquis*” in their national law. The “EU roaming *acquis*” includes the Roaming Regulation (EU) 2022/612, Commission Implementing Regulation (EU) 2016/2286, Commission Delegated Regulation (EU) 2021/654, as well as certain provisions of the BEREC Regulation (EU) 2018/1971 and of the European Electronic Communications Code (EU) 2018/1972.

² The Republic of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia and the Republic of Serbia.

³ Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, OJ L 107 28.4.2009, p. 166-502; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part OJ L 084, 20. 03. 2004 p. 13-197 ; 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 OJ L 108, 29.4.2010, p. 3-354 ; Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part, OJ L 278 18.10.2013, p. 16-502 ; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, OJ L 164, 30.6.2015, pp. 2–547 ; Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo, of the other part, OJ L 71, 16.3.2016, p. 3–321.

* 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.

⁴ Article 104 of Stabilisation and Association Agreement with Republic of Albania; Article 95 of Stabilisation and Association Agreement with Republic of North Macedonia; Article 106 of Stabilisation and Association Agreement with Montenegro; Article 106 of Stabilisation and Association Agreement with Republic of Serbia; Article 104 of Stabilisation and Association Agreement with Bosnia and Herzegovina; Article 111 of Stabilisation and Association Agreement with Kosovo.

respective WB6 partners' adoption of the EU *acquis* in these sectors. However, the SAAs do not provide a reliable legal basis to extend EU roaming area to the WB6 partners. Therefore, it is recommended that the EU concludes a sectoral agreement on roaming with each of the six WB partners, that would provide the framework and conditions for the reciprocal opening of the Parties' markets with respect to the sector of roaming on public mobile communications networks. The recommended agreements should be anchored into the existing SAAs' framework.

The opening should notably be conditioned on the full implementation of the EU roaming *acquis*, which would need to be confirmed through a positive comprehensive assessment by the Union to be conducted by the Commission. Once a positive assessment has been made with respect to a WB6 partner, the responsible Joint Body under the agreements would be empowered to decide on the reciprocal opening. The agreements should also include an obligation for the WB6 to maintain dynamic alignment with the EU roaming *acquis* as it evolves in the future following the eventual extension of the EU roaming area and provide for the possibility, conditions and procedure for the Union to suspend the benefits under the roaming agreements, notably in case of failure by a WB6 partner to comply with its obligation to implement the relevant EU *acquis* incorporated in the agreement. To this end, there should be the possibility for the Commission to bring infringement proceedings modelled upon Article 258 TFEU. Where a WB6 does not comply with a ruling of the CJEU, the Commission should be empowered to suspend parts of the agreement without further requirements.

The agreements should also provide for an institutional framework and safeguards modelled upon the EU Treaties to protect the autonomy and uniform interpretation of the EU roaming *acquis* and to put the Union in a position effectively to react in case of non-compliance. The willingness and readiness of the WB6 to incorporate key EU law mechanisms into their legal orders will enable them to demonstrate their preparedness to assume the responsibilities of EU membership.

Each of the WB6 partners should ensure that EU legal acts specified in the agreements have the same legal effects as they have in the legal order of a Member State pursuant to Article 288 TFEU and the case-law of the Court of Justice. Where the acts in question create rights and obligations that individuals can invoke before national courts of Member States without the need for further implementation by a Member State, such provisions should also create rights and obligations that individuals can invoke before the national courts of each of the Union's partners without the need for further implementation.

The agreements should be concluded for an indefinite period. They should contain robust mechanisms on suspension and termination. These should lay down the conditions and procedures under which the Union may suspend, in whole or in part, the application of the Agreements, as well as the procedure and notice periods for terminating the Agreements.

This recommendation is also in line with the Growth Plan for the Western Balkans,⁵ adopted by the Commission in November 2023. The new Growth Plan provides for gradually integrating the region into specific areas of the EU single market, subject to progress in regional economic integration and alignment with the relevant EU *acquis*, as well as setting up sufficient administrative capacities and procedures.

- **Consistency with existing policy provisions in the policy area**

The EU has already extended the EU roaming area to countries within the EEA and to some candidate countries.

⁵ COM(2023) 691

The commitments regarding roaming in the WB6 have been expressed already by

Commissioner Gabriel under the Digital Agenda for the Western Balkans in 2018, as one of the six flagship initiatives of engagement objectives in the Commission's Communication on a credible enlargement perspective for and enhanced EU engagement with the Western Balkans. In 2023, the Commission adopted the Growth Plan for Western Balkans that created a package of mutually reinforcing measures, which added further opportunities for the WB6 partners to benefit from internal market treatment before becoming EU members. Under the Growth Plan the EU committed to providing legal certainty for end-users and operators by finding a legal solution for a long-term roaming arrangement to include the Western Balkans in the EU Roam Like at Home area, fully respecting the European Union's international trade commitments. This was reaffirmed in the December 2024 EU - Western Balkans Summit, where the leaders called for further efforts to develop a long-term roaming arrangement that would include the region in the EU's Roam Like at Home area.

More recently in June 2025, the European Council⁶ concluded to advancing the gradual integration between the EU and the region, during the enlargement process and in a merit-based manner. It is therefore important to accelerate the process and take concrete steps towards delivering on these political commitments by way of negotiating the sectoral agreements. The sectoral agreements will enable the EU citizens and citizens of WB6 to benefit from roaming when travelling in the extended Roam Like at Home area.

- **Consistency with other Union policies**

Common commercial policy:

This recommendation implements the Union's common commercial policy towards WB6 partners and candidate countries, building upon the provisions of the above-mentioned SAAs. It supports gradual regulatory alignment to the Union acquis as set out in the SAAs and is consistent with the objective of granting enhanced access to the EU Single Market, as set out in the Growth Plan for the Western Balkans.

EU enlargement:

Enlargement remains a key policy of the European Union, which contributes to long term security, peace, stability and prosperity in Europe. The process of enlargement gained new momentum throughout 2023 and 2024. Russia's war of aggression against Ukraine highlighted the need to bring the WB6 closer to the EU and to accelerate their accession process. Currently five countries of WB6 have a status of candidate country, while Kosovo has a status of a potential candidate.

The accession of WB6 can be accelerated through EU-related reforms in the WB6 partners, and through the opportunity to bring forward some of the EU membership benefits, that can be felt by the citizens of WB6. To accelerate the speed of the enlargement process, EU is enabling the partners to step up their reforms and investments, and their alignment with the EU acquis. If done correctly, the partners and their citizens should be in a position to benefit from gradual integration ahead of EU accession. Gradual integration is an integral part of the accession path and is meant to accelerate the accession of candidate countries which are fully committed to this objective and smoothen their integration with the EU's internal market. The recommended sectoral agreements are subject to termination, in accordance with international law.

⁶ <https://www.consilium.europa.eu/en/meetings/european-council/2025/06/26/>

Respect for democratic principles, human rights and fundamental freedoms, and respect for the principles of the rule of law are essential elements of these agreements as specified in the provisions of the respective SAAs⁷.

Considering the significant importance of the geostrategic environment, which has been and remains a catalyst for accession in today's global context, the Commission notes the importance of the WB6' progress in areas of high relevance to the geostrategic objectives of the EU, in particular alignment with the EU Common Foreign and Security Policy (CFSP) and with other core objectives related to the EU policies on telecommunications, as well as other areas linked to the fundamentals of the accession process.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Procedural legal basis

Article 218(3) of the Treaty on the Functioning of the European Union (TFEU) provides that, where the agreement envisaged does not relate exclusively or principally to the common foreign and security policy, the Commission shall submit recommendations to the Council. The Council shall adopt a decision authorising the opening of the negotiations and nominating the Union negotiator or the head of the Union's negotiating team.

Article 218(4) TFEU provides that the Council may address negotiating directives to the negotiator and designate a special committee to consult the negotiator.

The Commission recommends to open negotiations between the European Union and the Republic of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia and the Republic of Serbia, respectively for the conclusion of six bilateral international agreements relating to international roaming on public mobile communications networks.

The Commission is to be nominated as negotiator.

The procedural legal basis for the recommended decision to authorise opening of negotiations of the envisaged agreement is Article 218(3) and (4) TFEU.

• Substantive legal basis

The objective of the planned agreements is to grant further market integration in the area of trade in services and in particular to integrate the WB6 into the internal market in relation to roaming. Hence, the negotiation of those agreements falls within the common commercial policy (CCP).

⁷ Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the **Republic of Albania**, of the other part - Protocols – Declarations, OJ L 107, 28.4.2009, pp. 166–502, Article 2; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and **Bosnia and Herzegovina**, of the other part, OJ L 164, 30.6.2015, pp. 2–547, Article 2; Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and **Kosovo***, of the other part, OJ L 71, 16.3.2016, pp. 3–321, Article 3; 2010/224/, 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, OJ L 108, 29.4.2010, pp. 3–354, Article 2; Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and **the former Yugoslav Republic of Macedonia**, of the other part (OJ L 084 20.3.2004, p. 13), Article 2; Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the **Republic of Serbia**, of the other part OJ L 278, 18.10.2013, pp. 16–473, Article 2

For that reason, the substantial legal base is provided for by the first subparagraph of Article 207(4) of Treaty on the Functioning of the European Union (TFEU).

- **The choice of negotiator**

Given that the agreement envisaged exclusively covers matters other than the common foreign and security policy, the Commission must be designated as the negotiator pursuant to Article 218(3) TFEU.

- **Union competence**

The common commercial policy is listed among the Union exclusive competence under Article 3(1)(e) TFEU. As the agreements planned fall within the remit of the common commercial policy, the Union has exclusive competence to conclude those agreements.

- **Subsidiarity (for non-exclusive competence)**

The negotiation of international agreements covering commitments on the provision of services in the area of roaming falls within the scope of the common commercial policy and is therefore an exclusive competence in accordance with Article 3(1) TFEU. According to Article 5(3) of the Treaty of the European Union (TEU), the subsidiarity principle does not apply in areas of exclusive EU competence.

- **Proportionality**

The negotiation of the envisaged agreements does not go beyond what is necessary or appropriate to achieve the policy objectives of the common commercial policy.

- **Choice of the instrument**

This recommendation for a Council decision is submitted in accordance with paragraphs 3 and 4 of Article 218 TFEU, which envisage the adoption by the Council of a decision authorising the opening of negotiations and nominating the Union negotiator. The Council may also address negotiating directives to the negotiator. There exists no other legal instrument that could be used in order to achieve the objective expressed in this recommendation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Impact assessment**

Impact Assessments were not needed for the similar process with Ukraine and Moldova that jointly make up a market of approximately 40 million end users. The WB6 markets make up approximately 18 million end users. Integration of the WB6 into the EU single market is a gradual step of the WB6 accession path. Sectoral agreements have been identified as the viable legal solution, that would allow for this integration.

4. BUDGETARY IMPLICATIONS

The recommendation has no budgetary implications.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 207(4), in conjunction with Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding agreements between the European Union and the Republic of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia and the Republic of Serbia, respectively on roaming on public mobile communications networks.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to open negotiations on behalf of the Union on agreements on roaming on public mobile communications networks with the Republic of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia and the Republic of Serbia, respectively.

Article 2

The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the Addendum to this Decision.

Article 3

The Commission is hereby nominated as the Union negotiator.

Article 4

The negotiations shall be conducted in consultation with the Special Committee provided for in the third subparagraph of Article 207(3) TFEU.

* 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.

Article 5

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President