

## **THE PROCESS OF ASSOCIATION WITH THE EUROPEAN UNION**

### **What are Association Agreements?**

Association Agreements are international agreements that the EU concludes with third countries in order to define a wider framework for bilateral relations. According to Article 217 of the Treaty on the Functioning of the European Union (TFEU), such Agreements are characterised by strengthened mechanisms of cooperation based on mutual rights and obligations, common action and special procedures.

These Agreements normally provide for a progressive liberalisation of trade, which takes place on several levels, ranging from free trade area to customs union and, more generally, to internal market. In particular, the Association Agreement can provide for the liberalisation of trade in goods, set tariffs or customs duties, or possibly regulate imports and exports, and entail some forms of assistance for the promotion of developing States. Although they are very similar to free trade agreements, these Agreements go beyond a merely commercial or economic dimension, since they tend to establish a privileged political relationship with the third country. The Association Agreement, properly defined in terms of content, can also be an instrument used in view of a third country's future membership in the Union (see next questions).

### **Why do States conclude Association Agreements with the EU?**

Although Association Agreements differ in terms of content and purpose and change over time, as specified below, according to the partner country with which they are signed, their general objectives are:

1. to establish closer economic and political cooperation (much more than mere cooperation);
2. to create joint bodies for the management of cooperation, competent to adopt decisions that are binding on contracting parties;
3. to define a privileged relationship between the European Union and its partners;
4. to include a clause concerning respect for human rights and democratic principles, which constitutes an essential element of the Agreement.

### **What are the differences compared to other agreements?**

**Cooperation agreements** are different from Association Agreements because, in many cases, the latter replace cooperation agreements, thus intensifying relations between contracting parties.

Association Agreements are different from **trade agreements** since the latter have an essentially commercial dimension and, therefore, tend to create a free trade area, while Association Agreements concern any sectors pertaining to cooperation in economic and commercial fields.

Compared to these two types of agreements, Association Agreements are characterised by an institutionalisation of the relationship between the EU and the associated State/s, i.e.

they provide for a comprehensive and complex institutional structure, which can include an Association Committee, a Council, etc. (for more information, see the section **Association Agreement between the EU and San Marino**).

They are usually concluded in the form of mixed agreements and are adopted unanimously by the Council of the European Union, subject to the approval of the European Parliament (Art. 218, par. 6 TFUE.) Because of their "mixed" nature, they also require ratification by the Member States according to their respective constitutional procedures, with consequent delays in the entry into force.

### **What are the differences between association and membership?**

Association is different from **membership** since the first does not involve full equality and the fact of being a Member State. Although mutual rights and obligations are established with the EU, the associated State remains a third country and retains full autonomy in areas not covered by the Association Agreement.

Association can also be established with non-European countries, while a fundamental condition of membership is the fact of being an EU candidate member State.

Association includes most, but not all, aspects of the Community *acquis* (including the entire *corpus iuris* of the EU pertaining to internal market, economic and monetary policy, social policy, common foreign and security policy, etc.).

Association does not cover the aspect of the country's political representation within the competent **EU bodies** (for more information, see the relevant section).

### **Which Association Agreements have been concluded over time?**

Although the first qualified Association Agreement was concluded between the ECSC and the United Kingdom on 21 December 1954, the real meaning of the concept of association was essentially provided by the Treaty of Rome. In 1961, by signing the Treaty of Athens, Greece became the first country associated with the then European Economic Community. The Treaty of Association came into force on 1 January 1962. The next year, the Ankara Agreement was signed between Turkey and the EEC, which is still in force.

Association has been used in two situations: both in relation to membership and as part of a development of intense political and economic relations between the parties.

### Association Agreements and membership

Historically, Association Agreements have been conceived as regulatory instruments in preparation for a third State's membership in the Union. However, the practice has gradually reformulated the nature of association, which is now conceived both to prepare for the membership of a candidate State(1), enhancing cooperation in many areas, and as a tool to establish intense economic and trade relations regardless of a future membership(2).

With regard to the first case, after an initial "generation" of agreements reached in the 1990s

(with Poland, Hungary, Romania, Bulgaria, Slovakia and Czech Republic), whose aim did not exclude membership, but not even consider it as an immediate political perspective, a second "generation" of agreements was signed (with Lithuania, Latvia and Estonia), which, in a more decisive manner, considered association as part of the enlargement process. Subsequently, some Stabilisation and Association Agreements, more explicit about membership prospects, were concluded with Balkan European countries.

With regard to the second case, Association Agreements are not necessarily linked to the membership process. This is the case with Malta and Cyprus, whose agreements did not refer to the possibility of membership, but they aimed at establishing a customs union between the parties. This is also the case with the European Economic Area (EEA) in force between the EU and Iceland, Liechtenstein and Norway, which do not intend to become members of the EU also because of their neutrality.

### Association Agreements and development

These agreements are completely detached from any prospect of enlargement and, on the contrary, tend to the implementation of a policy of cooperation and economic development of the third State. These agreements have represented the instruments of the European Union's development policy vis-à-vis Mediterranean third countries (aimed at supporting the process of democratisation, strengthening trade and promoting cooperation in the economic and social relations with the countries involved<sup>1</sup>), and the Union's "Eastern partners" (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine), designed to facilitate the transition to a market economy and to better structure political cooperation. For the best performing countries, it is possible to negotiate an Association Agreement, as in the case of Ukraine, which often includes a comprehensive free trade area, and basically economic attraction of Ukraine in the EU area.

### **Why San Marino intends to conclude an Association Agreement with the EU?**

Association is the most pragmatic and flexible solution to meet the interests of San Marino and of the European Union, taking account of historical, economic and social peculiarities of a small State like San Marino and of its population, and of the specific needs of the EU to ensure the homogeneity and the good functioning of the **Single Market** (for more details, see the relevant section).

The Association Agreement is a fundamental historic step in the process of European integration that the Republic has long been undertaken and is a great opportunity of economic social and cultural growth for San Marino community. This process will also ensure other rights, freedoms and guarantees for the young.

**Association is therefore the most fruitful evolution of a process, whose foundations were laid by the Cooperation and Customs Union Agreement.** This Agreement could therefore be the most appropriate tool to complete the process of economic integration already started with the two existing agreements in the customs and monetary areas, with the possibility for San Marino to remain a third country.

The Association Agreement could also be an occasion to complete the **customs** agreement,

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<sup>1</sup> Algeria, Morocco, Egypt, Israel, Jordan, Lebanon, Libya, the Palestinian Authority, Syria, Tunisia

which currently covers only a part of the free movement of goods. The same thing could also happen with regard to the current **monetary agreement with the Union**, in order to provide more opportunities to San Marino banking and financial sector.

The Association Agreement will establish full integration of San Marino in the **Single Market** of goods, services, people and capital. This will enable to take advantage of the obvious opportunities arising from participation in a market much larger than the domestic one, made up of 500 million people. In this new perspective, current restrictions will be removed and San Marino people (citizens, students, workers, businesses) will have access to economic activities and opportunities offered by the Internal Market, on an equal footing with the nationals of Member States.

Given its geographical location in Europe, the broad collaboration of San Marino in the initiatives promoted by the EU within the various international organisations and domestic policy reforms based on transparency and internationalisation of the economy, the Association Agreement may provide the Republic with **a further opportunity to consolidate its system, which could be better recognised from the outside**.

Upon payment of a national contribution, weighted on the basis of precise non-penalising and non-discriminatory criteria, the Agreement will also allow San Marino to access **EU programmes**, in particular in the field of culture. The Association Agreement could also allow the Republic to benefit from some European funds, in the specific areas covered by the Agreement itself, but always on the basis of the procedures provided by the EU to participate in the allocation of funding.

Therefore, this involves many economic benefits, although some commitments will have to be undertaken by San Marino, also in terms of impact on domestic law (see, in this regard, the section **Association Agreement between the EU and San Marino**). On the other hand, it is not even certain that **national provisions are preferable in terms of economic and social development of the Republic simply** because they do not comply with the rules of the EU. In addition, fewer and fewer areas of San Marino internal regulations are exempt from a comparison with the outside world.

As for Member States and all other States that enter into agreements with the EU to undertake a process of increased European integration, with the entry into force of the Association Agreement **sovereignty** in some areas **will have to be partially delegated** to EU institutions. This aspect can still be discussed during negotiations with the competent EU Services, in order to identify the most appropriate corrections for the protection of San Marino specificities.

Since the **costs of San Marino's non-integration** in a broader market are not sustainable and autonomous domestic initiatives to adjust to the relevant European provisions do not guarantee any form of access to the European market, the Republic's non-integration in the European market poses serious obstacles to the development of San Marino's businesses, individuals and all economic and social stakeholders.

**Is the EU devising a new generation of Association Agreements? What are the main novelties?**

**Yes, see the section Association Agreement between the EU and San Marino.**