

AGREEMENT

between the European Union and the Swiss Confederation establishing the terms and conditions for the participation of the Swiss Confederation in the 'Youth in Action' programme and in the action programme in the field of lifelong learning (2007-2013)

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

of the one part, and

THE SWISS CONFEDERATION, hereinafter referred to as 'Switzerland',

of the other part,

together hereinafter referred to as 'the Parties',

Whereas:

- (1) The Joint Declaration attached to the seven agreements signed on 21 June 1999 between the European Community and Switzerland provides for the future negotiation of an agreement for Switzerland's participation in training and youth programmes.
- (2) The 'Youth in Action' programme for the period 2007 to 2013 and the action programme in the field of lifelong learning were established respectively by Decision No 1719/2006/EC ⁽¹⁾ and Decision No 1720/2006/EC ⁽²⁾ of the European Parliament and of the Council of 15 November 2006.
- (3) Article 5 of Decision No 1719/2006/EC and Article 7 of Decision No 1720/2006/EC provide for the participation of Switzerland subject to the conclusion of a bilateral agreement with that country,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

Article 1

Switzerland shall participate in the 'Youth in Action' programme and in the action programme in the field of lifelong learning (hereinafter referred to as 'the Programmes') in accordance with the arrangements and conditions laid down in this Agreement and in Annexes I, II and III, which form an integral part thereof.

Article 2

This Agreement shall apply to the territories to which the Treaties on which the Union is founded are applicable, under the conditions laid down in those Treaties, and to the territory of Switzerland.

Article 3

This Agreement is concluded for the duration of the Programmes in progress. Nevertheless, without prejudice to the second paragraph of this Article, if the Union decides to extend the duration of the Programmes without changing them, this Agreement will also be automatically extended accordingly, unless one of the Parties informs the other, within 30 days following the decision to extend the Programmes, that it does

not wish to extend the cooperation. During the extension, Switzerland shall make an annual financial contribution identical to its financial contribution for 2013.

This Agreement will not be extended in the event of termination or denunciation of the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons.

Either the Union or Switzerland may terminate this Agreement by notifying the other Party of its decision. The Agreement shall cease to apply from the budget year following notification, if the latter is before 1 October. If not, it shall cease to apply from the second budget year following notification.

The projects and activities financed in the budget years preceding that in which the Agreement ceases to apply shall be continued until completion under the conditions laid down in this Agreement and its Annexes and in accordance with the contractual provisions applying to these projects and activities. The Parties shall settle by common consent any other consequences of termination.

⁽¹⁾ OJ L 327, 24.11.2006, p. 30.

⁽²⁾ OJ L 327, 24.11.2006, p. 45.

Article 4

The representatives of the Commission and the representatives of the national authority appointed as observers in the Programme committees shall consult with each other when necessary at the request of one of them on the activities covered by this Agreement. Following these consultations, the Joint Committee established under the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons shall be authorised to amend the Annexes to this Agreement, as a general rule by written procedure, if necessary, to take account of the rules applying to the Programmes or the development of Switzerland's take-up capacity. Amendments to the Annexes shall enter into force the day after the adoption of the relevant decision by the Joint Committee. However, if the Parties agree to any changes in the provisions of this Agreement, these shall enter into force after completion of the Parties' respective internal procedures.

Article 5

This Agreement shall be ratified or concluded by the Parties in accordance with their respective internal procedures. It shall enter into force on the first day of the second month following the date of the last notification by the Parties of the completion of their respective procedures.

Pending completion of the procedures referred to in the first paragraph, the Parties shall provisionally apply this Agreement for the activities financed under the general budget of the European Union of the year following its signature, and at the earliest under the 2011 budget, provided the conditions referred to under point 2 of Annex I are observed.

In the event of one of the Parties notifying the other that it will not ratify or conclude the signed Agreement, provisional application shall end from the budget year following notification. Notification terminating provisional application shall not affect the Parties' obligations concerning the projects and activities financed under the general budget of the European Union of the year of notification, nor payment by Switzerland of its contribution for the year of notification.

Article 6

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of those texts being equally authentic.

Съставено в Брюксел на петнайсети февруари две хиляди и десета година.

Hecho en Bruselas, el quince de febrero de dos mil diez.

V Bruselu dne patnáctého února dva tisíce deset.

Udfærdiget i Bruxelles den femtende februar to tusind og ti.

Geschehen zu Brüssel am fünfzehnten Februar zweitausendzehn.

Kahe tuhande kümnenda aasta veebruarikuu viieteistkümnendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις δέκα πέντε Φεβρουαρίου δύο χιλιάδες δέκα.

Done at Brussels on the fifteenth day of February in the year two thousand and ten.

Fait à Bruxelles, le quinze février deux mille dix.

Fatto a Bruxelles, addì quindici febbraio duemiladieci.

Briselē, divi tūkstoši desmitā gada piecpadsmitajā februārī.

Priimta du tūkstančiai dešimtų metų vasario penkioliktą dieną Briuselyje.

Kelt Brüsszelben, a kétezer-tizedik év február havának tizenötödik napján.

Magħmul fi Brussell, fil-hmistax-il jum ta' Frar tas-sena elfejn u għaxra.

Gedaan te Brussel, de vijftiende februari tweeduizend tien.

Sporządzono w Brukseli dnia piętnastego lutego roku dwa tysiące dziesiątego.

Feito em Bruxelas, em quinze de Fevereiro de dois mil e dez.

Întocmit la Bruxelles, la cincisprezece februarie două mii zece.

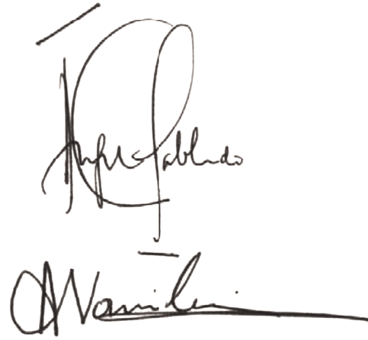
V Bruseli dňa pätnásteho februára dvetisícdesať.

V Bruslju, dne petnajstega februarja leta dva tisoč deset.

Tehty Brysselissä viidentenätoista päivänä helmikuuta vuonna kaksituhattakymmenen.

Som skedde i Bryssel den femtonde februari tjugohundratio.

За Европейския съюз
Por la Unión Europea
Za Evropskou unii
For Den Europæiske Union
Für die Europäische Union
Euroopa Liidu nimel
Για την Ευρωπαϊκή Ένωση
For the European Union
Pour l'Union européenne
Per l'Unione europea
Eiropas Savienības vārdā
Europos Sąjungos vardu
Az Európai Unió részéről
Għall-Unjoni Ewropea
Voor de Europese Unie
W imieniu Unii Europejskiej
Pela União Europeia
Pentru Uniunea Europeană
Za Európsku úniu
Za Evropsko unijo
Euroopan unionin puolesta
För Europeiska unionen



За Конфедерация Швейцария
Por la Confederación Suiza
Za Švýcarskou konfederaci
For Det Schweiziske Forbund
Für die Schweizerische Eidgenossenschaft
Šveitsi Konföderatsiooni nimel
Για την Ελβετική Συνομοσπονδία
For the Swiss Confederation
Pour la Confédération suisse
Per la Confederazione svizzera
Šveices Konfederācijas vārdā
Šveicarijos Konfederācijas vardu
A Svájci Államszövetség részéről
Għall-Konfederazzjoni Żvizzera
Voor de Zwitserse Bondsstaat
W imieniu Konfederacji Szwajcarskiej
Pela Confederação Suíça
Pentru Confederația Elvețiană
Za Švajčiarskou konfederáciu
Za Švicarsko konfederacijo
Sveitsin valaliiton puolesta
För Schweiziska edsförbundet



ANNEX I

Terms and conditions for the participation of Switzerland in the 'Youth in Action' programme and in the action programme in the field of lifelong learning

1. Switzerland shall participate in the 'Youth in Action' programme and in the action programme in the field of lifelong learning (hereinafter referred to as 'the Programmes') and, unless otherwise provided by this Agreement, this shall take place with due regard for the objectives, criteria, procedures and deadlines laid down by Decision No 13719/2006/EC and Decision No 1720/2006/EC.
 2. In accordance with the arrangements laid down in Article 8 of Decision No 1719/2006/EC and Article 6 of Decision No 1720/2006/EC, and in accordance with the Commission Decisions on the respective responsibilities of the Member States, the Commission and the National Agencies in the performance of the Programmes, Switzerland:
 - shall be responsible for establishing or designating, and monitoring, an appropriate structure (Swiss National Agency) for the coordinated management of the implementation of the Programmes' actions at national level,
 - shall assume responsibility for the sound management by the Swiss National Agency of the appropriations paid to it as aid for projects, and
 - shall take any measures necessary to ensure the appropriate financing, auditing and financial monitoring of the Swiss National Agency, which shall receive from the Commission a contribution to its management and implementation costs.
- Switzerland shall take all other necessary steps for the efficient running of the Programmes at national level.
3. To participate in the Programmes, Switzerland shall make an annual financial contribution to the general budget of the European Union, in accordance with the arrangements set out in Annex II.
 4. The terms and conditions for the submission, assessment and selection of applications from eligible institutions, organisations and individuals from Switzerland shall be the same as those applicable to eligible institutions, organisations and individuals from the Union.
 5. With a view to ensuring the Union dimension of the Programmes, in order to be eligible for financial support from the Union, projects and activities will have to include at least one partner from one of the Member States of the Union.
 6. The percentage of the Swiss contribution referred to in point 3 that will be allocated to the measures which, according to the rules of the Programmes, have to be managed by the Swiss National Agency shall reflect the share of these measures in the budget of the Programmes at Union level. The contribution to the costs of the Swiss National Agency for the management and implementation of the Programmes shall be calculated in accordance with the criteria applied to the Member States of the Union.
 7. The Member States of the Union and Switzerland shall make every effort, within the framework of existing provisions, to facilitate the free movement and residence of students, teachers, trainees, instructors, university administrators, young people and other eligible persons moving between Switzerland and the Member States of the Union for the purpose of participating in activities covered by this Agreement.
 8. Without affecting the responsibilities of the Commission and the Court of Auditors of the European Union regarding the monitoring and evaluation of programmes, the participation of Switzerland in the Programmes shall be subject to constant monitoring by the Commission and Switzerland in partnership. Switzerland shall submit the necessary reports to the Commission and be involved in other specific measures taken by the Union in that context.

The Commission's Decisions regarding the respective responsibilities of the Member States, the Commission and the National Agencies in the performance of the Programmes and the common standards set out in the Guide for National Agencies, which will be annexed to contracts between the Commission and the Swiss National Agency, shall be applicable to relations between Switzerland, the Commission and the Swiss National Agency.

Agreements between the Commission and the Swiss National Agency or Swiss beneficiaries and between the Swiss National Agency and Swiss beneficiaries shall be based on the relevant provisions of the Financial Regulation applicable to the general budget of the European Union and on the detailed rules for its implementation, in particular regarding grant awards and the conclusion of agreements. These provisions shall apply to Swiss participants in the same way as they apply to all participants in the Programmes.

Additional rules concerning financial control, recovery and other antifraud measures are laid down in Annex III.

In the event of irregularity, negligence or fraud attributable to the Swiss National Agency, if the Commission cannot fully recover the sums owed to it by the Swiss National Agency, the Swiss authorities shall be responsible for the funds not recovered.

9. The language to be used in all contacts with the Commission, as regards the application process, contracts, reports to be submitted and other administrative arrangements for the Programmes, shall be one of the official languages of the institutions of the Union.
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ANNEX II

Switzerland's financial contribution to the 'Youth in Action' programme and the action programme in the field of lifelong learning

1. Youth in Action

Switzerland's financial contribution to the general budget of the European Union for participating in the 'Youth in Action' programme shall be the following (in million euros):

Year 2011	Year 2012	Year 2013
1,7	1,8	1,9

2. Action programme in the field of lifelong learning

Switzerland's financial contribution to the general budget of the European Union for participating in the action programme in the field of lifelong learning shall be the following (in million euros):

Year 2011	Year 2012	Year 2013
14,2	14,9	15,6

3. Travel and subsistence expenses incurred by representatives and experts from Switzerland for taking part as observers in the work of the committees referred to in Article 9 of Decision No 1719/2006/EC and Article 10 of Decision No 1720/2006/EC or in other meetings related to the implementation of the Programmes shall be refunded by the Commission on the same basis and according to the same procedures as for the representatives and experts from the Member States of the Union.

4. Following the entry into force or provisional application of this Agreement, and at the beginning of each subsequent year, the Commission shall send to Switzerland a request for funds corresponding to its contribution to each of the Programmes covered by this Agreement.

Switzerland's contribution shall be expressed and paid in euros.

Switzerland shall pay its contribution before 1 March if the Commission's request for funds arrives before 1 February or at the latest 30 days after the request for funds if it arrives after 1 February.

Any delay in the payment of the contribution shall entail the payment of interest by Switzerland on the outstanding amount from the due date. The rate of such interest shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the due date falls, increased by three and a half percentage points.

ANNEX III

FINANCIAL CONTROL, RECOVERY AND OTHER ANTIFRAUD MEASURES**I. Audits and antifraud measures by the Union**

1. The Commission shall communicate directly with Programme participants established in Switzerland and with their subcontractors. These may submit directly to the Commission all relevant information and documentation which they are required to provide on the basis of the instruments referred to in this Agreement and of the contracts concluded to implement them.
2. In accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾, as last amended by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 ⁽²⁾, and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽³⁾, as last amended by Regulation (EC, Euratom) No 478/2007 of 23 April 2007 ⁽⁴⁾, and with the other rules referred to in this Agreement, the grant agreements concluded with Programme beneficiaries established in Switzerland shall provide for financial or other audits to be conducted at any time on the premises of the beneficiaries or their subcontractors by Commission staff or by other persons mandated by the Commission.

The accounts and operations of the Swiss National Agency may be checked by Commission staff or by other persons mandated by the Commission. These checks may also relate to the ability of the structure set up by Switzerland to apply the Programme rules referred to in the Agreement and to meet the requirements of sound financial management according to the criteria of the relevant Articles of Regulation (EC, Euratom) No 1605/2002, as last amended by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006, and Regulation (EC, Euratom) No 2342/2002, as last amended by Regulation (EC, Euratom) No 478/2007 of 23 April 2007.

3. Commission staff and other persons mandated by the Commission shall have appropriate access to sites, works and documents and to any information required in order to carry out such audits, including information in electronic form. This right of access shall be stated explicitly in the contracts concluded to implement the instruments referred to in this Agreement. The European Court of Auditors shall have the same rights as the Commission.

Audits may be conducted after the Programmes or this Agreement expires, on the terms laid down in the contracts in question.

4. Within the framework of this Agreement, the Commission/the European Anti-Fraud Office (OLAF) shall be authorised to carry out on-the-spot checks and inspections on Swiss territory, in accordance with the procedural provisions of Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽⁵⁾.

These checks and inspections shall be prepared and conducted in close collaboration with the competent Swiss authorities designated by Switzerland, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help.

If the Swiss authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly with them.

Where the participants in the Programmes resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give Commission/OLAF inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

The Commission/OLAF shall report without delay to the Swiss authorities any fact or suspicion relating to an irregularity which has come to its notice in the course of an on-the-spot check or inspection. In any event the Commission/OLAF shall be required to inform the above-mentioned authorities of the result of such checks and inspections.

⁽¹⁾ OJ L 248, 16.9.2002, p. 1.

⁽²⁾ OJ L 390, 30.12.2006, p. 1.

⁽³⁾ OJ L 357, 31.12.2002, p. 1.

⁽⁴⁾ OJ L 111, 28.4.2007, p. 13.

⁽⁵⁾ OJ L 292, 15.11.1996, p. 2.

II. Audits and antifraud measures by Switzerland

1. Appropriate financial control of the implementation of the Programmes shall be carried out by the competent national financial control authority in Switzerland, in accordance with Article 8 of the Commission Decisions on the respective responsibilities of the Member States, the Commission and the National Agencies in the performance of the 'Youth in Action' programme and the action programme for lifelong learning (2007-2013) and the common standards set out in the Guide for National Agencies annexed to contracts between the Commission and the Swiss National Agency. Any suspected or actual cases of fraud and irregularity and any measures concerning them taken by the Swiss National Agency and by the national authorities shall be notified immediately to the Commission. Switzerland shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Union inspections.

'Irregularity' shall mean any infringement of a relevant provision of Union law applicable under this Agreement or the contractual obligations pursuant to it, as a result of an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the European Union or budgets managed by it, by an unjustified item of expenditure.

'Fraud' shall mean any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union,
- non-disclosure of information in violation of a specific obligation, with the same effect,
- the misapplication of such funds for purposes other than those for which they are originally granted.

2. The Swiss authorities shall take appropriate measures to prevent and counter any corrupt practices — active or passive — at any stage of the procurement or grant award procedures or during implementation of the corresponding agreements.

'Active corruption' shall mean any deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

'Passive corruption' shall mean any deliberate action of an official who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Union's financial interests.

3. The Swiss authorities and the staff responsible for implementing the Programmes shall take any precautions necessary to avoid any risk of a conflict of interests and shall inform the Commission immediately of any such conflict of interests or any situation likely to give rise to one.

III. Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Swiss law and by the corresponding provisions applicable to the Union institutions. Such information may not be communicated to persons other than those within the Union institutions or in the Member States or Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the Parties' financial interests.

IV. Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulation (EC, Euratom) No 1605/2002, as last amended by Regulation (EC, Euratom) No 1995/2006 of 13 December 2006, with Regulation (EC, Euratom) No 2342/2002, as last amended by Regulation (EC, Euratom) No 478/2007 of 23 April 2007, and with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests ⁽¹⁾.

⁽¹⁾ OJ L 312, 23.12.1995, p. 1.

V. Recovery

For indirect centralised management measures, the Swiss National Agency shall be responsible for issuing requests for the recovery of funds and for implementing any legal action required regarding beneficiaries in consultation with the Commission. In the event of irregularity, negligence or fraud attributable to the Swiss National Agency, the Swiss authorities shall be responsible for the funds not recovered.

For centralised management measures carried out directly by the Commission, decisions taken by the Commission within the scope of this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland. Enforcement shall be governed by the rules of civil procedure in force in Switzerland. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision by the authority which the Government of Switzerland shall designate for this purpose and shall make known to the Commission. When these formalities have been completed on application by the Commission, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority. The legality of the Commission decision shall be subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause in a contract within the scope of this Agreement shall be enforceable on the same terms.

COUNCIL DECLARATION ON SWISS ATTENDANCE OF COMMITTEE MEETINGS

The Council agrees that Switzerland's representatives shall, in so far as the items concern them, attend meetings of the committees of the 'Youth in Action' programme and the action programme in the field of lifelong learning (2007-2013). Switzerland's representatives shall not be present when these committees vote.
