

AGREEMENT**between the European Union and the Republic of Serbia establishing a framework for the participation of the Republic of Serbia in European Union crisis management operations**

THE EUROPEAN UNION,

of the one part, and

THE REPUBLIC OF SERBIA

of the other part,

hereinafter referred to as the 'Parties',

Whereas:

- (1) The European Union (EU) may decide to take action in the field of crisis management.
- (2) The European Union will decide whether third States will be invited to participate in an EU crisis management operation. The Republic of Serbia may accept the invitation by the European Union and offer its contribution. In such case, the European Union will decide on the acceptance of the proposed contribution of the Republic of Serbia.
- (3) Conditions regarding the participation of the Republic of Serbia in EU crisis management operations should be laid down in an agreement establishing a framework for such possible future participation, rather than defining those conditions on a case-by-case basis for each operation concerned.
- (4) Such an agreement should be without prejudice to the decision-making autonomy of the European Union, and should not prejudice the case-by-case nature of the decisions of the Republic of Serbia to participate in an EU crisis management operation.
- (5) Such an agreement should only address future EU crisis management operations and should be without prejudice to any existing agreements regulating the participation of the Republic of Serbia in an EU crisis management operation that has already been deployed,

HAVE AGREED AS FOLLOWS:

SECTION I**GENERAL PROVISIONS***Article 1***Decisions relating to the participation**

1. Following the decision of the European Union to invite the Republic of Serbia to participate in an EU crisis management operation, and once the Republic of Serbia has decided to participate, the Republic of Serbia shall provide information on its proposed contribution to the European Union.

2. The assessment by the European Union of the Republic of Serbia's contribution shall be conducted in consultation with the Republic of Serbia.

3. The European Union shall provide the Republic of Serbia with an early indication of the likely contribution to the common costs of the operation as soon as possible with a view to assisting the Republic of Serbia in the formulation of its offer.

4. The European Union shall communicate the outcome of this assessment to the Republic of Serbia by a letter with a view to securing the participation of the Republic of Serbia in accordance with the provisions of this Agreement.

*Article 2***Framework**

1. The Republic of Serbia shall associate itself with the Council Decision by which the Council of the European Union decides that the EU will conduct the crisis management operation, and with any other decision by which the Council of the European Union decides to extend the EU crisis management operation, in accordance with the provisions of this Agreement and any required implementing arrangements.

2. The contribution of the Republic of Serbia to an EU crisis management operation shall be without prejudice to the decision-making autonomy of the European Union.

*Article 3***Status of personnel and forces**

1. The status of personnel seconded to an EU civilian crisis management operation and/or of the forces contributed to an EU military crisis management operation by the Republic of Serbia shall be governed by the agreement on the status of forces/mission, if concluded, between the European Union and the State(s) in which the operation is conducted.

2. The status of personnel contributed to headquarters or command elements located outside the State(s) in which the EU crisis management operation takes place, shall be governed by arrangements between the headquarters and command elements concerned and the Republic of Serbia.

3. Without prejudice to the agreement on the status of forces/mission referred to in paragraph 1, the Republic of Serbia shall exercise jurisdiction over its personnel participating in the EU crisis management operation.

4. The Republic of Serbia shall be responsible for answering any claims linked to the participation in an EU crisis management operation, from or concerning any of its personnel. The Republic of Serbia shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel in accordance with its laws and regulations.

5. The Republic of Serbia undertakes to make a declaration as regards the waiver of claims against any State participating in an EU crisis management operation in which the Republic of Serbia participates, and to do so when signing this Agreement.

6. The European Union undertakes to ensure that European Union Member States make a declaration as regards the waiver of claims, for any future participation of the Republic of Serbia in an EU crisis management operation, and to do so when signing this Agreement

Article 4

Classified information

1. The Republic of Serbia shall take appropriate measures to ensure that EU classified information is protected in accordance with the EU Council's security regulations, contained in Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations⁽¹⁾ and in accordance with further guidance issued by competent authorities, including the EU Operation Commander concerning an EU military crisis management operation or by the EU Head of Mission concerning an EU civilian crisis management operation.

2. Where the EU and the Republic of Serbia have concluded an agreement on security procedures for the exchange of classified information, the provisions of such an agreement shall apply in the context of an EU crisis management operation.

SECTION II

PROVISIONS ON PARTICIPATION IN CIVILIAN CRISIS MANAGEMENT OPERATIONS

Article 5

Personnel seconded to an EU civilian crisis management operation

1. The Republic of Serbia shall ensure that its personnel seconded to the EU civilian crisis management operation undertake their mission in accordance with:

(a) the Council Decision and subsequent amendments as referred to in Article 2(1);

(b) the Operation Plan;

(c) implementing measures.

2. The Republic of Serbia shall inform in due time the EU civilian crisis management operation Head of Mission and the High Representative of the Union for Foreign Affairs and Security Policy Council of any change to its contribution to the EU civilian crisis management operation.

3. Personnel seconded to the EU civilian crisis management operation shall undergo a medical examination, vaccination and be certified medically fit for duty by a competent authority from the Republic of Serbia. Personnel seconded to the EU civilian crisis management operation shall produce a copy of this certification.

Article 6

Chain of command

1. Personnel seconded by the Republic of Serbia shall carry out their duties and conduct themselves solely with the interests of the EU civilian crisis management operation in mind.

2. All personnel shall remain under the full command of their national authorities.

3. National authorities shall transfer operational control to the European Union.

4. The Head of Mission shall assume responsibility and exercise command and control of the EU civilian crisis management operation at theatre level.

5. The Head of Mission shall lead the EU civilian crisis management operation and assume its day-to-day management.

6. The Republic of Serbia shall have the same rights and obligations in terms of day-to-day management of the operation as European Union Member States taking part in the operation, in accordance with the legal instruments referred to in Article 2(1).

7. The EU civilian crisis management operation Head of Mission shall be responsible for disciplinary control over EU civilian crisis management operation personnel. Where required, disciplinary action shall be taken by the national authority concerned.

⁽¹⁾ OJ L 101, 11.4.2001, p. 1.

8. A National Contingent Point of Contact ('NPC') shall be appointed by the Republic of Serbia to represent its national contingent in the operation. The NPC shall report to the EU civilian crisis management operation Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.

9. The decision to end the operation shall be taken by the European Union, following consultation with the Republic of Serbia if it is still contributing to the EU civilian crisis management operation at the date of termination of the operation.

Article 7

Financial aspects

1. The Republic of Serbia shall assume all the costs associated with its participation in the operation apart from the running costs, as set out in the operational budget of the operation. This shall be without prejudice to Article 8.

2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, the Republic of Serbia shall, once its liability has been established, pay compensation under the conditions foreseen in the applicable status of mission agreement referred to in Article 3(1).

Article 8

Contribution to operational budget

1. The Republic of Serbia shall contribute to the financing of the budget of the EU civilian crisis management operation.

2. The financial contribution of the Republic of Serbia to the operational budget shall be calculated on the basis of either of the following formulae, whichever produces the lower amount:

(a) the share of the reference amount which corresponds proportionately to the ratio of the Republic of Serbia's GNI to the total GNIs of all States contributing to the operational budget of the operation; or

(b) the share of the reference amount for the operational budget which corresponds proportionately to the ratio of the number of personnel from the Republic of Serbia participating in the operation to the total number of personnel of all States participating in the operation.

3. Notwithstanding paragraphs 1 and 2, the Republic of Serbia shall not make any contribution towards the financing of per diem allowances paid to personnel of the European Union Member States.

4. Notwithstanding paragraph 1, the European Union shall, in principle, exempt the Republic of Serbia from financial contributions to a particular EU civilian crisis management operation when:

(a) the European Union decides that the Republic of Serbia provides a significant contribution which is essential for the operation; or

(b) the Republic of Serbia has a GNI per capita which does not exceed that of any Member State of the European Union.

5. An arrangement on the payment of the contributions of the Republic of Serbia to the operational budget of the EU civilian crisis management operation shall be signed between the EU civilian crisis management operation Head of Mission and the relevant administrative services of the Republic of Serbia. That arrangement shall include, inter alia, the following provisions:

(a) the amount concerned;

(b) the arrangements for payment of the financial contribution;

(c) the auditing procedure.

SECTION III

PROVISIONS ON PARTICIPATION IN MILITARY CRISIS MANAGEMENT OPERATIONS

Article 9

Participation in an EU military crisis management operation

1. The Republic of Serbia shall ensure that its forces and personnel participating in an EU military crisis management operation undertake their mission in accordance with:

(a) the Council Decision and subsequent amendments as referred to in Article 2(1);

(b) the Operation Plan;

(c) implementing measures.

2. Personnel seconded by the Republic of Serbia shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

3. The Republic of Serbia shall inform the EU Operation Commander in due time of any change to its participation in the operation.

Article 10

Chain of command

1. All forces and personnel participating in the EU military crisis management operation shall remain under the full command of their national authorities.

2. National authorities shall transfer the Operational and Tactical command and/or control of their forces and personnel to the EU Operation Commander, who is entitled to delegate his authority.

3. The Republic of Serbia shall have the same rights and obligations in terms of the day-to-day management of the operation as participating European Union Member States.

4. The EU Operation Commander may, following consultations with the Republic of Serbia, at any time request the withdrawal of the Republic of Serbia's contribution.

5. A Senior Military Representative (SMR) shall be appointed by the Republic of Serbia to represent the Serbian contingent in the EU military crisis management operation. The SMR shall consult with the EU Force Commander on all matters affecting the operation and shall be responsible for the day-to-day discipline of the Serbian contingent.

Article 11

Financial aspects

1. Without prejudice to Article 12, the Republic of Serbia shall assume all the costs associated with its participation in the operation unless the costs are subject to common funding as provided for in the legal instruments referred to in Article 2(1), as well as in Council Decision 2008/975/CFSP of 18 December 2008 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) ⁽¹⁾.

2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the operation is conducted, the Republic of Serbia shall, once its liability has been established, pay compensation under the conditions foreseen in the applicable status of forces agreement referred to in Article 3(1).

Article 12

Contribution to the common costs

1. The Republic of Serbia shall contribute to the financing of the common costs of the EU military crisis management operation.

2. The financial contribution of the Republic of Serbia to the common costs shall be calculated on the basis of either of the following two formulae, whichever produces the lower amount:

- (a) the share of the common costs which corresponds proportionately to the ratio of the Republic of Serbia's GNI to the total GNIs of all States contributing to the common costs of the operation; or
- (b) the share of the common costs which corresponds proportionately to the ratio of the number of personnel from the Republic of Serbia participating in the operation to the total number of personnel of all States participating in the operation.

Where the formula under point (b) of paragraph 2 is used and the Republic of Serbia contributes personnel only to the Operation or Force Headquarters, the ratio used shall be that of its personnel to that of the total number of the respective headquarters personnel. In other cases, the ratio shall be that of all personnel contributed by the Republic of Serbia to that of the total personnel of the operation.

3. Notwithstanding paragraph 1, the European Union shall, in principle, exempt the Republic of Serbia from financial contributions to the common costs of a particular EU military crisis management operation when:

- (a) the European Union decides that the Republic of Serbia provides a significant contribution to assets and/or capabilities which are essential for the operation; or
- (b) the Republic of Serbia has a GNI per capita which does not exceed that of any Member State of the European Union.

4. An arrangement shall be concluded between the Administrator provided for in Decision 2008/975/CFSP and the competent administrative authorities of the Republic of Serbia. This arrangement shall include, inter alia, provisions on:

- (a) the amount concerned;
- (b) the arrangements for payment of the financial contribution;
- (c) the auditing procedure.

SECTION IV

FINAL PROVISIONS

Article 13

Implementing arrangements

Without prejudice to the provisions of Articles 8(5) and 12(4), any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the High Representative of the Union for Foreign Affairs and Security Policy, and the appropriate authorities of the Republic of Serbia.

Article 14

Non-compliance

Should one of the Parties fail to comply with its obligations under this Agreement, the other Party shall have the right to terminate this Agreement by serving notice of one month.

Article 15

Dispute settlement

Disputes concerning the interpretation or application of this Agreement shall be settled by diplomatic means between the Parties.

Article 16

Entry into force

- 1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for this purpose.
- 2. This Agreement shall be provisionally applied from the date of signature.
- 3. This Agreement shall be subject to regular review.
- 4. This Agreement may be amended on the basis of a mutual written agreement between the Parties.

⁽¹⁾ OJ L 345, 23.12.2008, p. 96.

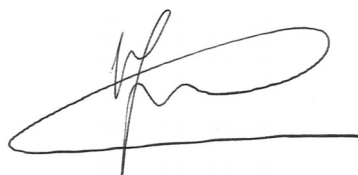
5. This Agreement may be denounced by either Party by written notice of denunciation given to the other Party. Such denunciation shall take effect six months after receipt of notification by the other Party.

Done at Belgrade, this eighth day of June in the year 2011 in two copies, each in the English language.

For the European Union



For the Republic of Serbia



TEXT FOR DECLARATIONS**Text for the EU Member States:**

The EU Member States applying an EU Council Decision on an EU crisis management operation in which the Republic of Serbia participates will endeavour, insofar as their internal legal systems so permit, to waive as far as possible claims against the Republic of Serbia for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel from the Republic of Serbia in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct,
- or arose from the use of any assets owned by the Republic of Serbia, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EU crisis management operation personnel from the Republic of Serbia using those assets.’.

Text for the Republic of Serbia:

The Republic of Serbia applying an EU Council Decision on an EU crisis management operation will endeavour, insofar as its internal legal system so permit, to waive as far as possible claims against any other State participating in the EU crisis management operation for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by the EU crisis management operation if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with the EU crisis management operation, except in case of gross negligence or wilful misconduct,
 - or arose from the use of any assets owned by States participating in the EU crisis management operation, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of EU crisis management operation personnel using those assets.’.
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