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European Union

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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

No. prev. doc.: 5476/11 FREMP 3 COWEB 14 COHOM 9 JAI 28
No. Cion doc.: 18247/10 COWEB 324 COHOM 310 JAI 1096 + COR 1

Subject: Proposal for a Council Decision on a Union position in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia, as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework set in Articles 4 and 5 of Council Regulation (EC) No 168/2007, including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff
- Agreement on the text

I. INTRODUCTION

1. On 22 December 2010 the Commission submitted a proposal for a Council Decision on a Union position in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia, as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework set in Articles 4 and 5 of Council Regulation (EC) No 168/2007, including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff.

2. The objective of the proposal is to establish the Union position in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia, as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities.
3. The proposal is based on TFEU Articles 218(9) and 352.

II. EXAMINATION OF THE PROPOSAL

4. The Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons, (FREMP) met on 17 January 2011 to discuss the above mentioned proposal.
5. At that stage there were no substantive issues with the text. The text of the proposal, as it arose from the discussions in the Working Party is set out in doc. 5476/11.
6. For reasons unrelated to the substance, the proposal was blocked until very recently. The Hellenic Presidency brought the proposal for discussion at the meeting of FREMP on 8 April 2014.
7. Delegations re-confirmed their agreement on the text as set out in the Annex. The UK delegation entered a parliamentary scrutiny reservation. The Council Legal Service examined several alternative suggestions, and concluded that the Proposal for a Council Decision should be based indeed on Articles 218(9) and 352 TFEU, as proposed by the Commission.

III. CONCLUSION

8. In the light of the above Coreper is invited to:
 - (a) confirm that there is an agreement on the text of the proposed Decision, as set out in the Annex;

- (b) take note of the UK parliamentary scrutiny reservation;
 - (c) agree that once the reservation is lifted, the proposal can be sent to the Council for adoption.
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2010/0350 (NLE)

Proposal for a

COUNCIL DECISION

on a Union position in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia, as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework set in Articles 4 and 5 of Council Regulation (EC) No 168/2007, including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 352 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Luxembourg European Council of December 1997 made participation in Union agencies a way of stepping up the pre-accession strategy. The European Council's conclusions provide that the Union "agencies in which applicant countries will be able to participate will be determined on a case-by-case basis".
- (2) Council Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights provides that the Agency shall be open to the participation of candidate countries within the framework set in Articles 4 and 5 thereof.
- (3) The former Yugoslav Republic of Macedonia shares the aims and objectives laid down for the Agency and subscribes to the scope and description of the tasks of the Agency laid down in the Regulation (EC) No 168/2007.

- (4) The former Yugoslav Republic of Macedonia's ultimate objective is to become a member of the European Union, and its participation in the European Union Agency for Fundamental Rights will help the former Yugoslav Republic of Macedonia to achieve this objective

HAS DECIDED AS FOLLOWS:

Sole Article

The position to be taken by the European Union in the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council on the participation of the former Yugoslav Republic of Macedonia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof shall be based on the draft Decision of the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Council annexed to this Decision.

Done at Brussels,

For the Council

The President

Draft

DECISION No .../

on the participation of the former Yugoslav Republic of Macedonia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework set in Articles 4 and 5 of Council Regulation (EC) No 168/2007, including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff

THE EU- THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA STABILISATION AND ASSOCIATION COUNCIL,

Having regard the Stabilisation and Association Agreement between the European Union, on the one part, and the former Yugoslav Republic of Macedonia, on the other part,

Having regard to Council Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights and in particular Article 28(2) thereof,

Whereas

(1) The Luxembourg European Council of December 1997 made participation in Union agencies a way of stepping up the pre-accession strategy. The European Council's conclusions provide that the "agencies in which applicant countries will be able to participate will be determined on a case-by-case basis".

(2) The former Yugoslav Republic of Macedonia shares the aims and objectives laid down for the Agency and subscribes to the scope and description of the tasks of the Agency as laid down in the Regulation (EC) No 168/2007.

(3) It is appropriate to enable the participation of the former Yugoslav Republic of Macedonia as an observer in the Agency's work and to lay down the modalities of such participation including provisions relating to participation in initiatives undertaken by the Agency, to the financial contribution and to staff.

(4) It is also appropriate that the Agency should deal with fundamental rights issues within the scope of Article 3(1) of the Regulation (EC) No 168/2007 in the former Yugoslav Republic of Macedonia to the extent necessary for its gradual alignment to Union law.

(5) In accordance with Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Communities provided for in Council Regulation (EEC, Euratom, ECSC) No 259/68, the Director of the Agency may authorise the engagement of nationals of the former Yugoslav Republic of Macedonia enjoying their full rights as citizens.

HAS DECIDED:

Article 1

The former Yugoslav Republic of Macedonia as a candidate country shall participate as an observer in the European Union Agency for Fundamental Rights, set up by Regulation (EC) No 168/2007.

Article 2

1. The Agency may deal with fundamental rights issues within the scope of Article 3(1) of Regulation (EC) No 168/2007 in the former Yugoslav Republic of Macedonia to the extent necessary for its gradual alignment to Union law.

2. To this end the Agency will be able to carry out in the former Yugoslav Republic of Macedonia the tasks laid down in Article 4 and 5 of the Regulation (EC) No 168/2007.

Article 3

The former Yugoslav Republic of Macedonia shall contribute financially to the activities of the Agency referred to Article 4 of the Regulation (EC) No 168/2007 in accordance with the provisions laid down in Annex to this Decision.

Article 4

1. The former Yugoslav Republic of Macedonia shall appoint persons complying with the criteria laid down in Article 12(1) of the Regulation as observer and alternate observer, respectively. They may participate in the works of the Management Board on equal footing with the members and alternate members appointed by Member States, but without a right to vote.

2. The former Yugoslav Republic of Macedonia shall nominate a government official as a National Liaison Officer, as referred to in Article 8(1) of Regulation (EC) No 168/2007.

3. Within four months of the entry into force of this Decision, the former Yugoslav Republic of Macedonia shall inform the European Commission of the names, qualifications and contact details of the persons referred to in paragraphs 1 and 2.

Article 5

The data supplied to or emanating from the Agency may be published and shall be made accessible to the public, provided that confidential information is afforded the same degree of protection in the former Yugoslav Republic of Macedonia as it is afforded within the Union.

Article 6

The Agency shall enjoy in the former Yugoslav Republic of Macedonia the same capacity as accorded to legal entities under the former Yugoslav Republic of Macedonia's law.

Article 7

To enable the Agency and its staff to perform their tasks, the former Yugoslav Republic of Macedonia shall grant the privileges and immunities identical to those contained in Articles 1 to 4, 5, 6, 10 to 13, 15, 17 and 18 of the Protocol (No 7) on the privileges and immunities of the European Union, attached to the Treaties on European Union and on the Functioning of the European Union.

Article 8

The Parties shall each take any general or specific measures required to fulfil their obligations under this Decision and shall notify them to the Stabilisation and Association Council.

Article 9

This Decision shall enter into force on the first day of the second month following the date of its adoption.

FINANCIAL CONTRIBUTION OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA TO THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

1. The financial contribution to be paid by the former Yugoslav Republic of Macedonia to the budget of the European Union to participate in the European Union Agency for Fundamental Rights (the Agency), as laid down in point 2, represents the full cost of its participation therein.
2. The financial contribution to be paid by the former Yugoslav Republic of Macedonia to the budget of the European Union shall be as follows:

Year 1:	EUR 165,000
Year 2:	EUR 170,000
Year 3:	EUR 175,000

3. The possible financial support from Union assistance programmes will be agreed separately according to the relevant Union programme.
4. The contribution of the former Yugoslav Republic of Macedonia will be managed in accordance with the Financial Regulation applicable to the general budget of the European Union.
5. Travel costs and subsistence costs incurred by representatives and experts of the former Yugoslav Republic of Macedonia for the purposes of taking part in the Agency or meetings related to the implementation of the Agency's work program shall be reimbursed by the Agency on the same basis as and in accordance with the procedures currently in force for the Member States of the European Union.

6. After the entry into force of this Decision and at the beginning of each following year, the Commission will send to the former Yugoslav Republic of Macedonia a call for funds corresponding to its contribution to the Agency under this Decision. For the first calendar year of its participation the former Yugoslav Republic of Macedonia will pay a contribution calculated from the date of participation to the end of the year on a pro rata basis. For the following years the contribution will be in accordance with this decision.
7. This contribution shall be expressed in euro and paid into a euro bank account of the Commission of the European Union.
8. The former Yugoslav Republic of Macedonia will pay its contribution according to the call for funds for its own part at the latest in period of 30 days after the call for funds is sent by the Commission.
9. Any delay in the payment of the contribution shall give rise to the payment of interest by the former Yugoslav Republic of Macedonia on the outstanding amount from the due date. The interest rate corresponds to the rate applied by the European Central Bank, on the due date, for its operations in euro, increased by 1,5 percentage points.
