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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 7 March 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: COM(2016) 119 final - ANNEX 1

Subject: ANNEX Decision on the participation of the Republic of Serbia as an
observer in the European Union Agency for Fundamental Rights' work and
the respective modalities, within the framework of Council Regulation (EC)
No 168/2007 Accompanying Council Decision on a Union position in the
EU-the Republic of Serbia Stabilisation and Association Council on the
participation of the Republic of Serbia as an observer in the European
Union Agency for Fundamental Rights' work and the respective modalities,
within the framework of Council Regulation (EC) No 168/2007

Delegations will find attached document COM(2016) 119 final - ANNEX 1.

Encl.: COM(2016) 119 final - ANNEX 1



Brussels, 7.3.2016
COM(2016) 119 final

ANNEX 1

ANNEX

Decision on the participation of the Republic of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework of Council Regulation (EC) No 168/2007

Accompanying

Council Decision

on a Union position in the EU-the Republic of Serbia Stabilisation and Association Council on the participation of the Republic of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework of Council Regulation (EC) No 168/2007

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Decision on the participation of the Republic of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework of Council Regulation (EC) No 168/2007

Accompanying

Council Decision

on a Union position in the EU-the Republic of Serbia Stabilisation and Association Council on the participation of the Republic of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework of Council Regulation (EC) No 168/2007

THE EU-THE REPUBLIC OF SERBIA STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Union, on the one part, and the Republic of Serbia, 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 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 Republic of Serbia shares the aims and objectives laid down for the European Union Agency for Fundamental Rights ("the Agency") and subscribes to the scope and description of the tasks of the Agency as laid down in Council Regulation (EC) No 168/2007.

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

(4) The Republic of Serbia should therefore be allowed to participate as an observer in the Agency's work and the modalities of such participation should be defined, including provisions relating to the participation in initiatives undertaken by the Agency, to the financial contribution and to staff.

(5) In accordance with Article 12(2)(a) and 82(3)(a) of the Conditions of Employment of Other Servants of the European Union provided for in Council Regulation (EEC, Euratom,

ECSC) No 259/68¹, the Director of the Agency, by way of exception, may authorise the engagement of nationals of the Republic of Serbia enjoying their full rights as citizens.

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p.15.

HAS DECIDED:

Article 1

The Republic of Serbia as a candidate country shall participate as an observer in the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007.

Article 2

1. The Agency may deal with fundamental rights issues within the scope of Article 3(1) of Council Regulation (EC) No 168/2007 in the Republic of Serbia 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 Republic of Serbia the tasks set within the framework of Articles 4 and 5 of Council Regulation (EC) No 168/2007.

Article 3

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

Article 4

1. The Republic of Serbia shall appoint persons complying with the criteria laid down in Article 12(1) of Council Regulation (EC) No 168/2007 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 Republic of Serbia shall nominate a government official as a National Liaison Officer, as referred to in Article 8(1) of Council Regulation (EC) No 168/2007.
3. Within four months of the entry into force of this Decision, the Republic of Serbia 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 Republic of Serbia as it is afforded within the Union.

Article 6

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

Article 7

To enable the Agency and its staff to perform their tasks, the Republic of Serbia 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.

ANNEX I

FINANCIAL CONTRIBUTION OF THE REPUBLIC OF SERBIA TO THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

1. The financial contribution to be paid by the Republic of Serbia 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 for the first three years. As of year four, the amounts will be determined in accordance with point 6.
2. The financial contribution to be paid by the Republic of Serbia to the budget of the European Union for the first three years shall be as follows:

Year 1:	EUR 183,000
Year 2:	EUR 186,000
Year 3:	EUR 189,000

3. The possible financial support from Union assistance programmes will be agreed separately according to the relevant Union programme.
4. The contribution of the Republic of Serbia 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 Republic of Serbia for the purposes of taking part in the Agency's work or in 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 Republic of Serbia a call for funds corresponding to its contribution to the Agency under this Decision. For the first calendar year of its participation the Republic of Serbia 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 the table under point 2. As from year four, the contribution will be adapted in the light of any increase or decrease of the Agency's subsidy in order to maintain the analogy between the contribution for the Republic of Serbia and the Agency's budget for the EU-28. The contribution may also be reviewed in the following financial years on the basis of the latest statistical data published by the Statistical Office of the European Union (Eurostat).
7. This contribution shall be expressed in euro and paid into a euro bank account of the Commission of the European Union.
8. The Republic of Serbia will pay its contribution according to the call for funds for its own part at the latest 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 Republic of Serbia 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.

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
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LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Council decision on a Union position on the participation of the Republic of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities, within the framework of Council Regulation (EC) No 168/2007

1.2. Policy area(s) concerned in the ABM/ABB structure²

Policy area: 33 "Justice and consumers"

Activity: 33 02 "Rights, equality and citizenship"

1.3. Nature of the proposal/initiative

The proposal/initiative relates to **a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

The Republic of Serbia's participation in the Agency's work as an observer will contribute to its gradual alignment to Union law and its successful preparation for membership of the European Union.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective:

The proposed Decision will allow the Republic of Serbia to participate as an observer in the Agency's work and enable the Agency to cover fundamental rights issues in the Republic of Serbia.

ABM/ABB activity(ies) concerned:

33 02 "Rights, equality and citizenship".

1.4.1. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The Republic of Serbia's participation in the Agency's work as observer will contribute to its gradual alignment to Union law and its successful preparation for membership of the European Union.

² ABM: activity-based management; ABB: activity-based budgeting.

1.4.2. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

The proposed Decision will enable the Agency to carry out in the Republic of Serbia the tasks set within the framework of Articles 4 and 5 of Council Regulation (EC) No 168/2007 ("the Regulation").

Performance indicators are at the heart of the planning, monitoring, evaluation and reporting activities of the Agency. The indicators set in the Performance Measurement Framework (PMF) are used to measure the Agency's overall performance. The PMF contains project level indicators describing the planned output of each intervention and short term, long term and aspirational indicators, most of which are measured after the completion of the interventions and specifically of the planned initiative. Importantly, the PMF is linked to both the Strategic plan and Annual Work Programmes. The Agency's PMF includes an intervention logic and a list of the performance indicators along with the corresponding objective, judgment criteria, measures and sources and tools. The PMF brings all performance-related information and data under a logical framework. The Agency's PMF is organised in a way which supports the analysis of performance (i.e. monitoring and evaluation as well as reporting activities) at different levels of the Agency, i.e. project, activity, thematic area and at strategic levels and will be used to monitor the implementation of the initiative. In particular, indicators are differentiated by level of achievements (i.e. output, short term, long term and aspirational impacts) as per the levels of activities depicted in the logic model. They are identified annually (also for the relevant ABM/ABB activity concerned by the initiative) in the Agency's operational programmes of work (Programming Document) and performance monitoring and assessment is included in the relevant reporting document (Consolidated Annual Activity Report).

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The proposed Decision should allow the Republic of Serbia to participate in the Agency's work as an observer and the Agency to cover fundamental rights issues in the Republic of Serbia, within the scope provided by Council Regulation (EC) No 168/2007.

1.5.2. *Added value of EU involvement*

Participation of the Republic of Serbia as an observer in the Agency's work will contribute to the country's gradual alignment to EU law.

1.5.3. *Lessons learned from similar experiences in the past*

The proposal for Council Regulation (EC) No 168/2007 contained an impact assessment dealing with the issue of the geographical scope of the Agency's activities.

The European Monitoring Centre on Racism and Xenophobia (EUMC), the pre-cursor of the EU Agency for Fundamental Rights carried out PHARE projects in different candidate

countries (in 2003 in those 10 candidate countries which joined the EU in 2004, as well as in RO, BG, TR and HR) which proved very positive for both candidate countries and the EUMC.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

Part of the cost of the participation of the Republic of Serbia will be borne by IPA.

1.6. Duration and financial impact

Proposal/initiative in effect from the entry into force of the Decision (see its Article 9) until the Republic of Serbia's accession to the EU

Financial impact from the entry into force of the Decision until the Republic of Serbia's accession to the EU

1.7. Management mode(s) planned³

Indirect management by entrusting budget implementation tasks to bodies referred to in Articles 208 and 209 of the Financial Regulation

³ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: <https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The work of the EU Agency for Fundamental Rights, including the participation of candidate countries in the Agency's activities, shall be regularly evaluated in accordance with the framework laid down in Council Regulation (EC) No 168/2007 and taking into account the Agency's Multi-Annual Framework and Programming Documents.

2.2. Management and control system

2.2.1. Risk(s) identified

- (1) Staff's knowledge of the particular market.
- (2) Specific problems in fundamental rights data collection due to lack of providers on the market.
- (3) Impact on procurement process due to unavailability of service providers for fundamental rights data collection.
- (4) Impact on research results due to insufficient data collection or unavailability of data.

2.2.2. Control method(s) envisaged

- (1) Analysis of the particular knowledge, skills and competences required for the implementation of the action and identification of necessary training of staff.
- (2) Strengthen the monitoring on contractors' activities especially if new in providing data on fundamental rights.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 shall apply without restrictions to the EU Agency for Fundamental Rights.

The Agency shall accede to the Inter-institutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF) and shall apply, without delay, the relevant provision in the context of the Agency's antifraud strategy and relevant action plan.

The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if

necessary, on-the-spot checks on the recipients of the Agency's funding and the staff responsible for allocating it.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
			from EFTA countries ⁵	from candidate countries ⁶	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
3	33.0206 European Union Agency for Fundamental Rights	Diff./Non-diff. ⁴ Non-diff.	NO	YES	NO	YES

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	Number	3
.....		

European Union Agency for Fundamental Rights - FRA	Commitments	(1)	Year	Year	Year	TOTAL
			1	2	3	
Title 1 - Staff expenditure			0.074	0.075	0.076	0.225

⁴ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

⁵ EFTA: European Free Trade Association.

⁶ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

	Payments	(2)	0.074	0.075	0.076	0.225
Title 2 - Buildings and miscellaneous operating expenditure	Commitments	(1a)	0.020	0.021	0.021	0.062
	Payments	(2a)	0.020	0.021	0.021	0.062
Title 3 - Operating expenditure	Commitments	(3a)	0.086	0.087	0.089	0.262
	Payments	(3b)	0.086	0.087	0.089	0.262
TOTAL appropriations for the European Union Agency for Fundamental Rights	Commitments	=1+1a +3a	0.180	0.183	0.186	0.549
	Payments	=2+2a +3b	0.180	0.183	0.186	0.549

The costs of the Agency will be covered by the assigned revenues coming from the candidate country's financial contribution.

Heading of multiannual financial framework	5	'Administrative expenditure'
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EUR million (to three decimal places)

	Year 1	Year 2	Year 3	TOTAL
• Human Resources	0.067	0.067	0.067	0.201
• Other administrative expenditure				
TOTAL Commission	0.067	0.067	0.067	0.201

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0.067	0.067	0.067	0.201
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EUR million (to three decimal places)

	Year 1	Year 2	Year 3	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	0.247	0.250	0.253	0.750
	0.247	0.250	0.253	0.750

3.2.2. *Estimated impact on FRA's appropriations*

The proposal/initiative requires the use of operational appropriations, of an amount of 0,086 million EUR.

The participation of the Republic of Serbia in the Agency's work as observer will enable the Agency to deal with fundamental rights issues in that country within the scope of article 3(1) of Council Regulation (EC) No 168/2007, to the extent necessary for the gradual alignment of the Republic of Serbia to Union law. The tasks the Agency can carry out are laid down in Article 4 of Council Regulation (EC) No 168/2007 and its areas of focus are set in the Agency's Multiannual Framework in accordance with Article 5 of Council Regulation (EC) No 168/2007.

3.2.3. Estimated impact on FRA's human resources

3.2.3.1. Summary

The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 1	Year 2	Year 3	TOTAL
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Officials (AD Grades)				
Officials (AST grades)				
Contract staff	1	1	1	1
Temporary staff				
Seconded National Experts				

TOTAL	1	1	1	1
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3.2.3.2. Estimated requirements of human resources for the Commission

The proposal/initiative requires the use of human resources in the Commission, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year 1	Year 2	Year 3
• Establishment plan posts (officials and temporary staff)			
XX 01 01 01 (Headquarters and Commission's Representation Offices)	0,5	0,5	0,5
XX 01 01 02 (Delegations)			
XX 01 05 01 (Indirect research)			
10 01 05 01 (Direct research)			
• External staff (in Full Time Equivalent unit: FTE)⁷			
XX 01 02 01 (AC, END, INT from the 'global envelope')			
XX 01 02 02 (AC, AL, END, INT and JED in the Delegations)			
XX 01 04 yy ⁸	- at Headquarters ⁹		
	- in Delegations		
XX 01 05 02 (AC, END, INT – Indirect research)			
10 01 05 02 (AC, END, INT – Direct research)			
Other budget lines (specify)			
TOTAL	0,5	0,5	0,5

XX is the policy area or budget title concerned.

The human resources required will be met by **staff from the DGs who are already assigned to management of the action and/or have been redeployed within the DGs**, together if necessary with any additional allocation which may be granted to the managing DGs under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Administrative, financial and legal tasks pertaining to the Republic of Serbia's participation in the Agency's work as observer
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⁷ AC = Contract Staff; AL = Local Staff; END = Seconded National Expert; INT = agency staff; JED = Junior Experts in Delegations.

⁸ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

⁹ Mainly for the Structural Funds, the European Agricultural Fund for Rural Development (EAFRD) and the European Fisheries Fund (EFF).

External staff	NA
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3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative is compatible the current multiannual financial framework.

3.2.5. *Third-party contributions*

The proposal/initiative provides for the co-financing estimated below:

EUR million (to three decimal places)

	Year 1	Year 2	Year 3	Total
The Republic of Serbia	0,180	0,183	0,186	0,549
TOTAL appropriations co-financed	0.180	0.183	0,186	0,549

3.3. Estimated impact on revenue

The proposal/initiative has the following financial impact:

- on own resources
 on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ¹⁰			
		Year 1	Year 2	Year 3	
Article 603.1		0,180	0,183	0,186	

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

33.02.06

Specify the method for calculating the impact on revenue.

See annex I of the decision

¹⁰ As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.