

## ANNEX

## AGREEMENT

**between the European Union and the Former Yugoslav Republic of Macedonia on the status and activities of the European Union Police Mission in the Former Yugoslav Republic of Macedonia (EUPOL Proxima)**

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

on the one hand, and

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, hereinafter referred to as the 'Host Party',

on the other hand,

together hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT:

- (a) the letter from Prime Minister Crvenkovski of the Host Party dated 16 September 2003, inviting the EU to launch an advisory police mission and foreseeing an Agreement between the Government of the Host Party and the EU,
- (b) the response of the Secretary General/High Representative dated 24 October 2003 accepting the invitation,
- (c) the adoption by the Council of the European Union on 29 September 2003 of Joint Action 2003/681/CFSP on the EU Police Mission in the Host Party,
- (d) the duration of EUPOL Proxima shall be agreed between the Parties,
- (e) that under the Police Mission, EU police experts will monitor, mentor and advise the Host Party's police,
- (f) the Stabilisation and Association Agreement between the Host Party and the European Communities and their Member States, signed on 9 April 2001, containing provisions on cooperation in Justice and Home Affairs,
- (g) the positively evolving security situation in the Host Party and the contribution that the successful implementation of the EU military operation in the Host Party ('Concordia') made thereto,
- (h) the on-going activities of the Host Party, supported by the EU and the International Community, to strengthen the rule of law, particularly to promote reform of the criminal justice system, and to take further action to prevent and control organised crime and develop policing standards in accordance with internationally recognised standards,
- (i) the shared ambition that the Host Party follow a successful path to ultimate membership in the EU,
- (j) that the purpose of the privileges and immunities as provided for in this Agreement are not to benefit individuals but to ensure the efficient performance of the EU Mission,
- (k) that under the provisions of the present Agreement the rights and obligations of the Parties under international agreements and other international instruments establishing international tribunals, including the Rome Statute of the International Criminal Court, will remain unaffected,

HAVE AGREED AS FOLLOWS:

*Article 1*

2. For the purpose of the present Agreement, the following definitions shall apply:

**Scope of application and definitions**

1. The provisions of the present Agreement and any obligation undertaken by the Host Party or any privilege, immunity, facility or concession granted to the EUPOL Proxima or EUPOL Proxima personnel shall apply in the territory of the Host Party only.

(a) 'EUPOL Proxima' means the European Union Police Mission in the Host Party established by the Council of the European Union in Joint Action 2003/681/CFSP dated 29 September 2003, including its components, forces, units, headquarters and personnel deployed in the territory of the Host Party and assigned to EUPOL Proxima.

- (b) 'Head of Mission' means the Head of Mission/Police Commissioner of EUPOL Proxima, appointed by the Council of the European Union.
- (c) 'EUPOL Proxima personnel' means the Head of Mission, personnel seconded by EU Member States and non-EU States invited by the EU to participate in EUPOL Proxima, and international staff recruited on a contractual basis by EUPOL Proxima deployed for the preparation, support and implementation of the Mission, and shall not include commercial contractors or local personnel.
- (d) 'Headquarters' means the EUPOL Proxima main headquarters in Skopje and local headquarters or duty stations at any field locations.
- (e) 'Sending State' means any EU Member State or non-EU State that has seconded personnel to EUPOL Proxima.
- (f) 'Premises' means all buildings, facilities and land required for the conduct of the activities of EUPOL Proxima, as well as for the accommodation of EUPOL Proxima personnel.

#### Article 2

### General provisions

1. EUPOL Proxima and EUPOL Proxima personnel shall respect the laws and regulations of the Host Party, including those regarding the protection of the environment, nature and cultural heritage, and shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the provisions of the present Agreement.
2. EUPOL Proxima shall be autonomous with regard to the execution of its functions under the present Agreement. The Host Party shall respect the unitary and international nature of EUPOL Proxima.
3. The Head of Mission shall notify the Government of the Host Party of the location of its Headquarters.
4. The Head of Mission shall regularly, and in a timely manner, inform the Government of the Host Party of the number, names, ranks (as appropriate), and nationalities of EUPOL Proxima personnel stationed in the territory of the Host Party, through the submission of a notification list to the Ministry of Foreign Affairs of the Host Party.

#### Article 3

### Identification

1. EUPOL Proxima personnel shall be provided with and identified by an EUPOL Proxima identification card, which they shall be obliged to carry with them at all times. The relevant authorities of the Host Party shall be provided with a specimen of an EUPOL Proxima identification card.

2. The Ministry of Foreign Affairs of the Host Party shall provide identity cards to EUPOL Proxima personnel in accordance with their status as set down in Article 6 of the present Agreement.

3. Vehicles and other means of transport of EUPOL Proxima shall bear distinctive EUPOL Proxima identification markings, an example of which shall be provided to the relevant authorities of the Host Party.

4. EUPOL Proxima shall be permitted to display the flag of the EU at its main headquarters and elsewhere, alone or together with the flag of the Host Party, as decided by the Head of Mission. National flags or insignia of the constituent national elements of the EUPOL Proxima may be displayed on EUPOL Proxima premises, vehicles and uniforms, as decided by the Head of Mission.

5. The official nameplate on EUPOL Proxima premises shall appear in the official language of the Host Party with identical character size as the EUPOL Proxima appropriate language or languages.

#### Article 4

### Border crossing, movement, and presence on the territory of the Host Party

1. EUPOL Proxima personnel and EUPOL Proxima assets and means of transport shall cross the border of the Host Party at official border crossings and via the international air corridors.
2. The Host Party shall facilitate the entry into and the departure from the territory of the Host Party for EUPOL Proxima and EUPOL Proxima personnel. Save for passport control on entry into and departure from the territory of the Host Party, EUPOL Proxima personnel, with proof of membership of the Mission, shall be exempt from passport, visa and immigration regulations and any form of immigration inspection.
3. EUPOL Proxima personnel shall be exempt from the regulations of the Host Party governing the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territory of the Host Party.

4. For EUPOL Proxima assets and means of transport entering, transiting or exiting the Host Party territory in support of the Mission, EUPOL Proxima shall provide a certificate of exemption accompanied by an inventory. They shall be exempt from any other customs documentation. A copy of the certificate shall be transmitted to the competent authorities when entering or exiting the Host Party. The format of the certificate shall be agreed between EUPOL Proxima and the competent authorities of the Host Party.

5. Vehicles and aircraft used in support of the Mission shall not be subject to local licensing or registration requirements. Relevant international standards and regulations shall continue to apply.

6. EUPOL Proxima personnel may drive motor vehicles in the territory of the Host Party provided they have a valid national driving licence. The Host Party shall accept as valid, without tax or fee, driving licences or permits issued to EUPOL Proxima.

7. EUPOL Proxima and EUPOL Proxima personnel together with their vehicles, aircraft or any other means of transport, equipment and supplies shall enjoy free and unrestricted movement throughout the territory of the Host Party, including its airspace. If necessary, technical arrangements may be concluded in accordance with Article 17 of the present Agreement.

8. For the purpose of the Mission, EUPOL Proxima personnel, and local personnel employed by EUPOL Proxima when travelling on official duties, may use roads, bridges and airports without payment of duties, fees, tolls, taxes or other charges.

#### Article 5

### Immunities and privileges of EUPOL Proxima

1. EUPOL Proxima shall be granted the status equivalent to that of a diplomatic mission under the Vienna Convention on Diplomatic Relations dated 18 April 1961.

2. The EU Mission, its property, funds and assets shall enjoy immunity from the criminal, civil, and administrative jurisdiction of the Host Party, in accordance with the Vienna Convention on Diplomatic Relations.

3. The premises of EUPOL Proxima shall be inviolable. At no time shall the agents of the Host Party enter them, except with the consent of the Head of Mission.

4. The premises of EUPOL Proxima, their furnishings and other assets thereon as well as their means of transport shall be immune from search, requisition, attachment or execution.

5. The archives and documents of EUPOL Proxima shall be inviolable at all times.

6. Correspondence of EUPOL Proxima shall be granted a status equivalent to that of official correspondence granted under the Vienna Convention on Diplomatic Relations dated 18 April 1961.

7. For imported goods and services and in respect of its premises, provided these are intended for the purpose of the Mission, EUPOL Proxima shall be exempt from all national and communal dues, taxes or charges of similar nature.

8. For goods purchased and services contracted on the domestic market, provided these are intended for the purpose of the Mission, EUPOL Proxima shall be either exempt from or reimbursed by the Host Party for all national and communal dues and taxes, including VAT, and charges of similar nature according to the laws of the Host Party.

9. The Host Party shall permit entry of articles for the Mission and grant exemption from all custom duties, taxes and related charges other than charges for storage, cartage and similar services.

#### Article 6

### Immunities and privileges of EUPOL Proxima personnel

1. EUPOL Proxima personnel, with the exception of administrative and technical staff, shall be granted all privileges and immunities equivalent to that of diplomatic agents granted under the Vienna Convention on Diplomatic Relations of 18 April 1961, subject to which the EU Member States and other Sending States shall have priority of jurisdiction. These privileges and immunities shall be granted to this EUPOL Proxima personnel during their mission, and thereafter, with respect to official acts previously performed in the exercise of their mission.

2. EUPOL Proxima's administrative and technical staff shall enjoy a status equivalent of that enjoyed, in accordance with the Vienna Convention on Diplomatic Relations, by administrative and technical staff from Sending States employed in diplomatic missions. The privileges and immunities shall be granted to EUPOL Proxima's administrative and technical staff during their mission, and thereafter, with respect to official acts previously performed in the exercise of their mission.

3. The EU Secretary General/High Representative shall, with the explicit consent of the competent authority of the Sending State, waive the immunity enjoyed by EUPOL Proxima personnel where such immunity would impede the course of justice and it can be waived without prejudice to the interests of the EU.

4. EUPOL Proxima personnel shall have the right to import free of duty or other restrictions items required for their personal use, and to export such items. EUPOL Proxima personnel, excluding administrative and technical personnel, shall have the right to purchase free of duty or other restrictions items required for their personal use, and to export such items; for goods and services purchased on the domestic market, the Host Party shall reimburse VAT and taxes according to the laws of the Host Party.

5. EUPOL Proxima personnel shall be exempt from dues and taxes in the Host Party on the emoluments and salaries they receive by reason of their employment.

Where the incidence of any form of taxation depends upon residence, periods during which personnel seconded to EUPOL Proxima and international staff recruited on a contractual basis by the EU Mission are present in the Host Party for the discharge of their duties shall not be considered as periods of residence.

#### Article 7

##### **Local personnel employed by EUPOL Proxima**

Local personnel employed by EUPOL Proxima who are nationals of or permanently resident in the Host Party shall enjoy a status equivalent to that enjoyed, in accordance with the Vienna Convention on Diplomatic Relations, by locally employed staff in diplomatic missions in the Host Party.

#### Article 8

##### **Security**

1. The Host Party, through its own capabilities, shall assume full responsibility for the security of EUPOL Proxima personnel.

2. To that end, the Host Party shall take all necessary measures for the protection, safety and security of EUPOL Proxima and EUPOL Proxima personnel. Any specific provisions, proposed by the Host Party, shall be agreed with the Head of Mission before implementation. The Host Party shall permit and support free of any charge activities relating to the medical evacuation of EUPOL Proxima personnel. If required, supplementary arrangements as referred to in Article 17 shall be concluded.

3. EUPOL Proxima shall have the right to establish, within the Mission, an armed protection element consisting of around 30 police officers, whose task is to provide an incident management capacity for exceptional cases in order to ensure the protection and possible rescue of EUPOL Proxima personnel and personnel locally employed by the Mission, as well as EUMM or OSCE personnel.

4. The abovementioned armed protection element shall have the right to use all means, including weapons, necessary to perform its tasks in accordance with specific rules to be determined by the EU. It shall not have an executive policing role.

5. The Host Party hereby permits the abovementioned armed protection element to operate throughout its territory in accordance with the provisions of the present Article.

6. Technical arrangements, as referred to in Article 17, between the Head of Mission and the relevant administrative authorities of the Host Party shall be drafted in order to agree on practical modalities for the activities of the abovementioned armed protection element.

#### Article 9

##### **Uniform and arms**

1. EUPOL Proxima personnel shall wear national uniform or civilian dress with distinctive EUPOL Proxima identification.

2. The wearing of uniform shall be subject to rules issued by the Head of Mission.

3. When authorised to do so by their orders, members of the EUPOL Proxima armed protection element may carry arms and ammunitions.

#### Article 10

##### **Cooperation and access to information**

1. The Host Party shall provide full cooperation and support to EU Proxima and EU Proxima personnel.

2. If requested and necessary for the accomplishment of the EUPOL Proxima mission, the Host Party shall provide:

- effective access to EUPOL Proxima personnel to buildings, facilities, locations and official vehicles within the control of the Host Party;
- EUPOL Proxima personnel with effective access to documents, materials and information within its control relevant to the mandate of the EUPOL Mission.

3. The Head of Mission and the Host Party shall consult regularly and take appropriate measures to ensure close and reciprocal liaison at every appropriate level. The Host Party may appoint a liaison officer to EUPOL Proxima.

#### Article 11

##### **Host Party support and contracting**

1. The Host Party agrees, if requested by EUPOL Proxima, to assist in finding suitable premises.

2. If required and available, premises owned by the Host Party shall be provided free of charge.

3. Within its means and capabilities, the Host Party will assist and support the preparation, establishment, execution and support of the Mission. The assistance and the support from the Host Party to the Mission shall be provided under the same conditions as those provided to the Host Party police forces.

4. EUPOL Proxima will endeavour, to the maximum extent possible, to contract locally for services, goods and personnel, subject to the requirements of the Mission.

*Article 12***Deceased EUPOL Proxima personnel**

1. The Head of Mission shall have the right to take charge of and make suitable arrangements for the repatriation of any deceased EUPOL Proxima personnel, as well as any personal property belonging to the deceased.

2. Autopsies shall not be performed on deceased members of the EUPOL Proxima without the agreement of the Sending State or, in the case of international staff, the State of his/her nationality, and the presence of a representative of EUPOL Proxima and/or the State concerned.

*Article 13***Communications**

1. EUPOL Proxima shall have the right to install and operate radio sending and receiving stations, as well as satellite systems, using appropriate frequencies, subject to arrangements to be concluded in accordance with Article 17 of the present Agreement.

2. EUPOL Proxima shall enjoy the right to unrestricted communication by radio (including satellite, mobile or hand-held radio), telephone, telegraph, facsimile and other means, as well as the right to install, for the purpose of the Mission, the necessary means for maintaining such communications within and between EUPOL Proxima facilities, including the laying of cables and ground lines, in accordance with the regulations of the Host Party.

*Article 14***Claims for death, injury, damage or loss**

1. The Member States, other States participating in EUPOL Proxima, or EU Institutions, shall not be obliged to reimburse claims arising out of activities in connection with civil disturbances, protection of the EU Mission or its personnel, or which are incidental to operational necessities.

2. Any other claim of a civil law character, including claims of personnel locally employed by EUPOL Proxima, to which the Mission or any member thereof is a party and over which the courts of the Host Party do not have jurisdiction because of any provision of the present Agreement, shall be submitted through the authorities of the Host Party to the Head of Mission and shall be dealt with by separate arrangements, as referred to in Article 17, whereby procedures for settling claims and for addressing claims shall be established. Settlement of claims will occur after previous consent of the State concerned.

*Article 15***Disputes**

1. All issues arising in connection with the application of this agreement shall be discussed by a Joint Coordination Group. This Group shall be composed of representatives of EUPOL Proxima and the competent authorities of the Host Party.

2. Failing any prior settlement, disputes with regard to the interpretation or application of the present Agreement shall be settled between the Host Party and EU representatives by diplomatic means.

*Article 16***Other provisions**

1. Whenever the present Agreement refers to the immunities, privileges and rights of EUPOL Proxima and EUPOL Proxima personnel, the Government of the Host Party shall be responsible for the implementation and fulfilment of such immunities, privileges and rights through the appropriate local authorities of the Host Party.

2. Nothing in the present Agreement is intended or shall be construed to derogate from any rights that may attach with respect to an EU Member State or any other State contributing to EUPOL Proxima or their personnel under other agreements.

*Article 17***Supplementary arrangements**

The Head of Mission and the administrative authorities of the Host Party shall conclude such supplementary arrangements as may be necessary to implement the present Agreement.

*Article 18***Entry into force and termination**

1. The present Agreement shall enter into force upon written notification of the Parties that the internal requirements for the entry into force have been complied with.

2. The present Agreement may be amended on the basis of mutual written agreement between the Parties.

3. The present Agreement shall remain in force until the final departure of EUPOL Proxima or all personnel thereof.

4. The present Agreement may be denounced by written notification to the other Party. The denunciation shall take effect 60 days after receipt by the other Party of the notification of denunciation.

5. Termination or denunciation of the present Agreement shall not affect any rights or obligations arising from the execution of the present Agreement prior to its termination or denunciation.



## A. Letter from the European Union

Skopje, 11 December 2003

The Government of the former Yugoslav Republic of Macedonia

Dear Sir,

I have the honour to propose that, if it is acceptable to your Government, this letter and your confirmation shall together take the place of signature of the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the status and activities of the European Union Police Mission in the former Yugoslav Republic of Macedonia (EUPOL Proxima).

The text of the aforementioned Agreement, herewith annexed, has been approved by decision of the Council of the European Union on 11 December 2003.

This letter also constitutes the notification, on behalf of the European Union, in accordance with Article 18.1 of the Agreement.

Please accept, Sir, the assurance of my highest consideration.

*For the European Union*



Alexis BROUHNS

*EU Special Representative*

B. Letter from the Former Yugoslav Republic of Macedonia

Скопје, 11 декември 2003

Почитуван Господине,

Во името на Владата на Република Македонија имам чест да го потврдам приемот на Вашето писмо со денешна дата, кое се однесува на потпишувањето на Договорот помеѓу Република Македонија и Европската унија за статусот и активностите на Полициската мисија на Европската унија во Република Македонија (ЕУПОЛ "Проксима"), заедно со приложениот текст на Договорот.

Ја потврдувам согласноста на мојата Влада на текстот на Договорот и сметам дека оваа Размена на писма е еквивалент на потпишувањето.

Сепак, изјавувам дека Република Македонија не ја прифаќа деноминацијата употребена за мојата земја во погоре наведениот Договор, имајќи предвид дека уставното име на мојата земја е Република Македонија.

Примете ги Господине, изразите на моето највисоко почитување.

Игор Дундев

*(courtesy translation)*

Skopje, December 11, 2003

Dear Sir,

On behalf of the Government of the Republic of Macedonia I have the honor to acknowledge receipt of your letter of today's date regarding the signature of the Agreement between the Republic of Macedonia and the European Union on the status and activities of the European Union Police Mission in the Republic of Macedonia (EUPOL Proxima), together with the attached text of the Agreement.

I consider this Exchange of Letters as equivalent of signature.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in the abovementioned Agreement, having in mind that the constitutional name of my country is the Republic of Macedonia.

Please accept, Sir, the assurances of my highest consideration.

Igor DZUNDEV

*C. Letter from the European Union*

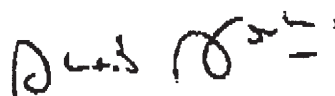
Skopje, 11 December 2003

Dear Sir,

I have the honour to acknowledge receipt of your letter of today's date.

The European Union notes that the Exchange of Letters between the European Union and the Former Yugoslav Republic of Macedonia, which takes the place of signature of the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the status and activities of the European Union Police Mission in the former Yugoslav Republic of Macedonia (EUPOL Proxima), has been accomplished and that this cannot be interpreted as acceptance or recognition by the European Union in whatever form or content of a denomination other than the 'former Yugoslav Republic of Macedonia'.

Please accept, Sir, the assurance of my highest consideration.

*For the European Union*

Alexis BROUHNS

*EU Special Representative*

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