

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

THE EUROPEAN UNION,

of the one part, and

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA,

of the other part,

hereinafter referred to as the 'Parties',

WHEREAS:

- (1) The European Union 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 former Yugoslav Republic of Macedonia may accept the invitation by the European Union and offer its contribution. In such case, the European Union will decide on the acceptance of that proposed contribution.
- (3) Conditions regarding the participation of the former Yugoslav Republic of Macedonia in EU crisis management operations should be laid down in an agreement establishing a framework for such possible future participation, rather than defining these 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 decision 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 former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia to participate in an EU crisis management operation, and once the latter State has decided to participate, such State shall provide information on its proposed contribution to the European Union.
2. The assessment by the European Union of the proposed contribution shall be conducted in consultation with the former Yugoslav Republic of Macedonia.
3. The European Union shall provide the former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia in the formulation of its offer.
4. The European Union shall communicate the outcome of that assessment to the former Yugoslav Republic of Macedonia

by letter with a view to securing its participation in accordance with the provisions of this Agreement.

Article 2

Framework

1. The former Yugoslav Republic of Macedonia shall associate itself with the Council Decision by which the Council of the European Union decides that the European Union 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 former Yugoslav Republic of Macedonia to an EU crisis management operation shall be without prejudice to the decision-making autonomy of the EU.

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 former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia.

3. Without prejudice to the agreement on the status of forces/mission referred to in paragraph 1, the former Yugoslav Republic of Macedonia shall exercise jurisdiction over its personnel participating in the EU crisis management operation. In cases where the forces of the former Yugoslav Republic of Macedonia operate on board a vessel or aircraft of an European Union Member State, the latter State shall exercise jurisdiction in accordance with its internal laws and procedures.

4. The former Yugoslav Republic of Macedonia shall be responsible for answering any claims linked to the participation in an EU crisis management operation, from or concerning any of its personnel and 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 Parties agree to waive any and all claims, other than contractual claims, against each other for damage to, loss of, or destruction of assets owned/operated by either Party, or injury or death to personnel of either Party, arising out of the performance of their official duties in connection with activities under this Agreement, except in the case of gross negligence or wilful misconduct.

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

7. 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 former Yugoslav Republic of Macedonia in an EU crisis management operation, and to do so when signing this Agreement.

Article 4

Classified information

The Agreement between the government of the former Yugoslav Republic of Macedonia and the European Union on the security procedures for the exchange of classified information, done at Skopje on 25 March 2005, shall apply in the context of EU crisis management operations.

SECTION II

PROVISIONS ON PARTICIPATION IN CIVILIAN CRISIS MANAGEMENT OPERATIONS

Article 5

Personnel seconded to an EU civilian crisis management operation

1. The former Yugoslav Republic of Macedonia:
 - (a) shall ensure that its personnel seconded to the EU civilian crisis management operation undertake their mission in accordance with:
 - the Council Decision and subsequent amendments as referred to in Article 2(1),
 - the Operation Plan,
 - implementing measures.
 - (b) shall inform in due time the Head of Mission of the EU civilian crisis management operation (the 'Head of Mission') and the High Representative of the Union for Foreign Affairs and Security Policy (the 'HR') of any change to its contribution to the EU civilian crisis management operation.

2. 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 former Yugoslav Republic of Macedonia. Personnel seconded to the EU civilian crisis management operation shall produce a copy of that certification.

Article 6

Chain of command

1. Personnel seconded by the participating State 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 former Yugoslav Republic of Macedonia 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 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.

8. A national contingent point of contact (NPC) shall be appointed by the former Yugoslav Republic of Macedonia to represent its national contingent in the operation. The NPC shall report to the Head of Mission on national matters and shall be responsible for day-to-day discipline of the contingent.

9. The decision to end the operation shall be taken by the European Union, following consultation with the former Yugoslav Republic of Macedonia 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. Without prejudice to Article 8, the participating State 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.

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 former Yugoslav Republic of Macedonia shall, when 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 former Yugoslav Republic of Macedonia shall contribute to the financing of the operational budget of the EU civilian crisis management operation.

2. Such contribution 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 is in proportion to the ratio of the former Yugoslav Republic of Macedonia'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 is in proportion to the ratio of the number of personnel from the former Yugoslav Republic of Macedonia participating in the operation to the total number of personnel of all States participating in the operation.

3. Notwithstanding paragraphs 1 and 2, the participating State 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 participating State from financial contributions to a particular EU civilian crisis management operation when:

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

(b) the former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia to the operational budget of the EU civilian crisis management operation shall be signed between the Head of Mission and the relevant administrative services of the former Yugoslav Republic of Macedonia. That arrangement shall, inter alia, include 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 the EU military crisis management operation

1. The former Yugoslav Republic of Macedonia shall ensure that its forces and personnel participating in the 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 participating States shall carry out their duties and conduct themselves solely with the interest of the EU military crisis management operation in mind.

3. The former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia, at any time request the withdrawal of the participating State's contribution.

5. A senior military representative (SMR) shall be appointed by the former Yugoslav Republic of Macedonia to represent its national 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 former Yugoslav Republic of Macedonia contingent.

Article 11

Financial aspects

1. Without prejudice to Article 12 of this Agreement, the participating State 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 2011/871/CFSP of 19 December 2011 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 former Yugoslav Republic of Macedonia shall, when 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 former Yugoslav Republic of Macedonia shall contribute to the financing of the common costs of the EU military crisis management operation.

2. Such contribution 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 is in proportion to the ratio of the former Yugoslav Republic of Macedonia'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 is in proportion to the ratio of the number of personnel from the former Yugoslav Republic of Macedonia participating in the operation to the total number of personnel of all States participating in the operation.

Where the formula under point (b) of the first subparagraph is used and the former Yugoslav Republic of Macedonia 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 participating State to that of the total personnel of the operation.

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

- (a) the European Union decides that the former Yugoslav Republic of Macedonia provides a significant contribution to assets and/or capabilities which are essential for the operation; or
- (b) the former Yugoslav Republic of Macedonia 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 Council Decision 2011/871/CFSP and the competent administrative authorities of the former Yugoslav Republic of Macedonia. 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

Arrangements to implement the Agreement

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 HR and the appropriate authorities of the former Yugoslav Republic of Macedonia.

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 sending written 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 legal procedures necessary for its entry into force.

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 343, 23.12.2011, p. 35.

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 Brussels, on the twenty-ninth day of October in the year two thousand and twelve in the English language in two copies.



РЕПУБЛИКА МАКЕДОНИЈА
МИНИСТЕРСТВО ЗА НАДВОРЕШНИ РАБОТИ
REPUBLIC OF MACEDONIA
MINISTRY OF FOREIGN AFFAIRS
Министер/ Minister

Brussels, 29 October 2012

Sir,

On behalf of the Government of the Republic of Macedonia I have the honour to acknowledge receipt of your letter dated 29 of October 2012 regarding the signature of the Agreement between the Republic of Macedonia and the European Union establishing a framework for the participation of the Republic of Macedonia in European Union crisis management operations.

I hereby confirm that the Government of the Republic of Macedonia agrees with the provisions of the aforementioned Agreement, and considers the said Agreement as being signed with your letter and this letter of confirmation.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in the text of the above-mentioned Agreement having in view that the constitutional name of my country is the Republic of Macedonia.

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

Nikola POPOSKI

To
Mr. Pierre Vimont
Executive Secretary General
European External Action Service
COUNCIL OF THE EUROPEAN UNION



COUNCIL
OF THE EUROPEAN UNION

Brussels, 29 October 2012

H.E. Mr. Nikola POPOSKI,
Minister of Foreign Affairs
of the former Yugoslav Republic of Macedonia.

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 establishing a framework for the participation of the former Yugoslav Republic of Macedonia in European Union crisis management operations, 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

A handwritten signature in black ink, appearing to be 'P. Vimont'.

Pierre VIMONT
*Executive Secretary General
European External Action Service*

175 Rue de la Loi,
1048 Brussels, Belgium

DECLARATIONS

Declaration by the EU Member States

The EU Member States applying an EU Council Decision on an EU crisis management operation in which the former Yugoslav Republic of Macedonia participates will endeavour, in so far as their internal legal systems so permit, to waive as far as possible claims against the former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia 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 former Yugoslav Republic of Macedonia, 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 former Yugoslav Republic of Macedonia using those assets.'

Declaration by the former Yugoslav Republic of Macedonia

The former Yugoslav Republic of Macedonia applying an EU Council Decision on an EU crisis management operation will endeavour, in so far 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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