



**COUNCIL OF  
THE EUROPEAN UNION**

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Subject: COUNCIL DECISION concerning the conclusion of an Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO

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**COUNCIL DECISION 2008/.../CFSP**

**of**

concerning the conclusion of an Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 24 thereof,

Having regard to the recommendation from the Presidency,

Whereas:

- (1) On 4 February 2008, the Council adopted Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO)<sup>1</sup>.
- (2) Article 13(4) of that Joint Action provides that detailed arrangements regarding the participation of third States shall be laid down in an agreement to be concluded in accordance with Article 24 of the Treaty.
- (3) On 13 December 2004, the Council authorised the Presidency, assisted where necessary by the Secretary-General/High Representative, in case of future EU civilian crisis management operations, to open negotiations with third States with a view to concluding an agreement on the basis of the model agreement between the European Union and a third State on the participation of a third State in a European Union civilian crisis management operation. On that basis, the Presidency negotiated an Agreement with the Republic of Croatia on the participation of the Republic of Croatia in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO.
- (4) The Agreement should be approved,

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<sup>1</sup> OJ L 42, 16.2.2008, p. 92.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, is hereby approved on behalf of the European Union.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the European Union.

### Article 3

This Decision shall take effect on the day of its adoption.

### Article 4

This Decision shall be published in the Official Journal of the European Union.

Done at

For the Council  
The President

AGREEMENT  
BETWEEN THE EUROPEAN UNION  
AND  
THE REPUBLIC OF CROATIA  
ON THE PARTICIPATION OF  
THE REPUBLIC OF CROATIA  
IN THE EUROPEAN UNION RULE OF LAW MISSION  
IN KOSOVO, EULEX KOSOVO



THE EUROPEAN UNION (EU),

on the one part, and

THE REPUBLIC OF CROATIA,

on the other part,

hereinafter referred to as "the Parties",

TAKING INTO ACCOUNT:

- the adoption by the Council of the European Union of Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO<sup>1</sup>,
- the invitation to the Republic of Croatia to participate in European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (hereinafter "EULEX KOSOVO"),
- the Political and Security Committee decision of 7 February 2008 to confirm the invitation to the Republic of Croatia to participate in EULEX KOSOVO on the basis of common cost exemption,

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<sup>1</sup> OJ L 42, 16.2.2008, p. 92.



- the successful completion of the Force Generation process and the recommendation by the EU Civilian Operation Commander and the Committee for Civilian Aspects of Crisis Management to agree on the participation of the Republic of Croatia in EULEX KOSOVO,
- the decision by the Republic of Croatia of 2 July 2008 to participate in EULEX KOSOVO,
- the Political and Security Committee decision of 4 July 2008 on the acceptance of the Republic of Croatia's contribution to EULEX KOSOVO,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Participation in the operation

1. The Republic of Croatia shall associate itself with Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO and with any Joint Action or Decision by which the Council of the European Union decides to extend EULEX KOSOVO, in accordance with the provisions of this Agreement and any required implementing arrangements.

2. The contribution of the Republic of Croatia to EULEX KOSOVO is without prejudice to the decision-making autonomy of the European Union.

3. The Republic of Croatia shall ensure that its personnel participating in EULEX KOSOVO undertake their mission in conformity with:

- Joint Action 2008/124/CFSP and possible subsequent amendments,
- the Operation Plan,
- implementing measures.

4. Personnel seconded to EULEX KOSOVO by the Republic of Croatia shall carry out their duties and conduct themselves solely with the interest of EULEX KOSOVO in mind.
5. The Republic of Croatia shall inform in due time the Civilian Operation Commander and the Head of Mission of EULEX KOSOVO (hereinafter "Head of Mission") of any change to its contribution to EULEX KOSOVO.
6. Personnel seconded to EULEX KOSOVO shall undergo a medical examination and vaccination, and shall be certified medically fit for duty by a competent authority from the Republic of Croatia. Personnel seconded to EULEX KOSOVO shall produce a copy of this certification.

## ARTICLE 2

### Status of personnel

1. The status of the personnel contributed to EULEX KOSOVO by the Republic of Croatia shall be governed by the provisions on the status of mission, in accordance with the terms of Article 10(1) of Joint Action 2008/124/CFSP.
2. Without prejudice to the provisions on the status of mission referred to in paragraph 1 of this Article, the Republic of Croatia shall exercise jurisdiction over its personnel participating in EULEX KOSOVO.

3. The Republic of Croatia shall be responsible for answering any claims, from or concerning any of its personnel, linked to the participation in EULEX KOSOVO. The Republic of Croatia shall be responsible for bringing any action, in particular legal or disciplinary, against any of its personnel, in accordance with its laws and regulations.

4. The Republic of Croatia undertakes to make a declaration as regards the waiver of claims against any State participating in EULEX KOSOVO, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

5. The European Union Member States undertake to make a declaration as regards the waiver of claims, for the participation of the Republic of Croatia in EULEX KOSOVO, and to do so when signing this Agreement. A model for such a declaration is annexed to this Agreement.

### ARTICLE 3

#### Classified information

1. The Republic of Croatia shall take appropriate measures to ensure that EU classified information is protected in accordance with the security regulations of the Council of the European Union, contained in Council Decision 2001/264/EC of 19 March 2001<sup>1</sup>, and in accordance with further guidance issued by competent authorities, including the Head of Mission.

2. The provisions of the Agreement between the European Union and the Republic of Croatia on security procedures for the exchange of classified information signed on 10 April 2006<sup>2</sup> shall apply in the context of EULEX KOSOVO.

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<sup>1</sup> OJ L 101, 11.4.2001, p. 1.

<sup>2</sup> OJ L 116, 29.4.2006, p. 73.

## ARTICLE 4

### Chain of command

1. All personnel participating in EULEX KOSOVO shall remain under the full command of their national authorities.
2. National authorities shall transfer operational control to the Civilian Operations Commander, who shall exercise command and control at the strategic level.
3. The Head of Mission shall assume responsibility and exercise command and control of EULEX KOSOVO at theatre level.
4. The Head of Mission shall exercise command and control over personnel, teams and units from contributing States, as assigned by the Civilian Operation Commander together with administrative and logistic responsibility including over assets, resources and information placed at the disposal of EULEX KOSOVO.
5. The Republic of Croatia shall have the same rights and obligations in terms of the 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 1(1).

6. The Head of Mission shall be responsible for disciplinary control over the personnel of EULEX KOSOVO. Where required, disciplinary action shall be taken by the national authority concerned.
7. A National Contingent Leader (hereinafter "NCL") shall be appointed by the Republic of Croatia to represent its national contingent in EULEX KOSOVO. The NCL shall report to the Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.
8. The decision to end the operation shall be taken by the European Union, following consultation with the Republic of Croatia, provided that the Republic of Croatia is still contributing to EULEX KOSOVO at the date of termination of the operation.

## ARTICLE 5

### Financial aspects

1. The Republic of Croatia shall assume all the costs associated with its participation in the operation, apart from the costs which are subject to common funding, as set out in the operational budget of the operation.
2. In case of death, injury, loss or damage to the local population or legal persons where the operation is conducted, the Republic of Croatia shall, when its liability has been established, pay compensation under the conditions foreseen in the provisions on the status of mission, as referred to in Article 2(1).

## ARTICLE 6

### Arrangements to implement this Agreement

Any necessary technical and administrative arrangements made in pursuance of the implementation of this Agreement shall be concluded between the Secretary-General of the Council of the European Union/High Representative for the Common Foreign and Security Policy, and the appropriate authorities of the Republic of Croatia.

## ARTICLE 7

### Non-compliance

Should one of the Parties fail to comply with its obligations laid down in this Agreement, the other Party shall have the right to terminate this Agreement by giving a one month's written notice through diplomatic channels.

## ARTICLE 8

### Dispute settlement

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

## ARTICLE 9

### 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 through diplomatic channels 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 remain in force for the duration of the Republic of Croatia's contribution to the operation.

Done at ..., on ... in two originals in the English language.

FOR THE EUROPEAN UNION

FOR THE REPUBLIC OF CROATIA



DECLARATIONS

Referred to in Article 2(4) and (5)

Declaration by the EU Member States

"The EU Member States applying EU Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO will endeavour, insofar as their internal legal systems so permit, to waive as far as possible claims against the Republic of Croatia for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by EULEX KOSOVO if such injury, death, damage or loss:

- was caused by personnel from the Republic of Croatia in the execution of their duties in connection with EULEX KOSOVO, except in case of gross negligence or wilful misconduct,

or

- arose from the use of any assets owned by the Republic of Croatia, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of the personnel of EULEX KOSOVO from the Republic of Croatia using those assets."

## Declaration by the Republic of Croatia

"As a participant to the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, established by EU Joint Action 2008/124/CFSP of 4 February 2008, the Republic of Croatia will endeavour, insofar as its internal legal system so permits, to waive as far as possible claims against any other State participating in EULEX KOSOVO for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by EULEX KOSOVO if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with EULEX KOSOVO, except in case of gross negligence or wilful misconduct,

or

- arose from the use of any assets owned by States participating in EULEX KOSOVO, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of the personnel of EULEX KOSOVO using those assets."

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