



Brussels, 7.3.2016  
COM(2016) 119 final

2016/0066 (NLE)

Proposal for a

**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**

## **EXPLANATORY MEMORANDUM**

### **1. The context**

The European Union Agency for Fundamental Rights (“the Agency”) was set up by Council Regulation (EC) No 168/2007<sup>1</sup> (“the Regulation”).

According to Article 2 of the Regulation, the Agency's objective is to provide the relevant institutions, bodies, offices and agencies of the Union and its Member States when implementing Union law with assistance and expertise relating to fundamental rights.

Pursuant to Article 28(1) of the Regulation, the Agency shall be open to the participation of candidate countries as observers. Article 28(2) of the Regulation provides that the participation and the respective modalities shall be determined by a decision of the relevant Association Council. The decision shall indicate in particular the nature, extent and manner of the country's participation in the Agency's work, within the framework set in Articles 4 and 5 of the Regulation. Upon the decision of the Association Council, the Agency will be able to deal with fundamental rights issues in the candidate country in question within the scope of Article 3(1) of the Regulation, to the extent necessary for the gradual alignment of the country to Union law.

### **2. The proposed Decision**

The Commission proposes to the Council the adoption of a decision on a Union position in the EU-the Republic of Serbia Stabilisation and Association Council pertaining to the participation of the Republic of Serbia as an observer in the Agency's work and its modalities. The proposed sole article decision provides that the Union position is the one laid down in the draft decision of the EU-the Republic of Serbia Stabilisation and Association Council (“the draft Decision”), annexed to the Council decision. A proposal for such a draft Decision is also attached to the Commission's proposal. It complies with the requirements of Article 28 of the Regulation.

In conformity with one of the basic principles underpinning the Regulation (i.e. the Agency works on the basis of a thematic, as opposed to country-specific, approach) the draft Decision enables the Agency to carry out in the Republic of Serbia the tasks set within the framework of Articles 4 and 5 of the Regulation.

The draft Decision also lays down that the Republic of Serbia shall appoint an observer and alternate observer to the Management Board of the Agency. These persons should comply with the criteria laid down in Article 12(1) of the Regulation. They shall participate in the work of the Management Board on equal footing with the members and alternate members appointed by Member States, but without a right to vote.

The draft Decision includes provisions relating to the Republic of Serbia's financial contribution and to staff (annex I). The draft Decision is accompanied by a financial statement.

The draft Decision is in line with the Staff Regulations of Officials of the European Union (“Staff Regulations”) and the Conditions of Employment of Other Servants of the European Union (“CEOS”), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>2</sup>.

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<sup>1</sup> Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, JO L 53 of 22.2.2007, p.1.

<sup>2</sup> 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.

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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 ("the Regulation") provides that the Agency shall be open to the participation of candidate countries as observers.
- (3) The Republic of Serbia shares the aims and objectives laid down for the Agency in the Regulation and subscribes to the tasks of the Agency and its areas of activity as per Articles 4 and 5 thereof.
- (4) The Republic of Serbia'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 Republic of Serbia to achieve this objective.

HAS DECIDED AS FOLLOWS:

*Sole Article*

The position to be taken by the European Union 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 thereof are laid down in the draft Decision of the EU-the Republic of Serbia Stabilisation and Association Council annexed to this Decision.

Done at Brussels,

*For the Council  
The President*