COUNCIL DECISION (EU) 2015/1988

of 22 October 2015

on the signing, on behalf of the Union, of the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo (*), of the other part

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 in conjunction with Article 31(1) thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217, in conjunction with Article 218(5) and the second subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 21 June 2013 the Council authorised the Commission to open negotiations with Kosovo for a Stabilisation and Association Agreement ('the Agreement'). The negotiations were successfully concluded by the initialling of the Agreement on 25 July 2014.

(2) The Union and Kosovo have strong links and share values and a desire to strengthen those links and establish a close and lasting relationship based on reciprocity and mutual interest, which should allow Kosovo to further strengthen and extend its relations with the Union.

(3) The 'First agreement on principles governing the normalisation of relations' was reached on 19 April 2013 in the framework of the EU-facilitated dialogue.

(4) The Agreement provides for the establishment of an association between the Union and Kosovo involving reciprocal rights and obligations, common actions and special procedure. It also contains provisions falling within the scope of Chapter 2 of Title V of the Treaty on European Union (TEU) concerning the Common Foreign and Security Policy of the Union. The decision to sign the Agreement should therefore be based on the legal basis providing for the establishment of an association allowing the Union to enter into commitments in all areas covered by the Treaties and on the legal basis for agreements in areas covered by Chapter 2 of Title V of the TEU.

(5) This is an EU-only agreement. The commitments and cooperation to be entered into by the Union under this Agreement relate only to the areas covered by the EU *acquis* or existing Union policies. The signing and conclusion of the Agreement as an EU-only Agreement is without prejudice to the nature and scope of any similar agreements to be negotiated in the future. It is also without prejudice to the powers of the EU institutions conferred on them in the Treaties and the positions of EU institutions and Member States on competences. The Agreement provides for wide-ranging cooperation in various policy areas, including in justice and home affairs.

(6) The signing of the Agreement is without prejudice to Member States' position on the status of Kosovo, which will be decided in accordance with their national practice and international law.

(7) In addition, none of the terms, wording or definitions used in this Decision and the Agreement, nor any recourse to all the necessary legal bases for the signing of the Agreement, constitute recognition of Kosovo by the Union as an independent State nor does it constitute recognition of Kosovo by individual Member States in that capacity where they have not previously taken such a step. It is appropriate, in that context that a declaration be issued in that regard by the Union at the moment of signature of this Agreement.

(*) This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

(8) The signing of the Agreement as regards matters falling under the competence of the European Atomic Energy Community is subject to a separate procedure.

(9) The Agreement should be signed,

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, of the Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, and Kosovo is hereby authorised for the parts falling under the TEU and the Treaty on the Functioning of the European Union subject to the conclusion of the said Agreement ([1]).

Article 2

The Declaration on behalf of the Union attached to this Decision is hereby approved on behalf of the Union.

Article 3

This Decision is without prejudice to Member States' and the Union's position on the status of Kosovo.

Article 4

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 5

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 22 October 2015.

For the Council
The President
F. ETGEN

([1]) The text of the Agreement will be published together with the decision on its conclusion.

Declaration on behalf of the Union

'The decision to sign the Stabilisation and Association Agreement subject to its conclusion at a later date, including the legal bases used in that regard, is without prejudice to Member States' positions on status and does not constitute recognition of Kosovo (*) by the Union as an independent State, nor does it constitute recognition by individual Member States in that capacity where they have not previously taken such a step.'

(*) This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.