DECISIONS

COUNCIL DECISION (EU) 2018/13

of 18 December 2017

on the position to be adopted on behalf of the European Union within the EU-Serbia Stabilisation and Association Council on the participation of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, within the framework of Regulation (EC) No 168/2007

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 European 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 conclusions of that European Council state 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 ([1]) provides that the European Union Agency for Fundamental Rights (the 'Agency') is to be open to the participation of candidate countries as observers.

(3) Serbia shares the aims and objectives of the Agency and subscribes to the scope and description of the tasks of the Agency, as provided for in Regulation (EC) No 168/2007.

(4) Serbia's ultimate objective is to become a member of the Union, and its participation in the Agency will help it to achieve that objective,

HAS ADOPTED THIS DECISION:

Sole Article

The position to be adopted on behalf of the European Union within the EU-Serbia Stabilisation and Association Council on the participation of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, within the framework of Regulation (EC) No 168/2007, shall be based on the draft Decision of the EU-Serbia Stabilisation and Association Council attached to this Decision.

Done at Brussels, 18 December 2017.

For the Council
The President
K. SIMSON

([1]) Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

DRAFT

DECISION No …/2016 OF THE EU-SERBIA STABILISATION AND ASSOCIATION COUNCIL

of …

on the participation of Serbia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, within the framework of Council Regulation (EC) No 168/2007

THE EU-SERBIA STABILISATION AND ASSOCIATION COUNCIL,

Having regard to the Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part ([1]),

Having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights ([2]), and in particular Article 28 thereof,

Whereas:

(1) The Luxembourg European Council of December 1997 made participation in Union agencies a way of stepping up the pre-accession strategy. The conclusions of that European Council state that the Union 'agencies in which applicant countries will be able to participate will be determined on a case-by-case basis'.

(2) Serbia shares the aims and objectives of the European Union Agency for Fundamental Rights (the 'Agency') and subscribes to the scope and description of the tasks of the Agency, as provided for in Regulation (EC) No 168/2007.

(3) It is appropriate that the Agency should deal with fundamental rights issues within the scope of Article 3(1) of Regulation (EC) No 168/2007 in Serbia to the extent necessary for its gradual alignment with Union law.

(4) Serbia should therefore be allowed to participate as an observer in the Agency's work and the modalities of such participation should be defined, including provisions relating to the participation in initiatives undertaken by the Agency, to the financial contribution and to staff.

(5) In accordance with point (a) of Article 12(2) and point (a) of Article 82(3) of the Conditions of Employment of Other Servants of the European Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ([3]), the Director of the Agency, by way of exception, may authorise the engagement of nationals of Serbia enjoying their full rights as citizens,

HAS ADOPTED THIS DECISION:

Article 1

Serbia, as a candidate country, shall participate as an observer in the European Union Agency for Fundamental Rights, established by Regulation (EC) No 168/2007.

Article 2

1. The Agency may deal with fundamental rights issues within the scope of Article 3(1) of Regulation (EC) No 168/2007 in Serbia to the extent necessary for its gradual alignment with Union law.

2. To that end, the Agency may carry out in Serbia the tasks set out in Articles 4 and 5 of Regulation (EC) No 168/2007.

([1]) OJ L 278, 18.10.2013, p. 16.
([2]) OJ L 53, 22.2.2007, p. 1.
([3]) OJ L 56, 4.3.1968, p. 1.

Article 3

Serbia shall contribute financially to the activities of the Agency referred to in Article 4 of Regulation (EC) No 168/2007 in accordance with the Annex to this Decision.

Article 4

1. Serbia shall appoint persons complying with the criteria provided for in Article 12(1) of Regulation (EC) No 168/2007 as observer and alternate observer, respectively. They may participate in the works of the Management Board on an equal footing with the members and alternate members appointed by Member States, but without a right to vote.

2. Serbia shall nominate a government official as the National Liaison Officer referred to in Article 8(1) of Regulation (EC) No 168/2007.

3. Within four months of the entry into force of this Decision, Serbia shall inform the European Commission of the names, qualifications and contact details of the persons referred to in paragraphs 1 and 2.

Article 5

The data supplied to, or emanating from, the Agency may be published and shall be made accessible to the public, provided that confidential information is afforded the same degree of protection in Serbia as it is afforded within the Union.

Article 6

The Agency shall enjoy in Serbia the same capacity as that accorded to legal entities under Serbia's law.

Article 7

In order to enable the Agency and its staff to perform their tasks, Serbia shall grant the privileges and immunities identical to those set out in Articles 1 to 4, 5, 6, 10 to 13, 15, 17 and 18 of Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

Article 8

The Parties shall each take any general or specific measures required to fulfil their obligations under this Decision and shall notify them to the Stabilisation and Association Council.

Article 9

This Decision shall enter into force on the first day of the second month following the date of its adoption.

Done at …,

For the EU-Serbia Stabilisation and Association Council

The President

ANNEX

FINANCIAL CONTRIBUTION OF SERBIA TO THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

1. The financial contribution to be paid by Serbia to the general budget of the European Union to participate in the European Union Agency for Fundamental Rights (the 'Agency'), as laid down in point 2, represents the full cost of its participation therein for the first three years. As of year four, the amounts will be determined in accordance with point 6.

2. The financial contribution to be paid by Serbia to the general budget of the Union for the first three years shall be as follows:

Year 1:	EUR 180 000
Year 2:	EUR 183 000
Year 3:	EUR 186 000

3. The possible financial support from Union assistance programmes will be agreed separately in accordance with the relevant Union programme.

4. The contribution of Serbia will be managed in accordance with the Financial Regulation [1] applicable to the general budget of the Union.

5. Travel costs and subsistence costs incurred by representatives and experts of Serbia for the purposes of taking part in the Agency's work or in meetings related to the implemention of the Agency's work programme shall be reimbursed by the Agency on the same basis as, and in accordance with the procedures currently in force, for the Member States of the Union.

6. After the entry into force of this Decision and at the beginning of each following year, the Commission will send to Serbia a call for funds corresponding to its contribution to the Agency under this Decision. For the first calendar year of its participation, Serbia will pay a contribution calculated from the date of participation to the end of the year on a pro rata basis. For the following years, the contribution will be in accordance with the table under point 2 of this Annex. As from year four, the contribution will be adapted in the light of any increase or decrease of the Agency's subsidy in order to maintain the analogy between the contribution for Serbia and the Agency's budget for the EU-28. The contribution may also be reviewed in the following financial years on the basis of the latest statistical data published by the Statistical Office of the European Union (Eurostat).

7. This contribution shall be expressed in EUR and paid into a EUR bank account of the Commission.

8. Serbia will pay its contribution according to the call for funds for its own part within 30 days after the call for funds is sent by the Commission.

9. Any delay in the payment of the contribution shall give rise to the payment of interest by Serbia on the outstanding amount as from the due date. The interest rate corresponds to the rate applied by the European Central Bank on the due date for its operations in EUR, increased by 1,5 percentage points.

[1] Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).