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EUROPEAN COMMISSION

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2010/0010 (NLE)

Proposal for a

COUNCIL DECISION

on the signature of an Agreement between the Republic of Croatia and the European Union on the participation of the Republic of Croatia in the work of the European Monitoring Centre for Drugs and Drug Addiction

EXPLANATORY MEMORANDUM

- The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is open to the participation of any third country which shares the interests of the Union and the Member States in the objectives and work of the Centre in accordance with Article 21 of Council Regulation (EC) No 1920/2006 of the European Parliament and the Council (recast).
- The Republic of Croatia applied to participate in the work of the EMCDDA in 2005. Following the Council negotiation directive of 11 July 2006, the negotiations with the Republic of Croatia were successfully concluded in July 2009 with the initialling of the Agreement. The Agreement was subsequently revised to take into account the entry into force of the Treaty on the functioning of the European Union (TFEU) and initialled by both parties on 22 December 2009.

The content of the draft Agreement can be summarised as follows:

The Republic of Croatia will take part in the Centre's work programme and will satisfy the obligations of the Regulation (EC) No 1920/2006 of the European Parliament and the Council (recast). The Republic of Croatia will be linked to the European Information Network on Drugs and Drug Addiction (REITOX) and will share data with the EMCDDA, subject to the data protection requirements of the Union and national laws. The Republic of Croatia will contribute financially to the Union to cover the cost of its participation. The Republic of Croatia will also participate in the Management Board of the Centre without the right to vote until such time as it becomes a member of the European Union. For its part, the EMCDDA will treat the Republic of Croatia as an existing Member State, through equal treatment in terms of linkage to the European Information Network on Drugs and Drug Addiction (REITOX) and staffing provisions.

The agreement is drafted for an unlimited period until the Republic of Croatia becomes a member of the European Union.

- Article 218 (5) of the Treaty on the Functioning of the European Union states that the Council, on the proposal by the negotiator, shall adopt a decision authorising the signature of the agreement and, if necessary, its provisional application before entry into force.
- The Council is therefore requested to authorise the Commission to sign, on behalf of the European Union, the Agreement between the European Union and the Republic of Croatia on the participation of the Republic of Croatia in the work of the EMCDDA, and to designate the persons empowered to proceed to the signature.

Proposal for a

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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 168 (5) in conjunction with Article 218 (5) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12 December 2006 on the European Monitoring Centre for Drugs and Drug Addiction (recast)¹ provides, in Article 21 thereof, that the Centre shall be open to the participation of any third country that shares the interests of the Union and its Member States in the Centre's objectives and work.
- (2) On 11 July 2006 the Council authorised the Commission to open negotiations with the Republic of Croatia for an Agreement on the participation of the Republic of Croatia in the work of the European Monitoring Centre for Drugs and Drug Addiction. The negotiations were successfully concluded by the initialling of the Agreement.
- (3) The Agreement should be signed by the negotiator on behalf of the European Union, subject to its conclusions at a later date

HAS ADOPTED THIS DECISION:

Article 1

The Commission is authorised to sign, on behalf of the European Union, the Agreement between the Republic of Croatia and the European Union on the participation of the Republic of Croatia in the work of the European Monitoring Centre for Drugs and Drug Addiction, and to designate the persons empowered to proceed to the signature.

The text of the Agreement to be signed is attached to this Decision.

¹ OJ L 376, 27.12.2006, p.1.

Article 2

The Decision shall enter into force on the day of its adoption.

Done at Brussels, [...]

*For the Council
[The President]*

ANNEX

AGREEMENT

between the Republic of Croatia and the European Union concerning the participation of the Republic of Croatia in the work of the European Monitoring Centre for Drugs and Drug Addiction

THE REPUBLIC OF CROATIA, of the one part, and

THE EUROPEAN UNION ("the Union") of the other part

Recalling that the Thessaloniki European Council in 2003 aimed to further strengthen the privileged relations between the European Union and the Western Balkans drawing on the enlargement experience;

Considering the European Parliament and Council Regulation (EC) No 1920/2006², ("the Regulation") on the European Monitoring Centre for Drugs and Drug Addiction ("the Centre");

Whereas the Regulation provides in its Article 21 that the Centre shall be open to the participation of Third Countries which share the Union's interests and those of its Member States in the Centre's objectives and work;

Whereas the Republic of Croatia shares the aims and objectives laid down for the Centre in the Regulation, because Republic of Croatia's ultimate objective is to become a member of the European Union;

Whereas the Republic of Croatia subscribes to the description of the tasks of the Centre and to its work method and priority areas as described in the Regulation;

Whereas there exists in the Republic of Croatia an institution suitable to be linked to the European Information Network on Drugs and Drug Addiction;

HAVE AGREED AS FOLLOWS:

Article 1

The Republic of Croatia shall participate fully in the work of the Centre on the terms set out in this Agreement.

² OJNo L 376, 27.12.2006, p.1.

Article 2

European Information Network on Drugs and Drug Addiction (REITOX)

- (1) The Republic of Croatia shall be linked to the European Information Network on Drugs and Drug Addiction (REITOX).
- (2) The Republic of Croatia shall notify the Centre of the main elements of its national information network within 28 days of the entry into force of this Agreement, including its national monitoring centre, and name any other specialized centres which could make a useful contribution to the Centre's work.

Article 3

Management Board

The Management Board of the Centre shall invite a representative of the Republic of Croatia to participate in its meetings. The representative shall participate fully without the right to vote. The Management Board may convoke exceptionally a meeting restricted to representatives of the Member States and of the European Commission on issues of interest particular to the Union and its Member States.

The Management Board, in session with representatives of the Republic of Croatia, will lay down the detailed arrangements concerning the participation of the Republic of Croatia in the work of the Centre.

Article 4

Budget

The Republic of Croatia shall contribute financially to the activities of the Centre referred to under Article 1 in accordance with the provisions laid down in Annex to this Agreement, which shall form an integral part thereof.

Article 5

Protection and Confidentiality of Data

- (1) Where on the basis of this Agreement information forwarded by the Centre to the Croatian authorities in accordance with Union and Croatian law, such information may be used only for the stated purpose and under the conditions prescribed by the forwarding authority. Such information may not contain personal data.
- (2) Data on drugs and drug addiction provided to the Croatian authorities by the Centre may be published subject to compliance with Union and Croatian rules on the dissemination and confidentiality of information. Personal data may not be published or made accessible to the public.

- (3) Designated specialised centres in the Republic of Croatia shall be under no obligation to provide information classified as confidential under Croatian legislation.
- (4) In relation to data supplied by the Croatian authorities to the Centre, the latter will be bound by the rules laid down in Article 6 of the Regulation.

Article 6

Legal Status

The Agency shall enjoy in the Republic of Croatia the same capacity as accorded to legal entities under Croatia's law.

Article 7

Liability

The liability of the Centre shall be governed by the rules laid down in Article 19 of the Regulation.

Article 8

Privileges

To enable the Agency and its staff to perform their tasks, the Republic of Croatia shall grant the privileges and immunities identical to those contained in Articles 1 to 4, Articles 6 and 7, Articles 11 to 14, Articles 16, Article 18 and Article 19 of the Protocol of Privileges and Immunities of the European Communities³.

Article 9

Staff Regulations

Under the conditions laid down in Article 12 (2)(a) of the conditions of employment of other servants of the European Communities, Croatian nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Centre.

Article 10

Entry into force

³ Protocol on the Privileges and Immunities of the European Communities to the Treaty establishing a Single Council and a Single Commission of the European Communities, OJ L 152, 13.07.1967, p.13.

This Agreement shall enter into force on the first day of the second month following the date of receipt of the latter diplomatic note confirming that legal requirements of the respective Contracting Party concerning the entry into force of the Agreement have been fulfilled.

Article 11

Validity and Termination

- (1) This Agreement is concluded for an unlimited period of time. It shall terminate on the date of the Republic of Croatia's accession to the European Union.
- (2) Either Contracting Party may denounce this Agreement by a written notification to the other Contracting Party. The Agreement shall cease to be in force six months after the date of the receipt of such notification.

Done at [...]on[...] in two originals in the English language.

For the Republic of Croatia

For the European Union

ANNEX

Financial contribution of the Republic of Croatia to the European Monitoring Centre for Drugs and Drug Addiction

(1) The financial contribution to be paid by the Republic of Croatia to the budget of the European Union to participate in the European Monitoring Centre for Drugs and Drug Addiction ("the Centre") will progressively increase in a four-year period during which the activities will be phased in by the Republic of Croatia. The financial contributions required are:

- during the first year of participation €100.000
- during the second year of participation €150.000
- during the third year of participation €210.000
- during the fourth year of participation €271.000

From the fifth year of participation, the annual financial contribution to be paid by the Republic of Croatia to the Centre shall be the contribution of the fourth year of participation indexed by the rate of increase of the Union Subvention to the Centre.

The Republic of Croatia may partially use Union assistance to pay the contribution to the Centre with a maximum Union contribution of 75% in the first year of participation, 60% in the second year of participation and 50% thereafter. Subject to a separate programming procedure, the requested Union funds will be transferred to the Republic of Croatia by means of a separate financing memorandum.

The remaining part of the contribution will be covered by the Republic of Croatia.

(2) The contribution of the Republic of Croatia will be managed in accordance with the financial regulation applicable to the general budget of the European Union. Travel costs and subsistence costs incurred by representatives and experts of the Republic of Croatia for the purposes of taking part in the Centre's activities or meetings related to the implementation of the Centre's work programme shall be reimbursed by the Centre on the same basis as, and in accordance with, the procedures currently in force for the Member States of the European Union.

(3) For the first calendar year of its participation the Republic of Croatia 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 this Agreement.