

PARTICIPATION AGREEMENT**between the European Union and the Swiss Confederation on the participation of the Swiss Confederation in the European Union Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM Ukraine)**

THE EUROPEAN UNION ('EU' or 'Union'),

of the one part, and

THE SWISS CONFEDERATION,

of the other part,

hereinafter referred to as the 'Parties',

TAKING INTO ACCOUNT

Council Decision 2014/486/CFSP of 22 July 2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) ⁽¹⁾,

Political and Security Committee Decision (CFSP) 2015/956 of 17 June 2015 on the establishment of the Committee of Contributors for the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) (EUAM Ukraine/1/2015) ⁽²⁾,

Political and Security Committee Decision (CFSP) 2015/1965 of 27 October 2015 on the acceptance of Switzerland's Contribution for the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) (EUAM Ukraine/4/2015) ⁽³⁾,

Agreement between the European Union and Ukraine on the status of the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) ⁽⁴⁾ (the 'Status of Mission Agreement'),

HAVE AGREED AS FOLLOWS:

*Article 1***Participation in the Mission**

1. The Swiss Confederation shall participate in the European Union Advisory Mission for Civilian Security Sector Reform Ukraine ('EUAM Ukraine') in accordance with Council Decision 2014/486/CFSP and any other Decision by which the Council of the European Union decides to extend EUAM Ukraine, as well as this Agreement and any required implementing arrangements under Article 6 of this Agreement.

2. The contribution of the Swiss Confederation to EUAM Ukraine is without prejudice to the decision-making autonomy of the Union. The Union shall inform the Swiss Confederation in due time of any change or amendment to EUAM Ukraine and in particular to the documents referred to in paragraph 3.

3. The Swiss Confederation shall ensure that Swiss personnel participating in EUAM Ukraine undertake their mission in conformity with:

— Decision 2014/486/CFSP and any subsequent amendments thereto;

⁽¹⁾ OJEU L 217, 23.7.2014, p. 42.

⁽²⁾ OJEU L 156, 20.6.2015, p. 21.

⁽³⁾ OJEU L 287, 31.10.2015, p. 67.

⁽⁴⁾ OJEU L 334, 21.11.2014, p. 3.

- The Mission Plan;
 - Implementing measures.
4. Personnel seconded to the Mission by the Swiss Confederation shall carry out their duties and conduct themselves solely with the interest of EUAM Ukraine in mind.
 5. The Swiss Confederation shall inform the Head of Mission in due time of any change to its participation in and contribution to the Mission.

Article 2

Status of personnel

1. The status of personnel contributed to EUAM Ukraine by the Swiss Confederation shall be governed by the Status of Mission Agreement.
2. Without prejudice to the Status of Mission Agreement, the Swiss Confederation shall exercise jurisdiction over its personnel participating in EUAM Ukraine.
3. The Swiss Confederation shall be responsible for answering any claims linked to the participation in EUAM Ukraine, from or concerning any of its personnel. The Swiss Confederation 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 Parties agree to waive any and all claims, other than contractual claims, against each other for damage to, loss or destruction of assets owned or operated by either Party, arising out of the performance of their duties in connection with activities under this Agreement, except in the case of gross negligence or wilful misconduct.
5. The Swiss Confederation undertakes to make a declaration as regards the waiver of claims against any State participating in EUAM Ukraine, and to do so when signing this Agreement.
6. The Union undertakes to ensure that Member States make a declaration as regards the waiver of claims, for the participation of the Swiss Confederation in EUAM Ukraine, and to do so when signing this Agreement.

Article 3

Classified information

The Agreement between the Swiss Confederation and the European Union on the security procedures for the exchange of classified information ⁽¹⁾ shall apply in the context of EUAM Ukraine.

Article 4

Chain of command

1. Swiss personnel participating in EUAM Ukraine shall remain under the full command of their national authorities.
2. National authorities shall transfer the operational and tactical command of their personnel to the EU Civilian Operations Commander.
3. The EU Civilian Operations Commander shall assume responsibility for and exercise command and control of EUAM Ukraine at strategic level.
4. The Head of Mission shall assume responsibility for and exercise command and control of EUAM Ukraine.

⁽¹⁾ OJEU L 181, 10.7.2008, p. 58.

5. The Head of Mission shall lead EUAM Ukraine and assume its day-to-day management.
6. The Swiss Confederation shall have the same rights and obligations in terms of the day-to-day management of the Mission as participating EU Member States, in accordance with the legal instruments referred to in Article 1.
7. The Head of Mission shall be responsible for disciplinary control over EUAM Ukraine personnel. Where required, disciplinary action shall be taken by the competent Swiss national authority.
8. A National Contingent Point of Contact ('NPC') shall be appointed by the Swiss Confederation to represent its national contingent in EUAM Ukraine. The NPC shall report to the Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.
9. The decision to end EUAM Ukraine shall be taken by the Union, following consultation with the Swiss Confederation, provided that the Swiss Confederation is still contributing to EUAM Ukraine at the date of the termination of EUAM Ukraine.
10. The EU Mission Commander may, following consultations with the Swiss Confederation, at any time request the withdrawal of the Swiss Confederation's contribution.

Article 5

Financial aspects

1. The Swiss Confederation shall assume all the costs associated with its participation in EUAM Ukraine, without prejudice to paragraph 3.
2. In case of death, injury, loss or damage to natural or legal persons from the State(s) in which the Mission is conducted, the Swiss Confederation shall, when its liability has been established, pay compensation under the conditions provided for in the Status of Mission Agreement.
3. The Union shall exempt the Swiss Confederation from any financial contribution to the operational budget of EUAM Ukraine.

Article 6

Arrangements to implement the Agreement

Any necessary technical and administrative arrangements in pursuance of the implementation of this Agreement shall be concluded between the appropriate authorities of the Parties.

Article 7

Non-compliance

Should one of the Parties fail to comply with its obligations under this Agreement, the other Party shall have the right to terminate this Agreement by serving notice of one month.

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 and termination**

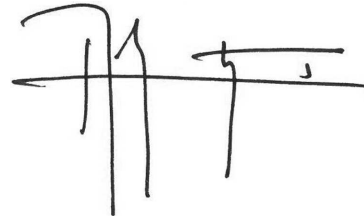
1. This Agreement shall enter into force on the first day of the first month after the Parties have notified each other of the completion of the internal procedures necessary for that purpose.
2. This Agreement shall be provisionally applied from the date of its signature.
3. This Agreement shall remain in force for the duration of the Swiss Confederation's contribution to the Mission.
4. Each Party may terminate this Agreement by written notification to the other Party. The termination becomes effective three months after the date of such notification.

Done at Brussels, in duplicate, in the English language on 13 April 2016.

For the European Union



For the Swiss Confederation



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TEXT FOR DECLARATIONS

Text for the EU Member States:

The EU Member States applying Council Decision 2014/486/CFSP of 22 July 2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) will endeavour, in so far as their internal legal systems so permit, to waive, as far as possible, claims against the Swiss Confederation for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by EUAM Ukraine if such injury, death, damage or loss:

- was caused by personnel from the Swiss Confederation in the execution of their duties in connection with EUAM Ukraine, except in case of gross negligence or wilful misconduct; or
- arose from the use of any assets owned by the Swiss Confederation, provided that the assets were used in connection with the Mission and except in the case of gross negligence or wilful misconduct of EU Mission personnel from the Swiss Confederation using those assets.

Text for the Swiss Confederation:

The Swiss Confederation applying Council Decision 2014/486/CFSP of 22 July 2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) will endeavour, insofar as its internal legal system so permits, to waive, as far as possible, claims against any other State participating in EUAM Ukraine for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by the EU Mission if such injury, death, damage or loss:

- was caused by personnel in the execution of their duties in connection with EUAM Ukraine, except in case of gross negligence or wilful misconduct; or
 - arose from the use of any assets owned by States participating in the EU Mission, provided that the assets were used in connection with the Mission and except in case of gross negligence or wilful misconduct of EU Mission personnel using those assets.
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