

AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND
THE EUROPEAN UNION
ON THE PARTICIPATION OF
THE UNITED STATES OF AMERICA
IN THE EUROPEAN UNION RULE OF LAW MISSION
IN KOSOVO, EULEX KOSOVO

THE UNITED STATES OF AMERICA (UNITED STATES),

of the one part, and

THE EUROPEAN UNION (EU or EUROPEAN UNION),

of the other part,

hereinafter referred to as the "Parties",

TAKING INTO ACCOUNT:

- the shared desire of the United States and the European Union to collaborate closely in supporting the development of Kosovo's democratic standards, in particular those relating to the Rule of Law,
- the adoption by the Council of the European Union of Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO (hereinafter referred to as "EULEX KOSOVO"),

- the invitation to the United States of 18 February 2008 to participate in the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO,
- the successful completion of the Force Generation process and the recommendation by the EU Civilian Operation Commander and the Committee for Civilian Aspects of Crisis Management to agree on the participation of the United States in the EU-led operation,
- the Political and Security Committee Decision EULEX/2/2008 of 22 April 2008, which accepted the United States' contribution to EULEX KOSOVO,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Participation in the operation

1. The United States shall associate itself with Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO and with any Joint Action or Decision by which the Council of the European Union decides to extend EULEX KOSOVO, in accordance with the provisions of this Agreement and any implementing arrangements.

2. The contribution of the United States to EULEX KOSOVO is without prejudice to the decision-making autonomy of the European Union. The Committee of Contributors, made up of EU Member States, the United States and other non-EU States participating in EULEX KOSOVO, will play a key role in the day-to-day management of the mission; the views of the Committee will be taken into account by the Political and Security Committee which exercises political control and strategic direction over EULEX KOSOVO.

3 The United States shall ensure that persons made available as part of its contribution to EULEX KOSOVO (hereinafter "seconded personnel") undertake their mission consistent with:

- Joint Action 2008/124/CFSP and possible subsequent amendments,
- the EULEX KOSOVO Operation Plan,
- possible implementing arrangements, and
- this Agreement.

4. The United States shall ensure that seconded personnel carry out their duties and conduct themselves in a manner fully supportive of the objectives and interests of EULEX KOSOVO.

5. The United States shall inform in due time the Civilian Operations Commander and the Head of Mission of EULEX KOSOVO (hereinafter referred to as "Head of Mission") of any change to its contribution to EULEX KOSOVO. The participation of the United States under this Agreement in EULEX KOSOVO shall be subject to the availability of appropriated funds.

6. A competent medical authority of the United States shall certify seconded personnel as medically fit for duty, following medical examination and any necessary vaccinations. Personnel seconded to EULEX KOSOVO shall produce a copy of this certification.

ARTICLE 2

Status of personnel

1. The status of seconded personnel serving in Kosovo shall be governed by Article 10(1) of Joint Action 2008/124/CFSP; such personnel shall enjoy privileges and immunities accorded on the basis of relevant UN documents including UNSCR 1244, relevant provisions of the law applicable in Kosovo, and other pertinent documents and correspondence.
2. The status of any seconded personnel serving in headquarters or command elements located outside Kosovo shall be governed by arrangements between the headquarters and command elements concerned and the United States.

3. The United States shall exercise exclusive legal jurisdiction over seconded personnel, to the extent permitted by its own laws and regulations and without prejudice to the provisions on the status of the personnel referred to in paragraph 1.

4. The United States shall be responsible for answering any claims arising from its participation in EULEX KOSOVO, from or concerning any of its seconded personnel. The United States shall be responsible, at its discretion, for bringing any action, in particular legal or disciplinary, against any of its seconded personnel, in accordance with its laws and regulations.

5. The United States undertakes to make a declaration as regards the waiver of claims against any State participating in EULEX KOSOVO, and to do so when signing this Agreement.

6. The Member States of the European Union undertake to make a declaration as regards the waiver of claims, for the participation of the United States in EULEX KOSOVO, and to do so when signing this Agreement.

ARTICLE 3

Classified information

The Agreement between the government of the United States of America and the European Union on the security of classified information, done at Washington on 30 April 2007, shall apply in the context of EULEX KOSOVO.

ARTICLE 4

Chain of command

1. The Civilian Operations Commander shall exercise command and control over EULEX KOSOVO at the strategic level. The Head of Mission shall assume responsibility for and exercise command and control over EULEX KOSOVO at theatre level.
2. The Head of Mission shall exercise command and control over seconded personnel, teams and units from contributing States as assigned by the Civilian Operations Commander and shall exercise administrative and logistic responsibility including over assets, resources and information placed at the disposal of EULEX KOSOVO.

3. The United States shall have the same rights and obligations in terms of the day-to-day management of the operation as participating Member States of the European Union taking part in the operation, in accordance with the legal instruments referred to in Article 1(1).
4. The Head of Mission shall be responsible for disciplinary control over the personnel of EULEX KOSOVO. Any disciplinary action shall be the responsibility of the United States.
5. A National Contingent Leader (NCL) shall be appointed by the United States to represent its national contingent in EULEX KOSOVO. The NCL shall report to the Head of Mission on national matters and shall be responsible for day-to-day contingent discipline.
6. The decision to end the operation shall be taken by the European Union, following consultation with the United States, provided that the United States is still contributing to EULEX KOSOVO on the date of that decision.

ARTICLE 5

Financial aspects

The United States shall assume the costs associated with its participation in the operation as set out in Article 9(4) of Joint Action 2008/124/CFSP, unless covered by common funding, as set out in the operational budget of the mission.

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 Secretary-General of the Council of the European Union/High Representative for the Common Foreign and Security Policy and the appropriate authorities of the United States.

ARTICLE 7

Dispute settlement

Disputes concerning the interpretation or application of this Agreement shall be settled by diplomatic means between the Parties.

ARTICLE 8

Entry into force and termination

1. This Agreement shall enter into force on the date of signature and shall remain in force until it is terminated.
2. Either Party may terminate this Agreement upon two months' written notice to the other party.

Done at Brussels, in duplicate, in the English language, this 22nd day of October, 2008.

FOR THE UNITED STATES OF AMERICA



FOR THE EUROPEAN UNION



DECLARATIONS

Referred to in Article 2(5) and (6)

Declaration by the United States

"As a participant to the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO, established by the EU Joint Action 2008/124/CFSP of 4 February 2008, the United States will endeavour, insofar as its internal legal system so permits, to waive as far as possible claims against any other State participating in EULEX KOSOVO for injury, death of its personnel, or damage to, or loss of, any assets owned by itself and used by EULEX KOSOVO if such injury, death, damage or loss:

was caused by personnel in the execution of their duties in connection with EULEX KOSOVO, except in case of gross negligence or wilful misconduct,

or arose from the use of any assets owned by States participating in EULEX KOSOVO, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of the personnel of EULEX KOSOVO using those assets."

Declaration by the EU Member States

"The EU Member States applying the EU Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO will endeavour, insofar as their internal legal systems so permit, to waive as far as possible claims against the United States for injury, death of their personnel, or damage to, or loss of, any assets owned by themselves and used by EULEX KOSOVO if such injury, death, damage or loss:

was caused by personnel from the United States in the execution of their duties in connection with EULEX KOSOVO, except in case of gross negligence or wilful misconduct,

or arose from the use of any assets owned by the United States, provided that the assets were used in connection with the operation and except in case of gross negligence or wilful misconduct of the personnel of EULEX KOSOVO from the United States using those assets."