



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 4 February 2014
(OR. en)**

**Interinstitutional File:
2013/0421 (NLE)**

**5629/1/14
REV 1**

**ASILE 2
CH 2**

"I/A" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
Subject:	Council Decision on the signing, on behalf of the European Union, of the Arrangement with the Swiss Confederation on the modalities of its participation in the European Asylum Support Office

1. On 27 January 2012, the Council adopted a Decision authorising the Commission to open negotiations for the conclusion of Arrangements between the European Union, on the one part, and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, on the other part, on the modalities of the participation by those States in the European Asylum Support Office (5301/12 + ADD1). This Decision authorised the Commission to negotiate on behalf of the Community and gave the Commission the necessary negotiating directives for that purpose.

2. The draft Arrangements on the modalities of the participation of the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein in the European Asylum Support Office, transmitted by the Commission to the authorities of those States, were examined in several rounds of negotiations and initialled on 28 June 2013.
3. On 13 December 2013, the Commission submitted:
 - a proposal for a Council Decision on the signing, on behalf of the European Union. of the Arrangement with the Swiss Confederation on the modalities of its participation in the European Asylum Support Office (17760/13);
 - a proposal for a Council Decision on the signing, on behalf of the European Union. of the Arrangement with the Principality of Liechtenstein on the modalities of its participation in the European Asylum Support Office (17762/13);
 - a proposal for a Council Decision on the signing, on behalf of the European Union. of the Arrangement with the Republic of Iceland on the modalities of its participation in the European Asylum Support Office (17764/13);
 - a proposal for a Council Decision on the signing, on behalf of the European Union. of the Arrangement with the Kingdom of Norway on the modalities of its participation in the European Asylum Support Office (17766/13).

The text of the Arrangements to be signed are attached to these Commission proposals for Council Decisions.

4. In accordance with Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified their wish, by letters of 18 May 2009 to take part in the adoption and application of the Regulation (EU) 439/2010 of the European Parliament and the Council of 19 May 2010 establishing a European Asylum Support Office. As specified in recital 21 of Regulation (EU) No 439/2010, the United Kingdom and Ireland are taking part and are bound by that Regulation. They should therefore give effect to Article 49 (1) of the Regulation by taking part in the Council Decision on signing. The United Kingdom and Ireland are therefore taking part in this Decision.

In this context, it is noted that the United Kingdom takes the position that the Council Decision authorising signing and conclusion of the Arrangement with the States concerned are measures pursuant to Title V Part 3 of the Treaty on the Functioning of the European Union and, therefore, will only bind the United Kingdom if it opts in to them under Protocol No 21 of the Treaty on the position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union. To that effect the United Kingdom made a statement to the minutes of the Committee of Permanent Representatives and the Council regarding its opt-in on this instrument (5301/12 ADD 1).

5. The provisions of this Arrangement, which falls within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, do not apply to the Kingdom of Denmark, in accordance with Protocol 22 on the position of Denmark Annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.

6. The Permanent Representatives Committee could confirm the agreement reached on the Council Decision on the signing on behalf of the European Union of the Arrangement between the European Union, on the one part, and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, on the other part, on the modalities of the participation by those states in the European Asylum Support and suggest that the Council:
- adopt, under part "A" of the agenda of a forthcoming session, the Decision (as set out in doc. 18075/13 (text finalised by the Legal Linguistic experts)) on the above Arrangement (which are set out in the document 18078/13 (text finalised by the Legal Linguistic experts));
 - decide - with a view to preparing for the future conclusion of the above Arrangement as an "A" item on the agenda of one of its forthcoming meetings - to forward the draft Decision on the conclusion of the said Arrangement, as finalised by the Legal Linguistic experts and set out in documents 18079/13 and 18078/13, to the European Parliament for its consent following signature of the Arrangement.
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