



Council of the
European Union

125191/EU XXVII. GP
Eingelangt am 16/12/22

Brussels, 15 December 2022
(OR. en)

Interinstitutional File:
2022/0428(NLE)

16139/22
ADD 1

AELE 48
EEE 44
N 74
ISL 38
FL 34
MI 956
JAI 1698
TELECOM 529
DATAPROTECT 370
CYBER 410
CSC 591

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 741 final
Subject:	ANNEX to the Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement (NIS)

Delegations will find attached document COM(2022) 741 final.

Encl.: COM(2022) 741 final



EUROPEAN
COMMISSION

Brussels, 15.12.2022
COM(2022) 741 final

ANNEX

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to the

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee concerning an amendment to Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement

(NIS)

ANNEX

DECISION OF THE EEA JOINT COMMITTEE

No [...]

of [...]

amending Annex XI (Electronic communication, audiovisual services and information society) and Protocol 37 (containing the list provided for in Article 101) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area (“the EEA Agreement”), and in particular Article 98 thereof,

Whereas:

- (1) Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union¹ is to be incorporated into the EEA Agreement.
- (2) Commission Implementing Regulation (EU) 2018/151 of 30 January 2018 laying down rules for application of Directive (EU) 2016/1148 of the European Parliament and of the Council as regards further specification of the elements to be taken into account by digital service providers for managing the risks posed to the security of network and information systems and of the parameters for determining whether an incident has a substantial impact² is to be incorporated into the EEA Agreement.
- (3) For the EEA Agreement to function well, Protocol 37 to the EEA Agreement is to be extended to include the Cooperation Group set up by Directive (EU) 2016/1148.
- (4) Annex XI and Protocol 37 to the EEA Agreement should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The following is inserted after point 5cp (Regulation (EU) No 526/2013 of the European Parliament and of the Council) of Annex XI to the EEA Agreement:

‘5cpa. **32016 L 1148**: Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).

Modalities for association of the EFTA States in accordance with Article 101 of the Agreement:

¹ OJ L 194, 19.7.2016, p. 1.

² OJ L 26, 31.1.2018, p. 48.

The EFTA States shall participate fully in the Cooperation Group and shall within it have the same rights and obligations as EU Member States, except for the right to vote.

5cpaa. **32018 R 0151**: Commission Implementing Regulation (EU) 2018/151 of 30 January 2018 laying down rules for application of Directive (EU) 2016/1148 of the European Parliament and of the Council as regards further specification of the elements to be taken into account by digital service providers for managing the risks posed to the security of network and information systems and of the parameters for determining whether an incident has a substantial impact (OJ L 26, 31.1.2018, p. 48).’

Article 2

The following point is added in Protocol 37 to the EEA Agreement:

‘43. The Cooperation Group (Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union).’

Article 3

The texts of Directive (EU) 2016/1148 and Implementing Regulation (EU) 2018/151 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

Article 4

This Decision shall enter into force on [...], provided that all the notifications under Article 103(1) of the EEA Agreement have been made*.

Article 5

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

Done at Brussels, [...].

For the EEA Joint Committee

The President

[...]

The Secretaries

To the EEA Joint Committee

[...]

* [No constitutional requirements indicated.] [Constitutional requirements indicated.]