



Council of the
European Union

134217/EU XXVII. GP
Eingelangt am 14/03/23

Brussels, 14 March 2023
(OR. en)

7021/23

ASILE 22
MIGR 82
FRONT 70
JAI 249
COEST 176

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising the opening of negotiations for an agreement between the European Union and the Swiss Confederation establishing a basis for the exchange of information on persons benefitting from temporary protection

COUNCIL DECISION

of ...

**authorising the opening of negotiations for an agreement between the European Union
and the Swiss Confederation establishing a basis for the exchange of information
on persons benefitting from temporary protection**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) At its meeting of 4 March 2022, in response to a mass influx of persons fleeing Ukraine as a consequence of the Russian invasion of Ukraine, the Council adopted Implementing Decision (EU) 2022/382¹ by unanimous vote to establish the existence of and offer protection to that mass influx of persons.
- (2) At that Council meeting, a statement was issued supporting the Member States that are the main entry points to the Union from Ukraine for the mass influx of displaced persons fleeing Russia's war of aggression and promoting the need for a balance of efforts between all Member States in receiving those persons.
- (3) The Member States further agreed by way of that statement not to apply in respect of persons in the Union who are fleeing Russia's war of aggression in Ukraine the provisions of Article 11 of Directive 2001/55/EC² on persons enjoying temporary protection in a given Member State who move to another Member State without authorisation unless, on a bilateral basis, the Member States concerned agree otherwise.

¹ Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, p. 1).

² Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

- (4) Pursuant to Article 10 of Directive 2001/55/EC, Member States have an obligation to register at national level the personal data of the persons enjoying temporary protection on their territory. In addition, Article 27(1) of that Directive provides that, for the purposes of the administrative cooperation required to implement temporary protection, the Member States are, in liaison with the Commission, to take all appropriate measures to establish direct cooperation and an exchange of information between the competent authorities.
- (5) It is in the interests of the Member States to exchange information with third countries in the Schengen area. Switzerland, which counted, on 25 October 2022, a cumulative number of 65 953 registrations of persons enjoying temporary protection in its territory, has expressed an interest in such an exchange. As many persons enjoying temporary protection in the territory of Switzerland may have previously registered their personal data under Directive 2001/55/EC in a Member State, facilitating an exchange of those data can permit the Member States concerned to cease providing for the receipt by persons who are no longer on their territory of the necessary assistance associated with the right to temporary protection.

- (6) In addition, it is in the interests of the Member States to provide for a certain measure of stability and a balance of efforts between them in receiving persons fleeing Russia's war of aggression in Ukraine, and to ensure that the system is not open to abuse.
- (7) Negotiations should be opened with a view to concluding an agreement establishing a basis for the exchange of information on persons benefitting from temporary protection between the Union and the Swiss Confederation,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to open negotiations for an agreement establishing a basis for the exchange of information on persons benefitting from temporary protection with the Swiss Confederation.

Article 2

The Commission shall negotiate the provisions of the agreement in consultation with the Council's Working Party on Asylum and in accordance with the negotiating directives set out in the addendum to this Decision, subject to any further such directives which the Council may subsequently issue to the Commission.

Article 3

This Decision is addressed to the Commission.

Done at...,

For the Council

The President
