



Council of the
European Union

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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
Subject:	Proposal for a Council Decision on the conclusion of the Status Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro - Decision to use the written procedure for the adoption

1. On 16 October 2017 the Council adopted a Decision authorising the opening of negotiations on an agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro.

The purpose of the status agreement, on the basis of Article 54(3)-(4) of Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard¹, is to entitle the European Border and Coast Guard Agency to coordinate operational cooperation between Member States and third countries with respect to management of the external borders. In that respect, the Agency can carry out actions at the external borders involving one or more Member States and a third country neighbouring at least one of those Member States, subject to the agreement of that neighbouring country, including on the territory of that third country.

¹ O.J. 16.9.2016, L 251/1.

Pursuant to Article 54(4) of Regulation (EU) 2016/1624, in cases where it is envisaged that European Border and Coast Guard teams will be deployed to a third country in actions where the team members will have executive powers, or where other actions in third countries require it, a status agreement is to be concluded by the Union with the third country concerned.

2. The draft status agreement was initialled by the Commission and Montenegro on 5 February 2019. On 25 February 2019, the Commission submitted to the Council a proposal for a Council Decision on the signing, on behalf of the Union, of the status agreement between the European Union and Montenegro, and a proposal for a Council Decision on the conclusion of the status agreement². Delegations confirmed their agreement on the proposals on 4 March 2019 on the basis of a silence procedure.
3. On 19 March 2019, the Council adopted the Decision (EU) 2019/453 on the signing, on behalf of the Union, of the Status Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro. On the same date, the draft Decision on the conclusion was sent to the European Parliament for its consent.
4. On 7 October 2019, the Status Agreement between the EU and Montenegro was signed.
5. On 13 May 2020, the European Parliament gave its consent to the conclusion of the agreement. Therefore, the Decision on the conclusion of the agreement can be adopted.
6. A revised version of the draft Council decision on conclusion (6847/1/19 REV 1) had to be issued so as to reflect the consequences of the withdrawal of the United Kingdom from the Union.

² 6799/19 +ADD1 and 6801/19 +ADD1.

7. This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC³; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
8. In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law.
9. In view of the above, the Permanent Representatives Committee is invited:
 - to confirm its agreement on the text of the draft Council Decision, as set out in document 6847/1/19 REV 1 finalised by the legal linguists, and
 - to decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision 2020/430, that the Council uses the written procedure for its adoption.
10. The text of the above Decision will be published in the Official Journal.

³ Council Decision 2002/192/EC of 28 February 2002 concerning the Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).