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#### 'I' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)

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Subject: Proposal for a Council Decision on the conclusion of the Status Agreement between the European Union and the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia  
- Decision to use the written procedure for the adoption

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1. On 7 March 2017 the Council adopted a Decision authorising the opening of negotiations on an agreement between the European Union and the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia.
2. 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 Guard<sup>1</sup>, 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.

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<sup>1</sup> 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.

3. The draft status agreement was initialled by the Commission and Serbia on 20 September 2018. On 7 December 2018, 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 the Republic of Serbia, and a proposal for a Council Decision on the conclusion of the status agreement<sup>2</sup>. Delegations confirmed their agreement on the proposals on 11 January 2018 on the basis of a silence procedure.
4. 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 the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia. On the same date, the draft Decision on the conclusion was sent to the European Parliament for its consent.
5. The Status Agreement between the EU and the Republic of Serbia was signed in Belgrade on 18 November 2019 by Serbia, and in Skopje on 19 November 2019 by the European Union.
6. 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.

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<sup>2</sup> 15496/18+ADD1 and 15486/18+ADD1, replaced by documents 5284/19 and 5285/19 which were issued in order to address a technical inconsistency in the text of the Joint Declaration on status and delimitation of the territories, so to ensure consistency with the text previously agreed by delegations.

1. A revised version of the draft Council decision on conclusion (15581/1/18 REV 1) had to be issued so as to reflect the consequences of the withdrawal of the United Kingdom from the Union.
2. 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/EC<sup>3</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
3. 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.
4. 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 15581/1/18 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.
11. The text of the above Decision will be published in the Official Journal.

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<sup>3</sup> 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).