



Brussels, 11 February 2022
(OR. en)

5981/22

LIMITE

JAI 137
FRONT 53
VISA 23
SIRIS 19

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	14896/21 RESTREINT UE/RESTRICTED EU
Subject:	Recommendation for a Council Decision authorising the opening of negotiations with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding Agreements between the European Union and those countries on supplementary rules in relation to the instrument for financial support for border management and visa policy, as part of the Integrated Border Management Fund - Adoption

1. On 7 December 2021, the Commission presented to the Council a recommendation for a Council Decision authorising the opening of negotiations with the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding agreements between the European Union and those countries on supplementary rules in relation to the instrument for financial support for border management and visa policy (BMVI), as part of the Integrated Border Management Fund, as well as the negotiating directives¹.
2. On 17 December 2021, the Kingdom of Norway notified² the Council of its decision to accept the content of the above-mentioned Regulation and to implement it in its national law.

¹ 14896/21 COR 1+ ADD 1 COR 1 RESTREINT UE/EU RESTRICTED.

² 5249/22.

3. At their meeting on 20 December 2021, the JHA Counsellors discussed the above-mentioned recommendation and negotiating directives.
4. On the basis of the outcome of that meeting, it was concluded that there was agreement on a revised version of the Council Decision and the negotiating directives³.
5. 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.
6. This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Decision 2002/192/EC⁴ concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*. Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
7. On this basis, the Permanent Representatives Committee is invited to suggest that the Council:
 - adopt the Council Decision in the Annex, subject to the ongoing examination by the GSC's lawyer-linguists, authorising the opening of negotiations on an agreement between the European Union and the four Schengen Associated States on supplementary rules in relation to the instrument for financial support for border management and visa policy; and
 - adopt the relevant negotiating directives, as set out in document 5187/22 ADD 1 RESTREINT UE/EU RESTRICTED.

³ 5187/22 + ADD 1 RESTREINT UE/EU RESTRICTED.

⁴ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

Recommendation for a

COUNCIL DECISION

**authorising the opening of negotiations with the Republic of Iceland, the Kingdom of Norway,
the Swiss Confederation and the Principality of Liechtenstein with a view to concluding
Agreements between the European Union and those countries on supplementary rules in
relation to the instrument for financial support for border management and visa policy, as
part of the Integrated Border Management Fund**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles
77(2), 79(2), point (d), and 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Regulation (EU) 2021/1148⁵ of the European Parliament and of the Council establishing the Instrument for Financial Support for Border Management and Visa Policy for the period 2021-2027 (hereinafter referred to as ‘the Regulation on the Border Management and Visa Instrument (BMVI)’) was adopted on 7 July 2021.
- (2) The purpose of the Regulation on the BMVI is to express solidarity through financing assistance to those (Member) States that apply the Schengen provisions on external borders. It constitutes a development of the Schengen *acquis* to which the associated countries participate.

⁵ Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (OJ L 251, 15.7.2021, p. 48).

- (3) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and the TFEU, Denmark is not taking part in the adoption of the Regulation on the BMVI and is not bound by it or subject to its application. The Regulation on the BMVI builds upon the Schengen acquis, and Denmark, in accordance with Article 4 of that Protocol, decided to implement the Regulation on the BMVI in its national law.
- (4) 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/EC⁶. Ireland is not taking part in the adoption of the Regulation on the BMVI and is not bound by it or subject to its application.
- (5) The Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein notified respectively on 1 September 2021, 17 December 2021, 11 August 2021, 18 August 2021 their decision to accept the content of the Instrument and to implement it according to their internal legal order.
- (6) In the light of Article 7(6) of Regulation 2021/1148, Negotiations should therefore be opened with the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding international Agreements with these countries, on supplementary rules concerning the implementation of each of those countries of the Regulation on the BMVI.

⁶ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis (OJ L 64, 7.3.2002, p. 20).

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, with the Republic of Iceland, **the Kingdom of Norway**, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding Agreements between the European Union and those countries on supplementary rules concerning the implementation in those countries of the Regulation (EU) 2021/1148 of the European Parliament and of the Council establishing as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the ~~name of the special committee to be inserted by the Council~~ **Justice and Home Affairs Counsellors which is hereby designated as the special committee within the meaning of article 218(4) TFEU.**

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council

The President