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Delegations will find attached document COM(2022) 692 final - ANNEX.

Encl.: COM(2022) 692 final - ANNEX



Brussels, 25.10.2022
COM(2022) 692 final

ANNEX

SENSITIVE*

ANNEX

to the

Recommendation for a Council Decision

authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro

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ANNEX

DIRECTIVES FOR THE NEGOTIATION OF A STATUS AGREEMENT BETWEEN

the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency on the territory of Montenegro

The status agreement, negotiated in 2017 on the basis of the previous European Border and Coast Guard Regulation (Regulation (EU) 2016/1624¹) and which entered into force on 1 July 2020² should serve as a point of departure for the negotiations. The new status agreement is to bring the current cooperation framework in compliance with Regulation (EU) 2019/1896³ and should be based on the model status agreement⁴ adopted by the Commission. In this respect, there are no specific reasons to derogate from that model status agreement. Therefore, the Commission should aim to preserve the provisions of the model status agreement during the negotiations to the extent possible, and in particular:

Territorial scope of the agreement

The agreement should cover the territory of Montenegro.

Purpose of the agreement

The agreement should provide for the possibility to carry out joint operations and rapid border interventions.

Tasks and powers of the teams

Team members should be entitled to perform all the tasks and exercise all the executive powers required for border control (border checks and border surveillance within the meaning of Regulation (EU) 2019/1896); they should be entitled to carry service weapons, ammunition and other equipment, and use them in accordance with the laws of Montenegro.

Privileges and immunities of the members of the teams and European Border and Coast Guard Agency's staff

The agreement should provide for strong protection for the European Border and Coast Guard Agency's operational and other staff who are sent to Montenegro in the context of a specific operation. The provisions on the privileges and immunities of team members enshrined in the model status agreement should be replicated in the status agreement to the extent possible.

Fundamental rights

¹ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1–76).

² Council Decision (EU) 2020/729 of 26 May 2020 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.

³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, and repealing Regulations (EU) N° 1052/2013 and (EU) 2016/1624, OJ L 295, 14.11.2019.

⁴ Communication COM(2021) 829 - Model status agreement as referred to in Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

The agreement should include provisions ensuring the full respect of fundamental rights. The safeguards provided for in Article 8 of the model status agreement should be considered as minimum standards.

Data Protection

The agreement should include provisions on the protection of personal data, in line with Article 16 of the model status agreement.

Combating Fraud

The agreement should include provisions on the combating of fraud, in line with Article 19 of the model status agreement.

Situation of the Schengen associated countries

The status agreement should take into account the special position of the Kingdom of Norway, Iceland, the Swiss Confederation and the Principality of Liechtenstein. A joint declaration should state the desirability that agreements should be concluded between Montenegro and each of those associated countries in similar terms as the Agreement with the Union.