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Subject:	ANNEX to the Recommendation for a Council Decision authorising the opening of negotiations on a status agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia

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Delegations will find attached document COM(2022) 693 final - ANNEX.

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Encl.: COM(2022) 693 final - ANNEX



Brussels, 25.10.2022  
COM(2022) 693 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 the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia**

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## **ANNEX**

### **DIRECTIVES FOR THE NEGOTIATION OF A STATUS AGREEMENT BETWEEN**

#### **the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency on the territory of the Republic of Serbia**

The status agreement<sup>1</sup> with the Republic of Serbia, negotiated on the basis of the previous European Border and Coast Guard Regulation (Regulation (EU) 2016/1624<sup>2</sup>) and concluded on 20 May 2020<sup>3</sup>, 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) 2019/1896<sup>4</sup> and should be based on the model status agreement<sup>5</sup> 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 the Republic of Serbia.

#### ***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 the Republic of Serbia.

#### ***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 the Republic of Serbia in the context of a specific operation. The provisions on the privileges and immunities of team members

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<sup>1</sup> 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 (OJ L 202, 25.6.2020, p. 3–15).

<sup>2</sup> 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).

<sup>3</sup> Council Decision (EU) 2020/865 of 26 May 2020 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 (OJ L 202, 25.6.2020, p. 1–2).

<sup>4</sup> 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.

<sup>5</sup> 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.

enshrined in the model status agreement should be replicated in the status agreement to the extent possible.

### ***Fundamental rights***

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 the Republic of Serbia and each of these associated countries in similar terms as the Agreement with the Union.