Council of the European Union

Brussels, 21 September 2018
(OR. en)

12062/18

Interinstitutional Files:
2018/0319(NLE)
2018/0318(NLE)

FRONT 286
COWEB 128

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	11909/18, 11913/18
Subject:	Proposal for a Council Decision on the signing, on behalf of the Union, of the status agreement between the European Union and the former Yugoslav Republic of Macedonia on actions carried out by the European Border and Coast Guard Agency in the former Yugoslav Republic of Macedonia - Adoption Proposal for a Council Decision on the conclusion of the status agreement between the European Union and the former Yugoslav Republic of Macedonia on actions carried out by the European Boder and Coast Guard Agency in the former Yugoslav Republic of Macedonia - Request for the consent of the European Parliament

1. On 7 March 2017 the Commission received the Council authorisation to open negotiations with the former Yugoslav Republic of Macedonia on a status agreement on actions carried out by the European Border and Coast Guard Agency in the former Yugoslav Republic of Macedonia. The purpose of a 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[1], 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.

[1] OJ L 251, 16.9.2016, p. 1.

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.

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 the former Yugoslav Republic of Macedonia on 18 July 2018. On 5 September 2018, the Commission submitted to the Council two proposals[2]:

   – proposal for a Council Decision on the signing, on behalf of the Union, of the status agreement between the European Union and the former Yugoslav Republic of Macedonia on actions carried out by the European Border and Coast Guard Agency in the former Yugoslav Republic of Macedonia;

   – proposal for a Council Decision on the conclusion of the status agreement between the European Union and the former Yugoslav Republic of Macedonia on actions carried out by the European Border and Coast Guard Agency in the former Yugoslav Republic of Macedonia.

3. The Decision on the signing constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC[3]; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

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2 11909/18 + ADD 1 and 11913/18 + ADD 1.

3 Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

4. The Decision on the signing 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[4]; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

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 the Decision on the signing 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.

6. The Agreement should be signed and the two attached joint declarations (with regard to Iceland, Norway, Switzerland and Liechtenstein and the immunities of the members of the teams, respectively) should be approved.

7. It is suggested, therefore, that the Permanent Representatives Committee recommend that the Council, at a forthcoming session:

   a) adopt, as an "A" item, the Decision approving the signing of this Agreement. The text of the Decision, following finalisation by the legal linguists, is set out in 12027/18;

   b) approve the two joint declarations set out in the Annex to the Decision on the signing in 12027/18;

   c) decide to forward the draft Decision on the conclusion, as set out in 12028/18 following finalisation by the legal linguists, as well as the text of the above-mentioned Agreement (as set out in 12043/18) to the European Parliament for its consent.

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[4] 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).