II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2023/1040

of 15 May 2023

on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), points (b) and (d), and Article 79(2), point (c), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Pursuant to Article 73(3) of Regulation (EU) 2019/1896 of the European Parliament and of the Council ([1]), in circumstances requiring the deployment of border management teams from the standing corps of the European Border and Coast Guard to a third country where the members of the teams will exercise executive powers, a status agreement is to be concluded by the Union with the third country concerned on the basis of Article 218 of the Treaty on the Functioning of the European Union.

(2) On 18 November 2022, the Council authorised the Commission to open negotiations with Montenegro for an agreement on operational activities carried out by the European Border and Coast Guard Agency in Montenegro.

(3) The negotiations were successfully concluded with the initialling of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro ('the Agreement').

(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/EC ([2]); 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 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.

([1]) 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 (OJ L 295, 14.11.2019, p. 1).

([2]) 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).

(6) The Agreement should be signed and the attached declaration with regard to Iceland, Norway, Switzerland and Liechtenstein be approved, on behalf of the Union.

(7) In order to allow for an urgent deployment of the European Border and Coast Guard standing corps on the territory of Montenegro, the Agreement should be applied on a provisional basis, pending the completion of the procedures necessary for its entry into force,

HAS ADOPTED THIS DECISION:

Article 1

The signing, on behalf of the Union, of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro ('the Agreement') is hereby authorised, subject to the conclusion of the said Agreement ([3]).

Article 2

The Declaration attached to this Decision shall be approved on behalf of the Union.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 4

The Agreement shall be applied on a provisional basis, in accordance with Article 22(2), second subparagraph, thereof, as from the first day of the second month following the date of its signature, pending the completion of the procedures necessary for its entry into force ([4]).

Article 5

This Decision shall enter into force on on the date of its adoption.

Done at Brussels, 15 May 2023.

For the Council
The President
J. FORSSMED

([3]) See page … of this Official Journal.
([4]) The date of signature of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

DECLARATION WITH REGARD TO ICELAND, THE KINGDOM OF NORWAY, THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN

The Parties to the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro take note of the close relationship between the European Union and Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, particularly by virtue of the Agreements of 18 May 1999 and 26 October 2004 concerning the association of those countries with the implementation, application and development of the Schengen *acquis*.

In such circumstances it is desirable that the authorities of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein, on the one hand, and Montenegro, on the other hand, conclude, without delay, bilateral agreements on operational activities carried out by the European Border and Coast Guard Agency in Montenegro in terms similar to those of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro.