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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the signing, on behalf of the Union, of the Agreement between the European Union and the Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports

COUNCIL DECISION (EU) 2018/...

of ...

**on the signing, on behalf of the Union, of the Agreement
between the European Union and the Federative Republic of Brazil
amending the Agreement between the European Union and the Federative Republic of Brazil
on short-stay visa waiver for holders of ordinary passports**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Whereas:

- (1) Regulation (EU) No 610/2013 of the European Parliament and of the Council¹ introduced horizontal changes in the Union's visa and border *acquis* and defined a short stay as a maximum of 90 days in any 180-day period.
- (2) It is necessary to incorporate this new definition into the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports² in order to harmonise the Union's short-stay regime.
- (3) On 9 October 2014, the Council authorised the Commission to open negotiations with the Federative Republic of Brazil for an agreement between the European Union and the Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports ('the Agreement'). Negotiations on the Agreement were successfully finalised by the initialling thereof on 31 October 2017.

¹ Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council (OJ L 182, 29.6.2013, p. 1).

² OJ L 255, 21.9.2012, p. 4.

- (4) This Decision 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/EC¹; 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.
- (5) 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/EC²; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (6) The Agreement should be signed and the text of the declaration annexed to this Decision as well as the text of the joint declarations attached to the Agreement should be approved, on behalf of the Union,

HAS ADOPTED THIS DECISION:

¹ 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).

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).

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the Federative Republic of Brazil amending the Agreement between the European Union and the Federative Republic of Brazil on short-stay visa waiver for holders of ordinary passports is hereby authorised, subject to the conclusion of the said Agreement^{1,+}

Article 2

The text of the declaration annexed to this Decision and the text of the joint declarations attached to the Agreement 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.

¹ The text of the Agreement will be published together with the decision on its conclusion.

⁺ Delegations: see document ST 13449/18.

Article 4

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

Done at Brussels,

For the Council

The President

ANNEX

DECLARATION OF THE UNION CONCERNING THE ENTRY INTO FORCE OF REGULATION (EU) 2017/2226 ESTABLISHING THE ENTRY/EXIT SYSTEM (EES) AND THE MEMBER STATES APPLYING THE SCHENGEN ACQUIS IN FULL

Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 entered into force on 29 December 2017.

As a consequence, as from the date of application of Regulation (EU) 2017/2226¹ for the purposes of this Agreement Member States applying the Schengen *acquis* in full will mean Member States operating the Entry/Exit System at the external borders. The maximum period of 90 days in any 180-day period will be calculated taking into account the period of stay in all the Member States operating the Entry/Exit System at the external borders.

¹ The date of application will be decided by the Commission in accordance with Article 73 of Regulation (EU) 2017/2226.