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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion, on behalf of the Union, of the Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice

COUNCIL DECISION (EU) 2019/...

of ...

**on the conclusion, on behalf of the Union,
of the Arrangement between the European Union, of the one part,
and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation
and the Principality of Liechtenstein, of the other part,
on the participation by those States in the European Agency
for the operational management of large-scale IT systems
in the area of freedom, security and justice**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74, points (a) and (b) of Article 77(2), point (e) of Article 78(2), point (c) of Article 79(2), point (d) of Article 82(1), Article 85(1), point (a) of Article 87(2) and Article 88(2), in conjunction with point (a)(v) of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ Consent of 13 March 2019 (not yet published in the Official Journal).

Whereas:

- (1) Regulation (EU) No 1077/2011 of the European Parliament and of the Council¹ established the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the ‘Agency’).
- (2) Regulation (EU) No 1077/2011 provided that, under the relevant provisions of their association agreements, arrangements are to be made in order to specify, inter alia, the nature and extent of, and the detailed rules for, the participation of countries associated with the implementation, application and development of the Schengen *acquis* and Eurodac-related measures in the work of the Agency, including provisions on financial contributions, staff and voting rights.

¹ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

- (3) The Commission negotiated, on behalf of the Union, an Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the ‘Arrangement’). In accordance with Council Decision (EU) 2018/1549¹, the Arrangement was signed on 8 November 2018 subject to its conclusion.

¹ Council Decision (EU) 2018/1549 of 11 October 2018 on the signing, on behalf of the Union, of the Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 260, 17.10.2018, p. 1).

- (4) On 14 November 2018 Regulation (EU) 2018/1726 of the European Parliament and of the Council¹ was adopted. Regulation (EU) 2018/1726 repealed Regulation (EU) No 1077/2011. As specified in Regulation (EU) 2018/1726, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, as established by that Regulation, replaces and succeeds the Agency, as established by Regulation (EU) No 1077/2011. In accordance with Regulation (EU) 2018/1726, references to the repealed Regulation (EU) No 1077/2011 are to be construed as references to Regulation (EU) 2018/1726 and are to be read in accordance with the correlation table in the Annex to that Regulation.

¹ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

- (5) As specified in recital 52 of Regulation (EU) 2018/1726, the United Kingdom is taking part in and is bound by that Regulation. Ireland requested to take part in Regulation (EU) 2018/1726 in accordance with Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and notified its wish to accept Regulation (EU) 2018/1726 in accordance with Article 4 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU. The United Kingdom and Ireland should therefore give effect to Article 42 of Regulation (EU) 2018/1726 by taking part in this Decision. The United Kingdom and Ireland are therefore taking part in this Decision.

- (6) As specified in recital 51 of Regulation (EU) 2018/1726, Denmark is not taking part in and is not bound by that Regulation. Denmark is therefore not taking part in this Decision. Given that this Decision, insofar as it relates to the Schengen Information System (SIS II) established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council¹ and by Council Decision 2007/533/JHA², to the Visa Information System (VIS) established by Council Decision 2004/512/EC,³ to the Entry/Exit System (EES) established by Regulation (EU) 2017/2226 of the European Parliament and of the Council⁴ and to the European Travel Information and Authorisation System (ETIAS) established by Regulation (EU) 2018/1240 of the European Parliament and of the Council⁵, builds upon the Schengen *acquis*, Denmark shall in accordance with Article 4 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, 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 (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

² Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

³ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

⁴ 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 (OJ L 327, 9.12.2017, p. 20).

⁵ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

In accordance with Article 3 of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention¹, Denmark is to notify the Commission whether it will implement the content of this Decision, insofar as it relates to Eurodac and DubliNet.

(7) The Arrangement should be approved,

HAS ADOPTED THIS DECISION:

¹ OJ L 66, 8.3.2006, p. 38.

Article 1

The Arrangement between the European Union, of the one part, and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the participation by those States in the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice is hereby approved on behalf of the Union.¹

The text of the Arrangement is attached to this Decision.⁺

Article 2

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

Done at Brussels,

For the Council

The President

¹ The date of entry into force of the Arrangement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

⁺ OJ: please attach document ST 12367/18, taking into account the Corrigendum/Rectificatif set out in ST 13355/1/18 REV 1.