Council of the European Union

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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
Subject:	Council Decision on the conclusion of an Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro – Adoption

1. On 18 November 2022, the Council adopted a Decision authorising the opening of negotiations on a status agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro.

2. The purpose of the Agreement is, on the basis of Article 73(3) of 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[1], to authorise the European Border and Coast Guard Agency to deploy border management teams from the standing corps to Montenegro to the full length of the country's borders. The Agreement will repeal and replace the Status Agreement of 7 October 2019 between the European Union and Montenegro.

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

3. Negotiations were successfully finalised by the initialling of the draft status agreement by the Commission and Montenegro. On 5 April 2023, the Commission submitted to the Council a proposal for a Council Decision on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and the Montenegro, and a proposal for a Council Decision on the conclusion of the agreement[2]. The Decision on the signing was adopted by the Council on 15 May 2023 and the Agreement was signed on 16 May 2023 in Brussels, subject to its conclusion at a later date.

4. In accordance with Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union, the Council shall adopt the Decision concluding the Agreement after obtaining the consent of the European Parliament.

5. On 22 May 2023, the Council forwarded the draft Decision on the conclusion of the Agreement as well as the text of the Agreement to the European Parliament for its consent.

6. 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[3]; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

7. 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.

8. On 22 November 2023, the European Parliament gave its consent to the conclusion of the Agreement[4] and instructed its president to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Montenegro.

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2 8169/23 +ADD 1 and 8172/23 +ADD 1.

3 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).

4 P9_TA(2023)0041

9. In view of the above, the Permanent Representatives Committee is invited:

– to adopt, as an “A” item, the Decision on conclusion as set out in document 8353/23 finalised by the lawyer linguists, and

– to decide that the text of the above Decision be published in the 'L' series of the Official Journal in accordance with article 17(1)(d) of the Council’s Rules of Procedure.

The European Parliament will be informed in accordance with Article 218(10) TFEU.