

# EU/Albania status agreement on actions carried out by the European Border and Coast Guard Agency in Albania

2018/0241(NLE) - 13/06/2018 - Preparatory document

**PURPOSE:** to conclude, on behalf of the Union, the status agreement between the EU and Albania on actions carried out by the European Border and Coast Guard Agency in Albania.

**PROPOSED ACT:** Council Decision.

**ROLE OF THE EUROPEAN PARLIAMENT:** Council may adopt the act only if Parliament has given its consent to the act.

**BACKGROUND:** in accordance with a Council Decision, the status agreement between the EU and Albania on actions carried out by the European Border and Coast Guard Agency in the Republic of Albania, was signed, subject to its conclusion.

Pursuant to 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 shall be concluded by the Union with the third country concerned.

Thanks to this status agreement, border guard teams can be swiftly deployed on Albanian territory and respond to the current shift in migratory flows towards the coastal route and assist in external border management and fight against migrant smuggling.

**CONTENT:** the present proposal calls on the Council to adopt the decision to approve, on behalf of the Union, the status agreement between the EU and Albania on actions carried out by the European Border and Coast Guard Agency in Albania.

The main provisions of the proposal are as follows:

**Operational plan:** before each joint operation or rapid border intervention, an operational plan must be agreed between the Agency and Albania. That operational plan must also be agreed by the Member State or Member States bordering the operational area. It shall set out in detail the organisational and procedural aspects of the joint operation or rapid border intervention, including, **inter alia**, a description and an assessment of the situation, the operational aim and objectives, the provisions in respect of fundamental rights including personal data protection, the organisational arrangements and logistics, the evaluation and the financial aspects of the joint operation or rapid border intervention.

**Tasks and powers of the members of the team:** as a general rule, the teams shall have the authority to perform the tasks and exercise the executive powers required for border control and return operations. They shall respect the laws and regulations of Albania.

Members of the team shall wear their own uniform, visible personal identification and a blue armband with the insignias of the European Union and of the Agency on their uniforms. Members of the team may use force, including service weapons, ammunition and equipment, with the consent of their own State and of the Albania authorities, in the presence of Albanian border guards or other relevant staff, and in

accordance with the Albanian law. Albanian authorities may authorise members of the team to use force also in the absence of their border guards.

**Accreditation document:** the Agency shall, in cooperation with Albania, issue an accreditation document to members of the team for the purposes of identification vis-à-vis the Albanian authorities as proof of the holder's rights to perform the tasks and exercise the powers conferred under this Agreement and in the Operational Plan.

**Fundamental rights:** in the performance of their tasks and in the exercise of their powers, Members of the team shall fully respect fundamental rights and freedoms, including as regards access to asylum procedures, human dignity and the prohibition of torture, inhuman or degrading treatment, the right to liberty, the principle of non-refoulement and the prohibition of collective expulsions, the rights of the child and the right to respect for private and family life.

They shall not arbitrarily discriminate against persons on any grounds including sex, racial or ethnic origin, religion or belief, disability, age, sexual orientation or gender identity. Each Party must have a complaint mechanism in place to deal with allegations of a breach of fundamental rights committed by its staff.

**Processing of personal data:** personal data shall be processed by members of the team when necessary in accordance with the rules applicable to the Agency and the EU Member States. Processing of personal data by the Albanian authorities shall be subject to Albanian laws. The Agency, the participating Member States and the Albanian authorities shall draw up a common report on the processing of personal data by members of the team at the end of each action. This report shall be sent to the Agency's Fundamental Rights Officer and Data Protection Officer.

**BUDGETARY IMPLICATIONS:** although the status agreement in itself **does not entail financial implications**, it is the actual deployment of border guards' teams on the basis of an operational plan and relevant grant agreement that will entail costs borne by the budget of the European Border and Coast Guard Agency. Future operations under the status agreement will be financed through the European Border and Coast Guard Agency's own resources.

The financial statement annexed to the proposal for a Regulation on a European Border and Coast Guard on the expenditure of the European Border and Coast Guard Agency evaluated at EUR 6.090 million on average each year for 2017-2020 the reinforced cooperation with third countries (including possible joint operations with neighbouring countries).