EU/Norway Agreement: supplementary rules in relation to the instrument for financial support for border management and visa policy

2023/0224(NLE) - 10/07/2023 - Preparatory document

PURPOSE: to conclude, on behalf of the European Union, the Agreement between the European Union and the Kingdom of Norway on supplementary rules in relation to the instrument for financial support for border management and visa policy, as part of the Integrated Border Management Fund.

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: Regulation (EU) 2021/1148 of the European Parliament and of the Council establishing the Instrument for Financial Support for Border Management and Visa Policy for the period 2021-2027 (BMVI Regulation) was adopted on 7 July 2021.

The purpose of the BMVI Regulation is to express solidarity through financing assistance to those (Member) States that apply the Schengen acquis provisions on external borders. It constitutes a development of the Schengen acquis to which the countries associated to the implementation, application and further development of the Schengen acquis participate.

Norway notified on 17 December 2021 its decision to accept the content of the BMVI Regulation and to implement it in its internal legal order.

On 21 February 2022, the Council authorised the Commission to open negotiations with Iceland, Norway, Switzerland and Liechtenstein for the arrangements on the financial contributions of the associated countries and the supplementary rules necessary for their participation, including provisions ensuring the protection of the Union's financial interests and the powers of audit of the Court of Auditors, to be concluded pursuant to the BMVI Regulation.

The negotiations with Norway were successfully concluded by the initialling of the Agreement on 14 February 2023.

CONTENT: the Commission proposes that the Council approve, after having received consent of the European Parliament, the Agreement with Norway on **supplementary rules in relation to the Instrument for financial support for border management and visa policy** as part of the Integrated Border Management Fund, for the period 2021 to 2027.

The proposal is necessary in order to implement the obligation laid down in Article 7(6) of Regulation (EU) 2021/1148, according to which arrangements should be made with the countries associated with the implementation, application and development of the Schengen acquis in order to specify the nature and modalities of their participation in the Instrument for financial support for border management and visa policy under the Integrated Border Management Fund.

Like the EU Member States, **Norway will comply with the rules set out in the BMVI Regulation**, as well as with the relevant articles of Regulation (EU) 2021/1060 laying down common provisions for seven Funds under shared management, including the BMVI, and of the Financial Regulation.

The BMVI offers the opportunity for implementation of actions in **shared management, direct and indirect management modes**, and this Agreement should make it possible that the implementation in any of these methods can be realised in Norway in accordance with the principles and rules of the EU on financial management and control.

In light of the sui generis nature of the Schengen acquis and the importance of its uniform application for the integrity of the Schengen area, all rules applicable for the management of national programmes should apply in Norway in the same way as for Member States.

To facilitate the calculation and use of the **annual contributions** due by Norway to the BMVI, its contributions for the period 2021-2027 should be paid in five annual instalments from 2023 to 2027. From 2023 to 2025 the annual contributions are set in fixed amounts while the contribution due for the years 2026 and 2027 should be determined in 2026 on the basis of the nominal gross domestic product of all States participating in the BMVI taking into account the payments effectively made.

For **budgetary and financial controls**, the Member States are subject to horizontal obligations (e.g. the competence of the Court of Auditors, of the European Anti-Fraud Office (OLAF), of the EPPO and of the Commission), either derived from the Treaty directly or from secondary Union legislation, including the Common Provisions Regulation as mentioned above. These obligations apply to the Member States ipso facto and are therefore not laid down in the BMVI Regulation. Consequently, these obligations need to be extended to the associated countries via the Agreement concerned by the present proposal.

In line with the principle of equal treatment, Norway should benefit from any surplus revenue as defined in Article 86 of Regulation (EU) 2018/1240 of the European Parliament and of the Council (‘ETIAS Regulation’).

Within the framework of the BMVI, the financial contributions due by Norway to the BMVI are proportionally reduced.

Lastly, references contained in the BMVI and CPR Regulations and this Agreement to the EU Charter on Fundamental Rights should accordingly be understood as references to the European Convention on Human Rights and to the Protocols ratified by Norway and Article 14 of the Universal Declaration of Human Rights.