

EU/Serbia Agreement: operational activities carried out by the European Border and Coast Guard Agency in Serbia

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PURPOSE: to conclude, on behalf of the Union, the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia.

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: one of the tasks of the European Border and Coast Guard Agency is to cooperate with third countries in relation to the areas covered by the European Border and Coast Guard Regulation (Regulation (EU) 2019/1896) including through the possible operational deployment of border management teams in third countries.

In circumstances requiring the deployment of border management teams from the European Border and Coast Guard standing corps to a third country where the members of the teams will exercise executive powers, a status agreement should be concluded by the Union with the third country concerned.

Serbia is geographically situated on one of the primary routes for irregular mixed migratory movement towards the European Union. In 2023, Frontex registered around 99 000 irregular border crossings at the European Union's external borders on the Western Balkan route as well as more than 25 000 irregular border crossings at Serbia's non-EU borders. The high level of irregular arrivals and asylum applications is also putting significant pressure on some European Union Member States, leading to the need for common, coordinated action at Union level.

In 2020, the Union and Serbia concluded a status agreement based on Regulation (EU) 2016/1624. On 18 November 2022, following the entry into force of Regulation (EU) 2019/1896 which extended the scope of the status agreements thereunder, the Commission received the Council's authorisations to open negotiations with Serbia, as well as Montenegro, Albania and Bosnia and Herzegovina, for agreements on operational activities to be carried out by the European Border and Coast Guard Agency in those countries based on this new Regulation.

The Commission, on behalf of the European Union, and Serbia held formal negotiations in view of an agreement on 14 September and 7 November 2023.

CONTENT: this proposal for a Council Decision constitutes the legal basis for the conclusion of the Agreement between the European Union and the Republic of Serbia on operational activities carried out by the European Border and Coast Guard Agency in the Republic of Serbia.

The provisions of the proposed agreement do not go beyond what is necessary to achieve its objectives, namely, on the basis of the model status agreement, covering all aspects that are necessary for carrying out the actions of border management teams from the standing corps deployed to a third country where the members of the teams will exercise executive powers, in particular, the scope of the operation, provisions

on civil and criminal liability, the tasks and powers of the members of the teams, measures related to the establishment of an antenna office and practical measures related to the respect of fundamental rights.

The draft agreement departs from the model status agreement by providing a limited immunity of the team members from criminal jurisdiction and by providing a limited exception to the inviolability of buildings, premises and assets of the Agency. These derogations from the model are acceptable given Serbia's status as a recognised candidate for accession to the European Union.

Reinforcing controls on the territory of Serbia will positively impact the management of the Union's external borders as well as the borders of Serbia itself. The conclusion of a status agreement would tie into the wider objectives and priorities for cooperation as set out in the European Union's Stabilisation and Association Agreement with Serbia.

The conclusion of a status agreement could also support the wider efforts and commitments of the European Union to further develop cooperation and capabilities in order to contribute to crisis response management and promote convergence on foreign and security matters between the Union and Serbia.