



2018/0316(NLE)

31.1.2019

DRAFT RECOMMENDATION

on the draft 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 (15832/2018 – C8-0035/2019 – 2018/0316(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Monica Macovei

(Simplified procedure – Rule 50(1) of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft 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
(15832/2018 – C8-0035/2019 – 2018/0316(NLE))**

(Consent)

The European Parliament,

- having regard to the draft Council decision (15832/2018),
 - having regard to the draft arrangement between the European Union and the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein (12367/2018),
 - having regard to the request for consent submitted by the Council in accordance with Articles 74, 77(2)(a) and (b), 78(2)(e), 79(2)(c), 82(1)(d), 85(1), 87(2)(a) and 88(2) and Article 218(6), second subparagraph, point (a)(v) of the Treaty on the Functioning of the European Union (C8-0035/2018),
 - having regard to Rule 99(1) and (4) and Rule 108(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2019),
1. Gives its consent to conclusion of the arrangement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein.

EXPLANATORY STATEMENT

A. Background

In line with Articles 74, 77(2)(a) and (b), 78(2)(e), 79(2)(c), 82(1)(d), 85(1), 87(2)(a) and 88(2) of the Treaty on the Functioning of the EU (TFEU) in conjunction with Article 218 (6)(a)(v) TFEU, the participation of associate countries in the work of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the Agency) is a necessary step having regard to their association to the Schengen acquis and to Dublin and Eurodac-related measures and to their participation in the large-scale IT systems operated by the Agency.

Article 37 of Regulation (EU) 1077/2011, which establishes the Agency, stipulates that *"Under the relevant provisions of their association agreements, arrangements shall be made in order to specify, inter alia, the nature and extent of, and the detailed rules for, the participation by 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."* The countries referred to in Article 37 are the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein, referred to hereafter as the "associate countries".

The draft Arrangement foresees the full participation of the associate countries in the activities of the Agency [Article 1], representation in the Agency's Management Board with limited voting rights on certain decisions [Article 2], representation in the Agency's Advisory Groups with limited voting rights on the decisions referred to under Article 2 [Article 3], annual financial contributions of the associate countries to the budget of the Agency as regards SIS, VIS, DublinNet and EES by an annual sum calculated in accordance with its GDP as a percentage of GDP of all States participating in the Agency's work and, as regards Eurodac, by an annual sum of a fixed percentage (specific for each associate country) of the relevant budget appropriations for the budgetary year. [Article 4 and Annex I]. The draft arrangement further defines the legal status of the Agency in the associate countries [Article 5], the liability of the Agency with regard to the associate countries [Article 6], the recognition by the associate countries of the jurisdiction of the Court of Justice with regard to the Agency [Article 7], the privileges and immunities of the Agency in the associate countries, and a derogation of the staff regulations allowing nationals of the associate countries to be engaged under contract by the Agency [Article 9]. The draft arrangement finally contains provisions on combatting fraud [Article 10], dispute settlement [Article 12], entry into force [Article 14] and validity and termination [Article 15].

The Council referred the present draft decision on the signing of the Arrangement with the associate countries on the participation by those States in the Agency to the European Parliament.

B. Position of the rapporteur

The Rapporteur recalls the need to ensure that the associated countries' participation to the work of the Agency be clearly framed in the Arrangement in the respect of Article 37 of

Regulation (EU) 1077/2011. In this regards, she welcomes the draft Decision submitted for consent to the European Parliament that includes the required elements to ensure the participation of the associate countries and that sets the conditions under which these participations can take place.