DRAFT RECOMMENDATION

on the draft Council decision on the conclusion of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro (08353/2023 – C9-0177/2023 – 2023/0102(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Lena Düpton
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 of the Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro (08353/2023 – C9-0177/2023 – 2023/0102(NLE))

(Consent)

The European Parliament,

– having regard to the draft Council decision (08353/2023),

– having regard to Agreement between the European Union and Montenegro on operational activities carried out by the European Border and Coast Guard Agency in Montenegro (08354/2023),

– having regard to the request for consent submitted by the Council in accordance with Article 77(2), points (b) and (d), Article 79(2), point (c), and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C9-0177/2023),

– having regard to Rule 105(1) and (4), and Rule 114(7) of its Rules of Procedure,

– having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2023),

1. Gives its consent to the conclusion of the agreement;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Montenegro.
EXPLANATORY STATEMENT

a. Background
The proposed Council Decision aims to approve the Status Agreement between the European Union and Montenegro on actions carried out by the European Border and Coast Guard Agency in Montenegro as foreseen in the Regulation (EU) 2019/1896 on the European Border and Coast Guard.

One of the tasks of the European Border and Coast Guard Agency (the 'Agency') is to cooperate with third countries in relation to the areas covered by the European Border and Coast Guard Regulation ‘including through the possible operational deployment of border management teams in third countries’. The Agency may cooperate with the authorities of third countries competent in matters covered by the Regulation to the extent required for the fulfilment of its tasks and may carry out actions related to European integrated border management on the territory of a third country subject to the agreement of that third country.

The purpose of the status agreement is to cover all aspects that are necessary for carrying out the actions of the Agency in third countries. Pursuant to Article 73(3) of Regulation (EU) 2019/1896, 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 shall be concluded by the Union with the third country concerned.

In accordance with the European Border and Coast Guard Regulation and as referred to in Article 76(1) of the Regulation the Commission presented in its communication COM(2021) 829 a model status agreement as referred to in Regulation (EU) 2019/1896 containing specific provisions for conducting actions on the territory of third countries. The status agreement with Montenegro is based on the model that the Commission has drawn up.

The Commission has briefed the rapporteurs on 10 May 2023 on the progress made in the status agreement negotiations between the European Union and the Republic of Montenegro. The Agreement was signed on 16 May 2023 in Podgorica.

b. Position of the Rapporteur
During the peak of the migration and refugee crisis in 2015, hundreds of thousands of asylum seekers and migrants arrived in the European Union via the Western Balkans with Montenegro lying on one of the primary routes for irregular mixed movement.

The Rapporteur considers that the conclusion of formal, legally binding agreements in the framework of cooperation with third countries, as opposed to bilateral arrangement, is of crucial importance in order to ensure transparency, public scrutiny and democratic oversight on such cooperation. However, any agreements concluded between the European Union and third countries on actions carried out by the European Border and Coast Guard Agency should be carefully considered, have an added value and be strictly necessary and proportionate in terms of purpose and content.

The European Border and Coast Guard Agency and the Ministry of Interior of Montenegro are required to adhere to the provisions of the EBCG Regulation and ensure the fundamental
rights compliance.

As a conclusion, your Rapporteur finds that the proposed status agreement is consistent with the model status agreement as provided for in the Commission’s communication on the content and provisions that should be included in the final agreement.

As this agreement enters into implementation phase, the Parliament requests that the European Border and Coast Guard Agency promptly informs the European Parliament of the activities conducted as part of the implementation of the Status Agreement and reminds the Agency of its obligation to include an assessment of the cooperation with third countries in its annual reports in accordance with article 73(8) of Regulation (EU) 2019/1896.

In light of the above, the rapporteur recommends that Parliament endorse the draft Council Decision text.