



**2023/0229(NLE)**

14.2.2024

**\*\*\***

## **DRAFT RECOMMENDATION**

on the draft Council decision on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Swiss Confederation 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  
(12122/2023 – C9-0461/2023 – 2023/0229(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jadwiga Wiśniewska

***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.)

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	6



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion, on behalf of the Union, of the Agreement between the European Union and the Swiss Confederation 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  
(12122/2023 – C9-0461/2023 – 2023/0229(NLE))**

**(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (12122/2023),
  - having regard to the draft Agreement between the European Union and the Swiss Confederation 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 (12120/2023),
  - having regard to the request for consent submitted by the Council in accordance with Article 77(2), Article 218(6), second subparagraph, point (a), and Article 218(7) of the Treaty on the Functioning of the European Union (C9-0461/2023),
  - 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 (A9-0000/2024),
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 the Swiss Confederation.

## EXPLANATORY STATEMENT

### a. 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<sup>1</sup>) 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 ('Schengen associated countries' or 'associated countries').

The Swiss Confederation notified on 11 August 2021 its decision to accept the content of the BMVI Regulation and to implement it in its internal legal order. The Commission presented the proposal for a Council Decision on the signing of an Agreement between the EU and the Swiss Confederation on the supplementary rules in relation to the instrument for financial support for border management and visa policy prior to having received the Swiss notification on fulfilment of its constitutional requirements to avoid shortening the time of the actual application of the BMVI Regulation in Switzerland. In line with recital 75 of the BMVI Regulation, the conclusion of such arrangement should take place after the country concerned has informed in writing of the fulfilment of all its internal requirements.

Paragraph 6 of Article 7 of the BMVI Regulation provides that 'arrangements' should be made to specify the nature and modes of the participation in the BMVI of countries associated with the implementation, application and development of the Schengen acquis, in accordance with the relevant provisions of the respective association agreements. These arrangements take the form of agreements concluded by the Union with the Schengen associated countries in accordance with Article 216 TFEU.

On 21 February 2022, the Council authorised the Commission to open negotiations<sup>1</sup> with Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein for the arrangements on the financial contributions of those countries and the supplementary rules necessary for their participation in the Instrument for Financial Support for Border Management and Visa Policy for the period 2021 to 2027, 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 Regulation (EU) 2021/1148 of the European Parliament and of the

---

<sup>1</sup> Council Decision (EU) 2022/442 of 21 February 2022 authorising the opening of negotiations with Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein with a view to concluding agreements between the European Union and those countries 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 (OJ L 90, 18.3.2022, p. 116).

Council<sup>2</sup>. The negotiations with the Swiss Confederation were successfully concluded by the initialling of the Agreement on 14 February 2023

On 10 July 2023 the Commission submitted to the Council a proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Swiss Confederation 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.

On 28 September 2023, the Council adopted a Decision on the signing, on behalf of the Union, of the Agreement between the European Union and the Swiss Confederation 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 Agreement was signed on 28 November 2023 in Brussels.

On 7 December 2023, the Council requested the European Parliament to give its consent to the draft Council Decision on the conclusion of the above-mentioned Agreement.

## **b. Position of the Rapporteur**

The Instrument for Financial Support for Border Management and Visa Policy, as part of the Integrated Border Management Fund, constitutes a specific instrument in the context of the Schengen *acquis* designed to ensure strong and effective European integrated border management at external borders, while safeguarding the free movement of persons, in full compliance with the Member States' and associated countries' commitments on fundamental rights, and to support a uniform implementation and modernisation of the common visa policy, thereby contributing to guaranteeing a high level of security in Member States and associated countries.

The Rapporteur agrees that BMVI offers the opportunity to implement actions in shared management, direct and indirect management modes, and the Agreement should make it possible that the implementation in any of these methods can be realised in Switzerland in accordance with the principles and rules of the Union on financial management and control.

The Rapporteur considers as well that, given the specific 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 the programmes should apply for Switzerland in the same way as for Member States.

The Rapporteur considers that the conclusion of formal, legally binding agreements in the framework of cooperation with associated countries, as opposed to other type of arrangements, is of crucial importance in order to ensure transparency, public scrutiny and democratic oversight. This is especially important when it comes to the use of the EU budget.

---

<sup>2</sup> Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (OJ L 251, 15.7.2021, p. 48).

Other specific provisions should be further complied with. By virtue of the Schengen association agreements, Switzerland must fully accept the Union measures, including the BMVI Regulation, which develop or build upon the Schengen acquis, and take the necessary measures to ensure compliance with the provisions relevant for the financial management and control which are laid down in the TFEU and in Union law that derives its legal basis from the TFEU. The agreements also introduce specific mechanisms for swift adjustments to the agreement with Switzerland, in the event of changes to key Union legislation relevant to the implementation, such as the Financial Regulation and the Common Provisions Regulation. The agreement ensures, as well, that the mid-term review of the BMVI takes into account the delayed participation of the Schengen associated countries.

Furthermore, 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 Switzerland via the Agreement concerned by the present proposal.

Finally, the agreement also contain a provision on European Travel Information and Authorisation System (ETIAS).

As a conclusion, your Rapporteur finds that it is appropriate to establish an Agreement setting out the supplementary rules necessary for the participation of the Swiss Confederation in the Instrument for Financial Support for Border Management and Visa Policy (the "BMVI") as part of the Integrated Border Management Fund for the programming period 2021 to 2027 in accordance with Article 7(6) of Regulation (EU) 2021/1148 (the "BMVI Regulation").

In light of the above, the rapporteur recommends that Parliament gives its consent to the draft Council decision and instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States.