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European Union

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#### **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the signing, 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

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**COUNCIL DECISION (EU) 2018/...**

**of ...**

**on the signing, 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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 74, points (a) and (b) of Article 77(2), point (e) of Article 78(2), point (c) of Article 79(2), point (d) of Article 82(1), Article 85(1), point (a) of Article 87(2) and Article 88(2), in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Regulation (EU) No 1077/2011 of the European Parliament and of the Council<sup>1</sup> established the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (the ‘Agency’).
- (2) Regulation (EU) No 1077/2011 provides that under the relevant provisions of their association agreements, arrangements are to be made in order to specify, inter alia, the nature and extent of, and the detailed rules for, the participation of 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.
- (3) On 24 July 2012, the Council authorised the Commission to open negotiations with the Kingdom of Norway, the Republic of Iceland, the Swiss Confederation and the Principality of Liechtenstein for an arrangement on the modalities of their participation in the Agency. The negotiations were successfully concluded by the initialling 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 (the ‘Arrangement’) on 15 June 2018.

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<sup>1</sup> Regulation (EU) No 1077/2011 of the European Parliament and of the Council 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p. 1).

- (4) The text of the Arrangement, which is the result of the negotiations, contains the specifications needed to make the participation of the countries associated with the implementation, application and development of the Schengen *acquis* and Eurodac-related measures in the work of the Agency a reality.
- (5) As specified in recital 33 of Regulation (EU) No 1077/2011, the United Kingdom is taking part in and is bound by that Regulation. Ireland requested to take part in Regulation (EU) No 1077/2011 following its adoption, in accordance with Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and with Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU. The United Kingdom and Ireland should therefore give effect to Article 37 of Regulation (EU) No 1077/2011 by taking part in this Decision. The United Kingdom and Ireland are therefore taking part in this Decision.

(6) As specified in recital 32 of Regulation (EU) No 1077/2011, Denmark is not taking part in and is not bound by that Regulation. Denmark is therefore not taking part in this Decision. Given that this Decision, insofar as it relates to the Schengen Information System (SIS II) established by Regulation (EC) No 1987/2006 of the European Parliament and of the Council<sup>1</sup> and by Council Decision 2007/533/JHA<sup>2</sup>, the Visa Information System (VIS) established by Council Decision 2004/512/EC<sup>3</sup> and the Entry/Exit System (EES) established by Regulation (EU) 2017/2226 of the European Parliament and of the Council<sup>4</sup>, builds upon the Schengen *acquis*, Denmark shall in accordance with Article 4 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law. In accordance with Article 3 of the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and Eurodac for the comparison of fingerprints for the effective application of the Dublin Convention<sup>5</sup>, Denmark is to notify the Commission whether it will implement the content of this Decision, insofar as it relates to Eurodac and DubliNet.

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<sup>1</sup> Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381, 28.12.2006, p. 4).

<sup>2</sup> Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

<sup>3</sup> Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

<sup>4</sup> Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).

<sup>5</sup> OL L 66, 8.3.2006, p. 38.

- (7) The Arrangement should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

*Article 1*

The signing 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 is hereby authorised, subject to the conclusion of the said Arrangement<sup>1</sup>.\*

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Arrangement on behalf of the Union.

*Article 3*

This Decision shall enter into force on the date of its adoption.

Done at ...,

*For the Council*

*The President*

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<sup>1</sup> The text of the Arrangement will be published together with the decision on its conclusion.

\* Delegations: see document ST 12367/18.