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2026/0351 (NLE)

Proposal for a

COUNCIL DECISION

establishing the position to be taken on behalf of the Union concerning the adoption of the Rules of Procedures of the Joint Committee established by the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be taken on the Union's behalf to adopt the Rules of Procedures of the Joint Committee established by the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes (hereafter "the Agreement")[1].

2. CONTEXT OF THE PROPOSAL

2.1. The Agreement

The Agreement is part of a broad package of agreements negotiated in 2024 to consolidate, deepen and expand EU-Swiss relations. The Agreement itself was signed on 10 November 2025 and has been provisionally applied with effect as from 1 January 2025 to allow for an early participation of Swiss entities in Union programmes.

The Agreement frames the participation of Switzerland to the Union programmes which are open to the association of third countries. It determines the financial conditions with which Switzerland will contribute to the budget of the Union programmes. It also clarifies the participation of Swiss representatives in the different Union programmes governance structures. Where provided for in the respective basic acts, the Agreement requires that EU entities get access to equivalent Swiss funding programmes on a reciprocal basis.

2.2. The Joint Committee

The Joint Committee on participation in Union programmes established by Article 16(1) of the Agreement is responsible for ensuring the proper functioning and effective implementation of the Agreement, which covers such issues as:

– the implementation of the mechanism governing Switzerland's financial contribution to the Union programmes or activities in which it participates;

– information exchange and the examination of possible questions on the exploitation of results, including intellectual property rights;

– discussions of restrictions to access to research and innovation programmes;

– discussions on future orientations of policies related to Union programmes or activities covered by the Agreement;

– adoption of protocols to the Agreement on specific terms and conditions of Switzerland's participation in Union programmes or activities via a decision;

– the amendment of Articles 11 and 12 of the Agreement on review and audits and administrative investigations carried out by the European Anti-Fraud Office("OLAF");

– ensure the proper functioning and effective implementation of the Agreement as regards the participation of Switzerland, in cooperation with the Joint Committee

[1] Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes (OJ L, 2025/2480, 16.12.2025).
ELI: http://data.europa.eu/eli/agree_internation/2025/2480/oj

established by the Agreement between the European Union and the Swiss Confederation on health (the "Agreement on Health").

The decisions of the Joint Committee are taken by consensus.

The Joint Committee is composed of representatives of the EU and Switzerland and is to be co-chaired by the EU and Switzerland. Article 3 of the draft Council Decision on the conclusion of a broad package of agreements between the EU and Switzerland discussed at the General Affairs Council of 24 February 2026 foresees that the EU shall be represented by the Commission and that each Member State shall be allowed to send one representative as part of the Union delegation in meetings of the Joint Committee[2].

2.3. The envisaged act of the Joint Committee

At its first meeting, the Joint Committee is to adopt a Decision on the "Rules of Procedure of the Joint Committee established by the EU-Switzerland Agreement on the participation of Switzerland in Union Programmes".

The purpose of the envisaged decision is to spell out the tasks and responsibilities of the Joint Committee in line with Articles 3(2) and 16 of the Agreement.

To that end, the envisaged rules of procedure outline how the Joint Committee:

– will be composed of representatives of the Union and Switzerland, including the designation of co-chairs, and a secretariat composed of representatives of both Parties;

– will organise its meetings, set its agenda, and handle the minutes of such meetings;

– will prepare and file the decisions that it will take to implement the Agreement;

– will cooperate with the Joint Committee established by the Agreement on Health, as specified by Article 16(1), paragraph (b), of the Agreement;

– will handle classified and sensitive non-classified information, ensure protection of personal data, and handle requests for access to documents;

– can set up and manage working parties or advisory bodies under its authority.

In accordance with Article 16(2) of the Agreement, the Joint Committee's Decision will be binding upon the Parties. It will be applicable immediately.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

It is proposed to agree to the proposed decision on the position to be taken by the Union and therefore enable the Joint Committee to adopt its rules of procedure.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1 Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

[2] See https://data.consilium.europa.eu/doc/document/ST-10643-2025-INIT/en/pdf

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[3].

4.1.2 Application to the present case

The Joint Committee is a body set up by an agreement, namely the EU-Switzerland Agreement on Switzerland's participation in Union programmes.

The act which the Joint Committee is called upon to adopt constitutes an act having legal effects upon the functioning of the Joint Committee, and as a consequence, it will produce legal effects for the Union under the Agreement as both parties will be required to follow them.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

As the envisaged decision aims to establish working arrangements for the management and implementation of the Agreement which is part of a broad package of linked agreements, the appropriate substantive legal basis for the proposed Council Decision on the signing and provisional application of the Agreement, as regards matters falling under the Treaty on the Functioning of the European Union, is Article 217 TFEU.

5. PUBLICATION OF THE ENVISAGED ACT

The decision of the Joint Committee adopting its Rules of Procedure will be published in the *Official Journal of the European Union* after its adoption.

[3] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(9) in conjunction with Article 217 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes ("the Agreement") was signed on 10 November 2025 and is provisionally applied as authorised by Council Decision (EU) 2025/2478[4].

(2) Pursuant to Article 16(8) of the Agreement, the Joint Committee should adopt its Rules of Procedure at its first meeting.

(3) It is therefore appropriate to establish the position to be taken on the behalf of the Union in the Joint Committee, as regards the adoption of the Rules of Procedure of the Joint Committee.

(4) The adoption as regards matters falling under the Treaty establishing the European Atomic Energy Community (the 'Euratom Treaty') is subject to a separate procedure.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the behalf of the Union in the Joint Committee established by the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union Programmes shall be based on the draft decision of the Joint Committee attached to this Decision.

[4] Council Decision (EU) 2025/2478 of 21 October 2025 on the signing, on behalf of the Union, and provisional application of the Agreement between the European Union and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, on the participation of the Swiss Confederation in Union programmes (OJ L, 2025/2478, 16.12.2025).
ELI: http://data.europa.eu/eli/dec/2025/2478/oj

Article 2

This Decision shall enter into force on […].

Done at Brussels,

For the Council
The President