



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 26 April 2010
(OR. en)**

6077/10

**Interinstitutional File:
2006/0251 (CNS)**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating in particular to judicial cooperation in criminal matters and police cooperation

COUNCIL DECISION

of

**on the conclusion on behalf of the European Union of the Protocol
between the European Union, the European Community, the Swiss Confederation
and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein
to the Agreement between the European Union, the European Community
and the Swiss Confederation on the Swiss Confederation's association
with the implementation, application and development of the Schengen acquis, relating in
particular to judicial cooperation in criminal matters and police cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16, 79(2)(c), 82(1)(b) and (d), 87(2), 87(3), 89 and 114 in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ OJ C

Whereas:

- (1) Following the authorisation given to the Presidency, assisted by the Commission, on 27 February 2006, negotiations with the Principality of Liechtenstein and the Swiss Confederation of a Protocol on the accession of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis have been finalised;
- (2) In accordance with Council Decisions 2008/261/EC¹ and 2008/262/JHA², and subject to its conclusion at a later date, the Protocol was signed on behalf of the European Union on 28 February 2008;
- (3) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community;

¹ Council Decision 2008/261/EC of 28 February 2008 on the signature, on behalf of the European Community, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 83, 26.3.2008, p. 3).

² Council Decision 2008/262/JHA of 28 February 2008 on the signature, on behalf of the European Union, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 83, 26.3.2008, p. 5).

- (4) The Protocol should be approved;
- (5) As far as the development of the Schengen acquis is concerned, which falls under Part Three, Title V of the Treaty on the Functioning of European Union, it is appropriate to make Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis¹ applicable, *mutatis mutandis*, to the relations with Liechtenstein;
- (6) The United Kingdom is taking part in this Decision in accordance with Article 5(1) of the Protocol on the Schengen acquis integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis²;

¹ OJ L 176 of 10.7.1999, p. 31.

² OJ L 131, 01.06.2000, p. 43.

- (7) Ireland is taking part in this Decision in accordance with Article 5(1) of the Protocol on the Schengen acquis integrated into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis¹;
- (8) This Decision does not prejudice the position of Denmark under the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

HAS ADOPTED THIS DECISION:

¹ OJ L 064, 07.03.2002, p.20.

Article 1

The Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis and related documents are hereby approved on behalf of the European Union.

The texts of the Protocol and the related documents are attached to this Decision*.

Article 2

This decision applies to the fields covered by the provisions listed in Article 2(1) and (2) of the Protocol and to their development to the extent that such provisions are listed in Council Decisions 2000/365/EC and 2002/192/EC.

Article 3

The provisions of Articles 1 to 4 of Council Decision 1999/437/EC shall apply, in the same way, to the association of Liechtenstein with the implementation, application and development of the Schengen acquis.

* OJ: Please attach doc. ST 16462/06.

Article 4

The President of the Council is hereby authorised to designate the person empowered to deposit on behalf of the European Union the Instrument of approval provided for in Article 9 of the Protocol, in order to express the consent of the European Union to be bound, and make the following notification:

"As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the Protocol as well as in the Agreement are, where appropriate, to be understood as to "the European Union"."

Article 5

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

Article 6

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President

COUNCIL DECISION

of

**on the conclusion, on behalf of the European Union of the Protocol
between the European Union, the European Community, the Swiss Confederation
and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein
to the Agreement between the European Union, the European Community
and the Swiss Confederation on the Swiss Confederation's association
with the implementation, application and development of the Schengen acquis, relating to the
abolition of checks at internal borders and movement of persons**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular
Articles 16, 74, 77 (2) and 79 (2) (a) and (c) in conjunction with Article 218 (6)(a) thereof,

Having regard to the proposal of the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Following the authorisation given to the Commission on 27 February 2006, negotiations with the Principality of Liechtenstein and the Swiss Confederation of a Protocol on the accession of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis have been finalised;
- (2) In accordance with Council Decisions 2008/261/CE¹ and 2008/262/JHA², and subject to its conclusion at a later date, the Protocol was signed on behalf of the European Community on 28 February 2008;
- (3) As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community;

¹ Council Decision 2008/261/EC of 28 February 2008 on the signature, on behalf of the European Community, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 83, 26.3.2008, p. 3).

² Council Decision of 28 February 2008 on the signature, on behalf of the European Union, and on the provisional application of certain provisions of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 83, 26.3.2008, p. 5).

- (4) This Protocol should be approved;
- (5) As far as the development of the Schengen acquis is concerned, which falls under Part Three, Title V of the Treaty on the Functioning of the European Union , it is appropriate to make Council Decision 1999/437/EC on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis¹ applicable, *mutatis mutandis*, to the relations with Liechtenstein;
- (6) This Decision constitutes a development of provisions of the Schengen acquis in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis²; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

¹ OJ L 176, 10.7.1999, p. 31.

² OJ L 131, 1.6.2000, p. 43.

- (7) This Decision constitutes a development of provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis¹; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (8) This Decision does not prejudice the position of Denmark under the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

HAS ADOPTED THIS DECISION:

¹ OJ L 64, 7.3.2002, p. 20.

Article 1

The Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis and related documents are hereby approved on behalf of the European Union.

The texts of the Protocol and the related documents are attached to this Decision*.

Article 2

This decision applies to the fields covered by the provisions listed in Article 2(1) and (2) of the Protocol and to their development to the extent that such provisions are not listed in Council Decision 2000/365/EC and 2002/192/EC.

Article 3

The provisions of Articles 1 to 4 of Council Decision 1999/437/EC shall apply, in the same way, to the association of Liechtenstein with the implementation, application and development of the Schengen acquis.

* OJ: Please attach doc. ST 16462/06.

Article 4

The President of the Council is hereby authorised to designate the person empowered to deposit on behalf of the European Union the Instrument of approval provided for in Article 9 of the Protocol, in order to express the consent of the European Union to be bound, and make the following notification:

"As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the Protocol as well as in the agreement are, where appropriate, to be understood as to "the European Union"."

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For the Council

The President
