EC/Switzerland and Liechtenstein Arrangement: participation of Switzerland and Liechtenstein in the activities of Frontex

2009/0073(NLE) - 04/06/2009 - Preparatory document

PURPOSE: to enable Switzerland and Liechtenstein to participate in the activities of FRONTEX.

PROPOSED ACT: Council Decision

BACKGROUND: Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU (FRONTEX) provides for countries associated with the Schengen acquis to participate in theAgency. The detailed rules of their participation must be specified in further arrangements to be concluded between the EC and those countries.

In October 2004, the EU, the EC and the Swiss Confederation signed the Agreement concerning the Swiss Confederation's association with the Schengen Agreement. On 1 March 2008 the Schengen Agreement entered into force. The Schengen Agreement provides for Liechtenstein's association with the Schengen acquis by means of a Protocol to the Schengen Agreement determining the rights and obligations of each of the contracting parties. The Protocol was signed on 28 February 2008 and is expected to be concluded in 2009.

For efficiency, and to avoid the need to conduct separate negotiations, Liechtenstein has been associated with the negotiations on its participation in the Agency before conclusion of the Protocol is completed, which were finalised on 19 January 2009 and led to the draft Arrangement.

The European Parliament will be formally consulted on conclusion of the Arrangement.

IMPACT ASSESSMENT: the proposal was not subject to an impact assessment.

CONTENT: this Arrangement establishes clear and legally binding rights and obligations to ensure effective participation by Switzerland and Liechtenstein in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU. The Arrangement deals with the following issues:

- the limited voting rights of representatives of Switzerland and Liechtenstein on the Management Board of the Agency;
- the financial contribution by Switzerland and Liechtenstein to the budget of the Agency;
- protection and confidentiality of data;
- the legal status of the Agency in Switzerland and Liechtenstein;
- the liability of the Agency;
- recognition by Switzerland and Liechtenstein of the jurisdiction of the Court of Justice of the European Communities over the Agency;
- privileges and immunities of the Agency and its staff;
- access for nationals of Switzerland and Liechtenstein to be engaged under contract by the Executive Director of the Agency.

The special situations of Denmark, the United Kingdom and Ireland are reflected in the preamble.

Two joint declarations are attached to the Arrangement covering:

1. voting rights, and
2. application of the provisions on the civil liability in relation to deployment of rapid border intervention teams.

FINANCIAL IMPLICATIONS: not applicable.