EC/Norway, Iceland, Switzerland and Liechtenstein agreement: supplementary rules in relation to the External Borders Fund for the period 2007 to 2013

2009/0148(NLE) - 21/03/2011 - Final act

PURPOSE: the conclusion, on behalf of the European Union, an Agreement between the European Community and Iceland, Norway, Switzerland and Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013.

NON-LEGISLATIVE ACT: Council Decision 2011/305/EU on the conclusion, on behalf of the European Union, of an Agreement between the European Community and Iceland, Norway, Switzerland and Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013.

BACKGROUND: according to Article 11 of Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' the third countries associated with the implementation, application and development of the Schengen acquis shall participate in the Fund in accordance with its provisions and arrangements should be concluded to specify supplementary rules necessary for such participation, including provisions ensuring the protection of the Community's financial interests and the power of audit of the Court of Auditors. Having received the Council's authorisation, on 20 December 2007, the Commission started negotiations with Iceland, Norway, Switzerland and Liechtenstein, which finally concluded on 30 June 2009.

The Agreement should be concluded on behalf of the EU.

CONTENT: with this Decision; the agreement between the European Community and Iceland, Norway, Switzerland and Liechtenstein on supplementary rules in relation to the External Borders Fund for the period 2007 to 2013, as well as a number of related Declarations are approved on behalf of the Union.

The main provisions of the agreement may be summarised as follows:

Purpose and scope: the agreement governs:

Rules enabling the Commission to assume final responsibility for the budget allocated to the Fund in these States: in particular, the agreement lays down provisions regarding financial management and control of the Fund, such as i) the principle of good financial management, ii) respect for the principle on conflict of interest, iii) obligations on the associated States resulting from the delegation of the implementation of EU funds, iv) enforcement of pecuniary obligations, v) protection of the financial interests of the Communities against fraud, vi) on-the-spot checks and controls by the Court of Auditors, vii) public procurement;

Financial contributions and allocations: the agreement lays down the amounts of contributions for the period 2009-2013. The fixed nature of these amounts offers an advantage: it facilitates the calculation of the total annual credits made available to the Fund. These fixed amounts are however subject to a correction mechanism. The financial contributions of each State concerned are detailed in the Agreement;

Procedures for the presentation of programmes and reports by the associated countries, given their delayed involvement in the Fund.

Special provisions regarding application: the Parties have agreed that this agreement shall be provisionally applicable from the day following its signature, without prejudice to constitutional requirements. An exception to this principle is provided for in regard to the application of Article 6 regarding enforcement of pecuniary obligations which requires the adoption of specific legislative measures in the associated States.

In the interests of efficiency and to avoid having to conduct separate negotiations with it, Liechtenstein was associated, before the conclusion of the protocol, in the negotiations regarding participation in the Fund. This agreement only applies to Liechtenstein from the date of entry into force of the protocol that associates this country with the Schengen acquis.

Declarations: a joint declaration is attached to the agreement. This concerns Liechtenstein's wish not to participate in the Fund, without prejudice to its obligation to contribute to it financially. There is also an exchange of declarations between Norway and the European Community on the application of the principle of direct enforceability of decisions by the European Community.

Territorial provisions: in accordance with the Protocol on the position of the United Kingdom and Ireland with regard to the area of freedom, security and justice annexed to the Treaty on the EU and the TFEU, these States do not participate in the adoption and application of the agreement. The same goes for Denmark, although this country may decide, within a period of six months from the date of the adoption of the decision by the Council, whether it will transpose this agreement into its national legislation.

ENTRY INTO FORCE: the decision enters into force on 21.03.2011. The agreement applies provisionally from the moment of its signature.