

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

2009/0168(NLE) - 30/10/2009 - Preparatory document

PURPOSE: to **conclude** the Arrangement between the European Community and Iceland, Liechtenstein, Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis

PROPOSED ACT: Council Decision.

BACKGROUND: on 17 May 1999, the Council of the European Union and Norway concluded an [Agreement](#) concerning those states' association with the implementation, application and development of the Schengen acquis. On 26 October 2004, the European Union, the European Community and Switzerland signed the [Agreement](#) concerning the Swiss Confederation's association with the implementation, application and development of the Schengen acquis. On 1 March 2008 the Agreement entered into force. Lastly, on 21 June 2006, a [Protocol](#) between the Council of the European Union, the European Community, Switzerland and Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement concluded by the Council of 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 was initialled. The Protocol was signed on 28 February 2008.

The Association Agreements set up a Mixed Committee consisting of representatives of the governments of the Associated States as well as of the Council of the European Union and the Commission of the European Communities. Consequently, the representatives of the Associated States attend Mixed Committees which meet in form of Council working groups enlarged by the representatives of the Associated States.

The participation in the Mixed Committee gives the Associated States the opportunity, in good time, to voice any concerns regarding developments of the Schengen acquis, which must be adopted by all the Associated States, and the implementation of this acquis. After discussion in the Mixed Committee, the measures taken to develop the Schengen acquis are adopted by the Council and by the European Parliament through the appropriate decision-taking procedure laid down in the Treaties. Thus, the **Associated States participate in decision-shaping but not in decision-taking**. This sui generis association with the Schengen acquis lead the Council to conclude agreements in the form of an exchange of letters concerning the Committees which assist the Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

It is therefore necessary to formalise the association of these countries with the work of the Schengen Comitology according a more appropriate procedure.

IMPACT ASSESSMENT: not applicable.

CONTENT: until the Arrangement covered by this document is **concluded**, the Associated States participate in the work of the Schengen Comitology committees as observers through the above mentioned *ad hoc* exchange of letters.

This proposed Decision provides for the conclusion of a **single Arrangement** concerning the participation by the Associated States in the work of the Schengen Comitology committees to ensure consistency between and equal treatment of all Associated States.

For efficiency, and to avoid the need to conduct separate negotiations, Liechtenstein has been associated with the negotiations on its participation in the Schengen Comitology committees before conclusion of the Association Protocol is completed. The Arrangement on the participation in the work of the Schengen Comitology committees will not apply to Liechtenstein until the date when the Association Protocol has entered into force.

The negotiations were finalised on 30 June 2009 and the draft Arrangement was initialled. The main characteristics can be summarised as follows:

Scope and purpose: the Arrangement provides that:

- the Associated States will be associated as **observers** with the work of the current and future Comitology committees assisting the Commission in Schengen matters. The list of the Schengen Comitology committees will be regularly updated by the Commission and will be published in the Official Journal;
- a series of **clear rights and obligations** shall be established to ensure effective participation by the Associated States in the Schengen Comitology committees;
- the representatives of the Associated States shall receive all relevant meeting documents when the meeting of the committee is convened, they may comment on a proposed measure constituting a development of the Schengen *acquis* or voice any problems encountered in applying these measures;
- the representatives from these **States will not take part in the voting** of these committees and shall withdraw when the Committee moves to a vote;
- the Commission will communicate to the Associated States the acts and measures constituting a development of the Schengen *acquis*;
- the Associated States will decide independently regarding the implementation of all measures adopted by the Schengen Comitology committee procedures concerning the application and development of the Schengen *acquis* confirming the rules set out in the basic Association Agreements;
- a **financial contribution** shall be made from the Associated States to the administrative expenses resulting from their participation in the Schengen Comitology committees. The Associated States shall make an annual contribution to the general budget of the European Communities in accordance with the percentage of the gross domestic product of their countries in relation to the gross domestic product of all participating States of an amount of EUR 500 000, subject to an annual adjustment to reflect the rate of inflation in the European Union. The travelling costs of the representatives who participate in the meetings of the Schengen Comitology committees shall not be reimbursed.

It should be noted that the special situations of Denmark, the United Kingdom and Ireland are reflected in the preamble.

Declaration: lastly, the Arrangement includes a Joint declaration which underlines that this specific association shall not be regarded as a legal or political precedent for any other field of cooperation between the European Community and those countries.

