Basic information

2009/0073(NLE) NLE - Non-legislative enactments Decision	Procedure completed
EC/Switzerland and Liechtenstein Arrangement: participation of Switzerland and Liechtenstein in the activities of Frontex **Subject** 7.10.04 External borders crossing and controls, visas **Geographical area** Liechtenstein Switzerland	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Former committee responsible	Former rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
AFET Foreign Affairs		

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2957	2009-07-27
General Affairs	3028	2010-07-26
Education, Youth, Culture and Sport	2993	2010-02-15

European Commission

Commission DG	Commissioner

Justice and Consumers	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
04/06/2009	Preparatory document	COM(2009)0255	Summary
19/10/2009	Committee referral announced in Parliament		
02/12/2009	Additional information		Summary
09/02/2010	Legislative proposal published	05707/2010	Summary
31/05/2010	Vote in committee		Summary
02/06/2010	Committee report tabled for plenary, 1st reading/single reading	A7-0172/2010	
06/07/2010	Decision by Parliament	T7-0251/2010	Summary
06/07/2010	Results of vote in Parliament		
26/07/2010	Act adopted by Council after consultation of Parliament		
26/07/2010	End of procedure in Parliament		
16/09/2010	Final act published in Official Journal		

Technical information

Procedure reference	2009/0073(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the European Union TFEU 218-p6a Treaty on the Functioning of the European Union TFEU 077-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/00319

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE440.137	09/04/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0172/2010	02/06/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0251/2010	06/07/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	10701/2009	15/07/2009	Summary
Legislative proposal	05707/2010	09/02/2010	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2009)0255	04/06/2009	Summary

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Decision 2010/0490 OJ L 243 16.09.2010, p. 0002	Summary

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

2009/0073(NLE) - 06/07/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a legislative resolution in which it gives its consent to the conclusion of the arrangement between the European Union, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX).

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.

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

2009/0073(NLE) - 26/07/2010 - Final act

PURPOSE: to conclude the Arrangement for Switzerland and Lichtenstein to participate in the activities of FRONTEX.

LEGISLATIVE ACT: Council Decision 2010/490/EU on the conclusion, on behalf of the Union, of the Arrangement between the European Community, of the one part, and the Swiss Confederation and the Principality of Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union.

CONTENT: this Decision approves the Arrangement between the EC and Switzerland and Liechtenstein, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU.

The Arrangement sets out the modalities of the participation by those States in the FRONTEX Agency. In accordance with the FRONTEX Regulation (Council Regulation (EC) No 2007/2004), countries associated with the implementation, application and development of the Schengen acquis shall participate in the Agency, **albeit with limited voting rights**.

Rights accorded to Switzerland and Liechtenstein, in accordance with the Arrangement: Switzerland and Liechtenstein shall be represented on the Management Board of the Agency.

- **Switzerland shall have voting rights**:

- as regards decisions on specific activities to be carried out at its external borders;
- as regards decisions on specific activities under Article 3 of the Frontex Regulation (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and /or equipment made available by Switzerland;
- as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Switzerland, under Article 4;
- as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

- **Liechtenstein shall have voting rights**:

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as regards decisions on specific activities under Article 3 (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and/or equipment made available by Liechtenstein;
- as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Liechtenstein, under Article 4;
- as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

Financial contribution: provisions are laid down for Switzerland and Liechtenstein as regards the financial contribution to the budget in accordance with a percentage laid down the Agreement signed on 26 October 2004 between the EU, the EC and Switzerland on Switzerland's association with the implementation, application and development of the Schengen *acquis* Arrangement.

Protection and confidentiality of data: provisions are also set out for these two countries as regards the protection of individuals with regard to the processing of personal data and on the free movement of such data (in particular data forwarded by the Agency to the authorities of Switzerland and Liechtenstein). Switzerland and Liechtenstein shall respect the rules on confidentiality of documents held by the Agency.

Further measures are also provided so that Switzerland and Liechtenstein respect:

- the legal status of the Agency (which shall have legal personality under the law of Switzerland and the law of Liechtenstein);
- the rules on the liability of the Agency;
- the rules onjurisdiction (the countries shall recognise the jurisdiction of the Court of Justice over the Agency);
- the rules on disputes regarding civil liability (in accordance with Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.

Privileges and immunities – Staff: Switzerland and Liechtenstein shall apply the rules relating to the Agency's staff matters adopted pursuant to the Protocol on the Privileges and Immunities of the European Communities (as set out in the Annex to the Arrangement), except for specific derogations stipulating that nationals of Switzerland and Liechtenstein enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency. Nationals of Switzerland and Liechtenstein may not, however, be appointed to the posts of Executive Director or Deputy Executive Director of the Agency.

Validity of the Arrangement: the Arrangement shall be concluded for an unlimited period.

It should be noted that the Arrangement includes two specific declarations:

- the first on voting rights provided for in the Arrangement are justified by the special relations with Switzerland and Liechtenstein flowing from the association of these States with the implementation, application and development of the Schengen acquis. These voting rights are of an exceptional nature attributable to the specific nature of the Schengen cooperation and the special position of Switzerland and Liechtenstein. They may therefore not be regarded as a legal or political precedent for any other field of cooperation between the parties to the Arrangement or for the participation of other third countries in other agencies of the Union. In no circumstances may these voting rights be exercised in respect of decisions of a regulatory or legislative nature;
- the second concerns civil responsibility in cases where a rapid border intervention team is deployed.

Territorial application: in accordance with Articles 1 and 2 of 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, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen acquis, Denmark shall decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law. On the other hand, the United Kingdom and Ireland shall not take part in the adoption of this Decision and shall not be bound by it or subject to its application.

ENTRY INTO FORCE: the Decision shall enter into force on 26/07/2010. The Agreement shall enter into force as soon as all the necessary procedures have been accomplished.

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

2009/0073(NLE) - 09/02/2010 - Legislative proposal

PURPOSE: to conclude, on behalf of the Union, of the Arrangement between the European Community, of the one part, Switzerland and Liechtenstein, of the other part, on the modalities of the participation by those States in the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX).

PROPOSED ACT: Council Decision.

CONTENT: this proposal aims to conclude, on behalf of the Union, the Agreement between European Community, Switzerland and Liechtenstein on the modalities of the participation by those States in the FRONTEXT Agency.

In accordance with the FRONTEX Regulation (Council Regulation (EC) No 2007/2004), countries associated with the implementation, application and development of the Schengen acquis shall participate in the Agency. The modalities of their participation are to be specified in further arrangements to be concluded between the Union and those countries. These arrangements set out in this document.

As 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. The procedures to be followed by the Union in order to conclude the Agreement are governed by Article 218(6) (a) of the Treaty on the Functioning of the European Union (TFEU) which states that the Council shall adopt a decision concluding the agreement.

Territorial application: in accordance with 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, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen acquis, Denmark shall decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law. On the other hand, the United Kingdom and Ireland shall not take part in the adoption of this Decision and shall not be bound by it or subject to its application.

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

2009/0073(NLE) - 15/07/2009 - Document attached to the procedure

This document presents the text of the **Arrangement** between the European Community, Switzerland and Liechtenstein on the modalities of the participation of these countries in the activities of the Frontex Agency, as was signed by the parties on 19 January 2009.

The main elements of this Arrangement can be summarised as follows:

Purpose: this Arrangement lays down the modalities of the participation of Switzerland and Liechtenstein in the activities of the Frontex Agency. Council Regulation (EC) No 2007/2004 (Frontex Regulation) confirms that countries associated with the implementation, application and development of the Schengen acquis should participate fully in activities of the Agency, **albeit with limited voting rights**.

Rights accorded to Switzerland and Liechtenstein, in accordance with the Arrangement: Switzerland and Liechtenstein shall be represented on the Management Board of the Agency.

- **Switzerland shall have voting rights**:

- as regards decisions on specific activities to be carried out at its external borders;
- as regards decisions on specific activities under Article 3 of the Frontex Regulation (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and /or equipment made available by Switzerland;
- as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Switzerland, under Article 4;
- as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

- **Liechtenstein shall have voting rights**:

- as regards decisions on specific activities under Article 3 (joint operations and pilot projects at external borders), Article 7 (management of technical equipment), Article 8 (support for Member States in circumstances requiring increased technical and operational assistance at external borders) and Article 9(1), first sentence (joint return operations) to be carried out with human resources and/or equipment made available by Liechtenstein;
- as regards decisions on risk analysis (development of the common integrated risk analysis, general and specific risk analysis), directly affecting Liechtenstein, under Article 4;
- as regards decisions on training activities under Article 5, except on establishment of the common core curriculum.

Financial contribution: provisions are laid down for Switzerland and Liechtenstein as regards the financial contribution to the budget in accordance with a percentage laid down the Arrangement.

Protection and confidentiality of data: provisions are also set out for these two countries as regards the protection of individuals with regard to the processing of personal data and on the free movement of such data (in particular data forwarded by the Agency to the authorities of Switzerland and Liechtenstein). Switzerland and Liechtenstein shall respect the rules on confidentiality of documents held by the Agency.

Further measures are also provided so that Switzerland and Liechtenstein respect:

- the legal status of the Agency (which shall have legal personality under the law of Switzerland and the law of Liechtenstein);
- the rules on the liability of the Agency;
- the rules on jurisdiction (the countries shall recognise the jurisdiction of the Court of Justice over the Agency);
- the rules on disputes regarding civil liability (in accordance with Regulation (EC) No 863/2007 of the European Parliament and of the Council establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.

Privileges and immunities – Staff: Switzerland and Liechtenstein shall apply the rules relating to the Agency's staff matters adopted pursuant to the Protocol on the Privileges and Immunities of the European Communities (as set out in the Annex to the Arrangement), except for specific derogations

stipulating that nationals of Switzerland and Liechtenstein enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency. Nationals of Switzerland and Liechtenstein may not, however, be appointed to the posts of Executive Director or Deputy Executive Director of the Agency.

Validity of the Arrangement: the Arrangement shall be concluded for an unlimited period.

It should be noted that the Arrangement includes two specific declarations:

1. the first on voting rights provided for in the Arrangement are justified by the special relations with Switzerland and Liechtenstein flowing from the association of these States with the implementation, application and development of the Schengen acquis. These voting rights are of an exceptional nature attributable to the specific nature of the Schengen cooperation and the special position of Switzerland and Liechtenstein. They may therefore not be regarded as a legal or political precedent for any other field of cooperation between the parties to the Arrangement or for the participation of other third countries in other agencies of the Union. In no circumstances may these voting rights be exercised in respect of decisions of a regulatory or legislative nature;
2. the second concerns civil responsibility in cases where a rapid border intervention team is deployed.