

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COUNCIL DECISION

of 27 July 2009

on the signing, on behalf of the Community, 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

(2010/491/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(a) and Article 66 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 21(3) of Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union⁽¹⁾ provides for countries associated with the implementation, application and development of the Schengen *acquis* to participate in that Agency. The modalities of their participation are to be specified in further arrangements to be concluded between the Community and those countries.
- (2) Following the authorisation given to the Commission on 11 March 2008, negotiations with the Swiss Confederation and the Principality of Liechtenstein for an Arrangement 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 have been concluded.
- (3) Subject to its possible conclusion at a later date, the Arrangement initialled on 19 January 2009 should be signed and the attached Joint Declarations approved.
- (4) 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 establishing the European Community, 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* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of that Protocol, decide within a period of six months after the date of adoption of this Decision whether it will implement it in its national law.

- (5) 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 *acquis*⁽²⁾. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (6) 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 *acquis*⁽³⁾. Ireland is therefore not taking part in its adoption and is not bound by it or subject to application thereof.

HAS DECIDED AS FOLLOWS:

Article 1

The signing 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 and the attached Joint Declarations are hereby approved on behalf of the Community, subject to the conclusion of the Arrangement.

⁽¹⁾ OJ L 349, 25.11.2004, p. 1.

⁽²⁾ OJ L 131, 1.6.2000, p. 43.

⁽³⁾ OJ L 64, 7.3.2002, p. 20.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Arrangement on behalf of the Community, subject to its conclusion.

Done at Brussels, 27 July 2009.

For the Council
The President
C. BILDT
