



EUROPEAN PARLIAMENT

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Plenary sitting

A7-0008/2011

27.1.2011

RECOMMENDATION

on the draft Council Decisions on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between 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
(06077/2010– C7-0141/2010 – 2006/0251(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Carlos Coelho

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council Decisions on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between 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 (06077/2010– C7-0141/2010 – 2006/0251(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decisions (06077/2010),
 - having regard to the draft Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between 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 (16462/2006),
 - having regard to the request for consent submitted by the Council in accordance with Articles 16, 74, 77(2), 79(2)(a) and (c), 82(1)(b) and (d), 87(2), 87(3), 89, 114 and Article 218(6) second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0141/2010),
 - having regard to its position of 8 July 2008¹ on the Commission proposal (COM(2006)0752),
 - having regard to Rules 81 and 90(8) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A7-0008/2011),
1. Consents to the conclusion of the Protocol;
 2. Instructs its President to forward its position to the Council, the Commission, and the governments and parliaments of the Member States, of the Swiss Confederation and of the Principality of Liechtenstein.

¹ OJ C 294 E, 3.12.2009, p.99.

EXPLANATORY STATEMENT

Schengen

The Schengen agreement was signed on the 14 June 1985 by Belgium, Germany, France, Luxembourg and the Netherlands. The agreement, and the subsequent convention adopted in 1990 to implement it agreed to abolish systematic border controls between the countries, allowing free movement of persons. The Schengen Convention abolished checks at the internal borders of the signatory states and created a single external border with common rules on external border controls, a common visa policy, police and judicial cooperation and the establishment of the Schengen Information System (SIS). With the entry into force of the Amsterdam Treaty in 1999, the Schengen cooperation was integrated into the European Union legal and institutional framework.

Currently, the Schengen area comprises 25 Schengen Member States: the EU countries Austria, Belgium, Denmark, France, Finland, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia as well as the three associated non EU countries, Norway, Iceland and Switzerland. Bulgaria, Romania and Cyprus only partially apply the Schengen acquis at the moment and checks are therefore still carried out at the borders with these three Member States.

Before being able to implement fully the Schengen rules, each state needs to have its preparedness assessed in four areas: air borders, visas, police cooperation, and data protection. This evaluation process involves a questionnaire and visits of EU experts to selected places, such as consulates, borders, etc, of the country under assessment.

At this moment, the free movement is guaranteed on a territory with 42,673 km of external sea and 7,721 km of land borders, covering 25 countries and 400 million citizens.

Relations with third countries

The gradual expansion of the Schengen area has led third countries that have particular relations with the EU to take part in Schengen cooperation. The precondition for association with the Schengen acquis by non-EU countries is an agreement on free movement of persons between those states and the EU. For these countries this participation involves:

- being included in the area without checks at internal borders;
- applying the provisions of the Schengen acquis and of all Schengen-relevant texts adopted pursuant to it;
- being involved in decisions relating to Schengen-relevant texts;

In practice, this involvement takes the form of mixed committees that meet alongside the working parties of the EU Council. They comprise representatives of the Member States' governments, the Commission and the governments of third countries. Associated countries therefore participate in discussions on the development of the Schengen acquis, but do not take part in voting. Procedures for notifying and accepting future measures or acts have been laid down.

Liechtenstein accession to Schengen

Liechtenstein is a doubly landlocked alpine microstate in Western Europe, bordered by Switzerland to the west and south and by Austria to the east. It has an area of 160 km², an estimated population of 35.000 and has the highest gross domestic product per person in the world. Liechtenstein has been steadily integrating into the European trade area since its accession to the European Economic Area (EEA) in 1995. The jurisdiction has now implemented 98,4% of EU directives into domestic law. Liechtenstein is also part of the Single Market, in which the same basic rules apply to all participating states.

The signature of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between 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 took place on the 28th February 2008.

The Agreement on the accession of the Swiss Confederation to the Schengen acquis (in force from the 1st March 2008), explicitly anticipates Liechtenstein's possible association with the Schengen acquis by means of a Protocol that determines the rights and obligations of each of the contracting parties. Given the open borders policy for the movement of persons, which existed between the Principality of Liechtenstein and the Swiss Confederation for decades, it was expected that they would join Schengen at the same time.

However, Switzerland joined the Schengen area alone, on the 12th December 2008, with the abolition of border control at land borders, followed by the abolition of border checks on intra-Schengen flights at airports on 29th March 2009. For the first time it was necessary to put up controls at place where there has been no real border for 100 years. The 41 Kilometres that separate the two countries became an external Schengen border.

Position of the Rapporteur

It was requested to the European Parliament, for the first time in 2007, to give its opinion regarding the conclusion of this Protocol. Following a request of the designated Rapporteur, at that time - Mrs. Ewa Klamt - the Legal Affairs Committee gave its unanimously opinion, on 11 June 2007, recommending that the legal basis should be changed so far as to refer to the second paragraph of Article 300(3) of the EC Treaty (the proposals for Council Decisions set out to modify the "specific institutional framework" provided for in the main Agreement, of which the proposed Protocol forms an integral part), which requires the assent and not merely consultation of the European Parliament. For that reason, and with the eminent enter into force of the Treaty of Lisbon this Report was send back to the LIBE Committee.

The rapporteur welcomes the new rules introduced by the Lisbon Treaty allowing the European Parliament to be more closely informed about international agreements and gives its consent to the conclusion of this Protocol.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.1.2011
Result of final vote	+: 48 -: 0 0: 1
Members present for the final vote	Sonia Alfano, Roberta Angelilli, Rita Borsellino, Emine Bozkurt, Simon Busuttill, Philip Claeys, Carlos Coelho, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Ágnes Hankiss, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Clemente Mastella, Véronique Mathieu, Louis Michel, Claude Moraes, Antigoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Wim van de Camp, Daniël van der Stoep, Axel Voss, Renate Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Edit Bauer, Ioan Enciu, Monika Hohlmeier, Stanimir Ilchev, Ádám Kósa, Wolfgang Kreissl-Dörfler, Jean Lambert, Petru Constantin Luhan, Norica Nicolai, Raül Romeva i Rueda, Ernst Strasser, Marie-Christine Vergiat