



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0013/2011

1.2.2011

RECOMMENDATION

on the draft Council decision on the conclusion of a Protocol between the European Union, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (06242/2010 – C7-0140/2010 – 2006/0252(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Monika Hohlmeier

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 decision on the conclusion of a Protocol between the European Union, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland
(06242/2010 – C7-0140/2010 – 2006/0252(NLE))**

(Consent)

The European Parliament,

- having regard to the draft Council decision (06242/2010),
 - having regard to the draft Protocol between 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 Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (16470/06),
 - having regard to the request for consent submitted by the Council in accordance with Article 78(2)(e) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C7-0140/2010),
 - having regard to its position of 8 July 2008¹ on the Commission proposal (COM(2006)0754),
 - 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 (A7-0013/2011),
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 Switzerland and of the Principality of Liechtenstein.

¹ OJ C 294E, 3.12.2009, p.100.

EXPLANATORY STATEMENT

The agreement of 26 October 2004 concluded with the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (the 'Dublin agreement with Switzerland') provides for the possible association of Liechtenstein with the Dublin acquis by means of a protocol.

In 2001, as Liechtenstein and Switzerland had already been operating an open-borders policy for decades on the movement of persons, Liechtenstein expressed its interest in acceding to the Dublin agreement with Switzerland. Since there was no savings taxation agreement between the European Community and Liechtenstein, however, Liechtenstein was not involved in the negotiations with Switzerland.

Such an agreement between the European Community and Liechtenstein was subsequently concluded and entered into force. On 10 June 2005, accordingly, Liechtenstein confirmed its wish to be associated with the Dublin acquis.

On 27 February 2006, the Council gave the Commission the relevant authorisation to enter into negotiations with Liechtenstein and Switzerland. On 21 June 2006, negotiations were finalised and the draft protocol on Liechtenstein's accession to the Dublin agreement with Switzerland was initialled.

Discussions in Parliament

The legal basis for the Commission's proposal of 4 December 2006 for a protocol on the association of Liechtenstein was Article 300(3), first subparagraph, of the Treaty establishing the European Community, which provided for consultation of Parliament.

In its opinion of 8 July 2008 on the Commission proposal, however, Parliament sought to amend the legal basis for the Council decision. Parliament's view was that the Council decision had to be based on the second subparagraph of Article 300(3), which provided for Parliament assent (instead of consultation).

Notwithstanding the fact that the protocol was signed by the Council on 28 February 2008, on a conditional basis, differing opinions on the legal bases prevented it from being concluded.

As a result of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has succeeded the European Community and, furthermore, changes have been made to the procedures for the conclusion of association agreements.

Under Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union, Parliament's consent is now required, in all cases, in order to conclude association agreements. In line with that provision, Parliament is again addressing the proposal for a Council decision on the conclusion of a protocol on the accession of Liechtenstein to the Dublin agreement.

Rapporteur's position

The rapporteur welcomes the renewed referral to Parliament of the draft Council decision and thus the continuation of the negotiations on the association of Liechtenstein with the Dublin agreement with Switzerland. The consent of Parliament must be obtained, as it called for at first reading, in order to conclude this protocol with Liechtenstein.

The rapporteur supports conclusion of the protocol. In the light of the successfully concluded negotiations with Liechtenstein and the amended legal basis, she recommends that consent be given.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	26.1.2011
Result of final vote	+: 42 -: 4 0: 3
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