


# Procedure file

Basic information		
NLE - Non-legislative enactments Decision	<a href="#">2006/0251(NLE)</a>	Procedure completed
EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis		
Subject 6.40.11 Relations with industrialised countries 7.10.02 Schengen area, Schengen acquis		
Geographical area Liechtenstein Switzerland		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs	PPE <a href="#">COELHO Carlos</a>	02/09/2009
	Former committee responsible		
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs	PPE-DE <a href="#">KLAMT Ewa</a>	19/12/2006
	Former committee for opinion		
	<b>AFET</b> Foreign Affairs	The committee decided not to give an opinion.	
Council of the European Union	Former committee for opinion on the legal basis		
	<b>JURI</b> <a href="#">Legal Affairs</a>		26/02/2007
		PSE <a href="#">MEDINA ORTEGA Manuel</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3073</a>		07/03/2011
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2853</a>	28/02/2008
European Commission	Commission DG	Commissioner	
	<a href="#">Justice and Consumers</a>	MALMSTRÖM Cecilia	

Key events			
01/12/2006	Legislative proposal published	<a href="#">COM(2006)0752</a>	Summary
13/03/2008	Committee referral announced in Parliament		

29/05/2008	Vote in committee		Summary
09/06/2008	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0246/2008</a>	
08/07/2008	Results of vote in Parliament		
08/07/2008	Decision by Parliament	<a href="#">T6-0321/2008</a>	Summary
26/04/2010	Amended legislative proposal for reconsultation published	<a href="#">06077/2010</a>	Summary
28/05/2010	Formal reconsultation of Parliament		
26/01/2011	Vote in committee		Summary
28/01/2011	Committee report tabled for plenary, reconsultation	<a href="#">A7-0008/2011</a>	
15/02/2011	Decision by Parliament	<a href="#">T7-0047/2011</a>	Summary
07/03/2011	Act adopted by Council after consultation of Parliament		
07/03/2011	End of procedure in Parliament		
18/06/2011	Final act published in Official Journal		

### Technical information

Procedure reference	2006/0251(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 016-p2; Treaty on the Functioning of the EU TFEU 218-p6a; Treaty on the Functioning of the EU TFEU 087-p3; Treaty on the Functioning of the EU TFEU 089; Treaty on the Functioning of the EU TFEU 087-p2; Treaty on the Functioning of the EU TFEU 114-p1; Treaty on the Functioning of the EU TFEU 082-p1; Treaty on the Functioning of the EU TFEU 079-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/43490; LIBE/7/03065

### Documentation gateway

Legislative proposal		<a href="#">COM(2006)0752</a>	01/12/2006	EC	Summary
Committee opinion		<a href="#">PE390.619</a>	12/06/2007	EP	
Committee draft report		<a href="#">PE404.817</a>	18/04/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0246/2008</a>	09/06/2008	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0321/2008</a>	08/07/2008	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2008)4891</a>	27/08/2008	EC	
Amended legislative proposal for		<a href="#">06077/2010</a>	26/04/2010	CSL	Summary

reconsultation					
Committee draft report		<a href="#">PE452.761</a>	01/12/2010	EP	
Committee final report tabled for plenary, reconsultation		<a href="#">A7-0008/2011</a>	28/01/2011	EP	
Text adopted by Parliament after reconsultation		<a href="#">T7-0047/2011</a>	15/02/2011	EP	Summary
Follow-up document		<a href="#">32011D0350</a> <a href="#">OJ L 160 18.06.2011, p. 0019</a>	07/03/2011	EU	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Decision 2011/349](#)  
[OJ L 160 18.06.2011, p. 0001](#) Summary

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

**PURPOSE:** to sign and provisionally apply certain provisions of the Protocol between the EU, the Community, Switzerland and the Principality of Liechtenstein allowing Liechtenstein to adhere to the Swiss Confederation's association agreement on the implementation, application and development of the Schengen acquis.

**PROPOSED ACT:** Council Decision.

**CONTENT:** on 26 October 2004, the European Union, the European Community and the Swiss Confederation signed an Agreement on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (Schengen agreement). That Agreement (see [CNS/2004/0199](#)) anticipated Liechtenstein's possible association with the Schengen acquis.

Following the authorisation given by the Council to the Commission in February 2006, negotiations were held with Liechtenstein and Switzerland. In June 2006, negotiations were finalised and the draft protocol on Liechtenstein's accession to the Schengen agreement with Switzerland was initialled.

Given the fact that the Schengen agreement with Switzerland to which Liechtenstein accedes covers both 1st and 3rd pillar items, the Commission proposes to follow the approach chosen for the signature and adoption of the Schengen agreement with Switzerland. The Commission proposes thus to adopt the Protocol by two separate acts, one based on the Treaty establishing the European Community (Articles 62, 63 (3), 66 and 95) and one based on the Treaty on European Union (Articles 24 and 38).

Concerning the decision based on the Treaty establishing the European Community, the Council will decide by unanimity given the fact that Article 63 point 3 a) requires a unanimous vote of the Member States. The European Parliament will have to be consulted on the conclusion of the Agreement in accordance with Article 300 (3) of the EC Treaty.

Content of the protocol: the final content can be summarised as follows:

- § Liechtenstein accedes to the Schengen agreement with Switzerland and will have the same rights and obligations as Switzerland. Liechtenstein will have to accept the entire Schengen acquis and the development thereof, with the sole exception granted also to Switzerland (Article 7 (5) of the Schengen agreement with Switzerland): If provisions of a new Schengen act or measure have the effect of no longer allowing Member States to subject compliance with requests for mutual assistance in criminal matters or the recognition of orders from other Member States to search premises and/or seize items of evidence to the conditions set out in Article 51 of the Convention Implementing the Schengen Agreement, Liechtenstein does not need to implement these provisions in its internal legal order where they apply to search and seizure requests or orders made for the purposes of investigating or prosecuting offences in the field of direct taxation which, if committed in Liechtenstein, would not be punishable under Liechtenstein law with a custodial penalty.
- § Apart from this exception, if Liechtenstein does not accept future developments of the Schengen acquis, the Protocol will cease to operate. Liechtenstein will become a member of the Mixed Committee and will have the right to express its opinion within the Mixed Committee and to preside it.
- § The putting into effect of the Schengen protocol is linked to the putting into effect of the Dublin/Eurodac protocol (see [CNS/2006/0252](#)), as well as to the putting into effect of the respective agreements between Liechtenstein and Denmark and between Liechtenstein and Norway and Iceland on Schengen (see [CNS/2006/0257](#)).
- § Specific provisions are laid down for Liechtenstein concerning the time period needed for the implementation of a development of the Schengen acquis, in case constitutional requirements need to be fulfilled by Liechtenstein (18 months) and the financial

contribution that Liechtenstein has to pay for the administrative costs of the Council Working Groups, which meet in form of the Mixed Committee. The overall amount of these administrative costs are laid down in the Swiss agreement with an amount of EUR 8 100 000 and Liechtenstein will have to pay 0.071% of it. In addition, like Switzerland, Liechtenstein will have to contribute to the operational costs linked to the implementation of the Schengen acquis according to its GDP. Consequently, there are no financial implications for the EU resulting from Liechtenstein's association with the Schengen acquis.

§ Given the existing cooperation with Switzerland in the field of visa policy and security matters which includes the use of common databases, Liechtenstein may use the technical infrastructure of Switzerland for its access to the Schengen Information System and the Visa Information System.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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The Committee on Civil Liberties, Justice and Home Affairs adopted the consultation report by Ewa KLAMT (EPP-ED, DE) approving the proposal for a Council decision on the conclusion of a Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, with one single amendment of a legal nature.

MEPs believe that this agreement requires the assent, and not merely a consultation, of the European Parliament. Therefore, they are amending the legal basis of the proposal and indicate that they reserve the right to defend the prerogatives as conferred by the Treaty to the European Parliament in this matter.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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The European Parliament adopted, by 619 votes in favour to 12 against with 54 abstentions, under the consultation procedure, a legislative resolution approving the proposal for a Council decision on the conclusion of a Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, with one single amendment of a legal nature. The report had been tabled for consideration in plenary by Ewa KLAMT (EPP-ED, DE) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

Parliament approved the conclusion of the Protocol but felt that this proposal required the assent, and not merely a consultation, of the European Parliament. It amended the legal basis of the proposal from the first subparagraph of Article 300 (3) to the second subparagraph of Article 300 (3). Parliament indicated that it reserves the right to defend the prerogatives as conferred by the Treaty to the European Parliament in this matter.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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By this Decision, the European Parliament has been once again consulted on the proposal for a Council Decision 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, relating in particular to judicial cooperation in criminal matters and police cooperation.

To recall, on 27 February 2006, negotiations with Liechtenstein and Switzerland on the conclusion on the protocol were finalised. In accordance with Council Decisions 2008/261/EC and 2008/262/JHA, and subject to its conclusion at a later date, the Protocol was signed on behalf of the European Union on 28 February 2008.

As a 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.

It is therefore necessary to approve the protocol on behalf of the European Union on the basis of the new legal basis set out in the Treaty on the Functioning of the European Union (TFEU).

A new provision has been included stipulating that as a 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 and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to "the European Community" in the Protocol as well as in the Agreement are, where appropriate, to be understood as to "the European Union".

New territorial provisions have also been laid down.

The European Parliament's consent is also required.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report drafted by Carlos COELHO (EPP, PT) recommending the European to give its consent to the conclusion of the Protocol between the European Union, the European Community, Switzerland and Liechtenstein on the accession of Liechtenstein to the Agreement between the European Union, the European Community and Switzerland on Switzerland's association with the implementation, application and development of the Schengen acquis.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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The European Parliament adopted a legislative resolution in which it gives its consent to the conclusion of the Protocol between the European Union, the European Community, Switzerland and Liechtenstein on the accession of Liechtenstein to the Agreement between the European Union, the European Community and Switzerland on Switzerland's association with the implementation, application and development of the Schengen acquis.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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**PURPOSE:** to conclude the Protocol between the EU, the EC, the Swiss Confederation and Liechtenstein on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons.

**NON-LEGISLATIVE ACT:** Council Decision 2011/350/EU on the conclusion of the Protocol between the EU, the EC, the Swiss Confederation and Liechtenstein on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons.

**BACKGROUND:** following the authorisation given to the Commission on 27 February 2006, negotiations with Liechtenstein and the Swiss Confederation of a Protocol on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis have been finalised. Subject to its conclusion at a later date, the Protocol was signed on behalf of the European Community on 28 February 2008. The Protocol should now be approved on behalf of the EU (which replaced and succeeded the European Community with the entry into force of the Lisbon Treaty on 1 December.)

**CONTENT:** this Decision approves, on behalf of the EU, the Protocol between the EU, the EC, the Swiss Confederation and Liechtenstein on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis and related documents.

It is recalled that on 26 October 2004, the European Union, the European Community and the Swiss Confederation signed an Agreement on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (Schengen agreement). That Agreement (see [CNS/2004/0199](#)) anticipated Liechtenstein's possible association with the Schengen acquis.

This Decision aims to conclude that Agreement.

With regard to the abolition of checks at internal borders and movement of persons, the content of the Protocol completes the Protocol attached to Council Decision 2011/349/EU, the summary of which may be found with the legislative act of 7 March 2011.

**Territorial provisions:** in accordance with the relevant provisions of the Treaty, the United Kingdom and Ireland are not taking part in this Decision. The Decision does not prejudice the position of Denmark under 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. Norway and Iceland are associated with the Decision.

**ENTRY INTO FORCE:** the Decision enters into force on 7 March 2011. The Protocol enters into force on 7 April 2011.

## EU/EC/Switzerland/Liechtenstein agreement: protocol on the accession of Liechtenstein to the EC/Switzerland agreement on Switzerland's association with the implementation, application and development of the Schengen acquis

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**PURPOSE:** to conclude certain provisions of the Protocol between the EU, the Community, Switzerland and the Principality of Liechtenstein allowing Liechtenstein to adhere to the Swiss Confederation's association agreement on the implementation, application and development of the Schengen acquis regarding judicial cooperation in criminal matters and police cooperation.

**NON-LEGISLATIVE ACT:** Council Decision 2011/349/EU 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, relating in particular to judicial cooperation in criminal matters and police cooperation.

BACKGROUND: following the authorisation given to the Presidency, assisted by the Commission, on 27 February 2006, negotiations with Liechtenstein and the Swiss Confederation of a Protocol on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis have been finalised. Subject to its conclusion at a later date, the Protocol was signed on behalf of the European Union on 28 February 2008. The Protocol should now be approved on behalf of the EU (which replaced and succeeded the European Community with the entry into force of the Lisbon Treaty on 1 December.)

CONTENT: this Decision approves, on behalf of the EU, the Protocol between the EU, the EC, the Swiss Confederation and Liechtenstein on the accession of Liechtenstein to the Agreement between the EU, the EC and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen acquis and related documents.

It is recalled that on 26 October 2004, the European Union, the European Community and the Swiss Confederation signed an Agreement on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (Schengen agreement). That Agreement (see [CNS/2004/0199](#)) anticipated Liechtenstein's possible association with the Schengen acquis.

This Decision aims to conclude that Agreement.

The content of the Protocol may be summarised as follows :

- Liechtenstein accedes to the Schengen agreement with Switzerland and will have the same rights and obligations as Switzerland. Liechtenstein will have to accept the entire Schengen acquis and the development thereof, with the sole exception granted also to Switzerland (Article 7 (5) of the Schengen agreement with Switzerland): If provisions of a new Schengen act or measure have the effect of no longer allowing Member States to subject compliance with requests for mutual assistance in criminal matters or the recognition of orders from other Member States to search premises and/or seize items of evidence to the conditions set out in Article 51 of the Convention Implementing the Schengen Agreement, Liechtenstein does not need to implement these provisions in its internal legal order where they apply to search and seizure requests or orders made for the purposes of investigating or prosecuting offences in the field of direct taxation which, if committed in Liechtenstein, would not be punishable under Liechtenstein law with a custodial penalty.
- Apart from this exception, if Liechtenstein does not accept future developments of the Schengen acquis, the Protocol will cease to operate. Liechtenstein will become a member of the Mixed Committee and will have the right to express its opinion within the Mixed Committee and to preside it.
- The putting into effect of the Schengen protocol is linked to the putting into effect of the Dublin/Eurodac protocol (see [CNS/2006/0252](#)), as well as to the putting into effect of the respective agreements between Liechtenstein and Denmark and between Liechtenstein and Norway and Iceland on Schengen (see [CNS/2006/0257](#)).
- Specific provisions are laid down for Liechtenstein concerning the time period needed for the implementation of a development of the Schengen acquis, in case constitutional requirements need to be fulfilled by Liechtenstein (18 months) and the financial contribution that Liechtenstein has to pay for the administrative costs of the Council Working Groups, which meet in form of the Mixed Committee. The overall amount of these administrative costs are laid down in the Swiss agreement with an amount of EUR 8 100 000 and Liechtenstein will have to pay 0.071% of it. In addition, like Switzerland, Liechtenstein will have to contribute to the operational costs linked to the implementation of the Schengen acquis according to its GDP. Consequently, there are no financial implications for the EU resulting from Liechtenstein's association with the Schengen acquis.
- Given the existing cooperation with Switzerland in the field of visa policy and security matters which includes the use of common databases, Liechtenstein may use the technical infrastructure of Switzerland for its access to the Schengen Information System and the Visa Information System.

Territorial provisions: in accordance with the relevant provisions of the Treaty, the United Kingdom and Ireland are taking part in this Decision. The Decision does not prejudice the position of Denmark under 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.

ENTRY INTO FORCE: the Decision enters into force on 7 March 2011. The Protocol enters into force on 7 April 2011.