

Procedure file

Basic information		
CNS - Consultation procedure Decision	2006/0257(CNS)	Procedure completed
EC/Switzerland/Liechtenstein agreement: protocol to the EC/Switzerland agreement on the criteria to determine the state responsible for the examination of an asylum application, participation of Denmark. Dublin Convention on Eurodac See also 2004/0200(CNS)		
Subject 6.40.11 Relations with industrialised countries 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)		
Geographical area Switzerland Liechtenstein Denmark		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		19/12/2006
	Committee for opinion	PPE-DE KLAMT Ewa	Appointed
	AFET Foreign Affairs	Rapporteur for opinion	The committee decided not to give an opinion.
Council of the European Union	Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
	JURI Legal Affairs		19/12/2007
		ALDE WALLIS Diana	
European Commission	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2899	24/10/2008
	Justice and Home Affairs (JHA)	2853	28/02/2008
	Commission DG	Commissioner	
	Justice and Consumers	BARROT Jacques	

Key events			
04/12/2006	Legislative proposal published	COM(2006)0753	Summary
13/03/2008	Committee referral announced in Parliament		
29/05/2008	Vote in committee		Summary
18/06/2008	Committee report tabled for plenary, 1st reading/single reading	A6-0261/2008	
08/07/2008	Results of vote in Parliament		
08/07/2008	Decision by Parliament	T6-0323/2008	Summary

24/10/2008	Act adopted by Council after consultation of Parliament		
24/10/2008	End of procedure in Parliament		
24/06/2009	Final act published in Official Journal		

Technical information

Procedure reference	2006/0257(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
	See also 2004/0200(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 300-p2/3-a1; EC Treaty (after Amsterdam) EC 063
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/43581

Documentation gateway

Legislative proposal		COM(2006)0753	04/12/2006	EC	Summary
Committee draft report		PE404.820	18/04/2008	EP	
Specific opinion	JURI	PE408.032	18/06/2008	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0261/2008	18/06/2008	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0323/2008	08/07/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)4891	27/08/2008	EC	

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Decision 2009/487](#)
[OJ L 161 24.06.2009, p. 0006](#) Summary

EC/Switzerland/Liechtenstein agreement: protocol to the EC/Switzerland agreement on the criteria to determine the state responsible for the examination of an asylum application, participation of Denmark. Dublin Convention on Eurodac

PURPOSE: to sign and conclude a Protocol between the European Community, Switzerland and 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, in Switzerland or Liechtenstein.

PROPOSED ACT: Council Decision.

CONTENT: on 26 October 2004, the European Community signed an Agreement with the Swiss Confederation regarding criteria and

mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (Dublin/Eurodac agreement with Switzerland. See [CNS/2004/0200](#)). That agreement provided for the possibility for Liechtenstein to accede to the agreement. The accession of Liechtenstein has been negotiated and a draft protocol on the

accession of Liechtenstein to the Dublin/Eurodac agreement with Switzerland has been initialled. Following the authorisation given by the Council to the Commission in February 2006, negotiations were held with Liechtenstein and Switzerland. On 21 June 2006, negotiations were finalised and the draft protocol on the participation of Denmark in the Dublin/Eurodac Agreement with Switzerland and Liechtenstein was initialled.

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty of the European Union and the Treaty establishing the European Community, Denmark is not participating to Council Regulation 343/2003/EC establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (the Dublin Regulation) and Council Regulation 2725/2000/EC concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (the Eurodac Regulation).

The Dublin/Eurodac agreement with Switzerland provides for the possibility that Denmark may ask to participate. In that event, the Agreement provides that the contracting parties, with the consent of Denmark, set out the conditions for Denmark's participation in a protocol to the Agreement. By letter dated 8 November 2004, the Kingdom of Denmark asked to participate in the Dublin/Eurodac Agreement with Switzerland. As Liechtenstein will now accede to this Agreement, it is appropriate that the participation of Denmark should be established in relation to both Switzerland and Liechtenstein.

The negotiations were held and the draft protocol has been initialled on the basis that Liechtenstein would become a contracting party after the conclusion of the protocol on its accession to the Dublin/Eurodac agreement with Switzerland. It has therefore to be born in mind that Liechtenstein can only become a contracting party to the protocol on the participation of Denmark when it has ratified the protocol on its accession to the Dublin/Eurodac agreement with Switzerland.

The legal basis of this Protocol is Article 63(1)a, in conjunction with the first sentence of the first subparagraph of Article 300(2) of the Treaty establishing the European Community. The Council will decide by qualified majority. The European Parliament will be consulted on the conclusion of the Protocol, in accordance with Article 300(3) of the Treaty establishing the European Community.

The final content of the Protocol can be summarised as follows:

- § it makes the Dublin and Eurodac regulations and their implementing rules applicable to the relations between Denmark on the one hand and the Confederation of Switzerland and the Principality of Liechtenstein on the other. It also renders future amendments or new implementing measures applicable to these relations.
- § it gives Switzerland and Liechtenstein the right to present written pleadings or observations to the Court of Justice when a court in Denmark applies to the Court of Justice for a preliminary ruling on the interpretation of a provision of the Agreement between the European Community and Denmark.
- § it provides for a conciliation mechanism in the event of disagreement between Denmark on the one hand and Switzerland or Liechtenstein on the other hand on its interpretation or application.
- § it lays down provisions relating to the end of its applicability.

EC/Switzerland/Liechtenstein agreement: protocol to the EC/Switzerland agreement on the criteria to determine the state responsible for the examination of an asylum application, participation of Denmark. Dublin Convention on Eurodac

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Ewa KLAMT (EPP-ED, DE) on the proposal for a Council decision on the conclusion of a Protocol between the European Community, Switzerland and 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, in Switzerland or Liechtenstein.

MEPs approved one amendment of a legal nature. They believe that the assent procedure, as opposed to the consultation procedure, should be used for the conclusion of the Protocol. Consequently, they amend the legal basis of the proposal and state that the European Parliament reserves the right to defend its prerogatives as conferred by the Treaty.

EC/Switzerland/Liechtenstein agreement: protocol to the EC/Switzerland agreement on the criteria to determine the state responsible for the examination of an asylum application, participation of Denmark. Dublin Convention on Eurodac

The European Parliament adopted, by 614 votes to 13 with 49 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, Switzerland and 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, in Switzerland or Liechtenstein. 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.

EC/Switzerland/Liechtenstein agreement: protocol to the EC/Switzerland agreement on the criteria to determine the state responsible for the examination of an asylum application, participation of Denmark. Dublin Convention on Eurodac

PURPOSE: to conclude a protocol between the European Community, Switzerland and Liechtenstein aimed at enabling Liechtenstein to accede to the agreement between the Community and Switzerland on the Dublin/Eurodac acquis in relation to the participation of Denmark.

LEGISLATIVE ACT: Council Decision 2009/487/EC on the conclusion of a Protocol between the European Community, the Swiss Confederation and 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.

CONTENT: on 26 October 2004, the European Community signed an Agreement with the Swiss Confederation regarding criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (Dublin/Eurodac agreement with Switzerland, see [CNS/2004/0200](#)). That agreement provided for the possibility for Liechtenstein to accede to the agreement at a later stage, in the form of a protocol to the existing agreement aimed at enabling Liechtenstein to accede to the Dublin/Eurodac agreement with Switzerland ([CNS/2006/0252](#)).

In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty of the European Union and the Treaty establishing the European Community, Denmark is not participating in Council Regulation 343/2003/EC establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (the Dublin Regulation) and Council Regulation 2725/2000/EC concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (the Eurodac Regulation). The Dublin/Eurodac agreement with Switzerland provides for the possibility that Denmark may ask to participate. In that event, the Agreement provides that the contracting parties, with the consent of Denmark, set out the conditions for Denmark's participation in a protocol to the Agreement.

Given that Denmark asked to participate in the Dublin/Eurodac Agreement with Switzerland and bearing in mind the forthcoming accession of Liechtenstein to this agreement, this Decision provides for the conclusion of a protocol to the Dublin/Eurodac agreement with Switzerland authorising the participation of Denmark in that agreement.

Therefore, in addition to the conclusion of a protocol on the association of Liechtenstein to the agreement with Switzerland on the Dublin/Eurodac acquis, the Council approves a Decision formalising the conclusion of this protocol.

The content of the Protocol can be summarised as follows:

- it makes the Dublin and Eurodac regulations and their implementing rules applicable to the relations between Denmark, on the one hand, and the Confederation of Switzerland and the Principality of Liechtenstein on the other. It also renders future amendments or new implementing measures applicable to these relations;
- it gives Switzerland and Liechtenstein the right to present written pleadings or observations to the Court of Justice when a court in Denmark applies to the Court of Justice for a preliminary ruling on the interpretation of a provision of the Agreement between the European Community and Denmark;
- it provides for a conciliation mechanism in the event of disagreement between Denmark on the one hand and Switzerland or Liechtenstein on the other hand on its interpretation or application;
- it lays down provisions relating to the end of its applicability.

ENTRY INTO FORCE: the Protocol shall not enter into force until Denmark formally assents to the provisions contained in the Protocol, notably the provisions referred to in Article 2 on its mutual relations with Switzerland and Liechtenstein.