


Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2009/0168(NLE)	Procedure completed
EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis		
Subject 6.40.01 Relations with EEA/EFTA countries 7.10.02 Schengen area, Schengen acquis		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		04/03/2010
		ECR KIRKHOPE Timothy	
		Shadow rapporteur PPE GABRIEL Mariya S&D FAJON Tanja	
	Committee for opinion	Rapporteur for opinion	Appointed
	AFET Foreign Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	3153	13/03/2012
	General Affairs	3079	21/03/2011
	Justice and Home Affairs (JHA)	3071	24/02/2011
	Agriculture and Fisheries	3026	12/07/2010
European Commission	Commission DG	Commissioner	
	Justice and Consumers	MALMSTRÖM Cecilia	

Key events			
30/10/2009	Preparatory document	COM(2009)0605	Summary
02/12/2009	Additional information		Summary
12/04/2010	Legislative proposal published	07763/2010	Summary
24/02/2011	Debate in Council	3071	
24/02/2011	Debate in Council	3071	
29/09/2011	Committee referral announced in Parliament		

12/01/2012	Vote in committee		
13/01/2012	Committee report tabled for plenary, 1st reading/single reading	A7-0013/2012	Summary
15/02/2012	Results of vote in Parliament		
15/02/2012	Decision by Parliament	T7-0040/2012	Summary
13/03/2012	Act adopted by Council after consultation of Parliament		
13/03/2012	End of procedure in Parliament		
13/04/2012	Final act published in Official Journal		

Technical information

Procedure reference	2009/0168(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 218-p6a
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/01503

Documentation gateway

Document attached to the procedure	COM(2009)0606	30/10/2009	EC	Summary
Preparatory document	COM(2009)0605	30/10/2009	EC	Summary
Legislative proposal	07763/2010	13/04/2010	CSL	Summary
Committee draft report	PE452.763	26/10/2011	EP	
Committee report tabled for plenary, 1st reading/single reading	A7-0013/2012	13/01/2012	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T7-0040/2012	15/02/2012	EP	Summary

Additional information

National parliaments	IPEX
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Final act

[Decision 2012/193](#)
[OJ L 103 13.04.2012, p. 0003](#) Summary

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

On 30 October 2009, the European Commission presented a proposal for a Council Decision on the conclusion of the Arrangement between the European Community and of Iceland, Liechtenstein, Norway and Switzerland on the participation by those States in the work of the

committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis ? for the content of the Arrangement, see summary of the original proposal.

On the same day, the Commission presented a proposal for a decision on the signature, on behalf of the European Community of this same agreement. Its content is identical to that of this present proposal.

With the present proposal, the Commission proposes that the Council authorises the signature, on behalf of the European Community, of the agreement between the European Community and the associated States to the Schengen acquis.

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

PURPOSE: to conclude the Arrangement between the European Community and Iceland, Liechtenstein, Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis

PROPOSED ACT: Council Decision.

BACKGROUND: on 17 May 1999, the Council of the European Union and Norway concluded an [Agreement](#) concerning those states' association with the implementation, application and development of the Schengen acquis. On 26 October 2004, the European Union, the European Community and Switzerland signed the [Agreement](#) concerning the Swiss Confederation's association with the implementation, application and development of the Schengen acquis. On 1 March 2008 the Agreement entered into force. Lastly, on 21 June 2006, a [Protocol](#) between the Council of the European Union, the European Community, Switzerland and Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement concluded by the Council of 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 was initialled. The Protocol was signed on 28 February 2008.

The Association Agreements set up a Mixed Committee consisting of representatives of the governments of the Associated States as well as of the Council of the European Union and the Commission of the European Communities. Consequently, the representatives of the Associated States attend Mixed Committees which meet in form of Council working groups enlarged by the representatives of the Associated States.

The participation in the Mixed Committee gives the Associated States the opportunity, in good time, to voice any concerns regarding developments of the Schengen acquis, which must be adopted by all the Associated States, and the implementation of this acquis. After discussion in the Mixed Committee, the measures taken to develop the Schengen acquis are adopted by the Council and by the European Parliament through the appropriate decision-taking procedure laid down in the Treaties. Thus, the Associated States participate in decision-shaping but not in decision-taking. This sui generis association with the Schengen acquis lead the Council to conclude agreements in the form of an exchange of letters concerning the Committees which assist the Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

It is therefore necessary to formalise the association of these countries with the work of the Schengen Comitology according a more appropriate procedure.

IMPACT ASSESSMENT: not applicable.

CONTENT: until the Arrangement covered by this document is concluded, the Associated States participate in the work of the Schengen Comitology committees as observers through the above mentioned ad hoc exchange of letters.

This proposed Decision provides for the conclusion of a single Arrangement concerning the participation by the Associated States in the work of the Schengen Comitology committees to ensure consistency between and equal treatment of all Associated States.

For efficiency, and to avoid the need to conduct separate negotiations, Liechtenstein has been associated with the negotiations on its participation in the Schengen Comitology committees before conclusion of the Association Protocol is completed. The Arrangement on the participation in the work of the Schengen Comitology committees will not apply to Liechtenstein until the date when the Association Protocol has entered into force.

The negotiations were finalised on 30 June 2009 and the draft Arrangement was initialled. The main characteristics can be summarised as follows:

Scope and purpose: the Arrangement provides that:

- the Associated States will be associated as observers with the work of the current and future Comitology committees assisting the Commission in Schengen matters. The list of the Schengen Comitology committees will be regularly updated by the Commission and will be published in the Official Journal;
- a series of clear rights and obligations shall be established to ensure effective participation by the Associated States in the Schengen Comitology committees;
- the representatives of the Associated States shall receive all relevant meeting documents when the meeting of the committee is convened, they may comment on a proposed measure constituting a development of the Schengen acquis or voice any problems encountered in applying these measures;
- the representatives from these States will not take part in the voting of these committees and shall withdraw when the Committee moves to a vote;
- the Commission will communicate to the Associated States the acts and measures constituting a development of the Schengen acquis ;
- the Associated States will decide independently regarding the implementation of all measures adopted by the Schengen Comitology committee procedures concerning the application and development of the Schengen acquis confirming the rules set out in the basic Association Agreements;
- a financial contribution shall be made from the Associated States to the administrative expenses resulting from their participation in the Schengen Comitology committees. The Associated States shall make an annual contribution to the general budget of the European

Communities in accordance with the percentage of the gross domestic product of their countries in relation to the gross domestic product of all participating States of an amount of EUR 500 000, subject to an annual adjustment to reflect the rate of inflation in the European Union. The travelling costs of the representatives who participate in the meetings of the Schengen Comitology committees shall not be reimbursed.

It should be noted that the special situations of Denmark, the United Kingdom and Ireland are reflected in the preamble.

Declaration: lastly, the Arrangement includes a Joint declaration which underlines that this specific association shall not be regarded as a legal or political precedent for any other field of cooperation between the European Community and those countries.

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision on the conclusion of the Arrangement between the European Community and the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis - Treaty/EC/Art. 62, Art 63(3), Art 66, Art 202, Art.300(2) first para and (3) first para.- became Art. 77, Art. 79, Art. 74, Art. 218(6)(a). Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

PURPOSE: to conclude an Arrangement between the European Union and Iceland, Liechtenstein, Norway and Switzerland on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

PROPOSED ACT: Council Decision.

BACKGROUND: following the authorisation given to the European Commission, negotiations with the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation regarding the participation by those States in the work of the committees which assist the Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis have been concluded.

According to a Council Decision and pending its final conclusion at a later date, the Arrangement has been signed on behalf of the European Union.

It is now appropriate to conclude the Arrangement on behalf of the EU.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Articles 74, 77 and 79 in conjunction with Article 218(6)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: under the proposed Decision, the Arrangement between the European Union and the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis is hereby approved on behalf of the Union.

The text of the Arrangement and the Joint Declaration are attached to this Decision. For further details concerning the Arrangement, please refer to the summary of the previous initial legislative document dated 30/10/2009.

BUDGETARY IMPLICATION: this proposal has no implications for the EU budget.

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

The Committee on Civil Liberties, Justice and Home Affairs unanimously adopted the report drafted by Timothy KIRKHOPE (ECR, UK) in which it recommends the European Parliament to give its consent to the draft Council decision on the conclusion, on behalf of the Union, of the Arrangement between the European Union and Iceland, Liechtenstein, Norway and Switzerland on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

The European Parliament adopted a legislative resolution on the draft Council Decision on the conclusion, on behalf of the Union, of the Arrangement between the European Union and Iceland, Liechtenstein, Norway and Switzerland on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis. Parliament gave its consent to the conclusion of the Arrangement.

EC/Iceland/Liechtenstein/Norway/Switzerland arrangement: participation in implementation, application and development of the Schengen acquis

PURPOSE: to conclude the Arrangement between the European Community and Iceland, Liechtenstein, Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

NON-LEGISLATIVE ACT: Council Decision 2012/193/EU on the conclusion, on behalf of the Union, of the Arrangement between the European Union and the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis.

BACKGROUND: in accordance with Council Decision 2012/192/EU, and subject to its conclusion at a later date, the Arrangement between the European Union and Iceland, Liechtenstein, Norway and Switzerland on the participation by those States in the work of the committees which assist the European Commission in the exercise of its executive powers as regards the implementation, application and development of the Schengen acquis (the Arrangement) has been signed on behalf of the European Union on 22 September 2011.

That Arrangement should now be concluded on behalf of the EU.

CONTENT: with this Decision, the Council concludes, with the approval of Parliament, the Arrangement and the Joint Declaration attached thereto.

A single Arrangement: the Decision provides for the conclusion of a single Arrangement concerning the participation by the Associated States in the work of the Schengen Comitology committees to ensure consistency between and equal treatment of all Associated States.

Main provisions of the Arrangement:

Status of Associated States: the Associated States will be associated as observers with the work of the current and future Comitology committees assisting the Commission in Schengen matters. The list of the Schengen Comitology committees will be regularly updated by the Commission and will be published in the Official Journal;

Rights and obligations: a series of clear rights and obligations are established to ensure effective participation by the Associated States in the Schengen Comitology committees.

Transparency and votes: the representatives of the Associated States receive all relevant meeting documents when the meeting of the committee is convened, and they may comment on a proposed measure constituting a development of the Schengen acquis or voice any problems encountered in applying these measures. They will not take part in the voting of these committees. The Commission will inform the Associated States of the acts and measures constituting a development of the Schengen acquis.

Financial contribution: a financial contribution shall be made from the Associated States to the administrative expenses resulting from their participation in the Schengen Comitology committees. The Associated States shall make an annual contribution to the general budget of the European Communities amounting to EUR 500 000, in accordance with the percentage of the gross domestic product of their countries.)

Territorial provisions: the Decision does not prejudice the position of the United Kingdom, Ireland and Denmark under the Protocol on the Schengen acquis integrated into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and other relevant legal instruments.

Declaration: lastly, the Arrangement includes a Joint declaration which underlines that this specific association shall not be regarded as a legal or political precedent for any other field of cooperation between the European Community and those countries.

ENTRY INTO FORCE: the Decision enters into force on 13.04.2012.