

COUNCIL DECISION

of 7 March 2011

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 to the abolition of checks at internal borders and movement of persons

(2011/350/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 and 74, Article 77(2) and Article 79(2)(a) and (c), in conjunction with Article 218(6)(a), thereof,

Having regard to the proposal of the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Following the authorisation given to the Commission on 27 February 2006, negotiations with the Principality of Liechtenstein and the Swiss Confederation of a Protocol on the accession 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* have been finalised.
- (2) In accordance with Council Decisions 2008/261/EC⁽¹⁾ and 2008/262/JHA⁽²⁾, and subject to its conclusion at a later date, the Protocol was signed on behalf of the European Community on 28 February 2008.
- (3) 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.
- (4) This Protocol should be approved.

(1) Council Decision 2008/261/EC of 28 February 2008 on the signature, on behalf of the European Community, and on the provisional application of certain provisions 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* (OJ L 83, 26.3.2008, p. 3).

(2) Council Decision 2008/262/JHA of 28 February 2008 on the signature, on behalf of the European Union, and on the provisional application of certain provisions 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* (OJ L 83, 26.3.2008, p. 5).

(5) As far as the development of the Schengen *acquis* is concerned, which falls under Part Three, Title V of the Treaty on the Functioning of the European Union, it is appropriate to make Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*⁽³⁾ applicable, *mutatis mutandis*, to the relations with Liechtenstein.

(6) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*⁽⁴⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(7) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*⁽⁵⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(8) This 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,

HAS ADOPTED THIS DECISION:

Article 1

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,

⁽³⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁴⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁵⁾ OJ L 64, 7.3.2002, p. 20.

application and development of the Schengen *acquis* and related documents are hereby approved on behalf of the European Union.

The texts of the Protocol and the related documents are attached to this Decision.

Article 2

This Decision applies to the fields covered by the provisions listed in Article 2(1) and (2) of the Protocol and to their development to the extent that such provisions are not listed in Decisions 2000/365/EC and 2002/192/EC.

Article 3

The provisions of Articles 1 to 4 of Decision 1999/437/EC shall apply, in the same way, to the association of Liechtenstein with the implementation, application and development of the Schengen *acquis*.

Article 4

The President of the Council is hereby authorised to designate the person empowered to deposit on behalf of the European Union the Instrument of approval provided for in Article 9 of the Protocol, in order to express the consent of the European Union to be bound, and make the following notification:

‘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”.’

Article 5

This Decision shall enter into force on the day of its adoption.

Article 6

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 7 March 2011.

For the Council
The President
CZOMBA S.