

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 24 October 2008

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

(2009/487/EC)

THE COUNCIL OF THE EUROPEAN UNION,

at a later date, this Protocol was signed, on behalf of the European Community, on 28 February 2008.

Having regard to the Treaty establishing the European Community, and in particular Article 63(1)(a) thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

(3) The Protocol should be approved.

Having regard to the proposal from the Commission,

(4) The entry into force of the Protocol with respect to Switzerland is linked to the putting into effect of 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* ⁽²⁾ and of 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 ⁽³⁾.

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) On 27 February 2006 the Council authorised the Commission to open negotiations, on behalf of the Community, with the Swiss Confederation and the Principality of Liechtenstein to conclude a Protocol on the participation of Denmark in 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 (hereinafter referred to as the Protocol). These negotiations have been finalised.

(5) The entry into force of the Protocol with respect to Liechtenstein is linked to the putting into effect 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* (hereinafter referred to as Protocol on the association of Liechtenstein with the Schengen *acquis*) and of the Protocol between the European Community, the Swiss Confederation and the Principality

(2) In accordance with the Decision of the Council of 28 February 2008, and subject to its final conclusion

⁽¹⁾ Opinion of 8 July 2008 (not yet published in the Official Journal).

⁽²⁾ OJ L 53, 27.2.2008, p. 52.

⁽³⁾ OJ L 53, 27.2.2008, p. 5.

of Liechtenstein on the accession 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 (hereinafter referred to as Protocol on the association of Liechtenstein with the Dublin *acquis*). Consequently, the deposit of the instrument of approval as regards Liechtenstein should not take place before the approval by the Council of the Protocol on the association of Liechtenstein with the Schengen *acquis* and of the Protocol on the association of Liechtenstein with the Dublin *acquis*.

- (6) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and the Treaty establishing the European Community, are taking part in the adoption and application of this Decision.
- (7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and the Treaty establishing the European Community, Denmark is not participating to the adoption of this decision and is not bound by or subject to its application,

HAS DECIDED AS FOLLOWS:

Article 1

The 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 is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person(s) empowered to deposit on behalf of the Community the instrument of approval provided for in Article 5 of the Protocol, in order to express the consent of the Community to be bound in its relations to Switzerland.

2. The President of the Council is hereby authorised to designate the person(s) empowered to deposit on behalf of the Community the instrument of approval provided for in Article 5 of the Protocol, in order to express the consent of the Community to be bound in its relations with Liechtenstein. The deposit of this instrument shall not take place before the Council has approved, on behalf of the European Community and on behalf of the European Union, the Protocol on the association of Liechtenstein with the Schengen *acquis* and, on behalf of the European Community, the Protocol on the association of Liechtenstein with the Dublin *acquis*.

Article 3

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

Done at Luxembourg, 24 October 2008.

For the Council
The President

M. ALLIOT-MARIE