

## 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**

THE EUROPEAN COMMUNITY (hereinafter referred to as the Community),

of the one part,

and

THE SWISS CONFEDERATION (hereinafter referred to as Switzerland),

and

THE PRINCIPALITY OF LIECHTENSTEIN (hereinafter referred to as Liechtenstein),

of the other part,

hereinafter referred to as the Contracting Parties,

BEARING IN MIND that the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, provides that none of the measures of Title IV of the Treaty establishing the European Community shall be binding upon, or applicable in, Denmark;

REFERRING to the provision 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 <sup>(1)</sup> (hereinafter referred to as the Agreement between the European Community and Switzerland), on the possibility for the Kingdom of Denmark (hereinafter referred to as Denmark) to request to participate in that Agreement;

CONSIDERING the Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein to the same Agreement between the European Community and Switzerland on the accession of the Principality of Liechtenstein to that Agreement, in accordance with its Article 15;

NOTING that the Kingdom of Denmark, by letter dated 8 November 2004, requested to participate in the same Agreement between the European Community and Switzerland;

RECALLING that according to the Agreement between the European Community and Switzerland to which the Principality of Liechtenstein has acceded, the conditions for such participation by the Kingdom of Denmark shall be determined by the Contracting Parties, acting with the consent of Denmark, in a Protocol to that Agreement;

CONSIDERING that it was appropriate, in the first place, for Denmark and the Community to conclude an Agreement in order to settle, in particular, matters relating to the jurisdiction of the Court of Justice and to the coordination between the Community and Denmark regarding international agreements;

CONSIDERING the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention <sup>(2)</sup>;

CONSIDERING that it is therefore necessary to fix the conditions whereby Denmark participates in the Agreement between the European Community and Switzerland, to which Liechtenstein has acceded, and that in particular it is necessary to establish rights and obligations between Switzerland, Liechtenstein and Denmark;

NOTING that the entry into force of this Protocol is based on the consent of Denmark, in accordance with its constitutional requirements,

<sup>(1)</sup> OJ L 53, 27.2.2008, p. 5.

<sup>(2)</sup> OJ L 66, 8.3.2006, p. 38.

HAVE AGREED AS FOLLOWS:

#### *Article 1*

The Kingdom of Denmark shall participate 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 Agreement between the European Community and Switzerland) to which the Principality of Liechtenstein has acceded by a Protocol to that Agreement (hereinafter referred to as the Liechtenstein Protocol) in accordance with Article 15 of the Agreement, under the conditions set out in the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (hereinafter referred to as the Agreement between the European Community and Denmark) and the present Protocol.

#### *Article 2*

1. The provisions of Council Regulation (EC) No 343/2003 of 18 February 2003 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 <sup>(1)</sup> (Dublin Regulation), which is annexed to this Protocol and forms part thereof, together with its implementing measures adopted pursuant to Article 27(2) of the 'Dublin Regulation' shall, under international law, apply to the relations between Denmark on the one hand, and Switzerland and Liechtenstein on the other hand.

2. The provisions of Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention <sup>(2)</sup> (Eurodac Regulation), which is annexed to this Protocol and forms part thereof, together with its implementing measures adopted pursuant to Articles 22 or 23(2) of the 'Eurodac Regulation' shall, under international law, apply to the relations between Denmark on the one hand, and Switzerland and Liechtenstein on the other hand.

3. Amendments to the Acts referred to in paragraphs 1 and 2 which are notified by Denmark to the Commission in accordance with Article 3 of the Agreement between the European Community and Denmark and which are notified by Switzerland and Liechtenstein to the Commission in accordance respectively with Article 4 of the Agreement between the European Community and Switzerland, and Article 5 of the Liechtenstein Protocol shall, under international law, apply to the relations between Denmark on the one hand, and Switzerland and Liechtenstein on the other hand.

4. Implementing measures adopted pursuant to Article 27(2) of the 'Dublin Regulation' and implementing measures adopted pursuant to Article 22 or 23(2) of the 'Eurodac Regulation' which are notified by Denmark to the Commission in accordance with Article 4 of the Agreement between the European Community and Denmark and which are notified by Switzerland and Liechtenstein to the Commission in accordance respectively with Article 4 of the Agreement between the European Community and Switzerland and Article 5 of the Liechtenstein Protocol shall, under international law, apply to the relations between Denmark on the one hand, and Switzerland and Liechtenstein on the other hand.

#### *Article 3*

Switzerland and Liechtenstein shall be entitled to submit statements of case or written observations to the Court of Justice in cases where a question has been referred to it by a Danish court or tribunal for a preliminary ruling, in accordance with Article 6(1) of the Agreement between the European Community and Denmark.

#### *Article 4*

1. In the case of a complaint by Switzerland or Liechtenstein concerning the application or the interpretation by Denmark of this Protocol, Switzerland or Liechtenstein may ask that the matter be officially entered as a matter of dispute on the agenda of the Mixed Committee.

2. In the case of a complaint by Denmark concerning the application or the interpretation by Switzerland or Liechtenstein of this Protocol, Denmark shall be entitled to ask the Commission to enter officially the matter as a matter of dispute on the agenda of the Mixed Committee. The matter shall be placed on the agenda by the Commission.

3. The Mixed Committee shall have 90 days, from the date of the adoption of the agenda on which the dispute has been entered, to settle the dispute. For this purpose, Denmark shall be entitled to make observations to the Mixed Committee.

4. In case a dispute is settled by the Mixed Committee in a manner that requires implementation in Denmark, Denmark shall, within the period referred to in paragraph 3, notify the Parties of its implementation or non-implementation of the settlement.

If Denmark notifies its decision not to implement the content of the settlement, paragraph 5 shall apply.

5. If the dispute cannot be settled by the Mixed Committee within the period referred to in paragraph 3, a further period of 90 days shall be allowed, with the purpose of reaching a final settlement. If the Mixed Committee has not taken a decision at the end of the period, this Protocol shall be considered terminated at the end of the last day of that period.

<sup>(1)</sup> OJ L 50, 25.2.2003, p. 1.

<sup>(2)</sup> OJ L 316, 15.12.2000, p. 1.

*Article 5*

This Protocol is subject to ratification or approval by the Contracting Parties.

Instruments of ratification or approval shall be deposited with the Secretary-General of the Council, who shall act as depositary.

As far as Liechtenstein is concerned, this Protocol shall enter into force on the first day of the second month following the notification by the Community and Liechtenstein of the completion of their respective procedures.

As far as Switzerland is concerned, this Protocol shall enter into force on the first day of the second month following the notification by the Community and Switzerland of the completion of their respective procedures.

The entry into force of this Protocol for the Community and Liechtenstein on the one hand, and for the Community and the Swiss Confederation, on the other hand, is also subject to the prior receipt by the depositary of a Note from Denmark to the effect that Denmark assents to the provisions contained in the present Protocol and declares that it shall apply the provisions referred to in Article 2 in its mutual relations with Switzerland and Liechtenstein.

*Article 6*

Each Contracting Party may terminate this Protocol by written declaration addressed to the depositary. Such declaration shall take effect six months after its deposition.

This Protocol shall cease if the Agreement between the Community and Denmark is terminated.

This Protocol shall cease if either the Community or both Switzerland and Liechtenstein have denounced it.

За Европейската общност  
 Por la Comunidad Europea  
 Za Evropské společenství  
 For Det Europæiske Fællesskab  
 Für die Europäische Gemeinschaft  
 Euroopa Ühenduse nimel  
 Για την Ευρωπαϊκή Κοινότητα  
 For the European Community  
 Pour la Communauté européenne  
 Per la Comunità europea  
 Eiropas Kopienas vārdā  
 Europos bendrijos vardu  
 az Európai Közösség részéről  
 Għall-Komunità Ewropea  
 Voor de Europese Gemeenschap  
 W imieniu Wspólnoty Europejskiej  
 Pela Comunidade Europeia  
 Pentru Comunitatea Europeană  
 Za Európske spoločenstvo  
 Za Evropsko skupnost  
 Euroopan yhteisön puolesta  
 På Europeiska gemenskapens vägnar




За Конфедерация Швейцария  
 Por la Confederación Suiza  
 Za Švýcarskou konfederaci  
 For Det Schweiziske Forbund  
 Für die Schweizerische Eidgenossenschaft  
 Šveitsi Konföderatsiooni nimel  
 Για την Ελβετική Συνομοσπονδία  
 For the Swiss Confederation  
 Pour la Confédération suisse  
 Per la Confederazione svizzera  
 Šveices Konfederācijas vārdā  
 Šveicarijos Konfederācijas vardu  
 A Svájci Államszövetség részéről  
 Għall-Konfederazzjoni Żvizzera  
 Voor de Zwitserse Bondsstaat  
 W imieniu Konfederacji Szwajcarskiej  
 Pela Confederação Suíça  
 Pentru Confederația Elvețiană  
 Za švajčiarsku konfederáciu  
 Za švicarsko konfederacijo  
 Sveitsin valaliiton puolesta  
 På Schweiziska edsförbundets vägnar



За Княжество Лихтенщайн  
 Por el Principado de Liechtenstein  
 Za Lichtenštejské knížectví  
 For Fyrstendømmet Liechtenstein  
 Für das Fürstentum Liechtenstein  
 Liechtensteini Vürstiriigi nimel  
 Για το Πριγκιπάτο του Λιχτενστάιν  
 For the Principality of Liechtenstein  
 Pour la Principauté de Liechtenstein  
 Per il Principato del Liechtenstein  
 Lihtenšteinas Firstistes vārdā  
 Lichtenšteino Kunigaikštystės vardu  
 A Liechtensteini Hercegség részéről  
 Għall-Prinċipat ta' Liechtenstein  
 Voor het Vorstendom Liechtenstein  
 W imieniu Księstwa Liechtensteinu  
 Pelo Principado do Liechtenstein  
 Pentru Principatul Liechtenstein  
 Za Lichtenštajnské kniežatstvo  
 Za Kneževino Lihtenštajn  
 Liechtensleinin ruhtinaskunnan puolesta  
 För Furstendömet Liechtenstein



## ANNEX

COUNCIL REGULATION (EC) No 343/2003 of 18 February 2003 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 (OJ L 50, 25.2.2003, p. 1).

COUNCIL REGULATION (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, 15.12.2000, p. 1).

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