



**2018/0418(NLE)**

14.10.2019

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## **DRAFT RECOMMENDATION**

on the draft Council decision on the conclusion of the Protocol between the European Union, 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 regarding access to Eurodac for law enforcement purposes (15783/2018 – C9-0025/2019 – 2018/0418(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jadwiga Wiśniewska

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion of the Protocol between the European Union, 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 regarding access to Eurodac for law enforcement purposes  
(15783/2018 – C9-0025/2019 – 2018/0418(NLE))**

### **(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (15783/2018),
  - having regard to the draft Protocol between the European Union, 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 regarding access to Eurodac for law enforcement purposes (15781/2018),
  - having regard to the request for consent submitted by the Council in accordance with Article 87(2), point (a), Article 88(2), first subparagraph, point (a), and Article 218(6), second subparagraph, point (a)(v), of the Treaty on the Functioning of the European Union (C9-0025/2019),
  - having regard to Rule 105(1) and (4) and Rule 114(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2019),
1. Gives its consent to the conclusion of the protocol;
  2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Swiss Confederation and the Principality of Liechtenstein.

## EXPLANATORY STATEMENT

The 'recast' Eurodac Regulation (Regulation (EU) No. 603/2013) allowed for the consultation of Eurodac by law enforcement authorities for the purpose of prevention, detection and investigation of terrorist offences and other serious criminal offences. This aims at enabling law enforcement authorities to request the comparison of fingerprint data with those stored in the Eurodac central database when they seek to establish the exact identity of or obtain further information for the purpose of prevention, detection or investigation of terrorist offences or of other serious criminal offences.

Since 2004, 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 also covers the application of the 'Dublin-related' parts of Eurodac. This is also the case for Liechtenstein since 2008, through a Protocol concluded between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the latter to the above-mentioned Agreement. However, law enforcement access, which was a new element of the 'recast' Eurodac Regulation compared to the original Eurodac regime (Council Regulation (EC) No 2725/2000) has not been regulated so far by the said Agreement.

The negotiations on an agreement between the European Union, on the one part, and Switzerland and Liechtenstein, on the other part, on the modalities of the participation by Switzerland and Liechtenstein to the procedure for comparison and data transmission for law enforcement purposes foreseen in chapter VI of the 'recast' Eurodac Regulation have been finalised and an Agreement in the form of a Protocol to the Agreement of 26 October 2004, extending the application of the Agreement of 26 October 2004 to law enforcement was initialled.

The extension of the law enforcement provisions of the Regulation (EU) No. 603/2013 to Switzerland and Liechtenstein would enable the law enforcement authorities of Switzerland and Liechtenstein to request a comparison of fingerprint data against the data entered by other participating States and stored in the Eurodac database when they seek to establish the identity or get further information concerning a person who is suspected of a serious crime or terrorism or concerning a victim. On the other hand, it would enable the law enforcement authorities of all other participating States, whether other EU Member States or Associates Countries, to request a comparison of fingerprint data against the data entered by Switzerland and Liechtenstein and stored in the Eurodac database, for the same purposes.

The Council will decide by qualified majority after the signing of the agreement, on behalf of the Union and only after having obtained the consent of the European Parliament in accordance with Article 218(6), second subparagraph, point (a) (v) and 218(8) TFEU.

In light of the above-mentioned considerations, the rapporteur recommends that the members of Parliament's Committee on Civil Liberties, Justice and Home Affairs support this report and that the European Parliament gives its consent.