

17. PROTOCOL ON THE SCHENGEN ACQUIS INTEGRATED INTO THE FRAMEWORK OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

RECALLING that the provisions of the Schengen *acquis* consisting of the Agreements on the gradual abolition of checks at common borders, signed by some Member States of the European Union in Schengen on 14 June 1985 and on 19 June 1990, as well as related agreements and rules adopted on the basis of these agreements, have been integrated into the framework of the European Union by a Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community;

DESIRING to preserve the Schengen *acquis*, as developed since the entry into force of the abovementioned Protocol, within the framework of the Constitution, and to develop this *acquis* in order to contribute towards achieving the objective of offering citizens of the Union an area of freedom, security and justice without internal borders;

TAKING INTO ACCOUNT the special position of Denmark;

TAKING INTO ACCOUNT the fact that Ireland and the United Kingdom of Great Britain and Northern Ireland do not participate in all the provisions of the Schengen *acquis*; provision should, however, be made to allow those Member States to accept other provisions of this *acquis* in full or in part;

RECOGNISING that, as a consequence, it is necessary to make use of the provisions of the Constitution concerning closer cooperation between some Member States;

TAKING INTO ACCOUNT the need to maintain a special relationship with the Republic of Iceland and the Kingdom of Norway, both States being bound by the provisions of the Nordic passport union, together with the Nordic States which are members of the European Union;

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe,

Article 1

The Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden shall be authorised to implement closer cooperation among themselves in areas covered by provisions defined by the Council which constitute the Schengen *acquis*. This cooperation shall be conducted within the institutional and legal framework of the Union and with respect for the relevant provisions of the Constitution.

Article 2

The Schengen *acquis* shall apply to the Member States referred to in Article 1, without prejudice to Article 3 of the Protocol on the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic. The Council will substitute itself for the Executive Committee established by the Schengen agreements.

Article 3

The participation of Denmark in the adoption of measures constituting a development of the Schengen *acquis*, as well as the implementation of these measures and their application to Denmark, shall be governed by the relevant provisions of the Protocol on the position of Denmark.

Article 4

Ireland and the United Kingdom of Great Britain and Northern Ireland, may at any time request to take part in some or all of the provisions of the Schengen *acquis*.

The Council shall adopt a European decision on this request. It shall act by a unanimous decision of the members referred to in Article 1 and of the member representing the government of the Member State concerned.

Article 5

Proposals and initiatives to build upon the Schengen *acquis* shall be subject to the relevant provisions of the Constitution.

In this context, where either Ireland or the United Kingdom or both have not notified the President of the Council in writing within a reasonable period that they wish to take part, the authorisation referred to in Article III-419(1) of the Constitution shall be deemed to have been granted to the Member States referred to in Article 1 and to Ireland or the United Kingdom where either of them wishes to take part in the areas of cooperation in question.

Article 6

The Republic of Iceland and the Kingdom of Norway shall be associated with the implementation of the Schengen *acquis* and its further development. Appropriate procedures shall be agreed to that effect in an Agreement to be concluded with those States by the Council, acting by the unanimity of its members mentioned in Article 1. That Agreement shall include provisions on the contribution of Iceland and Norway to any financial consequences resulting from the implementation of this Protocol.

A separate Agreement shall be concluded by the Council, acting unanimously, with Iceland and Norway for the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland on the one hand, and Iceland and Norway on the other, in domains of the Schengen *acquis* which apply to these States.

Article 7

For the purposes of the negotiations for the admission of new Member States into the European Union, the Schengen *acquis* and further measures adopted by the institutions within its scope shall be regarded as an *acquis* which must be accepted in full by all States candidates for admission.
