

(Acts adopted pursuant to Title VI of the Treaty on European Union)

**COUNCIL DECISION
of 28 September 2000**

establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65(2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders

(2000/586/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 31(b), 32 and 34 thereof,

Having regard to the initiative of the Grand Duchy of Luxembourg ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) On 24 June 1997 the Governments of the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland and the Kingdom of Sweden agreed on a Protocol amending Articles 40, 41 and 65 of the Convention implementing the Schengen Agreement of 14 June 1985, signed in Schengen on 19 June 1990 (hereinafter referred to as 'the Protocol') by providing for a simplified procedure to amend references in those Articles to 'officers', 'authorities' and 'competent Ministries'.
- (2) On 1 May 1999, the date of entry into force of the Treaty of Amsterdam, which provided, *inter alia*, for the integration of the Schengen *acquis* into the framework of the European Union, the Protocol had not entered into force.
- (3) The Protocol does not form part of the Schengen *acquis* as integrated into the European Union.
- (4) After the integration of the Schengen *acquis* into the framework of the European Union, the Member States can no longer modify the Convention signed in Schengen on 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders (hereinafter referred to as 'the Schengen Convention').

(5) After the integration of the Schengen *acquis* into the framework of the European Union, there is still a need for a simplified procedure to amend the references to 'officers', 'authorities' and 'competent Ministries', whereby the Council would allow each Member State to modify the reference to its 'officers', 'authorities' and 'competent Ministries' under the provisions of Articles 40(4) and (5), 41(7) and 65(2) of the Schengen Convention (as supplemented by the provisions of the Agreements of accession to the Schengen Convention), if internal changes and reorganisations were to make the existing reference no longer accurate, without requiring the amendment of the references to be formally adopted by the Council.

(6) Any modification of the aforementioned provisions which do not result merely from internal changes or reorganisations but purport to extend the powers under the provisions of Articles 40 and 41 to other 'officers' and 'authorities' should be adopted in accordance with the relevant provisions of the Treaty.

(7) The United Kingdom will take part in this Decision, in accordance with Article 8(2) of Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom to take part in some of the provisions of the Schengen *acquis* ⁽³⁾ in so far as the Decision relates to the provisions of the Schengen *acquis* listed in that Decision.

(8) This Decision further develops provisions for which closer cooperation has been authorised under the Protocol annexed to the Treaty on European Union and the Treaty establishing the European Community, integrating the Schengen *acquis* into the framework of the European Union, and which fall within one of the areas covered by Article 1 of 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* ⁽⁴⁾,

⁽¹⁾ OJ C 131, 12.5.2000, p. 7.

⁽²⁾ Opinion delivered on 14 June 2000 (not yet published in the Official Journal).

⁽³⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

HAS DECIDED AS FOLLOWS:

Article 1

1. Each Member State may amend the references under the provisions of Articles 40(4) and (5), 41(7) and 65(2) of the Schengen Convention to 'officers', 'authorities' and 'competent Ministries' in respect of its officers, authorities or competent Ministries, whenever, as a result of internal changes or reorganisations, the existing references are no longer accurate.

2. Any amendment made pursuant to paragraph 1 shall be notified by the Member State concerned to the General Secretariat of the Council, which shall disseminate the notification to all members of the Council.

3. The Council shall ensure that any such amendment is published in the Official Journal.

4. The amendment shall take effect on the day following that of its publication in the said Official Journal.

Article 2

The procedure set out in Article 1 shall apply also to amendments which have already been made pursuant to Article 1.

Article 3

This Decision shall enter into force on the day following that of its publication in the Official Journal.

Done at Brussels, 28 September 2000.

For the Council

The President

D. VAILLANT
