

COUNCIL DECISION 2005/728/JHA**of 12 October 2005****fixing the date of application of certain provisions of Regulation (EC) No 871/2004 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 871/2004 of 29 April 2004 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism ⁽¹⁾, and in particular to Article 2(2) thereof,

Whereas:

- (1) Regulation (EC) No 871/2004 specifies that the provisions of Article 1 of that Regulation shall apply from a date fixed by the Council, as soon as the necessary preconditions have been fulfilled, and that the Council may decide to fix different dates for the application of different provisions. Those preconditions have been fulfilled in respect of Article 1(6) of Regulation (EC) No 871/2004.
- (2) It is appropriate for Article 1(10) of Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism ⁽²⁾, which is identical to Article 1(6) of Regulation (EC) No 871/2004, to apply from the same date.
- (3) A separate Council Decision provides for the entry into force of Article 1(10) of Decision 2005/211/JHA.
- (4) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the

Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis ⁽³⁾, which falls in the area referred to in Article 1, point G of Decision 1999/437/EC ⁽⁴⁾ read in conjunction with Article 4(1) of Council Decisions 2004/849/EC ⁽⁵⁾ and 2004/860/EC ⁽⁶⁾ of 25 October 2004 on the signing on behalf of the European Union, and on the signing on behalf of the European Community, and on the provisional application of certain provisions of that Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Article 1(6) of Regulation (EC) No 871/2004 shall apply from 1 January 2006.

Article 2

This Decision shall take effect on the date of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 12 October 2005.

For the Council
The President
C. CLARKE

⁽¹⁾ OJ L 162, 30.4.2004, p. 29.

⁽²⁾ OJ L 68, 15.3.2005, p. 44.

⁽³⁾ Council document 13054/04 accessible on <http://register.consilium.eu.int>

⁽⁴⁾ OJ L 176, 10.7.1999, p. 31.

⁽⁵⁾ OJ L 368, 15.12.2004, p. 26.

⁽⁶⁾ OJ L 370, 17.12.2004, p. 78.