

COUNCIL DECISION (EU) 2018/146**of 22 January 2018****on the conclusion, on behalf of the Union, of the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Commission negotiated on behalf of the Union and of the Member States a Euro-Mediterranean Aviation Agreement with the Kingdom of Morocco ('the Agreement') in accordance with the Council Decision authorising the Commission to open negotiations.
- (2) The Agreement was signed on 12 December 2006, pursuant to Decision 2006/959/EC of the Council and of the Representatives of the Governments of the Member States, meeting within the Council ⁽²⁾. The Agreement has been ratified by all Member States, except for Bulgaria, Romania and Croatia. It is intended that the latter Member States will accede to the Agreement in accordance with Article 6(2) of their respective Acts of Accession.
- (3) As regards the amendments to certain Annexes to the Agreement to be adopted by the Joint Committee set up under Article 22 of the Agreement, the power to approve such amendments on behalf of the Union should be given to the Commission, after consultation of the Special Committee appointed by the Council.
- (4) In all other cases, the positions to be taken within the Joint Committee on behalf of the Union as regards matters falling within Union competence should be established on a case-by-case basis in accordance with the relevant provisions of the Treaty on the Functioning of the European Union ('TFEU').
- (5) Considering that both the Union and the Member States are Parties to the Agreement, close cooperation between them is essential. In order to ensure close cooperation and unity of external representation in the Joint Committee, and without prejudice to the Treaties, in particular to Article 16(1) of the Treaty on European Union and Article 218(9) TFEU, a coordination on the positions to be taken within the Joint Committee, on behalf of the Union and the Member States, as regards matters falling within the competence of both the Union and the Member States, should take place prior to any meeting of the Joint Committee dealing with such a matter.
- (6) Articles 2 to 5 of Decision 2006/959/EC contain provisions on decision-making by the Council with regard to various matters set out in the Agreement, including the establishment of the positions to be taken within the Joint Committee, and on the information obligations of the Member States, during the provisional application of the Agreement. Those provisions are either not necessary or their application should be discontinued in view of the judgment of the Court of Justice of 28 April 2015 in Case C-28/12, *Commission v Council* ⁽³⁾. It is therefore appropriate that all those provisions cease to apply at the date of entry into force of this Decision.
- (7) The Agreement should be approved,

⁽¹⁾ OJ C 81E, 15.3.2011, p. 5.

⁽²⁾ Decision 2006/959/EC of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 4 December 2006 on the signature and provisional application of the Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part (OJ L 386, 29.12.2006, p. 55).

⁽³⁾ ECLI:EU:C:2015:282.

HAS ADOPTED THIS DECISION:

Article 1

1. The Euro-Mediterranean Aviation Agreement between the European Community and its Member States, of the one part, and the Kingdom of Morocco, of the other part, is hereby approved on behalf of the Union ⁽¹⁾.
2. The President of the Council is hereby authorised to designate the person(s) empowered to deliver to the Kingdom of Morocco the diplomatic notes provided for in Article 30 of the Agreement ⁽²⁾ and to make the following notification:

‘As a consequence of the entry into force of the Treaty of Lisbon on 1 December 2009, the European Union has replaced and succeeded the European Community and from that date exercises all rights and assumes all obligations of the European Community. Therefore, references to ‘the European Community’ in the text of the Agreement are, where appropriate, to be read as references to ‘the European Union.’

Article 2

The positions to be taken by the Union within the Joint Committee set up under Article 22 of the Agreement, as regards the amendment to the Annexes to the Agreement other than Annex I (Agreed Services and Specified Routes) and Annex IV (Transitional Provisions), shall be adopted by the Commission, following consultation with a Special Committee appointed by the Council.

Article 3

Articles 2 to 5 of Decision 2006/959/EC shall cease to apply at the date of entry into force of this Decision.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 22 January 2018.

For the Council
The President
F. MOGHERINI

⁽¹⁾ The Agreement has been published in the *Official Journal of the European Union* (OJ L 386, 29.12.2006, p. 57) together with the Decision on the signing and provisional application.

⁽²⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.