

Case C-77/05

United Kingdom of Great Britain and Northern Ireland

v

Council of the European Union

(Regulation (EC) No 2007/2004 — Establishment of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union – Validity)

Opinion of Advocate General Trstenjak delivered on 10 July 2007 I - 11462

Judgment of the Court (Grand Chamber), 18 December 2007 I - 11501

Summary of the Judgment

1. *European Union — Police and judicial cooperation in criminal matters — Protocol integrating the Schengen acquis — Article 5(1), second subparagraph — Scope (Protocol integrating the Schengen acquis into the framework of the European Union, Arts 4 and 5(1), second para.)*

2. *Visas, asylum, immigration — Crossing of the external borders of the Member States — Common rules on standards and procedures for border controls*
(Protocol integrating the Schengen acquis into the framework of the European Union, Art. 5(1), first para.; Council Regulation No 2007/2004, first, second and third recitals and Arts 1(1) and (2), and 2)

1. The second subparagraph of Article 5(1) of the Protocol integrating the Schengen acquis into the framework of the European Union must be understood as applicable only to proposals and initiatives to build upon an area of the Schengen acquis which the United Kingdom and/or Ireland have been authorised to take part in pursuant to Article 4 of that protocol.

(see para. 68)

2. Checks on persons at the external borders of the Member States and consequently the effective implementation of the common rules on standards and procedures for those checks must be regarded as constituting elements of the Schengen acquis within the meaning of the first subparagraph of Article 5(1) of the Protocol integrating the Schengen acquis into the framework of the European Union.

Therefore, Regulation No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, which is intended, as regards both its purpose and its content, to improve those checks, must be regarded as constituting a measure to build upon that acquis. Firstly, it is apparent from the first three recitals in the preamble to that regulation and from Article 1(1) and (2) thereof that it is intended to improve the integrated management of external borders and to facilitate and render more effective the application of the common rules on standards and procedures for the control of those borders. Secondly, the Agency set up by that regulation has the task, as may be seen from recital 3 and Article 2 thereof, in particular, of coordinating operational cooperation between Member States in the field of management of external borders, assisting Member States in the training of national border guards, and providing Member States, where circumstances require, with increased technical and operational assistance at external borders.

The common rules referred to by Regulation No 2007/2004 which are to

be applied in connection with the integrated management of external borders were laid down in the Common Manual adopted by the Executive Committee established by the Convention implementing the Schengen Agreement (CISA), which was established with a view to implementing the provisions of Chapter 2, 'Crossing external borders', of

Title II of the CISA and forms part of the Schengen acquis as referred to in Article 1 of the Schengen Protocol.

(see paras 79-82, 84, 85)