COUNCIL DECISION

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

(1999/437/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Protocol integrating the Schengen acquis into the framework of the European Union, annexed to the Treaty on European Union and to the Treaty establishing the European Community by the Treaty of Amsterdam (hereinafter referred to as 'the Schengen Protocol'), and in particular Article 2 thereof,

(1) Whereas on 18 May 1999, an Agreement based on the first paragraph of Article 6 of the Schengen Protocol was concluded with 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 (hereinafter referred to as 'the Agreement');

(2) Whereas it is necessary to establish arrangements for the application of some of the provisions of the Agreement;

(3) Whereas the Agreement establishes a Joint Committee, which is to address all matters relating to the application and further development of those provisions of the European Union which Iceland and Norway have undertaken to implement and apply pursuant to Article 2 of the Agreement;

(4) Whereas it is for the European Union to define the areas in which the further development of the existing provisions of the Union will be covered by the procedures set out in the Agreement, in particular the procedures for discussion within the Joint Committee;

(5) Whereas any amendments to the list of those areas may be adopted by the Council on the same legal basis as that of this Decision;

(6) Whereas the application of the procedures set out in the Agreement is without prejudice to the Agreement on the European Economic Area and any other agreement between the European Community and Iceland and Norway or agreements concluded with those States on the basis of Articles 24 and 38 of the Treaty on European Union;

(7) Whereas this Decision is without prejudice to the application or the interpretation both of the Protocol on the position of Denmark, annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community, and of other provisions of the Schengen Protocol;

(8) Whereas provision should be made for a consultation procedure within the Council before any decision is taken by the Joint Committee relating to the termination or continuation of the Agreement, with the aim of reaching a common position among the members of the Council,

HAS DECIDED AS FOLLOWS:

Article 1

The procedures laid down in the Agreement of 18 May 1999 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 (hereinafter referred to as 'the Agreement') shall be applied to proposals and initiatives for the further development of those provisions in respect of which closer cooperation has been authorised under the Schengen Protocol and which fall within one of the following areas:

A. The crossing by persons of the external borders of those States which have decided to abolish checks at their internal borders, including the rules and arrangements with which those States must comply when carrying out checks on persons at external borders, surveillance of border areas and cooperation with the services responsible for border control.

B. Short-stay visas, particularly the rules on a uniform visa, the list of countries whose nationals must be in possession of visas for the States concerned and those whose nationals are exempt from that requirement, the procedures and conditions for the issue of uniform visas, and cooperation and consultation between the issuing services.

C. Free movement, for a maximum period of three months, of nationals of third countries within the territory of those States which have decided to abolish checks at their internal borders and expulsion of such persons when their position is illegal.

D. The settlement of disputes between States in cases where a State has issued or is considering issuing a residence permit to an alien reported as a person not to be permitted entry by another State.

E. The penalities applicable to carriers and those responsible for organising illegal immigration.

F. Protection of personal data exchanged between the services referred to in points A and B.

G. The Schengen Information System (SIS), including the relevant provisions on protection and security of data, the provisions on the operation of the national sections of the SIS and the exchange of information between those national sections (SIRENE system), and the effect of the alerts in the SIS for persons wanted for arrest for extradition purposes.

H. Any form of police cooperation coming under Articles 39 to 43, 46, 47, 73 and 126 to 130 of the Convention of 19 June 1990 implementing the Schengen Agreement on the gradual abolition of checks at the common borders, as applied between the Member States concerned at the time of entry into force of the Treaty of Amsterdam.

I. The arrangements for judicial cooperation in criminal matters described in Articles 48 to 63 and 65 to 69 of the 1990 Convention referred to in point H, as applied between the Member States concerned at the time of the entry into force of the Treaty of Amsterdam.

Article 2

Where a Member State or the Commission submits to the Council an initiative or a proposal which it considers to fall within an area covered by Article 1, it shall indicate this in the text submitted.

Article 3

At the request of a Member State or of the Commission, the Presidency shall convene a meeting of the Committee of the Permanent Representatives of the Member States to enable a discussion to be held on whether an initiative or proposal falls within an area covered by Article 1.

Article 4

1. Acts for adoption by the Council which constitute the further development of those provisions in respect of which closer cooperation has been authorised under the Schengen Protocol and which fall within one of the areas covered by Article 1 shall contain an indication to that effect.

2. Publication in the *Official Journal of the European Communities* of any act referred to in paragraph 1 must include an indication stating that it falls within an area in respect of which closer cooperation has been authorised under the Schengen Protocol.

Article 5

Before the delegations representing the members of the Council participate in a decision of the Joint Committee set up by the Agreement, in accordance with Article 8(4) or Article 11 thereof, they shall meet within the Council in order to determine whether a common position can be adopted.

Article 6

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

Done at Brussels, 17 May 1999.

For the Council

The President

J. FISCHER

DECLARATIONS

I. Declaration by the Council

'The sole purpose of the list reproduced in Article 1 is to determine the areas with regard to which the further development of the Schengen acquis within the framework of the European Union must comply with the procedures laid down in Article 4 of the Agreement concluded by the Council with the Republic of Iceland and the Kingdom of Norway concerning the association of those States with the implementation, application and further development of the Schengen acquis.

That list is not a list of the areas constituting the entire Schengen acquis as integrated into the framework of the European Union and as it is to be applied and implemented by and between the Member States bound by the Schengen agreements. To that end the Schengen acquis was determined by the Council in its Decision of 20 May 1999.

Nor is it a list of the areas constituting the entire Schengen acquis as it is to be applied and implemented by Iceland and Norway and between those States and the Member States bound by the Schengen agreements under Article 2(1) of the aforementioned agreement.

The fact of that list's existence cannot, therefore, affect the integrity of the Schengen acquis as referred to in the Annex to the Protocol integrating the Schengen acquis into the framework of the European Union.'

II. Declaration by the Commission

'The Commission wishes to state that in the Mixed Committee it will comply with any common position adopted by the Council.'