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COUNCIL DECISION

of 29 May 2000

concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis

(2000/365/EC)

(OJ L 131, 1.6.2000, p. 43)

Amended by:

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		No	page	date
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COUNCIL DECISION

of 29 May 2000

concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis

(2000/365/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Article 4 of 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, (hereinafter referred to as 'the Schengen Protocol'),

Having regard to the request by the Government of the United Kingdom of Great Britain and Northern Ireland, by its letters to the President of the Council of 20 May 1999, 9 July 1999 and 6 October 1999, to participate in certain provisions of the Schengen acquis, as specified in the said letters,

Having regard to the Opinion of 20 July 1999 of the Commission of the European Communities on the request,

Whereas the United Kingdom of Great Britain and Northern Ireland has a special position in respect of matters covered by Title IV of Part Three of the Treaty establishing the European Community, as recognised in the Protocol on the position of the United Kingdom and Ireland and in the Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland, annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community;

Whereas the Schengen acquis was conceived and functions as a coherent ensemble which has to be fully accepted and applied by all States supporting the principle of the abolition of checks on persons at their common borders;

Whereas the Schengen Protocol provides for the possibility of the United Kingdom of Great Britain and Northern Ireland to participate in some of the provisions of the Schengen acquis, because of the said special position of the United Kingdom;

Whereas the United Kingdom will assume the obligations of a Member State arising from the Articles of the 1990 Schengen Convention listed in this Decision;

Whereas having regard to the aforementioned special position of the United Kingdom, neither the United Kingdom nor the territories referred to in Article 5 participate by virtue of this Decision in the frontiers provisions of the 1990 Schengen Convention;

Whereas taking account of the serious matters addressed by Articles 26 and 27 of the 1990 Schengen Convention, the United Kingdom and Gibraltar will apply these articles;

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Whereas the United Kingdom has requested to participate in the ensemble of the provisions of the Schengen acquis concerning the establishment and operation of the Schengen Information System (hereinafter referred to as the 'SIS '), except in respect of the provisions concerning the alerts referred to in Article 96 of the Schengen Convention of 1990 and the other provisions which relate to those alerts;

Whereas it is the view of the Council that any partial participation by the United Kingdom in the Schengen acquis must respect the coherence of the subject areas which constitute the ensemble of this acquis;

Whereas the Council thus recognises the right of the United Kingdom to make, in accordance with Article 4 of the Schengen Protocol, a request for partial participation, noting at the same time that it is necessary to consider the impact of such participation of the United Kingdom in the provisions concerning the establishment and operation of the SIS on the interpretation of the other relevant provisions of the Schengen acquis and on its financial implications;

Whereas the Mixed Committee, established pursuant to Article 3 of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application, and development of the Schengen acquis ([1]), has been informed about the preparation of this Decision in accordance with Article 5 of that Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The United Kingdom of Great Britain and Northern Ireland shall participate in the following provisions of the Schengen acquis:

(a) In respect of the provisions of the 1990 Convention implementing the Schengen Agreement of 14 June 1985, its related Final Act and Joint Statements:

(i) Articles 26 and ►**M1** 27(1) ◄;

Articles 39 and 40;

Articles 42 and 43 to the extent that they relate to Article 40;

Article 44;

Articles 46 and 47, ►**M1** except for Article 47(2)(c) and (4) ◄;

Articles 48 to 51;

Articles 52 and 53;

Articles 54 to 58;

Article 59;

([1]) OJ L 176, 10.7.1999, p. 36.

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Articles 61 to 66;

Articles 67 to 69;

Articles 71 to 73;

Articles 75 and 76;

Articles 126 to 130 to the extent that they relate to the provisions in which the United Kingdom participates by virtue of this subparagraph;

Declaration 3 to the Final Act concerning Article 71(2);

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(ii) the following provisions concerning the Schengen Information System:

— Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ([1]);

— Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (3rd pillar) ([2]);

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(b) in respect of the provisions of the Agreements of Accession to the 1990 Convention implementing the Schengen Agreement of 14 June 1985, their Final Acts and Common Declarations:

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(i) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Denmark: Article 6;

(ii) the Agreement signed on 19 December 1996 on Accession of the Republic of Finland: Article 5;

(iii) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Sweden: Article 5;

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(c) in respect of the provisions of the following Decisions of the Executive Committee established by the 1990 Convention implementing the Schengen Agreement of 14 June 1985 to the extent that they relate to the provisions in which the United Kingdom participates by virtue of subparagraph (a) above:

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SCH/Com-ex (94) 28 rev (certificate provided for in Article 75 for transport of drugs and/or psychotropic substances);

SCH/Com-ex (98) 26 def (setting up the Schengen implementing Convention Standing Committee), subject to an internal arrangement specifying the modalities of participation of United Kingdom experts in missions carried out under the auspices of the relevant Council Working Party.

([1]) OJ L 205, 7.8.2007, p. 63.
([2]) OJ L 79, 20.3.2007, p. 29.

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Article 5

1. The United Kingdom shall notify in writing the President of the Council which of the provisions referred to in Article 1 it wishes to apply to the Channel Islands and the Isle of Man. ►M1 An implementing decision on this request shall be taken by the Council ◄ acting with the unanimity of its Members referred to in Article 1 of the Schengen Protocol and of the representative of the Government of the United Kingdom.

2. The following of the provisions of Article 1 shall apply to Gibraltar:

(a) As far as the provisions of the 1990 Convention implementing the Schengen Agreement of 14 June 1985, its related Final Act and Joint Statements are concerned:

Articles 26 and ►M1 27(1) ◄;

Article 39;

Article 44 to the extent that it does not relate to hot pursuit and cross border surveillance;

Articles 46 and 47, ►M1 except for Article 47(2)(c) and (4) ◄;

Articles 48 to 51;

Articles 52 and 53;

Articles 54 to 58;

Article 59;

Articles 61 to 63;

Articles 65 to 66;

Articles 67 to 69;

Articles 71 to 73;

Articles 75 and 76;

Articles 126 to 130 to the extent that they relate to the provisions in which Gibraltar participates by virtue of this sub-paragraph;

Declaration 3 to the Final Act concerning Article 71(2).

(b) In respect of the provisions of the Agreements of Accession to the 1990 Convention implementing the Schengen Agreement of 14 June 1985, their Final Acts and Common Declarations:

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(i) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Denmark: Article 6;

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(ii) the Agreement signed on 19 December 1996 on Accession of the Republic of Finland: Article 5;

(iii) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Sweden: Article 5.

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(c) As far as the provisions of the Decisions of the Executive Committee established by the 1990 Convention implementing the Schengen Agreement of 14 June 1985 are concerned:

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SCH/Com-ex (94) 28 rev (certificate provided for in Article 75 for transport of drugs and/or psychotropic substances).

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3. Article 8(3) shall apply to the territories referred to in paragraphs 1 and 2 above.

Article 6

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1. The provisions referred to in Article 1(a)(ii), as well as the other relevant provisions concerning the Schengen Information System adopted since 1 December 2009, but not yet put into effect, shall be put into effect, between the United Kingdom and the Member States and other States for which these provisions have already been put into effect, when the preconditions for the implementation of those provisions have been fulfilled, by an implementing decision taken by the Council.

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►M1 2. ◄ Paragraph 1 shall apply *mutatis mutandis* to the putting into effect of the provisions referred to in Article 5 in respect of the territories concerned.

►M1 3. ◄ ►M1 Any implementing decision under paragraphs 1 and 2 ◄ shall be taken by the Council, acting with the unanimity of its members referred to in Article 1 of the Schengen Protocol and of the representative of the Government of the United Kingdom.

►M1 4. ◄ The provisions of Article 75 of the 1990 Convention implementing the Schengen Agreement of 14 June 1985 and of Executive Committee Decision SCH/Com-ex (94) 28 rev (certificate provided for in Article 75 for transportation of drugs and/or psychotropic substances) shall be directly applicable in the United Kingdom.

Article 7

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►M1 1. ◄ The United Kingdom shall bear all the costs involved in the technical achievement of its partial participation in the operation of the SIS.

Article 8

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

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2. From the date of adoption of this Decision the United Kingdom of Great Britain and Northern Ireland shall be deemed irrevocably to have notified the President of the Council under Article 5 of the Schengen Protocol that it wishes to take part in all proposals and initiatives which build upon the Schengen acquis referred to in Article 1. Such participation shall cover the territories referred to in Article 5(1) and (2) respectively, to the extent that the proposals and initiatives build upon the provisions of the Schengen acquis to which those territories become bound.

3. Measures building upon the Schengen acquis referred to in Article 1 which have been adopted prior to the adoption of the Council decision referred to in Article 6 shall take effect for the United Kingdom on the date or dates on which the Council decides under Article 6 to put the acquis referred to in Article 1 into effect for the United Kingdom unless the measure itself provides for a later date.