II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 5 March 2007

authorising the Deputy Secretary-General of the Council of the European Union to act as representative of certain Member States for the purpose of concluding and managing contracts relating to the provision of services concerning a communication infrastructure for the Schengen environment, pending its migration to a communication infrastructure at the charge of the European Community

(2007/149/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 the Treaty establishing the European Community, in particular its Article 7,

Whereas:

(1) The Council authorised the Deputy Secretary-General of the Council by Decision 1999/870/EC [1] to conclude and manage on behalf of certain Member States the contract relating to the installation and the functioning of the communication infrastructure for the Schengen environment, the 'Sisnet'.

(2) The contract for the Sisnet concluded on the basis of that authorisation will terminate automatically on 13 November 2008 and cannot be renewed or extended through direct negotiation with the current contractor.

(3) The Member States concerned have expressed the need to have the current contract for the Sisnet followed up by a new contract, and requested the Deputy Secretary-General of the Council to represent them with respect to the execution of the necessary preparatory measures as well as the conclusion and management of a new contract for the Sisnet.

(4) The performance of such a task by the Deputy Secretary-General of the Council on behalf of certain Member States constitutes a task distinct from the tasks performed by the Deputy Secretary-General pursuant to his obligations under the Treaty establishing the European Community and the Treaty on European Union.

(5) It is therefore appropriate to have this task assigned to the Deputy Secretary-General by way of an explicit Decision of the Council.

(6) Such tendering procedure entails some risks that are outside of the control of the Council and the Member States, the Council of 15 February 2007 also asks the Commission to make proposals as soon as possible to provide for the possibility of migrating the SIS, Sirene and Vision onto the s-TESTA network by 13 November 2008, under its responsibility,

[1] OJ L 337, 30.12.1999, p. 41.

HAS DECIDED AS FOLLOWS:

Article 1

The Council hereby authorises the Deputy Secretary-General of the Council to act as the representative of the Member States concerned (Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom), with respect to:

(a) the execution of a call for tenders for the provision of services concerning a communication infrastructure for the Schengen environment, pending its migration to a communication infrastructure at the charge of the European Community;

(b) the conclusion and management of the contracts for the provision of such services.

Article 2

The work involved in preparing the call for tenders and managing the subsequent contracts referred to in Article 1 on behalf of the Member States concerned shall be performed by the General Secretariat of the Council as part of its normal administrative tasks.

Article 3

All questions relating to any non-contractual liability resulting from the acts or omissions of the General Secretariat of the Council in the performance of its administrative tasks pursuant to this Decision shall be governed by Article 288, second paragraph, of the Treaty establishing the European Community. Article 235 of that Treaty shall therefore apply to any disputes relating to compensation for damage.

Article 4

1. The special bank account in the name of the Secretary-General of the Council, opened for the purpose of managing the contracts as referred to in Decision 1999/870/EC, shall be used in respect of the budget relating to the conclusion and management of the contracts mentioned in Article 1.

2. The Deputy Secretary-General shall be authorised to use the bank account referred to in paragraph 1 for the purposes of carrying out his tasks pursuant to this Decision.

Article 5

This Decision shall take effect on the day of its adoption.

Article 6

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 5 March 2007.

For the Council
The President
F.-W. STEINMEIER