II

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

DECISIONS

COUNCIL

COUNCIL DECISION

of 10 February 2009

amending Annex 2, Schedule A, to the Common Consular Instructions on visas for the diplomatic missions and consular posts, in relation to visa requirements for holders of Indonesian diplomatic and service passports

(2009/171/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications ([1]), and in particular Article 1(1) thereof,

Having regard to the initiative of Austria,

Whereas:

(1) Annex 2, Schedule A, to the Common Consular Instructions on visas for the diplomatic missions and consular posts ([2]) contains the list of countries whose nationals are not subject to a visa requirement in one or more Schengen States when they are holders of diplomatic, official or service passports, but who are subject to this requirement when they are holders of ordinary passports.

(2) Austria wishes to exempt holders of Indonesian diplomatic and service passports from visa requirements. The Common Consular Instructions should therefore be amended accordingly.

(3) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Decision whether it will implement it in its national law.

(4) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between 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* ([3]), which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ([4]).

(5) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC 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* ([5]); the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

([1]) OJ L 116, 26.4.2001, p. 2.
([2]) OJ C 326, 22.12.2005, p. 1.
([3]) OJ L 176, 10.7.1999, p. 36.
([4]) OJ L 176, 10.7.1999, p. 31.
([5]) OJ L 131, 1.6.2000, p. 43.

(6) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* [1]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(7) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* [2] which fall within the area referred to in Article 1, point B of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC [3].

(8) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point B of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/261/EC [4].

(9) As regards Cyprus, this Decision constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.

(10) This Decision constitutes an act building upon the Schengen *acquis* or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

In Annex 2, Schedule A, to the Common Consular Instructions, the letters 'D' and 'S' shall be inserted in the 'AT' column against the entry for Indonesia.

Article 2

This Decision shall apply from 1 March 2009.

Article 3

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 10 February 2009.

For the Council
The President
M. KALOUSEK

[1] OJ L 64, 7.3.2002, p. 20.
[2] OJ L 53, 27.2.2008, p. 52.
[3] OJ L 53, 27.2.2008, p. 1.
[4] OJ L 83, 26.3.2008, p. 3.