

## II

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

## DECISIONS

## COUNCIL

## COUNCIL DECISION

of 28 January 2008

**on the conclusion, on behalf of the European Community, 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***

(2008/146/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62, point 3 of the first subparagraph of Article 63, and Articles 66 and 95, in conjunction with the second sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) Following the authorisation given to the Commission on 17 June 2002, negotiations with the Swiss Authorities, regarding the association of Switzerland with the implementation, application and development of the Schengen *acquis* have been concluded.
- (2) In accordance with Council Decision 2004/860/EC <sup>(2)</sup>, and subject to its conclusion at a later date, 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* has been signed on behalf of the European Community on 26 October 2004.

(3) The Agreement should now be approved.

(4) As far as the development of the Schengen *acquis*, which falls under the Treaty establishing the European Community, is concerned the provisions of Council Decision 1999/437/EC 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* <sup>(3)</sup>, apply *mutatis mutandis* to relations with Switzerland.

(5) This Decision does not prejudice the position of the United Kingdom, under 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 and 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* <sup>(4)</sup>.

(6) This Decision does not prejudice the position of Ireland, under 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 and 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* <sup>(5)</sup>.

<sup>(1)</sup> Opinion of 13 October 2005 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 370, 17.12.2004, p. 78.

<sup>(3)</sup> OJ L 176, 10.7.1999, p. 31.

<sup>(4)</sup> OJ L 131, 1.6.2000, p. 43.

<sup>(5)</sup> OJ L 64, 7.3.2002, p. 20.

- (7) This Decision does not prejudice the position of Denmark, under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community,

development to the extent that such provisions have, or, in accordance with Decision 1999/436/EC <sup>(2)</sup>, have been determined to have, a legal base within the Treaty establishing the European Community.

HAS DECIDED AS FOLLOWS:

*Article 1*

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*, and the related documents consisting of the Final Act, of the Agreement in the form of an Exchange of Letters on the Committees that assist the Commission in the exercise of its executive powers, and the Joint Declaration on joint meetings of the Mixed Committees are hereby approved on behalf of the European Community.

The text of the Agreement, the Final Act, the Exchange of Letters, and the Joint Declaration are attached to this Decision <sup>(1)</sup>.

*Article 2*

This Decision applies to the fields covered by the provisions listed in Annexes A and B of the Agreement and to their

*Article 3*

The provisions of Article 1 to 4 of Council Decision 1999/437/EC shall apply, in the same way, to the association of Switzerland with the implementation, application and development of the Schengen *acquis*, which falls under the Treaty establishing the European Community.

*Article 4*

The President of the Council is hereby authorised to designate the person empowered to deposit on behalf of the European Community the Instrument of approval provided for in Article 14 of the Agreement, in order to express the consent of the Community to be bound.

*Article 5*

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

Done at Brussels, 28 January 2008.

*For the Council*

*The President*

D. RUPEL

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<sup>(1)</sup> See page 52 of this Official Journal.

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<sup>(2)</sup> OJ L 176, 10.7.1999, p. 17.