


Procedure file

Basic information		
CNS - Consultation procedure Decision	2001/0828(CNS)	Procedure completed
Schengen : amending article 40 (1) and (7)of the convention. Initiative Belgium, Spain and France		
Subject 7.10.02 Schengen area, Schengen acquis 7.30.30 Action to combat crime 7.40.04 Judicial cooperation in criminal matters		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	PPE-DE VON BOETTICHER Christian Ulrik	21/11/2001
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2529	02/10/2003

Key events			
25/09/2001	Legislative proposal published	11896/2001	Summary
15/11/2001	Committee referral announced in Parliament		
19/03/2002	Vote in committee		Summary
19/03/2002	Committee report tabled for plenary, 1st reading/single reading	A5-0078/2002	
08/04/2002	Debate in Parliament		
09/04/2002	Decision by Parliament	T5-0154/2002	Summary
02/10/2003	Act adopted by Council after consultation of Parliament		
02/10/2003	End of procedure in Parliament		
11/10/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2001/0828(CNS)
Procedure type	CNS - Consultation procedure

Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the European Union (after Amsterdam) M 039-p1
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/15440

Documentation gateway

Legislative proposal		11896/2001 OJ C 285 11.10.2001, p. 0003	25/09/2001	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0078/2002	19/03/2002	EP	
Text adopted by Parliament, 1st reading/single reading		T5-0154/2002 OJ C 127 29.05.2003, p. 0029-0155 E	09/04/2002	EP	Summary

Additional information

European Commission	EUR-Lex
---------------------	-------------------------

Final act

Decision 2003/725 OJ L 260 11.10.2003, p. 0037-0038 Summary
--

Schengen : amending article 40 (1) and (7)of the convention. Initiative Belgium, Spain and France

PURPOSE : to present an initiative from Belgium, Spain and France with a view to the adoption by the Council of a Decision amending Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders. CONTENT : the provisions of the Convention implementing the Schengen Agreement on the gradual abolition of checks at common borders which concern cross-border surveillance should be amended and their scope broadened with a view to increasing the success of criminal investigations, particularly those concerning offences connected with organised crime. This draft proposal aims to do just that by specifying that officers of a Member State who are keeping a person under surveillance in their country as part of a judicial investigation into an extraditable criminal offence may continue their surveillance in the territory of another Member State where the latter State has authorised cross-border surveillance in response to a request for judicial assistance made in advance and duly substantiated. Moreover, the wording of the text is to be amended so as to include 'counterfeiting and forgery of means of payment'. Moreover the following issues shall be included in the proposal in order to increase its scope: - organised fraud; - smuggling of illegal immigrants; - laundering of proceeds from organised crime; - illicit trafficking in nuclear radioactive substances. This proposal states that the Decision shall not be binding upon Ireland and it shall not apply to Gibraltar. It shall only apply to the Channel Islands subject to Article 5(1) of Decision 2000/365/EC.?

Schengen : amending article 40 (1) and (7)of the convention. Initiative Belgium, Spain and France

The committee adopted the report by Christian von BÖTTICHER (EPP-ED, D) amending the proposal under the consultation procedure. It wanted to add acts of terrorism, as defined in the Council framework decision on combating terrorism, to the list of offences in respect of which cross-border surveillance will be allowed. The committee also stipulated that, should a Schengen country be unable to take over the surveillance properly due to a lack of technical, human or financial resources, then the officers of the country originally conducting the surveillance should be entitled to continue doing so. MEPs further amended the proposal so as to provide for the possibility of officers carrying out the surveillance to challenge or provisionally arrest the person under surveillance in another country if that person commits, or is about to commit, an extraditable criminal act and where officers of the country concerned are unable to make the challenge or arrest themselves. ?

Schengen : amending article 40 (1) and (7)of the convention. Initiative Belgium, Spain and France

The European Parliament adopted the resolution drafted by Christian Von BOTTICHER (EPP-ED, Germany) on the gradual abolition of checks at the common borders. (Please refer to the document dated 19/03/02.) An additional point recalls that entry into private homes and places not accessible to the public shall be prohibited.?

Schengen : amending article 40 (1) and (7) of the convention. Initiative Belgium, Spain and France

PURPOSE : to amend the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders. **LEGISLATIVE ACT** : Council Decision 2003/725/JHA amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders.

CONTENT : the Council Decision, based on a Belgian, Spanish and French initiative, provides that officers of one of the Member States who are keeping a person under surveillance in their country as part of a criminal investigation into an extraditable criminal offence because he is suspected of involvement in an extraditable criminal offence or, as a necessary part of a criminal investigation, because there is serious reason to believe that he can assist in identifying or tracing such a person, shall be authorised to continue their surveillance in the territory of another Member State where the latter has authorised cross-border surveillance in response to a request for assistance made in advance with supporting reasons. Conditions may be attached to the authorisation. The Council Decision also extends the scope of the application of the measures of the Schengen Convention to include serious fraud; smuggling of aliens; money laundering; illicit trafficking in nuclear and radioactive substances; participation in a criminal organisation as referred to in Council Joint Action 98/733/JHA on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union; terrorist offences as referred to in Council Framework Decision 2002/475/JHA on combating terrorism. **TERRITORIAL PROVISIONS** : This Decision shall not be binding upon Ireland and shall not apply to Gibraltar. This Decision shall only apply to the Channel Islands subject to Article 5(1) of Decision 2000/365/EC. The United Kingdom is taking part in this Decision in accordance with certain provisions of the Treaty. Iceland and Norway. As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen acquis and shall also be associated. **ENTRY INTO FORCE** :

11.10.2003.?