



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 25 September 2001  
(OR. fr)**

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**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject : Initiative of the Kingdom of Belgium, the Kingdom of Spain and the French Republic 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

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**COUNCIL DECISION 2001/ /JHA**

**of**

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 32 and 34(2)(c) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Kingdom of Spain and the French  
Republic,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) The provisions of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders <sup>1</sup> 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.
- (2) The United Kingdom is participating in this Decision, in accordance with Article 8(2) of 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>2</sup>.
- (3) This Decision is a development of the provisions of the Schengen acquis covered by Article 1 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 States with the implementation, application and development of the Schengen acquis <sup>3</sup>,

HAS DECIDED AS FOLLOWS:

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<sup>1</sup> OJ L 239, 22.9.2000, p. 19.

<sup>2</sup> OJ L 131, 1.6.2000, p. 43.

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

## Article 1

Article 40 of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at the common borders is hereby amended as follows:

1) in paragraph 1, the first subparagraph shall be replaced by the following text:

"1. 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. Conditions may be attached to the authorisation."

2) Paragraph 7 shall be amended as follows:

(a) in the fifth indent, the words "forgery of money" shall be replaced by "counterfeiting and forgery of means of payment";

(b) The following indents shall be added:

- "- organised fraud;
- smuggling of illegal immigrants;
- laundering of the proceeds from organised crime;
- illicit trafficking in nuclear and radioactive substances."

Article 2

1. This Decision shall not be binding upon Ireland.
  
3. This Decision shall not apply to Gibraltar.
  
4. This Decision shall only apply to the Channel Islands subject to Article 5(1) of Decision 2000/365/EC.

Article 3

This Decision shall take effect on the date of its publication in the Official Journal.

Done at

For the Council  
The President

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