

Západočeská univerzita v Plzni
Fakulta filozofická

Bakalářská práce

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**TRANSLATION OF EU DOCUMENT WITH
COMMENTARY AND GLOSSARY ACCOMPANIED
BY INFORMATION ABOUT ITS INFLUENCE ON
THE CZECH REPUBLIC**

Dominika Pípová

Plzeň 2012

Západočeská univerzita v Plzni

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Katedra anglického jazyka a literatury

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Katedra anglického jazyka a literatury

Fakulta filozofická Západočeské univerzity v Plzni

Plzeň 2012

Prohlašuji, že jsem práci zpracovala samostatně a použila jen uvedených pramenů a literatury.

Plzeň, duben 2012

.....

Poděkování

Děkuji PhDr. Evě Raisové za pomoc při zpracování této bakalářské práce a také svým rodičům, s jejichž velkou podporou mohu studovat.

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1 INTRODUCTION

The objective of the Bachelor's Thesis is the translation of the European Union's legislative text accompanied by commentary and glossary and it is completed by analysis of its influence on the Czech Republic.

The text to be translated is a legislative text of the European Union. It is known as Schengen acquis and contains two main documents: the Schengen Agreement and the Schengen Convention.

The Thesis is divided into five main chapters. The first part is theoretical and contains information about types and methodology of translation as well as short presentation of legislative texts and their features.

The second chapter is translation of selected parts of the Schengen Agreement and the Schengen Convention. Translated parts are selected to present clearly the Schengen acquis and are enclosed. The translation is carried out by the author herself but the official Czech translation is taken into consideration too. These two translations are also compared in the Bachelor's Thesis especially the questionable parts.

Glossary follows the practical part and presents the most important expressions which repeat in the source text or can be misleading so it is favourable to translate it.

The fourth section called Commentary on the source text is subdivided into two parts. The first part is macro approach which concentrates on the analysis of the source text; the second part, micro approach, is focused on the commentary of the target text. It concludes methods of translation with comments

The final unit deals with the background of the source text and influence on the Czech Republic. It includes the history of Schengen cooperation, entry of the Czech Republic into the Schengen area and its negative and positive influence.

2 THEORETICAL PART

2.1 Translation

Translation is a process when the source text is interpreted into an equivalent target text. Translation *“ought to be simple but sometimes it is complicated, artificial and fraudulent, since using another language you are pretending to be someone you are not.”*^[1] Translator has to take into account writer, norms, culture, setting and tradition of source language as well as target language.

2.2 Types of translation

According to Roman Jakobson, Russian linguist *“we distinguish three ways of interpreting a verbal sign: it may be translated into other signs of the same language, into another language, or into another, nonverbal system of symbols. These three kinds of translation are to be differently labelled:*

1. ***Intralingual translation or rewording*** is an interpretation of verbal signs by means of other signs of the same language.
2. ***Interlingual translation or translation proper*** is an interpretation of verbal signs by means of some other language.
3. ***Intersemiotic translation or transmutation*** is an interpretation of verbal signs by means of signs of nonverbal sign systems^[2]

2.3 A methodology for translation

According to Canadian linguist Jean-Paul Vinay and Jean Darbelent *“different methods or procedures seem to be countless, but they can be condensed to just seven, each one corresponding to a higher degree of complexity. In practice, they may be used either on their own or combined with one or more of the others.”*^[3]

1. Direct translation techniques

- a. Borrowing – *“taking words directly from one language into another without translation”* ^[4] (*acquis* from French, *robot* from Czech, *soprano* from Italian)
- b. Calque – *“a form of cultural transposition whereby a TT (Target Text) expression is modelled on the grammatical structure of the corresponding ST (Source Text) expression, as skyscraper: mrakodrap”*^[5]
- c. Literal translation – *“a word-for-word translation, giving maximally literal rendering to all the words in the ST as far as the grammatical conventions of the TL (Target Language) will allow; that is, literal translation is SL-oriented (Source Language), and departs from the ST sequence of words only where the TL grammar makes it inevitable.”* ^[6] (*I baked cookies with royal icing. – Upekla jsem sušenky s královskou polevou.*)

2. Oblique translation techniques

- a. Transposition – *“process where parts of speech change their sequence when they are translated. It is in a sense a shift of word class. Grammatical structures are often different in different languages.”*^[7] (*obesity problem – problém obezity*)
- b. Modulation – modification of phrase in SL but the main idea remains the same (*It does not matter. Na tom nezáleží.*)
- c. Equivalence – expression in a completely different way, e.g. translation of idioms, titles of movies or slogans in advertising (*to walk into lion’s den – hladit hada bosou nohou, You’ve Got Mail – Láska přes internet*)
- d. Adaptation – adaptation of specific expression in SL into another specific expression in TG, usually used in theatre (*It’s all Greek to me. – Je to pro mě španělská vesnice., Bez práce nejsou koláče – No pain, no gain.*)

According to another theoretic Gerard Vázquez-Ayora, there are 8 methods to translate a text. He used 4 methods by Vinay and Darbelnet (transposition, modulation, equivalence and adaptation) and added other 4 methods, e.g. amplification, clarification, compensation and omission.^[8]

2.4 Legal English

Legal English is a specific domain in English used by lawyers and other legal professionals practicing law like judges, counsels or solicitors.

Legal English uses administrative style that includes old legal style, style of diplomatic documents and public relations style. It is style of official documents, e.g. protocols, records, contracts, bills of exchanges, directives or provisions etc. *“Legal language is a single unit with the established grammar and vocabulary.”*^[9]

According to Michal Tomášek^[10], there are requirements imposed on legal language:

- Semantic accuracy
- Uniqueness
- Brevity
- Intelligibility
- Cohesion
- Non-expressivity
- Set phrases
- Impersonality
- No synonyms

On the basis of Information system for implementing EU law^[11], the translation of legislation should follow the layout such as capital letters, italics or bold font, location of heading, paragraph spacing. It is governed by a model but the two-column format does not have to be followed.

It is not allowed to change the basic structure of the original: layout divided into chapters, articles, paragraphs etc. In the EU legislation, long and confusing sentences occur which cannot be split or merged when the

text is translated. The fact is that the laws often refer back to certain paragraphs or sentences so the text modification could cause problems.

2.4.1 Vocabulary of legal English

Legal vocabulary is specific and uses features such as^[12]:

- Language patterns, e.g. *has (have) decided as follows, hereby adopt(s) this Resolution*
- Loanwords from Latin and French, e.g. *inter alia/ad hoc, de jure, de facto, ratio decidendi, acquis*
- Doublets and triplets – two or three words which have a single legal concept. These pairs of words were made up from different languages to avoid ambiguity, e.g. *terms and conditions (English/French); last will and testament (English/Latin); nature and kind (French/English); use and exercise; give, advise and bequeath; amend, supplement or modify*
- Terminology, e.g. *hereinafter, aforesaid, law, provision, directive*
- Terms with special meaning in legal English, e.g. *consideration, action, observe, lawsuit*
- Modal verbs, e.g. *shall, may*
- Set phrases usually made by verb and noun, e.g. *to call for a referendum, to abandon an action, to be in force, take the measures*
- Pronominal adverbs to avoid repeating names or phrases, e.g. *thereof, hereof, whereof* and derivatives made by affix *-after, -by*
- Pro-forms modifies the nouns, e.g. *such, the said, the same, the aforementioned*
- Abbreviation, e.g. *EU (European Union), WTO (World Trade Organization)*

3 PRACTICAL PART

3.1.1 Translation of selected parts of the Schengen Agreement

DOHODA

MEZI VLÁDAMI STÁTŮ HOSPODÁŘSKÉ UNIE BENELUXU, SPOLKOVÉ REPUBLIKY NĚMECKO A FRANCOUZSKÉ REPUBLIKY O POSTUPNÉM ZRUŠENÍ KONTROL NA SPOLEČNÝCH HRANICÍCH

Vlády Belgického království, Spolkové republiky Německo, Francouzské republikou, Lucemburského velkoknížectví a Nizozemského království (dále jen „smluvní strany“)

VĚDOMY SI, že vytváření stále užšího svazku národů členských států Evropských společenství by se mělo projevit v zavedení volného překračování vnitřních hranic pro všechny občany členských států a volného pohybu zboží a služeb,

SNAŽÍCE se posílit solidaritu mezi svými národy odstraněním překážek volného pohybu na společných hranicích mezi státy Hospodářské unie Beneluxu, Spolkové republiky Německo a Francouzské republiky,

VZHLEDEM k již dosaženému pokroku v rámci Evropských společenství s cílem zajistit volný pohyb osob, zboží a služeb,

VEDENY vůlí dosáhnout zrušení kontrol na společných hranicích při pohybu občanů členských států Evropských společenství a usnadnit volný pohyb zboží a služeb,

VZHLEDEM k tomu, že provádění této dohody může vyžadovat legislativní opatření, která budou muset být předložena parlamentům signatářských států v souladu s jejich ústavami,

S OHLEDEM na prohlášení Evropské rady ve Fontainebleau ve dnech 25. a 26. června 1984 o zrušení policejních a celních formalit pro osoby a zboží překračující hranice uvnitř Společenství,

S OHLEDEM na dohodu uzavřenou v Saarbrückenu dne 13. července 1984 mezi Spolkovou republikou Německo a Francouzskou republikou,

S OHLEDEM na závěry přijaté dne 31. května 1984 na následujícím zasedání ministrů dopravy států Beneluxu a Spolkové republiky Německo v Neustadtu an der Aisch,

S OHLEDEM na memorandum vlád Hospodářské unie Benelux dne 12. prosince 1984 předané vládám Spolkové republiky Německo a Francouzské republiky,

SE DOHODLY NA TOMTO:

HLAVA I – KRÁTKODOBÁ OPATŘENÍ

Článek 1

Ode dne vstupu, kdy tato dohoda vstoupí v platnost, až do úplného zrušení kontrol se formality na společných hranicích pro příslušníky členských států Evropských společenství mezi státy Hospodářské unie Beneluxu, Spolkové republiky Německo a Francouzské republiky řídí dále uvedenými podmínkami.

Článek 2

Pokud jde o pohyb osob, policie a celní orgány provádějí od 15. června 1985 prostou zrakovou kontrolu u osobních vozidel přejíždějící společné hranice sníženou rychlostí, aniž by je zastavovaly.

Mohou však provádět důkladnější namátkové kontroly. Tyto kontroly se provádějí pokud možno mimo jízdní pruh tak, aby nenarušovaly plynulý provoz ostatních vozidel přejíždějící hranic.

Článek 6

Aniž je dotčeno používání výhodnějších dohod mezi smluvními stranami, přijmou smluvní strany taková opatření, která usnadní pohyb občanů se sídlem v obcích na společných hranicích členských států Evropských společenství, aby jim bylo umožněno překračovat společné hranice mimo hraniční přechody a mimo provozní dobu kontrolních stanovišť.

Zúčastněné osoby mohou využívat těchto výhod za předpokladu, že převážejí pouze zboží povolené převážet v rámci osvobození od cla v souladu s devizovými předpisy.

Článek 7

Smluvní strany usilují v co nejkratší době o sblížení svých vízových politik tak, aby předešly negativním následkům, které může způsobit zjednodušení kontrol na společných hranicích v oblasti přistěhovalectví a bezpečnosti. Smluvní strany přijmou pokud možno do 1. ledna 1986 nezbytná opatření pro uplatňování takových postupů pro vydávání víz a pro vstup na své území, aby zajistily ochranu celého území pěti států proti nedovolenému přistěhovalectví a činnostem, které by mohly ohrozit bezpečnost.

Článek 8

S cílem usnadnit kontroly na společných hranicích a s ohledem na značné rozdíly v právních předpisech států Hospodářské unie Beneluxu, Spolkové republiky Německo a Francouzské republiky smluvní strany se zavazují rozhodně bojovat proti nedovolenému obchodu s drogami na své území a koordinovat svůj postup v této oblasti.

Článek 9

Smluvní strany posílí spolupráci mezi celními a policejními orgány zejména v boji proti obchodu s omamnými látkami a zbraněmi, nepovolenému vstupu a pobytu osob, celním a daňovým podvodům a pašování. Za tímto účelem smluvní strany usilují v souladu se svými vnitrostátními předpisy o zlepšení výměny informací a o posílení výměny takových informací, které by mohly být užitečné pro ostatní smluvní strany v boji proti zločinu.

V rámci svých vnitrostátních právních předpisů smluvní strany posílí vzájemnou pomoc v oblasti nedovoleného pohybu kapitálu.

Článek 10

S cílem zajistit spolupráci ve smyslu čl. 6 až 9 se pravidelně konají schůzky příslušných orgánů smluvních stran.

Článek 16

Smluvní strany harmonizují provozní hodiny a dny celnic pro vnitrozemskou lodní dopravu na společných hranicích.

HLAVA II – DLOUHODOBÁ OPATŘENÍ

Článek 17

Pokud jde o pohyb osob, smluvní strany usilují o zrušení hranic na společných hranicích a o jejich přesunutí na vnější hranice. Za tímto účelem smluvní strany usilují v případě nutnosti o harmonizaci zákonů, právních a správních předpisů týkající se zákazu a omezení, na kterých jsou kontroly založeny, a o přijetí doplňující opatření ohledně ochrany bezpečnosti a předcházení nedovolenému přistěhovalectví příslušníků nečlenských států Evropských společenství.

Článek 18

Smluvní strany zahájí jednání zejména ohledně následujících záležitostí, přičemž vezmou v úvahu výsledky krátkodobých opatření:

- (a) Vypracování ujednání o policejní spolupráci týkající se prevence kriminality a vyšetřování;
- (b) Posouzení všech obtíží, které mohou vyvstat při uplatňování dohod o mezinárodní právní pomoci a vyjednávání s cílem stanovit nejvhodnější řešení pro zlepšení spolupráce mezi smluvními stranami v těchto oblastech;
- (c) Hledání prostředků týkající se boje proti zločinu, mimo jiné zvážením případného zavedení práva přeshraničního pronásledování pro policisty s ohledem na stávající komunikační prostředky a mezinárodní právní pomoci.

Článek 19

Smluvní strany usilují o harmonizaci zákonů a předpisů zejména v oblasti:

- Omamných látek
- Zbraní a výbušnin
- Evidence cestujících v hotelech

Článek 20

Smluvní strany usilují o harmonizaci své vízové politiky a podmínek pro vstup na svá území. V případě nutnosti smluvní strany také připraví harmonizaci svých právních předpisů upravující některá hlediska práv cizinců vůči státním příslušníkům nečlenských států Evropských společenství.

Článek 21

Smluvní strany uskuteční společné kroky v rámci Evropských Společenství tak, aby:

- (a) Dosáhly zvýšení osvobození od cla a daní udělovaná cestujícím;
- (b) V souvislosti s osvobozením od cla a daní ve Společenství odstranily omezení, která by přetrvávala při vstupu do členských států pro zboží, jehož držení není jejich státním příslušníkům zakázáno.

Smluvní strany uskuteční v rámci Evropských společenství takové kroky, aby bylo dosaženo harmonizovaného vybírání DPH uvalenou na turistické dopravní služby v rámci Evropských společenství.

Článek 22

Smluvní strany usilují mezi sebou i uvnitř Evropských společenství o:

- Zvýšení osvobození od cla a daní pro pohonné hmoty, tak aby odpovídalo běžnému obsahu nádrží autobusů a autokarů (600 l);
- Sblížení zdanění naftových pohonných hmot a zvýšení osvobození od cla a daní pro běžný obsah nádrží nákladních automobilů.

Článek 25

Smluvní strany budou rozvíjet spolupráci s cílem usnadnit celní odbavení zboží překračující společnou hranici prostřednictvím systematické a automatizované výměny potřebných údajů sbíraných pomocí jednotného dokumentu.

Článek 26

Smluvní strany prověří, jak mohou být nepřímé daně (daně z přidané hodnoty a spotřební daně) harmonizovány v rámci Evropských společenství. Za tímto účelem budou smluvní strany podporovat podněty přijaté Evropskými společenstvími.

Článek 32

Tato dohoda je podepsána bez výhrady ratifikace nebo schválení nebo s výhradou ratifikace nebo schválení s následnou ratifikací nebo schválením.

Tato dohoda se prozatímně uplatňuje od následujícího dne po jejím podpisu.

Tato dohoda vstoupí v platnost 30 dní po uložení poslední ratifikační listiny nebo listiny o schválení.

Článek 33

Tato dohoda je uložena u vlády Lucemburského velkovévodství, která předá její ověřený opis všem vládám signatářských států.

3.1.2 Translation of selected parts of the Schengen Convention

ÚMLUVA

O PROVEDENÍ SCHENGENSKÉ DOHODY

ze dne 14. června 1985 mezi vládami států Hospodářské unie Beneluxu, Spolkové republiky Německo, Francouzské republiky o postupném zrušení kontrol na společných hranicích

Belgické království, Spolková republika Německo, Francouzská republika, Lucemburské velkoknížectví, Nizozemské království (dále jen „smluvní strany)

VYCHÁZEJÍCE ze Schengenské dohody ze dne 14. června 1985 o postupném odstraňování kontrol na společných hranicích,

ROZHODNUTY uskutečnit záměr vyjádřený v této dohodě o zrušení kontrol na společných hranicích o volném pohybu osob a usnadnění přepravy a pohybu zboží na těchto hranicích,

VZHLEDEM k tomu, že Smlouva o založení Evropských společenství doplněná Jednotným evropským aktem stanovuje, že vnitřní trh zahrnuje prostor bez vnitřních hranic,

VZHLEDEM k tomu, že cíl sledovaný smluvními stranami je v souladu s tímto cílem, aniž jsou dotčena opatření, která mají být přijata za účelem provádění ustanovení smlouvy,

VZHLEDEM k tomu, že dosažení tohoto záměru vyžaduje řadu náležitých opatření a úzkou spolupráci mezi smluvními stranami,

SE DOHODLY NA TOMTO:

HLAVA I – Definice

Článek 1

Pro účely této úmluvy se chápe:

Vnitřní hranice: společné pozemní hranice smluvních stran, jejich letiště pro vnitřní lety a jejich námořní přístavy pro pravidelná trajektová spojení výlučně z a do ostatních přístavů včetně území smluvních stran bez přerušení plavby v přístavech mimo toto území;

Vnější hranice: pozemní a přímořské hranice smluvních stran, jejich letiště a námořní přístavy, pokud nejsou vnitřními hranicemi;

Vnitřním letem: let výlučně z území a na území smluvních stran bez přistání na území třetího státu;

Třetí země: stát, který není smluvní stranou;

Cizinec: osoba, která není občanem členem Evropských společenství;

Cizinec, kterému byl odepřen na základě záznamu vstup: cizinec, který je zapsán do Schengenského informačního systému v souladu s čl. 96 jako osoba, které má být odepřen vstup;

Hraniční přechod: přechod určený příslušnými orgány pro překračování vnějších hranic;

Hraniční kontrola: kontrola na hranici vykonávaná výhradně jako reakce na zamýšlený přechod hranice, bez ohledu na jakékoli jiné důvody;

Dopravce: fyzická nebo právnická osoba, která profesionálně zajišťuje přepravu osob vzdušnou, námořní nebo pozemní dopravou;

Povolení k pobytu: povolení bez ohledu na druh vydávané smluvní stranou, které opravňuje k pobytu na své území. Tato definice nezahrnuje dočasné povolení k pobytu na území smluvní strany za účelem zpracování žádosti o azyl nebo povolení k pobytu;

Žádost o azyl: žádost v písemné, ústní nebo jiné formě podaná cizincem na vnější hranici nebo na území smluvních stran s cílem získat postavení uprchlíka v souladu s Ženevskou úmluvou o právním postavení uprchlíků ze dne 28. července 1951 ve znění Newyorského protokolu ze dne 31. ledna 1967 a s cílem v tomto postavení získat právo k pobytu;

Žadatel o azyl: cizinec, který podal ve smyslu této úmluvy žádost o azyl, ohledně které ještě nepadlo pravomocné rozhodnutí;

Zpracování žádostí o azyl: všechny postupy pro posuzování a rozhodování o žádostech o azyl včetně opatření přijatých na základě pravomocného rozhodnutí, s výjimkou určení smluvní strany příslušné k vyřízení žádosti o azyl.

HLAVA II – Zrušení kontrol na vnitřních hranicích a pohyb osob

Kapitola 1 – Překračování vnitřních hranic

Článek 2

1. Vnitřní hranice jsou překračovány na jakémkoli místě bez vykonání kontrol osob.

Kapitola 2 – Překračování vnějších hranic

Článek 3

1. Vnější hranice jsou překračovány v zásadě na hraničních přechodech během stanovené otevírací doby. Podrobnější ustanovení, výjimky a opatření pro místní pohraniční přepravu a předpisy pro zvláštní kategorie námořní dopravy, jako je rekreační plavba nebo pobřežní rybolov, stanoví Výkonný výbor.
2. Smluvní strany se zavazují zavést sankce za nepovolené překročení vnějších hranic v jiných místech, než jsou hraniční přechody nebo v jiné pevně stanovené otevírací době.

Kapitola 3 – Víza

Oddíl 1 – Krátkodobá víza

Článek 9

1. Smluvní strany se zavazují přijmout společnou politiku pro pohyb osob a to zejména pro režim víz. Za tímto účelem si vzájemně pomáhají. Smluvní strany se zavazují usilovat o vzájemnou dohodu o harmonizaci vízové politiky.

Článek 10

1. Zavádí se jednotné vízum platné pro celé území smluvních stran. Toto vízum, jehož doba platnosti se určí podle čl. 11, může být uděleno pro pobyt nepřesahující tři měsíce.
2. Až do zavedení tohoto víza smluvní strany uznávají svá vnitrostátní víza, pokud jsou udělována na základě společných podmínek a kritérií stanovených v rámci odpovídajících ustanovení této kapitoly.

Článek 11

1. Vízem zavedeným podle čl. 10 může být:
 - (a) Cestovní vízum platné pro jeden či více vstupů za předpokladu, že jak délka nepřetržitého pobytu, tak celková

délka po sobě následujících pobytů nepřesáhne tři měsíce během půl roku ode dne prvního vstupu;

- (b) Průjezdní vízum opravňující jeho držitele cestování přes území smluvních stran jednou, dvakrát i výjimečně několikrát na území třetího státu za předpokladu, že doba průjezdu nepřekročí pět dní.

- 2. Odst. 1 nebrání smluvní straně, aby v případě nutnosti udělila další vízum, které platí pouze na jejím území po dobu půl roku.

Oddíl 2 – Dlouhodobá víza

Článek 18

Víza pro pobyt delší než tři měsíce jsou vnitrostátní víza udělovaná jednou ze smluvních stran v souladu se svými vnitrostátními právními předpisy. Tato víza opravňují jejich držitelům cestování přes území ostatních smluvních stran až na území smluvní strany, která víza udělila, ledaže držitelé nesplňují podmínky pro vstup uvedené v čl. 5 bodech 1a, 1d a 1e nebo jsou uvedeni na vnitrostátním seznamu osob, kterým má být vstup odepřen na území smluvní strany, přes jejíž území požadují průjezd.

HLAVA III – Policie a bezpečnost

Kapitola 1 – Policejní spolupráce

Článek 39

- 1. Smluvní strany se zavazují zajistit, že si navzájem jejich policejní orgány v souladu s vnitrostátními právními předpisy a v rámci svých pravomocí pomáhají za účelem předcházení a odhalování trestných činů, pokud vnitrostátní právní předpisy nestanoví, že žádost musí být provedena a odeslána prostřednictvím soudních orgánů a za předpokladu, že žádost nebo její provedení nezahrnuje použití opatření ze strany dožádané smluvní strany. Nemají-li dožádané policejní orgány pravomoc k vyřízení žádosti, postoupí ji příslušným orgánům.

2. Písemné informace, které dožádaná smluvní strana poskytne podle odst. 1, může být použita dožadující smluvní stranou jako důkaz v trestním řízení pouze se souhlasem příslušných soudních orgánů dožádané smluvní strany.
3. Žádosti o pomoc stanovené odst. 1 a odpovědi na tyto žádosti mohou být předávány mezi ústředními orgány, které jednotlivé smluvní strany pověří mezinárodní policejní spoluprací. V případě, že žádost nemůže být podána včas pomocí výše uvedeného postupu, mohou ji policejní orgány dožadující smluvní strany předat přímo příslušným orgánům dožádané smluvní strany, které mohou přímo odpovědět. V takových případech dožadující policejní orgán neprodleně informuje o své přímé žádosti ústřední orgán zodpovědný za mezinárodní policejní spolupráci pověřený dožádanou smluvní stranou.
4. V příhraničních oblastech může být spolupráce upravena ujednáním mezi příslušnými ministry smluvních stran.
5. Ustanovení tohoto článku se nedotýká stávajících ani budoucích podrobnějších dvoustranných dohod mezi smluvními stranami, které mají společnou hranici. Smluvní strany se vzájemně informují o těchto dohodách.

Článek 40

1. Policisté smluvní strany, kteří v rámci trestného vyšetřování sledují ve své zemi osobu, která je podezřelá z účasti na trestném činu podléhající vydání, jsou oprávněni pokračovat ve sledování na území jiné smluvní strany, pokud tato strana povolila přeshraniční sledování na základě předem podané žádosti. Povolení může být vázáno podmínkami.
Na žádost jsou sledováním pověřeni policisté smluvní strany, na jejímž území se provádí toto sledování.

Žádost o právní pomoc zmíněná v prvním pododstavci musí být předána orgánu, který je určen každou smluvní stranou a který je příslušný udělovat nebo předat požadované povolení.

6. Smluvní strany mohou na dvoustranné úrovni rozšiřovat oblast tohoto článku a přijímat doplňující opatření k jeho provádění.
7. Sledování podle odst. 2 se provádí pouze v následujících trestných činech
 - Vražda
 - Zabití
 - Znásilnění
 - Žhářství
 - Padělání peněz
 - Závažná krádež a loupež a odcizení zboží
 - Vydírání
 - Únos a braní rukojmí
 - Obchod s lidmi
 - Nedovolený obchod s omamnými a psychotropními látky
 - Porušení právních předpisů o zbraních a výbušninách
 - Úmyslné poškození s použitím výbušnin
 - Nedovolená přeprava jedovatého odpadu nebo odpadu klasifikovaného jako nebezpečný.

HLAVA IV – Schengenský informační systém

Kapitola 1 – Zřízení Schengenského informačního systému

Článek 92

1. Smluvní strany zřídí a udržují společný informační systém, dále jen „Schengenský informační systém“, který se sestává z vnitrostátní části každé smluvní strany a technické podpůrné jednotky. Schengenský informační systém umožní orgánům určených smluvními stranami prostřednictvím automatizovaného vyhledávacího postupu přístup k záznamům o osobách a o majetku

při provádění hraničních kontrol a jiných policejních a celních kontrol vykonávaných ve vnitrozemí v souladu s vnitrostátními předpisy a v případě specifické kategorie záznamů podle čl. 96 příslušné orgány zajistí přístup k záznamům ohledně udělování víz, povolení k pobytu a řízení s cizinci v rámci uplatňování ustanovení této úmluvy týkající se volného pohybu osob.

Kapitola 2 – Provoz a využívání Schengenského informačního systému

Článek 93

Cílem Schengenského informačního systému je v souladu s touto úmluvou udržet veřejný pořádek a veřejnou bezpečnost včetně národní bezpečnosti na území smluvních stran a uplatňovat ustanovení této úmluvy o pohybu osob na těch území s využitím předávaných informací pomocí tohoto systému.

Článek 94

1. Schengenský informační systém obsahuje pouze takové kategorie dat, které dodají všechny smluvní strany pro účely stanovené v čl. 95 a 100. Smluvní strany pořizující záznam zváží závažnost případu, zda má být zapsán do Schengenského informačního systému.
2. Kategorie údajů jsou následující:
 - (a) Osoby, jimž má být pořízen záznam;
 - (b) Věci uvedené v čl. 100 a vozidla uvedená v čl. 99.
3. Informace o osobách zahrnují pouze tyto údaje:
 - (a) Příjmení a jména, případně zvlášť uvedené přezdívký;
 - (b) Zvláštní tělesná nezměnitelná znamení;
 - (c) První písmeno druhého křestního jména;
 - (d) Datum a místo narození;
 - (e) Pohlaví;
 - (f) Státní občanství;
 - (g) Údaj, zda jsou dotyčné osoby ozbrojeny;

- (h) Údaj, zda mají dotyčné osoby násilnické sklony;
- (i) Důvod záznamu;
- (j) Opatření, která mají být přijata.

Další informace a to zejména údaje uvedené v první větě čl. 6 Úmluvy Rady Evropy o ochraně osob se zřetelem na automatizované zpracování osobních údajů ze dne 28. ledna 1981, nejsou přípustné.

HLAVA V – Přeprava a pohyb zboží

Článek 120

1. Smluvní strany společně zajišťují, aby jejich zákony, nařízení nebo správní předpisy bezdůvodně nebránily volnému pohybu zboží přes vnitřní hranice.
2. Smluvní strany usnadní volný pohyb zboží přes vnitřní hranice prováděním formalit spojených se zákazy a omezeními současně s celním odbavením pro domácí použití. Toto celní odbavení je prováděno podle uvážení smluvní strany. Smluvní strany usilují o provádění celního odbavení ve vnitrozemí.
3. Vzhledem k tomu, že není možné v některých oblastech zcela nebo zčásti dosáhnout zjednodušení podle odst. 2, smluvní strany se snaží vytvořit podmínky buď mezi sebou anebo v rámci Evropských společenství.

Tento odstavec se vztahuje zejména na kontrolu dodržování předpisů týkající se pravidel přepravních povolení, technické způsobilosti dopravních prostředků, veterinární inspekce a kontrol zdraví zvířat, veterinárních kontrol v oblasti zdraví a hygieny včetně kontrol masa, rostlinolékařské kontroly a kontroly přepravy nebezpečného zboží a odpadu kvalifikovaného jako nebezpečný.

4. Smluvní strany usilují o harmonizaci formalit týkajících se pohybu zboží přes vnější hranice a o kontrolu jejich dodržování podle jednotlivých zásad. Smluvní strany budou za tímto účelem úzce

spolupracovat ve Výkonném výboru v rámci Evropských společenství a na jiných mezinárodních fórech.

Článek 122

1. Smluvní strany zintenzivní spolupráci s ohledem na zajištění bezpečnosti během dopravy nebezpečného zboží a zavazují se k harmonizaci svých vnitrostátních ustanovení, která byla přijata k provedení platných mezinárodních smluv. Nadále se zavazují s ohledem zejména na zachování stávající úrovně bezpečnosti k:
 - (a) Harmonizaci požadavků vzhledem k profesní kvalifikaci řidičů;
 - (b) Harmonizaci procesu a intenzitě kontrol prováděných během přepravy a v podnicích;
 - (c) Harmonizaci vymezení trestných činů a právních ustanovení týkajících se odpovídajících sankcí;
 - (d) Zajištění neustálé výměny informací a zkušeností s ohledem na zavedená opatření a uskutečněných kontrol.
2. Smluvní strany zintenzivní spolupráci s ohledem na prováděné kontroly přepravy odpadu klasifikovaného jako nebezpečný i bezpečný přes vnitřní hranice.

Za tímto účelem usilují o přijetí společného postoje pro pozměnění směrnic Společenství ohledně monitorování a řízení přepravy nebezpečného odpadu a pro přípravu aktů Společenství ohledně odpadu klasifikovaného jako bezpečný s cílem vytvořit dostačující infrastrukturu pro jeho likvidaci a zavést harmonizované standardy na vysoké úrovni týkající se této likvidace.

Předtím, než vstoupí v platnost pravidla Společenství týkající se odpadu klasifikovaného jako bezpečný, se kontroly přepravy takového odpadu provádějí na základě speciálního procesu, který umožní kontrolovat přepravu v místě určení během jeho zpracování.

Druhá věta odst. 1 se vztahuje i na tento bod.

HLAVA VI – Ochrana osobních údajů

Článek 126

1. Pokud jde o automatizované zpracování osobních údajů předávaných na základě této úmluvy, každá ze smluvních stran přijme nezbytná národní ustanovení nejpozději ke dni, kdy tato úmluva vstoupí v platnost, pro zajištění ochrany osobních dat takové úrovně, jaká vyplývá ze zásad Úmluvy Rady Evropy o ochraně osob s ohledem na automatizované zpracování osobních dat ze dne 28. ledna 1981.
2. K předávání osobních údajů podle této úmluvy dochází poté, co ustanovení o ochraně osobních údajů specifikovaných v odst. 1 vstoupí v platnost na území smluvních stran, které se na předávání podílejí.
3. Následující ustanovení se vztahují k automatizovanému zpracování osobních údajů předávaných podle této úmluvy:
 - (a) Přijímací smluvní strana použije tyto údaje výhradně k účelům stanoveným touto úmluvou;
 - (b) Tyto údaje mohou být použity pouze soudními orgány a útvary, které vykonávají úkoly nebo plní povinnosti v souvislosti s účely uvedenými v bodu 3a;
 - (c) Smluvní strany předávající si údaje jsou povinny zajistit jejich správnost; pokud smluvní strana nebo strany zjistí z vlastního podnětu nebo na žádost dotyčné osoby, že předané údaje byly nesprávné nebo neměly být předány, přijímající smluvní strana nebo strany musí být o tom ihned informovány; tato strana či strany jsou povinny opravit nebo ničit tyto údaje nebo uvést, že tyto údaje jsou nesprávné nebo že byly nezákonně předány;
 - (d) Smluvní strana se nemůže odvolat na to, že jí jiná smluvní strana předala nesprávné údaje, aby se zbavila

odpovědnosti podle svých vnitrostátních právních předpisů ve vztahu vůči poškozenému; pokud dojde ke škodě přijímající smluvní strany kvůli používání nepřesných předaných údajů, smluvní strana, která předala údaje, nahradí v plném rozsahu přijímající smluvní stranu a vyplatí jí částku za vzniklé škody;

- (e) Předání a přijetí osobních údajů musí být zaznamenáno jak ve výchozím souboru údajů, tak i v datovém souboru, do kterého jsou zařazeny;
- (f) Společný kontrolní orgán uvedený v čl. 115 může na žádost jedné ze smluvních stran zaujmout stanovisko k obtížím použití a k výkladu tohoto článku.

Článek 127

1. Pokud jsou osobní údaje předávány jiné smluvní straně v souladu s ustanovením této smlouvy, použije se na předávání těchto údajů z neautomatizovaného souboru údajů a na jejich zařazení jiný neautomatizovaný soubor údajů čl. 126.
2. Pokud jsou v jiných případech, než jsou případy uvedené v čl. 126 odst. 1 nebo odst. 1 tohoto článku, předávány osobní údaje jiné smluvní straně na základě této úmluvy, čl. 126 odst. 3 vyjma bodu 3e. Kromě toho se použijí následující ustanovení:
 - (a) O předání a přijetí osobních dat se pořizuje písemný záznam; tato povinnost neplatí v případě, že není nezbytné je zaznamenat pro použití údajů, zejména pokud se údaje nepoužívají nebo používají jen krátkodobě;
 - (b) Přijímající smluvní strana zajistí pro používání předávání údajů alespoň takovou úroveň ochrany, která je stanovená právními předpisy této smluvní strany pro používání podobných údajů.

3. Tento článek se nevztahuje na předání osobních údajů podle hlavy II kapitoly 7, kapitol 2 až 5 hlavy III a hlavy IV.

HLAVA VII – Výkonný výbor

Článek 131

1. Za účelem provedení této úmluvy se zřídí Výkonný výbor.
2. Aniž jsou dotčeny zvláštní pravomoci Výkonného výboru svěřené na základě této úmluvy, jeho všeobecným úkolem je zajištění správné provedení úmluvy.

Článek 132

1. Každá smluvní strana zaujme jedno křeslo ve Výkonném výboru. Smluvní strany jsou ve Výkonném výboru zastupovány ministrem zodpovědným za provedení této úmluvy. V případě potřeby mohou být nápomocni znalci, kteří se mohou zúčastnit jednání.
2. Výkonný výbor se rozhoduje jednomyslně. Sestavuje svá vlastní pravidla postupu, v této souvislosti se jedná i o písemný rozhodovací postup.
3. Na žádost zástupce smluvní strany může být pravomocné rozhodnutí, na kterém se Výkonný výbor usnesl, posunuto nanejvýše o dva měsíce ode dne předložení návrhu.
4. Výkonný výbor sestavuje pracovní skupiny složené ze zástupců správních orgánů smluvních stran za účelem přípravy rozhodnutí nebo provedením jiných úkolů.

Článek 133

Výkonný výbor se střídavě schází na území každé smluvní strany. Schází se tak často, jak je nezbytné pro řádné plnění úkolů.

HLAVA VIII – Závěrečná ustanovení

Článek 134

Ustanovení této úmluvy se použijí pouze tehdy, jsou-li v souladu s komunitárním právem.

Článek 135

Ustanovení této úmluvy se použijí s výhradou ustanovení Ženevské úmluvy o právním postavení uprchlíků ze dne 28. července 1951 ve znění Newyorského protokolu ze dne 31. ledna 1967.

Článek 136

2. Žádná ze smluvních stran nesmí uzavřít s jedním či více nečlenskými zeměmi dohodu, která má zjednodušit nebo zrušit hraniční kontroly bez předchozího souhlasu ostatních smluvních stran s výhradním právem členských států Evropských společenství, aby uzavíraly takovéto smlouvy společně.

Článek 138

Pokud jde o Francouzskou republiku, ustanovení této úmluvy se vztahuje pouze na evropské území.

Pokud jde o Nizozemské království, ustanovení této úmluvy se vztahují pouze na území království v Evropě.

Článek 139

1. Tato úmluva podléhá ratifikaci, přijetí nebo schválení. Listiny o ratifikaci, přijetí nebo schválení budou uloženy u vlády Lucemburského velkoknížectví, které o tom informuje všechny smluvní strany.
2. Tato úmluva vstupuje v platnost prvním dnem druhého měsíce následujícího po uložení poslední listiny o ratifikaci, přijetí nebo schválení. Ustanovení týkající se zahájení, činnosti a pravomocí Výkonného výboru jsou účinná ode dne, kdy tato úmluva vstoupí v platnost.
3. Vláda Lucemburského velkoknížectví informuje všechny smluvní strany ohledně data, kdy tato úmluva vstoupí v platnost.

Článek 140

1. Každý členský stát Evropských společenství je smluvní stranou této úmluvy. Přistoupení k úmluvě podléhá dohodě mezi státem a smluvními stranami.
2. Taková dohoda podléhá ratifikaci, přijetí nebo schválení přistupujícího státu a každou smluvní stranou. Tato úmluva vstupuje v platnost prvním dnem druhého měsíce následujícího po uložení poslední listiny o ratifikaci, přijetí nebo schválení.

Článek 141

1. Každá smluvní strana může předložit depozitáři návrh o doplnění této úmluvy. Depozitář zašle tento návrh dalším smluvním stranám. Na žádost jedné smluvní strany se přezkoumá ustanovení této úmluvy, zda podle názoru smluvních stran došlo k zásadní změně podmínek, za kterých úmluva vstoupila v platnost.
2. Smluvní strana přijímá doplnění k této úmluvě po vzájemné dohodě.
3. Doplnění vstoupí v platnost prvního dne druhého měsíce následujícího po dni uložení poslední listiny o ratifikaci, přijetí nebo schválení.

Článek 142

1. Pokud jsou úmluvy uzavřeny mezi členskými státy Evropských společenství s ohledem na dokončení prostoru bez vnitřních hranic, smluvní strany se dohodnou na podmínkách, za kterých ustanovení této úmluvy budou nahrazena nebo pozměněna v souladu s odpovídajícími ustanoveními zmíněných úmluv.
2. Doplnění této úmluvy, která jsou smluvními stranami považována za nezbytná, podléhají ratifikaci, přijetí nebo schválení. Ustanovení v čl. 141 odst. 3 se použije za předpokladu, že doplnění nevstoupí v platnost dříve, než výše zmíněné úmluvy mezi členskými státy Evropských společenství vstoupí v platnost.

Na důkaz čehož řádně zmocnění připojili níže své podpisy.

V Schengenu dne devatenáctého června roku tisíc devět set devadesát v jediném vyhotovení v holandském, francouzském a německém jazyce, přičemž všechny tři znění mají stejnou platnost, a originál jako takový zůstává uložen u vlády Lucemburského velkoknížectví, které předá ověřenou kopii všem smluvním stranám.

Za vládu Belgického království

Za vládu Spolkové republiky Německo

Za vládu Francouzské republiky

Za vládu Lucemburského velkoknížectví

4 GLOSSARY

Alien	Cizinec
Application for asylum	Žádost o azyl
Arson	Žhářství
Article	Článek
As amended by	Ve znění
Asylum seeker	Žadatel o azyl
Asylum seeker	Žadatel o azyl
Border check	Hraniční kontrola
Border crossing point	Hraniční přechod
By common consent	Po vzájemné dohodě
Chapter	Kapitola
Coastal fishing	Pobřežní rybolov
Community law	Komunitární právo
Contracting Party	Smluvní strana
Crossing point	Hraniční přechod

Customs clearance	Celní odbavení
Drug trafficking	Obchod s drogami
Economic Union	Hospodářská unie
Endeavour	Snažit se
Entry into force	Vstup v platnost
European Communities	Evropská společenství
Executive Committee	Výkonný výbor
External borders	Vnější hranice
Extraditable offence	Trestný čin podléhající vydání
Final decision	Pravomocné rozhodnutí
Hazardous/non hazardous waste	Odpad kvalifikovaný jako bezpečný/nebezpečný
Hereinafter referred to as	Dále jen „...“
Hot pursuit	Přeshraniční sledování
Inland waterway traffic	Vnitrozemská lodní doprava
Instruments of ratification	Ratifikační listiny
Inter alia	Mimo jiné
Internal borders	Vnitřní hranice
National	Státní příslušník
Offence	Trestný čin
Paragraph	Odstavec
Plant health inspection	Rostlinolékařská kontrola
Representative	Zástupce
Requesting contract party	Dožadující smluvní strana
Required contract party	Dožádaná smluvní strana

Residence permit	Povolení k pobytu
Roadworthiness	Technická způsobilost
Section	Oddíl
Signatory state	Signatářský stát
Single document	Jednotný document
Smuggling	Pašování
Spot check	Namátková kontrola
Subparagraph	Pododstavec
Tax fraud	Daňový podvod
The Schengen Agreement	Schengenská dohoda
The Schengen Convention	Schengenská úmluva
Title	Hlava
To impede	Bránit
To jeopardise	Ohrožit
Trafficking in human beings	Obchod s lidmi
Transit visa	Průjezdní vízum
Travel visa	Cestovní vízum
Undertaking	Podnik
VAT (value added tax)	DPH (daň z přidané hodnoty)
Vocational qualification	Profesní kvalifikace
Without prejudice	Aniž je dotčeno
Working party	Pracovní skupina

5 COMMENTARY

5.1 Macro approach

5.1.1 Layout

Legal texts, especially treaties, have fixed structure. At first, there is a title, then preamble and body of text. The source text is divided into several levels. These are:

1. Titles
2. Chapters
3. Sections
4. Articles
5. Paragraphs
6. Subparagraphs

For titles, it is used Roman numerals. Chapters, sections and articles are preceded by Arabic numerals and paragraphs and subparagraphs start with Arabic numerals with a point.

5.1.2 Source text

The source text is selected parts of the Schengen acquis which is a document of EU legislation. The Schengen acquis refers to the place where this document was signed. It consists of two legal texts (Schengen Agreement, Schengen Convention) and decisions of the Executive Committee.

The Schengen Agreement is a relatively short document, contains only 33 Articles in two Titles. The Schengen Convention, which is detailed, is structured into eight Titles. From the source text, it was chosen several parts from each Title to present the source text as a whole unit.

5.1.3 Functional style

The source text can be determined as administrative style which is mostly in written form such as letters, application forms, contracts, directives etc. Its function is to establish public official intercourse, provide information,

establish the relationship binding two parties in an undertaking or set the terms and conditions valid for this relationship. Administrative texts should be well-arranged, clear, unambiguous, direct and objective. This style is impersonal and usually contains fixed patterns of sentences, terms and abbreviations.

5.1.4 Subject matter

Selected most important parts clearly present the whole legal text. Source text informs us about agreement abolishing checks at common borders of signatory countries to ensure free movement of persons, goods and services. In preamble, there are mentioned reasons why and how they want to achieve this aim. The topic of the second document is basically the same. In addition, there are mentioned instructions to establish the Schengen area by determining definitions, establishing the Executive Committee, reinforcing police cooperation or setting up the Schengen Information System.

5.1.5 Title

As it is a legal text, we can find here a long title (*Agreement between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, Convention implementing the Schengen Agreement of 14 June 1985 between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders*) which is intended to provide a summary description of the purpose or scope of the document. There is also a short title (*Schengen Agreement, Schengen Convention*) which provides a useful name when referring to it.

5.1.6 Grammatical level

Although complex phrases predominate, there were found all types of phrases, sometimes long as whole paragraph. In the source text, there were used only declarative sentences.

To ensure impersonality, the passive voice was applied. As the author has noticed, the source text uses modal verbs to express request, necessity or prohibition.

5.1.7 Lexical level

However, the author has noticed lexical features typical for legal text (loanwords, terminology or pronominal adverbs); the source text does not contain any doublets or triplets.

Many conjunctions were used to make the text coherent (*however, as soon as, before, in addition* etc.)

5.2 Micro approach

5.2.1 Layout

As mentioned above, when translating the Schengen acquis, the original layout was kept as Information system for implementing EU law advises. It was used the same structure (numbered Titles, Chapters Articles etc.), font (bold font for Titles or italic for Articles) for the translated text as the original.

5.2.2 Syntax

- Modal verbs

In the source text, there was found many of modal verbs such as (in order of appearance) shall, may, must, can, should, could and will. On the other hand, there is no incidence of modal verb might or would.

*The Executive Committee **shall** take its decisions unanimously.*

*Výkonný výbor **se rozhoduje** jednomyslně.*

*A Contracting Party **may not** plead that another Contracting Party communicated inaccurate data...*

*Smluvní strana **se nemůže** odvolat na to, že jí jiná smluvní strana předala nesprávné údaje...*

*Where the request **cannot** be made in good time using the above procedure...*

*V případě, že žádost **nemůže** být podána včas pomocí výše uvedeného postupu...*

*... legislative measures which **will** have to be submitted to the parliaments...*

*...legislativní opatření, která **budou** muset být předložena parlamentům...*

- Passive voice

*... legislative measures which **will have to be submitted** to the parliaments...*

*...legislativní opatření, která **budou muset být předložena** parlamentům...*

*... concerning the prohibitions and restrictions on which the checks **are based**...*

*... týkající se zákazu a omezení, na kterých **jsou** kontroly **založeny**...*

When the passive voice is translated, the active voice in Czech occurs only where the agent occurs.

*More detailed provisions, exceptions and arrangements [...] **shall be adopted** by the Executive Committee. (agent – Executive Committee)*

*Podrobnější ustanovení, výjimky a opatření [...] **stanoví** Výkonný výbor.*

*The Schengen Information System shall contain only those categories of data which **are supplied** by each of the Contracting Parties...*

(agent – each of the Contracting Parties)

*Schengenský informační systém obsahuje pouze takové kategorie dat, které **dodají** všechny smluvní strany...*

5.2.3 Lexical level

- Language patterns

*The Governments ... **have agreed as follows:***

*Vlády ... **se dohodly na tomto:***

*The Governments ... **hereinafter referred to as “...”***

*Vlády ... **dále jen „...”***

- English loanwords from French and Latin

However, loanwords originally from French or Latin are not translated into English, they have appropriate equivalent in Czech.

*... the police and customs authorities shall as a general rule carry out simple visual **surveillance** of private vehicles crossing the common border ... (from French)*

*... policie a celní orgány provádějí od 15. června 1985 prostou zrakovou **kontrolu** u osobních vozidel přejíždějící společné hranice...*

*Seeking means to combat crime jointly, **inter alia**, by studying the possibility of introducing a right of hot pursuit for police officers, taking into account existing means of communication and international judicial assistance. (from Latin)*

*Hledání prostředků týkající se boje proti zločinu, **mimo jiné** zvážením případného zavedení práva přeshraničního pronásledování pro policisty s ohledem na stávající komunikační prostředky a mezinárodní právní pomoci.*

- Terminology

*...these are issued in accordance with common **conditions** and criteria determined in the context of the relevant provisions of this Chapter.*

*... jsou udělována na základě společných **podmínek** a kritérií stanovených v rámci odpovídajících ustanovení této kapitoly.*

*...these are issued in accordance with common conditions and criteria determined in the context of the relevant **provisions** of this Chapter.*

*... jsou udělována na základě společných podmínek a kritérií stanovených v rámci odpovídajících **ustanovení** této kapitoly.*

*... with the exception of the determination of the Contracting **Party** responsible for processing applications for asylum pursuant to this Convention.*

*... s výjimkou určení smluvní **strany** příslušné k vyřízení žádosti o azyl.*

*HAVING REGARD to the **statement** by the Fontainebleau European Council...*

*S OHLEDEM na **prohlášení** Evropské rady ve Fontainebleau...*

- Set phrases

Set phrases are usually made by verb and noun:

*This Convention shall **enter into force** on the first day of the second month...*

*Tato úmluva **vstupuje v platnost** prvním dnem druhého měsíce...*

*The purpose of the Schengen Information System shall **be in accordance** with this Convention to maintain public policy...*

*Cílem Schengenského informačního systému **je v souladu** s touto úmluvou udržet veřejný pořádek...*

*...the latter shall **take the measures**...*

*...**přijmou** smluvní strany **taková opatření**...*

- Pro-forms

Pro-forms do not replace nouns but are used to modify them:

Such an agreement shall be subject to ratification...

Taková dohoda podléhá ratifikaci...

... the amendments will not enter into force before **the said** Conventions between the Member States of the European Communities enter into force.

... doplnění nevstoupí v platnost dříve, než **výše zmíněné** úmluvy mezi členskými státy Evropských společenství vstoupí v platnost.

- Abbreviation

Legal texts are usually rich of abbreviation, however, in this source text, there was found only one case of abbreviation:

The Parties shall take initiatives within the European Communities so that **VAT**...

Smluvní strany uskuteční v rámci Evropských společenství takové kroky, aby bylo dosaženo harmonizovaného vybírání **DPH**...

- Repetition

Repetition is plentifully used in legalese to avoid synonyms which could be misleading.

... shall mean an authorisation of whatever type issued by a **Contracting Party** which grants right of residence within its territory. This definition shall not include temporary permission to reside in the territory of a **Contracting Party** for the purposes of processing an application for asylum or a residence permit.

... povolení bez ohledu na druh vydávané **smluvní stranou**, které opravňuje k pobytu na své území. Tato definice nezahrnuje dočasné povolení k pobytu na území **smluvní strany** za účelem zpracování žádosti o azyl nebo povolení k pobytu.

*This Convention shall be subject to **ratification, acceptance or approval**. The instruments of **ratification, acceptance or approval** shall be deposited with the Government of the Grand Duchy of Luxembourg*

*Tato úmluva podléhá **ratifikaci, přijetí nebo schválení**. Listiny o **ratifikaci, přijetí nebo schválení** jsou uloženy u vlády Lucemburského velkoknížectví*

To avoid repeating names or phrases, it is also used pronominal adverbs:

*The Contracting Parties may, at bilateral level, extend the scope of this Article and adopt additional measures in application **thereof**.*

*Smluvní strany mohou na dvoustranné úrovni rozšiřovat oblast tohoto článku a přijímat doplňující opatření k **jeho** provádění.*

*In witness **whereof**, the undersigned, duly empowered to this effect, have hereunto set their hands.*

*Na důkaz **čehož** řádně zmocnění připojily níže své podpisy.*

*In witness **whereof**, the undersigned, duly empowered to this effect, have **hereunto** set their hands.*

*Na důkaz **čehož** řádně zmocnění připojily **níže** své podpisy.*

- Capitalization

Capitalization is used when a part of term is omitted and the author wants to express that this shortened term has the same meaning as the longer term:

*The **Parties** shall endeavour to approximate their visa policies as soon as possible... (in sense of the Contracting Parties)*

***Smluvní strany** usilují v co nejkratší době o sblížení svých vízových politik...*

*This **Agreement** shall be signed without being subject to ratification...
(in sense of the Schengen Agreement)*

***Tato dohoda** je podepsána bez výhrady ratifikace...*

5.2.4 Methods of translation

- Borrowing

*This Convention shall be subject to **ratification**, acceptance or approval.*

*Tato úmluva podléhá **ratifikaci**, přijetí nebo schválení.*

***Visas** for stays exceeding three months shall be national visas issued by one of the Contracting Parties in accordance with its national law.*

***Víza** pro pobyt delší než tři měsíce jsou vnitrostátní víza udělovaná jednou ze smluvních stran v souladu se svými vnitrostátními právními předpisy.*

- Calque

*CONSIDERING the progress already achieved within the **European Communities** with a view to ensuring the free movement of persons, goods and services,*

*VZHLEDEM K již dosaženému pokroku v rámci **Evropských společenství** s cílem zajistit volný pohyb osob, zboží a služeb,*

*CONSIDERING that application of this Agreement may require legislative measures which will have to be submitted to the parliaments of the **Signatory States** in accordance with their constitutions,*

*VZHLEDEM K tomu, že provádění této dohody může vyžadovat legislativní opatření, která budou muset být předložena parlamentům **signatářských států** v souladu s jejich ústavami,*

- Literal translation

The Contracting Parties may, at bilateral level, extend the scope of this Article and adopt additional measures in application thereof.

Smluvní strany mohou na dvoustranné úrovni rozšiřovat oblast tohoto článku a přijímat doplňující opatření k jeho provádění.

The provisions of this Convention shall apply only in so far as they are compatible with Community law.

Ustanovení této úmluvy se použijí pouze tehdy, jsou-li v souladu s komunitárním právem.

- Transposition

*... until all checks **are abolished** completely... (verb in passive voice)*

*... až do úplného **zrušení** kontrol... (noun)*

*... until all checks are abolished **completely**... (adverb)*

*... až do **úplného** zrušení kontrol... (adjective)*

- Modulation

***As soon as** this Agreement enters into force...*

***Ode dne vstupu, kdy** tato dohoda vstoupí v platnost...*

***With regard to** the movement of persons...*

***Pokud jde o** pohyb osob...*

- Equivalence

*... by studying the possibility of introducing a right of **hot pursuit** for police officers...*

*...zvážením případného zavedení práva **přeshraničního pronásledování** pro policisty...*

***Without prejudice to** the application of more favourable arrangements between the Parties...*

***Aniž je dotčeno** používání výhodnějších dohod mezi smluvními stranami...*

- Compensation

*Illicit transportation of toxic and **hazardous waste**.*

*Nedovolená přeprava jedovatého odpadu nebo **odpadu klasifikovaného jako nebezpečný**.*

*... certain aspects of the law on aliens in regard to **nationals** of States that are not members of the European Communities.*

*...některá hlediska práv cizinců vůči **státním příslušníkům** nečlenských států Evropských společenství*

5.2.5 Other modifications in the translation

The official Czech translation of the Schengen acquis was taken into account and several differences can be found between these two translations:

- Modal verb shall

When the source text was translated, the modal verb *shall* employs present tense in Czech.

*The Executive Committee **shall** take its decisions unanimously.*

*Výkonný výbor **se rozhoduje** jednomyslně.*

Although, future tense occurs in the original translation of Schengen Acquis:

*The instruments of ratification, acceptance or approval **shall be deposited** with the Government of the Grand Duchy of Luxembourg...*

*Listiny o ratifikaci, přijetí nebo schválení **budou uloženy** u vlády Lucemburského velkoknížectví...(the official Czech translation)*

- Translation of words

When the source text was translated, the dictionary of Information system for implementing EU law was taken into consideration:

- *illicit transportation of toxic and **hazardous waste**.*

- *Nedovolená přeprava jedovatého odpadu nebo **odpadu klasifikovaného jako nebezpečný**.*

- *nedovolená přeprava jedovatého a **nebezpečného odpadu**. (the official Czech translation)*

*... inter alia, by studying the possibility of introducing a right of **hot pursuit** for police officers, taking into account existing means of communication and international judicial assistance.*

*...mimo jiné zvážením případného zavedení práva **přeshraničního pronásledování** pro policisty...*

*... mimo jiné zvážením případného zavedení práva **pronásledování** pro policisty... (the official Czech translation)*

- Layout

Although, the Information system for implementing EU law recommends keeping the structure of the source text, which is two-column format, for the target text it was used one-column format.

6 INFLUENCE OF THE SCHENGEN ACQUIS ON THE CZECH REPUBLIC

6.1 History of Schengen cooperation

6.1.1 Saarbrücken Agreement

“The history of creating an area without controls on person at internal borders dates back to 1984 when France and Germany agreed on the so-called Saarbrücken Agreement in response to protests by truck drivers against major delays at the common borders.”^[13]

A similar procedure was initiated by Belgium, the Netherlands and Luxembourg in 1958^[14] when these countries have together created the Benelux Economic Union. At the same time when the Saarbrücken Agreement was created, Benelux countries wanted to simplify the transition of internal borders without border controls. Therefore,

the Benelux invited France and Germany to join this idea and on 17 June 1984^[15] in Fontainebleau the session of the European Council brought together representatives of these countries to define necessary conditions to ensure the freed movement of goods and persons.

6.1.2 The Schengen Agreement

Negotiations have resulted in the Schengen Agreement signed by the five founding countries (France, Germany, Belgium, the Netherlands and Luxembourg) on 14 June 1985^[16] aboard ship Princesse Marie Astrid moored on the river Moselle at Schengen in Luxembourg which lies at the point where borders of France, Luxembourg and Germany intersect.

This agreement is more or less the same as the Saarbrücken Agreement. It was rather an interim pact between countries, as a proof Agreement contains only 33 Articles and it was no need of parliamentary enactment. The Agreement abolished internal borders by short and long term measures. Measures applicable in the short term include simplified controls at internal borders and coordination of combating drug trafficking and crime. Measures applicable in the long term include harmonization of laws and regulations with regard to drug trafficking and arms, cooperation of police authorities and policy on visas.

6.1.3 The Schengen Convention

Five years later on 19 June 1990^[17] the Schengen Convention was signed by the same countries as the Schengen Agreement. In this Convention, Contracting Parties established more detailed procedures and measures to facilitate the movement of goods and person across borders. This Convention states terms such as “internal or external borders”, “common visa policy” and police and judicial cooperation with an addition of setting of the Schengen Information System, known as SIS, which is a database of information shared by all Member States of the Schengen area. The Convention entered into force on 26 March 1995 so the borders were de facto abolished.

A candidate country wanting to join the Schengen area must meet several conditions including:

- It must take responsibility for controlling the external borders and issuing Schengen uniform visas;
- It must cooperate with the authorities enforcing the law enforcement in other member countries of the Schengen area in order to maintain a high level of safety when checks at their internal borders are abolished;
- It must implement a set of rules that were included in the Schengen acquis;
- It must join the Schengen Information System and use it.

Subsequently, the candidate countries go through the so-called Schengen evaluation, a specific evaluation process designed to ensure high quality implementation of the Schengen rules and strengthening of cooperation in the area without border controls. In this way, the application examines Schengen standards in practice. This evaluation is carried out after the country is accepted into the Schengen area. In 2011, the Schengen evaluation of two candidate countries (Bulgaria and Romania) was completed. It was stated that they met appropriate conditions; however, they have to wait for the actual entry into the Schengen area. The unanimous consent is required by all existing Home Secretaries and the European Parliament to candidate country be accepted^[18].

6.1.4 Treaty of Amsterdam

Treaty of Amsterdam, which was signed in 1997 and entered into force on 1 May 1999, is an important document because for the first time it concluded the Schengen acquis into the EU legislation. The Schengen aquis is *“a set of laws constituting the basis of Schengen cooperation. Besides the Schengen Agreement, the Schengen Convention, agreements of the accessions, it includes decisions and declarations of*

Executive Committee (ceased to exist on the basis of the Schengen Protocol) and latter's legislative acts of the EU/ES where it is stated in the preamble that they elaborate on the Schengen acquis.”^[19] At the time of negotiation of the Treaty of Amsterdam, these contracts were signed by all the then EU Member States except Ireland and the United Kingdom. Therefore, it was decided that rules for cooperation within the Schengen acquis will be incorporated into the newly adopted contract. For Ireland and the United Kingdom, special rules were introduced, e.g. opt-in.

The Treaty of Amsterdam reflects the integration process in the 90s of 20th century and endeavours greater cooperation between the then European Communities (EC). It revises treaties of the EC, amends certain provisions of the Treaty of the European Union, the Treaties establishing the EC and related acts. However, it does not replace these treaties but it rather stands next to them.

As mentioned earlier, this agreement has changed certain provisions of existing treaties and thus changes the pillars underpinning the EU. Documents relating to the Schengen visa and immigration policy were put into the first community pillar. Judicial and police matters were included in the third pillar^[20]. By this, the goal to achieve free movement of people in the Single European Act of 1986 has been accomplished.

Since the ratification of the Treaty of Amsterdam, each new member of the EU has to adopt the Schengen acquis. This does not mean that it is a full member of the Schengen area. The Council of the EU has to decide this. A new EU member is included in the Schengen area after it meets the conditions mentioned above.

6.1.5 Treaty of Lisbon

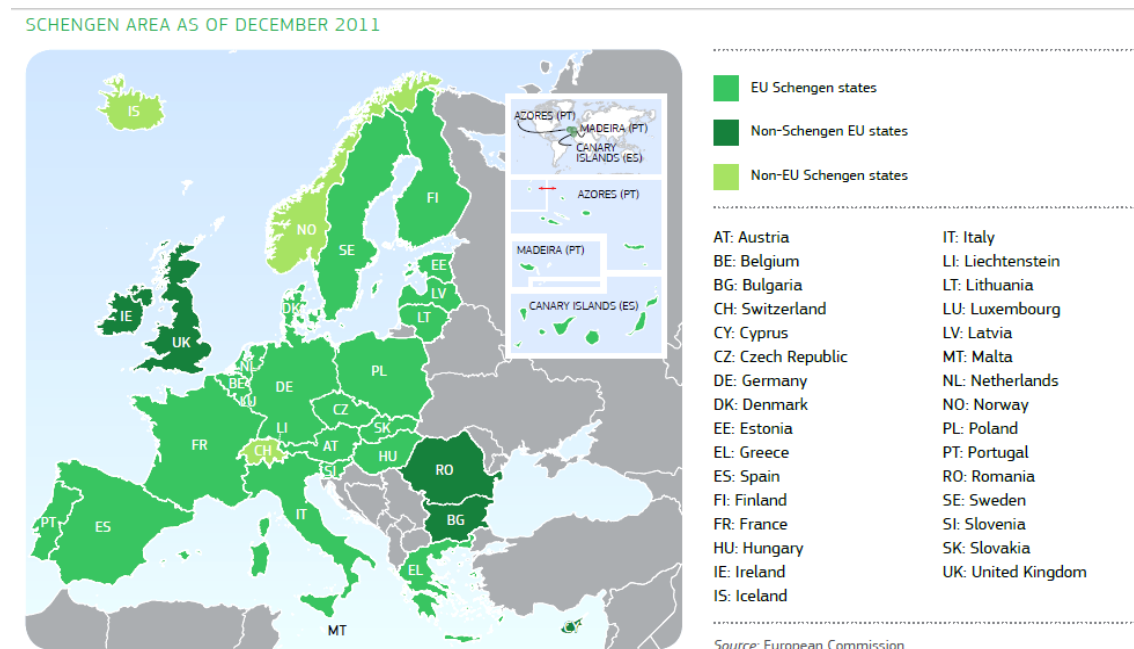
Other structural changes of judicial policy and home affairs and even changes of the Schengen acquis occurred after ratification of the Treaty of Lisbon on 1 December 2009. This treaty extended co-decision process between the European Parliament and the Council of the EU voting by

qualified majority deciding on proposal of the European Commission. Co-decision applies to the Schengen rules including police and judicial cooperation in criminal activity.

6.2 The Schengen area

The Schengen area, which now comprises 26^[21] countries, understands “*territories of states where border controls are not performed at their common borders. Security of protected area is ensured by harmonized rules for protection of external borders, close cooperation in relevant fields and Schengen Information System.*”^[22]

Image 1 - Schengen area^[23]



6.2.1 Enlargement of the Schengen area

Gradually, other countries joined the Schengen area. In the same year when the Convention entered into force, Portugal and Spain integrated into the Schengen area; in 1996 it was another two countries, Italy and Austria. After a four-year pause in 2000, Greece entered the Schengen area. In 2001 there was another enlargement by Denmark, Finland, and Sweden along with two non-EU countries, Iceland and Norway.

Since neither Iceland nor Norway was and still is member of the EU, it was necessary to resolve the consequences of the involvement of these countries into the Schengen area. They were resolved by special Association Agreement which applies to all non-EU countries integrated into the Schengen area.

Further expansion occurred in 2007 when other nine EU countries (Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovakia and Slovenia) joined the Schengen area. The following year in 2008, it was Switzerland in which case there are still controls carried out on goods at its border because it is not part of the Customs Union of the EU^[24]. The entry of Cyprus was also planned but it was postponed due to unrest between northern and southern parts of the island. The last integrated state was Liechtenstein on 19 December 2011^[25].

6.2.2 EU-countries not belonging to the Schengen area and associated States

At this moment, there are five EU-countries who are not at the same time members of the Schengen area, namely Bulgaria, Ireland, Cyprus, Romania and the United Kingdom.

Bulgaria and Romania are EU-members who came as the last ones on 1 January 2007. Since the Schengen acquis is integrated into the framework of the EU legislation, so these two states are obliged to enter the Schengen area. They were assumed to join the Schengen area within two or three years but until now they are still not members of the Schengen area.

European Parliament resolution on the accession of Bulgaria and Romania to Schengen from 6 October 2011, the European Parliament *“stresses that the Council and the Commission must respect the unanimity principle to let Bulgaria and Romania join the Schengen zone; Takes the view that Bulgarian and Romanian accession to the Schengen*

zone is absolutely not appropriate due to the reasons above mentioned.”^[26]

Reasons are follows:

“A. whereas the vote on Bulgarian and Romanian accession to the Schengen zone within the Justice and Home Affairs Council on 22 September 2011 did not reach an unanimous decision due to the Dutch and Finnish veto;

B. whereas France and Germany showed doubts on this issue;

C. whereas Romania and Bulgaria did not achieve the Schengen acquis in the fight against corruption and organised crime as well as, regarding Bulgaria, the adoption of measures aimed at facing the increase of the migratory floods expected at the borders with Greece and Turkey;

D. whereas the removal of checks at the internal borders can encourage the emigration of suspected criminals to the other Member States causing an increase of the criminality, prison overcrowding and a decrease in security and public order;

E. whereas it is not appropriate to let States join the Schengen zone if they have problems in checking their borders as this would increase migration to the other EU Member States which are already dealing with illegal immigration on the southern borders coming from North Africa and spreading to Northern Europe”^[27]

However, European Parliament resolution of 13 October 2011 on the accession of Bulgaria and Romania to Schengen^[28] was made and the European Parliament had objection in points 1 to 5 („1. *Points out that both countries have fundamentally redesigned and reorganised their integrated border management systems by investing substantially in their law enforcement authorities, including the provision of training and the latest technology, and have visibly reinforced their institutional and legal frameworks, a fact which is acknowledged in all the Schengen evaluation reports;*

2. *Notes the constant support and solidarity shown by Bulgaria and Romania as reliable partners in south-eastern Europe, along with their continual contribution to border security in this part of the EU;*
3. *Underlines that both countries have fully implemented the Schengen acquis, which –according to their Accession Treaty and the existing EU legal framework – is the only prerequisite for their accession to the Schengen area;*
4. *Urges all Member States to take the decision on enlarging the Schengen area to include Bulgaria and Romania solely on the basis of the Schengen acquis and procedures; believes that additional criteria cannot be imposed on Member States which are already in the process of joining the Schengen area;*
5. *Reiterates Parliament's support for enlarging the Schengen area to include Bulgaria and Romania, and calls on the European Council to proceed in accordance with the EU Treaty and to take the necessary measures to enable Romania and Bulgaria to accede to the Schengen area^[29]), they are still not agreed to enter into the Schengen area.*

Three EU-countries (Cyprus, Ireland and the United Kingdom) are not a part of the Schengen area, although they are involved in some application of Schengen rules.

Although Cyprus is a member of the EU and the euro zone too; it is still not a member of the Schengen area. It stated that it would wait until the SIS II^[30] (Schengen Information System II) was launched. Cyprus was expected to join in 2009 along with Switzerland which eventually joined one year earlier on 12 December 2008^[31]. The real reason, however, was mentioned by Cypriot Minister of Foreign Affairs, George Lillikas, who said: *„it is not projected that Cyprus will be able to join the Schengen area before 2010, due to political considerations and to the absence of the appropriate infrastructure, adding that "the implementation and accession to the Schengen area means strict control and monitoring of our border areas (air, land and sea)."*^[32] The date of its entry is still not set.

Despite the fact that Ireland and the United Kingdom are associated states, both of them are involved in some way in implicating of The Schengen acquis. They can apply for the possibility of cooperation in some fields, if the Council of the EU allows. An example of this cooperation is a request of the UK on 29 May 2000^[33] when the Council of the EU authorized to take part in some measures of the Schengen area. It will be involved *“especially in police and judicial cooperation (except section of “hot pursuit”). The United Kingdom, however, is not part of the space with checks at internal borders, nor subject to the control of external borders and visa policy.”*^[34]

6.3 The Czech Republic and the Schengen area

6.3.1 Entry of the Czech Republic into the Schengen area

In 2006, Czech political scene was not united with regard to vies on the EU membership. *“The ODS (Civil Democratic Party) refuses to strengthen European political and security structures afraid of disruption of transatlantic relations while the present ČSSD (Czech Social Democratic Party) tends to internationalism, inter alia to promoting the deepening of the European integration. The KSČM (The Communist Party of Bohemia and Moravia) represents the autonomist view of foreign affairs rejecting both the NATO and the EU.”*^[35] While enhancing cooperation in the so-called third pillar was not welcomed at that time, no political party opposed to the involvement of the Czech Republic into the Schengen area.

The Czech Republic had to meet required standards in given time to become a full member of this area. Therefore, it started preparing to take on the Schengen acquis before the accession into the EU since 1998 when interdepartmental Working group for Schengen cooperation was established which coordinated the preparation of various state authorities. As part of its activities, a strategy of the Czech integration into the Schengen area was prepared which is known as the Schengen Action

Plan of the Czech Republic (SAP CR). This group ceased to exist by the entry of the CR into the European Union and the Schengen evaluation Working Group (SCH-EVAL) ^[36].

The Czech Republic had to adopt full the Schengen acquis to be admitted into the Schengen area. The European Commission has prepared a document in which divided the Schengen acquis into two categories:

1. Category I – this is most provisions of the Schengen Convention and related regulations concerning the crossing external borders, visa policy, policy and judicial cooperation;
2. Category II – this is most provisions relating to the crossing internal borders, provisions on residence of aliens from third countries, provisions on police cooperation and the provisions concerning SIS and data protection.

6.3.2 Schengen evaluation

The EU checked itself whether the Czech Republic met all criteria to enter into the Schengen area. As it was mentioned, each country undergoes the so-called Schengen evaluation. This Report on Preparedness of the Czech Republic contains general evaluation and specific schedule tasks to ensure preparedness.

The Czech Republic was evaluated in four areas:

1. **Air borders** are crossed at airports. In the Czech Republic, there are currently 18 international airports carrying out international traffic of which 12 will carry out on non-Schengen flights;
2. **Visa policy** of the Czech Republic was harmonized with the visa policy of the EU. After entering into the EU, the Czech Republic issued a provisional uniform visa. Visa Information System (VIS) has been established to exchange visa data between Member States of the Schengen area;

3. **Police cooperation** carried-out especially on cross-border level with neighbouring countries, i.e. Austria, Germany, Poland, Slovakia;
4. **Protection of personal data** which is overseen by the Office for Personal Data Protection

“The Czech Republic underwent the Schengen evaluation in 2005-2007. Within its framework, the assessment teams verified the preparedness of the CR six times in all areas of Schengen cooperation (police cooperation, data protections, visa, consular affairs etc.).Continually, recommendations made by experts were put into practice and relevant Working group of the Council of the EU stated preparedness of the Czech Republic and recommended to the other Member States to allow abolishment checks at internal borders. In years 2012-2013 the Czech Republic will be subject to Schengen evaluation again. But this time they will check correct implementation of Schengen standards and evaluate changes introduced after joining the Schengen area.”^[37]

The last version was approved on 18 April 2007. From 21 December 2007 the Czech Republic abolished checks at its borders and from 30 March 2007 border checks are also abolished at international airports for flights inside the The Schengen area.

6.3.3 Effects of the integration into the Schengen area

The Schengen cooperation influenced all powers of state. As far s the legislative power, new international conventions have been adopted because of the Schengen acquis and regulations have been modified or some laws have been cancelled. Partly, the judiciary has also been influenced. The Schengen Convention deals with persecuted persons or convicted refugees and issue of punishment. The Schengen cooperation also influenced the executive power that is exercised by public authorities and which develops and implements individual policies. In addition to

authorities coping with visa and asylum policy, activities of police and customs were affected too.

The Schengen treaty guarantees free movement without visa, checks or waiting at borders within the Schengen area. The movement of persons or goods is thus easier in Europe. We can say that if a person crosses the border of two states which both of them are members of the euro zone, he does not even notice that he has entered the territory of another state.

6.3.3.1 The most remarkable changes for average Czech citizen

1. Border crossing of Schengen Member States is possible anywhere and anytime, i.e. beyond the Community frontier crossing points at their opening hours;
2. Abolishment of internal borders applies to all modes of transport (air, rail, river, road, sea and transport);
3. The Schengen area includes 26 states, so the Czech national can go to Portugal over Germany, France and Spain without being checked at the border
4. Travel time is shorter in Europe because of no customs clearance and no passport control at the border;
5. Due to Schengen Information System is a higher chance of catching thieves or finding stolen goods or missing persons.

6.3.3.2 Travelling within and outside the Schengen area

The Czech Republic is surrounded by states which belong to the Schengen area, so the Czech external borders are only at international airports with non-Schengen states. Therefore, it was necessary to distinguish passengers travelling within the Schengen area and passengers flying to and from third countries. The passport control is removed for citizens of the Schengen area. But it does not mean that the citizens are not required to submit a proof of identity. Similarly, security remains. The check-in remained the same as for domestic flights.

6.3.3.3 Tourism

Although economists predicted significant economic impact on tourism when the opening of borders would increase tourist revenues due to the abolition of border formalities, no statistics of the Eurostat (Statistical Office) or the OECD (Organization for Economic Co-operation and Development) did confirm this fact. However, according to Henryk Handszucha, Director for quality tourism development, the Schengen area is advantageous for the nationals of third countries who *“included a visit to several countries into their itinerary as the travelling around Europe is now a lot of easier. But another matter is more important: no obstacles in Europe are a part of higher quality of travel experience which has much more sense than any quantitative increase in the number of tourists, related to the Agreement. [...] Another advantage is that there are no traditional traffic jams which greatly improved the environment. On the other hand, many businessmen depending on cross-border transit had to switch or close their businesses.”*^[38]

6.3.3.4 Migration of labour

The Schengen aquis has an indirect influence on the labour. By joining the Schengen area, the conditions for employment of Czech citizens in other EU Member States have not changed because nationals could apply for a job in another state since the Czech Republic has entered the EU. Some states of the original Member States known as EU-15 have negotiated a transitional period during which the workers of the newly joined states can freely participate in the labour market.

This transitional period is *“up to seven years in the 2+3+2 format to limit the free movement of labour. This means that for two years any state can protect its own labour market. [...] Sweden, Ireland and the United Kingdom fully opened their labour markets to citizens from new Member States from the first day of their membership in the EU. The Czech Republic has also negotiated an option to apply the same transitional*

period in relation to other workers from EU-15 and new Member States. From 1 May 2006, Czech citizens did not have to apply for work permit in Greece, Finland, Portugal, and Spain, on 27 July 2006 Italy abolished the obligation to obtain a work permit and on 1 May 2007 it was the Netherlands. The last countries keeping restrictions on the movement of labour were Germany and Austria with regard to geographic location and negative public opinion. Even in their case, however, the full opening of labour markets was on 1 May 2011 after expiring of the maximum period of the application of the transitional period.”^[39]

As for the migration of labour from abroad to the Czech Republic, people are coming especially from countries with lower GDP (Gross Domestic Product) than the Czech Republic. Working stay is used by Ukrainians, Vietnamese, Chinese and Mongolians.

6.3.3.5 Business and services

“EU citizens can freely buy and transport goods between member countries. Goods purchased in another Member State shall be treated as if they were bought at home. There is one condition; the goods have to be intended for private use.”^[40]

Opening borders reduces the time of transfer of goods by several hours depending on the route and the number of border crossings. Also, the cost of waiting is reduced to zero. Tariff barrier were removed, administrative burden related to foreign trade was reduced. We can say that the trade in goods and services became easier by integration into the Schengen system without internal borders. As barriers are reducing, the true competitiveness of various national sectors is revealing.

6.3.3.6 Advantages and disadvantages

Thanks to the Schengen, the Czech Republic can take advantage which this integration brings but the disadvantages and complications which can occur should not be forgotten. Although access of all Schengen members to Schengen Information System and its database, which serves primarily

to exchange information on wanted persons and property between Schengen members, is essential for ensuring a high level of security within the common area. This is a clear positive but it has also downsides. One of negatives is the implementation of the Schengen acquis and setting up of a national section of SIS, which was not for free and cost a large amount of effort and high financial support. *“In the process of preparations for the Schengen cooperation, several millions were spent, primarily from the state budget but also from the EU funds through the PHARE project or from the financial assistance provided by the Germany in the negotiation of readmission agreements. Most of actions have been completed.”*^[41] Total costs amounted to CZK 516.691 million^[42] and were used for these projects:

1. **SISone4all project**'s aim is to join new Schengen members to existing Schengen information system
2. **Radiocommunication support** at the border with Poland and Slovakia for usage of alien and border police and for the implementation of cross-border police cooperation
3. **Completion of Czech police preparation** in the way that the police are able to protect external borders within the Schengen area
4. **Information campaign** means activities associated with publicizing the changes resulting from the integration of the Czech Republic into the Schengen cooperation
5. **Implementation of provisional controls** for the protection of personal data with regard to the Schengen Information System

Other negatives include the risk of trade with prohibited goods, illegal migration and illegal actions such as drug smuggling, arm trafficking or trafficking in human beings. These fears were not confirmed, namely because of the Schengen thoroughly sophisticated security systems, which places great emphasis on thorough checks at external borders, but also the consistent exchange of information relating to internally wanted

persons and goods between countries within the framework of detailed databases accessible to all Schengen members. According to statistical data released by Eurostat, the criminality in the Czech Republic has decreased; in 2003 the number of recorded offenses reached 357.740 and in 2009 it was “only” 332.829 (these data include information about violent crime, homicide, robbery, domestic burglary, theft of motor vehicle and drug trafficking).^[43]

Certain risk is also an increasing number of lorries on the Czech roads. *“From January to April 2004, about 551.000 lorries exceeding 3.5 tonnes crossed the Czech borders in both directions. Already in June, the number of lorries crossing the Czech Republic has risen to 740.000 and in October when the lorry transport was the most frequent, 811.000 lorries crossed the Czech borders. Overall in the first this year’s 11 months (2011), 7.4 million lorries got over Czech boundaries and since joining the EU, their number had increased by almost 200.000 per month. [...] What caused this situation in 2004? Significantly cheaper fees for the use of the road net in the Czech Republic than in Germany and Austria together with geographical advantageous location of our country from the perspective of international transport. Situation should be stabilized, if not reversed, an electronic toll system which was put into operation in early 2007 on Czech motorways with subsequent extension to the road of 1st and 2nd class.”*^[44]

There is also a question about the implementation of the Schengen acquis into the framework of the EU legislation. The point is that the new EU members have to enter the Schengen area, while the associated countries such as Norway or Switzerland can voluntarily leave the Schengen area and close their borders to other countries. Certain counterweight is the so-called “temporary reintroduction of border checks” which means that *“even after Schengen enlargement, the border checks and obligation to submit travel document can be temporarily reinstated in exceptional circumstances when crossing borders. Such measure,*

however, will only be accepted in case of serious threats of internal security or public order. The extent and duration of the renewed checks will be limited to the bare minimum needed to respond to that threat.”^[45]

However, the fact that the advantages predominate was the main reason to join the Schengen area, the most important and questionable issue is the sovereignty of the Czech Republic which was limited by joining the Schengen area as follows the European Union. The point is that the Czech Republic cannot always make decisions by itself but has to cope with the European Union and in some cases it leads to problems between Member States, e.g. this spring there was an issue of the technical salt imported from Poland and used for making food.

7 CONCLUSION

The goal of the Bachelor's Thesis was to translate selected parts of the Schengen acquis, the part of EU legislation, with commentary and glossary accompanied by its influence on the Czech Republic.

Firstly, I have read theoretical books dealing with translation and legal English to benefit of the theoretical knowledge in the practical part, which is the translation itself.

Secondly, I had to select the source text. I chose to translate the Schengen acquis as I think that all nationals of each Member State of the Schengen area are touched by this legislation and can notice the changes by entering into the Schengen area, which are mentioned in the last chapter.

As for translation itself, the legal English of the European Union is still in progress as well as the Czech equivalents. Fortunately, the EU translators realize this issue and dictionaries of the European Union's legislative language are available.

Then, the translation was carried out with the commentary divided into two approaches. The first one, the macro approach is focused on the source text and the micro approach on the target text. In the micro approach, there are mentioned methods of translation, pointed out lexical and grammatical features of legislative texts and stated several differences between the translation carried out by the author and the original Czech translation.

As it was mentioned above, the layout of original structure was kept except the two-column format. I have tried to translate long complex phrases as comprehensible as possible.

The last chapter is the influence on the Czech Republic. The history of the Schengen area was taken into account to present motives why signatory countries wanted to create an area without checks at borders and other countries wanted to join this area. There is also mentioned the

process of the Czech entry accompanied by problems occurring during the negotiation with the European Union. The entry into the Schengen area did not bring only the advantages but disadvantages too. These influences contain several domains of the Czech economy. Although, the negatives and positives occur, the main problem is that the legislation was passed on the level of the European Union so the Czech Republic cannot always resolve the problems promptly by itself.

Thanks to this Bachelor's Theses I acquired new knowledge concerning legal English, its vocabulary especially the terminology of the European Union, observance terms and accuracy. The translation of the administrative documents is not creative work like the translation of belles-lettres can be.

8 ENDNOTES

- [1] NEWMARK, op. cit. p. 5
- [2] VENUTI, op. cit. p. 114
- [3] Ibid., p. 84
- [4] Translation techniques [online]
- [5] KNITTLOVÁ, op. cit., p. 199
- [6] Ibid., p. 202
- [7] Translation techniques [online]
- [8] KNITTLOVÁ, p. 14
- [9] Tomášek, op. cit., p. 24
- [10] Ibid., p. 25
- [11] Information system for implementing EU law [online]
- [12] Tomášek, p. 43
- [13] LACINA, op. cit., p. 285
- [14] Encyclopaedia Britannica [online]
- [15] EVROPSKÁ KOMISE, p. 6
- [16] Ibid.
- [17] Ibid.
- [18] Ministerstvo vnitra ČR [online]
- [19] Euroskop.cz [online]
- [20] Euroskop.cz [online]
- [21] European Commission, op. cit., p. 85
- [22] Euroskop.cz [online]
- [23] European Commission, p. 85
- [24] Ministerstvo vnitra ČR [online]
- [25] Ministerstvo vnitra ČR [online]
- [26] Evropský parlament [online]
- [27] Evropský parlament [online]
- [28] European Parliament [online]
- [29] European Parliament [online]

- [30] EVROPSKÁ KOMISE., p. 6
- [31] EVROPSKÁ KOMISE., p. 7
- [32] Embassy of the Republic of Cyprus in Berlin [online]
- [33] EVROPSKÁ KOMISE., p. 16
- [34] Ibid., op. cit., p. 17
- [35] *Česká politika v Evropské unii: evropský integrační proces a zájmy České republiky*, op. cit. 96
- [36] Celní správa ČR [online]
- [37] Ministerstvo vnitra ČR [online]
- [38] Kterak Schengen pomáhá cestovnímu ruchu [online]
- [39] LACINA, op. cit., p. 231
- [40] Cestování v EU [online]
- [41] Ministerstvo vnitra ČR [online]
- [42] Ministerstvo vnitra ČR [online]
- [43] Eurostat [online]
- [44] LACINA, op. cit., p. 238
- [45] Ministerstvo vnitra ČR [online]

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10 ABSTRACT

The topic of the Bachelor's Thesis is Translation of EU document with commentary and glossary accompanied by information about its influence on the Czech Republic. The objective was to translate selected parts of the Schengen acquis the text, comment on the source and target text, look up the most important glossary and make an analysis of the Schengen acquis influence on the Czech Republic. The introductory part provides an overview of legal English and its features and the theory, methods and techniques of translation. The main body is translation of selected parts of the source text and it is followed by the commentary and the glossary. In the last part, the analysis of influence on the Czech Republic can be found with positive and negative points of view.

11 RESUME

Tématem této bakalářské práce je Překlad dokumentu Evropské unie s komentářem a glosářem doplněný informací o jeho vlivu na Českou republiku. Cílem bylo přeložit výňatky Schengenského acquis, komentovat zdrojový a cílový text, vyhledat nejdůležitější slovní zásobu a zpracovat analýzu ohledně vlivu na Českou republiku. Hlavní část práce je překlad vybraných částí zdrojového textu, následně komentář a glosář. V poslední části se nachází analýza vlivu na Českou republiku a to jak pozitivní tak negativní stránky problému.

12 APPENDICES

22.9.2000

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Official Journal of the European Communities

13

AGREEMENT

between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

The Governments of the KINGDOM OF BELGIUM, the FEDERAL REPUBLIC OF GERMANY, the FRENCH REPUBLIC, the GRAND DUCHY OF LUXEMBOURG and the KINGDOM OF THE NETHERLANDS,

hereinafter referred to as 'the Parties',

AWARE that the ever closer union of the peoples of the Member States of the European Communities should find its expression in the freedom to cross internal borders for all nationals of the Member States and in the free movement of goods and services,

ANXIOUS to strengthen the solidarity between their peoples by removing the obstacles to free movement at the common borders between the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic,

CONSIDERING the progress already achieved within the European Communities with a view to ensuring the free movement of persons, goods and services,

PROMPTED by the resolve to achieve the abolition of checks at their common borders on the movement of nationals of the Member States of the European Communities and to facilitate the movement of goods and services at those borders,

CONSIDERING that application of this Agreement may require legislative measures which will have to be submitted to the parliaments of the Signatory States in accordance with their constitutions,

HAVING REGARD to the statement by the Fontainebleau European Council on 25 and 26 June 1984 on the abolition of police and customs formalities for people and goods crossing intra-Community frontiers,

HAVING REGARD to the Agreement concluded at Saarbrücken on 13 July 1984 between the Federal Republic of Germany and the French Republic,

HAVING REGARD to the Conclusions adopted on 31 May 1984 following the meeting of the Transport Ministers of the Benelux States and the Federal Republic of Germany at Neustadt an der Aisch,

HAVING REGARD to the Memorandum of the Governments of the Benelux Economic Union of 12 December 1984 forwarded to the Governments of the Federal Republic of Germany and the French Republic,

HAVE AGREED AS FOLLOWS:

TITLE I

Article 2

MEASURES APPLICABLE IN THE SHORT TERM

Article 1

As soon as this Agreement enters into force and until all checks are abolished completely, the formalities for nationals of the Member States of the European Communities at the common borders between the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic shall be carried out in accordance with the conditions laid down below.

With regard to the movement of persons, from 15 June 1985 the police and customs authorities shall as a general rule carry out simple visual surveillance of private vehicles crossing the common border at reduced speed, without requiring such vehicles to stop.

However, they may carry out more thorough controls by means of spot checks. These shall be performed where possible off the main road, so as not to interrupt the flow of other vehicles crossing the border.

Article 3

To facilitate visual surveillance, nationals of the Member States of the European Communities wishing to cross the common border in a motor vehicle may affix to the windscreen a green disc measuring at least eight centimetres in diameter. This disc shall indicate that they have complied with border police rules, are carrying only goods permitted under the duty-free arrangements and have complied with exchange regulations.

Article 4

The Parties shall endeavour to keep to a minimum the time spent at common borders in connection with checks on the carriage of passengers by road for hire or reward.

The Parties shall seek solutions enabling them by 1 January 1986 to waive systematic checks at their common borders on passenger waybills and licences for the carriage of passengers by road for hire or reward.

Article 5

By 1 January 1986 common checks shall be put in place at adjacent national control posts in so far as that is not already the case and in so far as physical conditions so permit. Consideration shall subsequently be given to the possibility of introducing common checks at other border crossing points, taking account of local conditions.

Article 6

Without prejudice to the application of more favourable arrangements between the Parties, the latter shall take the measures required to facilitate the movement of nationals of the Member States of the European Communities resident in the local administrative areas along their common borders with a view to allowing them to cross those borders at places other than authorised crossing points and outside checkpoint opening hours.

The persons concerned may benefit from these advantages provided that they transport only goods permitted under the duty-free arrangements and comply with exchange regulations.

Article 7

The Parties shall endeavour to approximate their visa policies as soon as possible in order to avoid the adverse consequences in the field of immigration and security that may result from easing checks at the common borders. They shall take, if possible by 1 January 1986, the necessary steps in order to apply their procedures for the issue of visas and admission to their territories, taking into account the need to ensure the protection of the entire territory of the five States against

illegal immigration and activities which could jeopardise security.

Article 8

With a view to easing checks at their common borders and taking into account the significant differences in the laws of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, the Parties undertake to combat vigorously illicit drug trafficking on their territories and to coordinate their action effectively in this area.

Article 9

The Parties shall reinforce cooperation between their customs and police authorities, notably in combating crime, particularly illicit trafficking in narcotic drugs and arms, the unauthorised entry and residence of persons, customs and tax fraud and smuggling. To that end and in accordance with their national laws, the Parties shall endeavour to improve the exchange of information and to reinforce that exchange where information which could be useful to the other Parties in combating crime is concerned.

Within the framework of their national laws the Parties shall reinforce mutual assistance in respect of unauthorised movements of capital.

Article 10

With a view to ensuring the cooperation provided for in Articles 6 to 9, meetings between the Parties' competent authorities shall be held at regular intervals.

Article 11

With regard to the cross-border carriage of goods by road, the Parties shall waive, as from 1 July 1985, systematic performance of the following checks at their common borders:

- control of driving and rest periods (Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonisation of certain social legislation relating to road transport and AETR),
- control of the weights and dimensions of commercial vehicles; this provision shall not prevent the introduction of automatic weighing systems for spot checks on weight,
- controls on the vehicles' technical state.

Measures shall be taken to avoid checks being duplicated within the territories of the Parties.

Article 12

From 1 July 1985 checks on documents detailing transport operations not carried out under licence or quota pursuant to Community or bilateral rules shall be replaced at the common borders by spot checks. Vehicles carrying out transport operations under such arrangements shall display a visual symbol to that effect when crossing the border.

The Parties' competent authorities shall determine the features of this symbol by common agreement.

Article 13

The Parties shall endeavour to harmonise by 1 January 1986 the systems applying among them to the licensing of commercial road transport with regard to cross-border traffic, with the aim of simplifying, easing and possibly replacing licences for journeys by licences for a period of time, with a visual check when vehicles cross common borders.

The procedures for converting licences for journeys into licences for periods of time shall be agreed on a bilateral basis, account being taken of the road haulage requirements in the different countries concerned.

Article 14

The Parties shall seek solutions to reduce the waiting times of rail transport at the common borders caused by the completion of border formalities.

Article 15

The Parties shall recommend to their respective rail companies:

- to adapt technical procedures in order to minimise stopping times at the common borders,
- to do their utmost to apply to certain types of carriage of goods by rail, to be defined by the rail companies, a special routing system whereby the common borders can be crossed rapidly without any appreciable stops (goods trains with reduced stopping times at borders).

Article 16

The Parties shall harmonise the opening dates and opening hours of customs posts for inland waterway traffic at the common borders.

TITLE II

MEASURES APPLICABLE IN THE LONG TERM

Article 17

With regard to the movement of persons, the Parties shall endeavour to abolish checks at common borders and transfer them to their external borders. To that end they shall endeavour first to harmonise, where necessary, the laws, regulations and administrative provisions concerning the prohibitions and restrictions on which the checks are based and to take complementary measures to safeguard internal security and prevent illegal immigration by nationals of States that are not members of the European Communities.

Article 18

The Parties shall open discussions, in particular on the following matters, account being taken of the results of the short-term measures:

- (a) drawing up arrangements for police cooperation on crime prevention and investigation;
- (b) examining any difficulties that may arise in applying agreements on international judicial assistance and extradition, in order to determine the most appropriate solutions for improving cooperation between the Parties in those fields;
- (c) seeking means to combat crime jointly, *inter alia*, by studying the possibility of introducing a right of hot pursuit for police officers, taking into account existing means of communication and international judicial assistance.

Article 19

The Parties shall seek to harmonise laws and regulations, in particular on:

- narcotic drugs,
- arms and explosives,
- the registration of travellers in hotels.

Article 20

The Parties shall endeavour to harmonise their visa policies and the conditions for entry to their territories. In so far as is necessary, they shall also prepare the harmonisation of their

rules governing certain aspects of the law on aliens in regard to nationals of States that are not members of the European Communities.

Article 21

The Parties shall take common initiatives within the European Communities:

- (a) to achieve an increase in the duty-free allowances granted to travellers;
- (b) in the context of Community allowances to remove any remaining restrictions on entry to the Member States of goods possession of which is not prohibited for their nationals.

The Parties shall take initiatives within the European Communities so that VAT on tourist transport services within the European Communities is collected in the country of departure on a harmonised basis.

Article 22

The Parties shall endeavour both among themselves and within the European Communities:

- to increase the duty-free allowance for fuel in order to bring it into line with the normal contents of bus and coach fuel tanks (600 litres),
- to approximate the tax rates on diesel fuel and to increase the duty-free allowances for the normal contents of lorry fuel tanks.

Article 23

In the field of goods transport the Parties shall also endeavour to reduce stopping times and the number of stopping points at adjacent national control posts.

Article 24

With regard to the movement of goods, the Parties shall seek means of transferring the checks currently carried out at the common borders to the external borders or to within their own territories.

To that end they shall take, where necessary, common initiatives among themselves and within the European Communities to harmonise the provisions on which checks on goods at the common borders are based. They shall ensure that these measures do not adversely affect the necessary protection of the health of humans, animals and plants.

Article 25

The Parties shall develop their cooperation with a view to facilitating customs clearance of goods crossing a common border, through a systematic, automatic exchange of the necessary data collected by means of the single document.

Article 26

The Parties shall examine how indirect taxes (VAT and excise duties) may be harmonised in the framework of the European Communities. To that end they shall support the initiatives undertaken by the European Communities.

Article 27

The Parties shall examine whether, on a reciprocal basis, the limits on the duty-free allowances granted at the common borders to frontier-zone residents, as authorised under Community law, may be abolished.

Article 28

Before the conclusion of any bilateral or multilateral arrangements similar to this Agreement with States that are not parties thereto, the Parties shall consult among themselves.

Article 29

This Agreement shall also apply to Berlin, unless a declaration to the contrary is made by the Government of the Federal Republic of Germany to the Governments of the States of the Benelux Economic Union and the Government of the French Republic within three months of entry into force of this Agreement.

Article 30

The measures provided for in this Agreement which are not applicable as soon as it enters into force shall be applied by 1 January 1986 as regards the measures provided for in Title I and if possible by 1 January 1990 as regards the measures provided for in Title II, unless other deadlines are laid down in this Agreement.

Article 31

This Agreement shall apply subject to the provisions of Articles 5, 6 and 8 to 16 of the Agreement concluded at Saarbrücken on 13 July 1984 between the Federal Republic of Germany and the French Republic.

Article 32

This Agreement shall be signed without being subject to ratification or approval, or subject to ratification or approval, followed by ratification or approval.

This Agreement shall apply provisionally from the day following that of its signature.

This Agreement shall enter into force 30 days after deposit of the last instrument of ratification or approval.

Article 33

This Agreement shall be deposited with the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Governments of the other Signatory States.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Übereinkommen gesetzt.

En foi de quoi, les représentants des Gouvernements dûment habilités à cet effet ont signé le présent accord.

Ten blijke waarvan de daartoe naar behoren gemachtigde vertegenwoordigers van de Regeringen dit Akkoord hebben ondertekend.

Geschehen zu Schengen (Großherzogtum Luxemburg) am vierzehnten Juni neunzehnhundertfünfundachtzig, in deutscher, französischer und niederländischer Sprache abgefaßt, wobei jeder Wortlaut gleichermaßen verbindlich ist.

Fait à Schengen (Grand-Duché de Luxembourg), le quatorze juin mil neuf cent quatre-vingt-cinq, les textes du présent accord en langues allemande, française et néerlandaise, faisant également foi.


Gedaan te Schengen (Groothertogdom Luxemburg), de veertiende juni negentienhonderdvijfentachtig, zijnde te teksten van dit Akkoord in de Duitse, de Franse en de Nederlandse taal gelijkelijk authentiek.

Pour le Gouvernement du Royaume de Belgique
Voor de Regering van het Koninkrijk België



P. DE KEERSMAEKER
Secrétaire d'État aux Affaires européennes
Staatssecretaris voor Europese Zaken

Für die Regierung der Bundesrepublik Deutschland



Prof. Dr. W. SCHRECKENBERGER
Staatssekretär im Bundeskanzleramt

CONVENTION
IMPLEMENTING THE SCHENGEN AGREEMENT
of 14 June 1985

between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders

The KINGDOM OF BELGIUM, the FEDERAL REPUBLIC OF GERMANY, the FRENCH REPUBLIC, the GRAND DUCHY OF LUXEMBOURG and the KINGDOM OF THE NETHERLANDS, hereinafter referred to as 'the Contracting Parties',

TAKING as their basis the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders,

HAVING DECIDED to fulfil the resolve expressed in that Agreement to abolish checks at their common borders on the movement of persons and facilitate the transport and movement of goods at those borders,

WHEREAS the Treaty establishing the European Communities, supplemented by the Single European Act, provides that the internal market shall comprise an area without internal frontiers,

WHEREAS the aim pursued by the Contracting Parties is in keeping with that objective, without prejudice to the measures to be taken to implement the provisions of the Treaty,

WHEREAS the fulfilment of that resolve requires a series of appropriate measures and close cooperation between the Contracting Parties,

HAVE AGREED AS FOLLOWS:

TITLE I

DEFINITIONS

Article 1

For the purposes of this Convention:

internal borders: shall mean the common land borders of the Contracting Parties, their airports for internal flights and their sea ports for regular ferry connections exclusively from or to other ports within the territories of the Contracting Parties and not calling at any ports outside those territories;

external borders: shall mean the Contracting Parties' land and sea borders and their airports and sea ports, provided that they are not internal borders;

internal flight: shall mean any flight exclusively to or from the territories of the Contracting Parties and not landing in the territory of a third State;

third State: shall mean any State other than the Contracting Parties;

alien: shall mean any person other than a national of a Member State of the European Communities;

alien for whom an alert has been issued for the purposes of refusing entry: shall mean an alien for whom an alert has been introduced into the Schengen Information System in accordance with Article 96 with a view to that person being refused entry;

border crossing point: shall mean any crossing point authorised by the competent authorities for crossing external borders;

border check: shall mean a check carried out at a border in response exclusively to an intention to cross that border, regardless of any other consideration;

carrier: shall mean any natural or legal person whose occupation it is to provide passenger transport by air, sea or land;

residence permit: shall mean an authorisation of whatever type issued by a Contracting Party which grants right of residence within its territory. This definition shall not include temporary permission to reside in the territory of a Contracting Party for the purposes of processing an application for asylum or a residence permit;

application for asylum: shall mean any application submitted in writing, orally or otherwise by an alien at an external border or within the territory of a Contracting Party with a view to obtaining recognition as a refugee in accordance with the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol

of 31 January 1967, and as such obtaining the right of residence;

asylum seeker: shall mean any alien who has lodged an application for asylum within the meaning of this Convention and in respect of which a final decision has not yet been taken;

processing applications for asylum: shall mean all the procedures for examining and taking a decision on applications for asylum, including measures taken under a final decision thereon, with the exception of the determination of the Contracting Party responsible for processing applications for asylum pursuant to this Convention.

TITLE II

ABOLITION OF CHECKS AT INTERNAL BORDERS AND MOVEMENT OF PERSONS

CHAPTER 1

CROSSING INTERNAL BORDERS

Article 2

1. Internal borders may be crossed at any point without any checks on persons being carried out.

2. However, where public policy or national security so require a Contracting Party may, after consulting the other Contracting Parties, decide that for a limited period national border checks appropriate to the situation shall be carried out at internal borders. If public policy or national security require immediate action, the Contracting Party concerned shall take the necessary measures and at the earliest opportunity shall inform the other Contracting Parties thereof.

3. The abolition of checks on persons at internal borders shall not affect the provisions laid down in Article 22, or the exercise of police powers throughout a Contracting Party's territory by the competent authorities under that Party's law, or the requirement to hold, carry and produce permits and documents provided for in that Party's law.

4. Checks on goods shall be carried out in accordance with the relevant provisions of this Convention.

CHAPTER 2

CROSSING EXTERNAL BORDERS

Article 3

1. External borders may in principle only be crossed at border crossing points and during the fixed opening hours. More detailed provisions, exceptions and arrangements for local border traffic, and rules governing special categories of maritime traffic such as pleasure boating and coastal fishing, shall be adopted by the Executive Committee.

2. The Contracting Parties undertake to introduce penalties for the unauthorised crossing of external borders at places other than crossing points or at times other than the fixed opening hours.

Article 4

1. The Contracting Parties shall ensure that, as from 1993, passengers on flights from third States who transfer onto internal flights will be subject to an entry check, together with their hand baggage, at the airport at which the external flight arrives. Passengers on internal flights who transfer onto flights bound for third States will be subject to a departure check, together with their hand baggage, at the airport from which the external flight departs.

Article 7

The Contracting Parties shall assist each other and shall maintain constant, close cooperation with a view to the effective implementation of checks and surveillance. They shall, in particular, exchange all relevant, important information, with the exception of personal data, unless otherwise provided for in this Convention. They shall as far as possible harmonise the instructions given to the authorities responsible for checks and shall promote standard basic and further training of officers manning checkpoints. Such cooperation may take the form of an exchange of liaison officers.

Article 8

The Executive Committee shall take the necessary decisions on the practical procedures for carrying out border checks and surveillance.

CHAPTER 3

VISAS

Section 1

Short-stay visas

Article 9

1. The Contracting Parties undertake to adopt a common policy on the movement of persons and, in particular, on the arrangements for visas. They shall assist each other to that end. The Contracting Parties undertake to pursue through common consent the harmonisation of their policies on visas.

2. The visa arrangements relating to third States whose nationals are subject to visa arrangements common to all the Contracting Parties at the time of signing this Convention or at a later date may be amended only by common consent of all the Contracting Parties. A Contracting Party may in exceptional cases derogate from the common visa arrangements relating to a third State where overriding reasons of national policy require an urgent decision. It shall first consult the other Contracting Parties and, in its decision, take account of their interests and the consequences of that decision.

Article 10

1. A uniform visa valid for the entire territory of the Contracting Parties shall be introduced. This visa, the period of validity of which shall be determined by Article 11, may be issued for visits not exceeding three months.

2. Pending the introduction of such a visa, the Contracting Parties shall recognise their respective national visas, provided that these are issued in accordance with common conditions and criteria determined in the context of the relevant provisions of this Chapter.

3. By way of derogation from paragraphs 1 and 2, each Contracting Party shall reserve the right to restrict the territorial validity of the visa in accordance with common arrangements determined in the context of the relevant provisions of this chapter.

Article 11

1. The visa provided for in Article 10 may be:

- (a) a travel visa valid for one or more entries, provided that neither the length of a continuous visit nor the total length of successive visits exceeds three months in any half-year, from the date of first entry;
- (b) a transit visa authorising its holder to pass through the territories of the Contracting Parties once, twice or exceptionally several times en route to the territory of a third State, provided that no transit shall exceed five days.

2. Paragraph 1 shall not preclude a Contracting Party from issuing a new visa, the validity of which is limited to its own territory, within the half-year in question if necessary.

Article 12

1. The uniform visa provided for in Article 10(1) shall be issued by the diplomatic and consular authorities of the Contracting Parties and, where appropriate, by the authorities of the Contracting Parties designated under Article 17.

2. The Contracting Party responsible for issuing such a visa shall in principle be that of the main destination. If this cannot be determined, the visa shall in principle be issued by the diplomatic or consular post of the Contracting Party of first entry.

3. The Executive Committee shall specify the implementing arrangements and, in particular, the criteria for determining the main destination.

Article 13

1. No visa shall be affixed to a travel document that has expired.

2. The period of validity of a travel document must exceed that of the visa, taking account of the period of use of the visa.

It must enable aliens to return to their country of origin or to enter a third country.

Article 14

1. No visa shall be affixed to a travel document if that travel document is not valid for any of the Contracting Parties. If a travel document is only valid for one Contracting Party or for a number of Contracting Parties, the visa to be affixed shall be limited to the Contracting Party or Parties in question.

2. If a travel document is not recognised as valid by one or more of the Contracting Parties, an authorisation valid as a visa may be issued in place of a visa.

Article 15

In principle the visas referred to in Article 10 may be issued only if an alien fulfils the entry conditions laid down in Article 5(1)(a), (c), (d) and (e).

Article 16

If a Contracting Party considers it necessary to derogate on one of the grounds listed in Article 5(2) from the principle laid down in Article 15, by issuing a visa to an alien who does not fulfil all the entry conditions referred to in Article 5(1), the validity of this visa shall be restricted to the territory of that Contracting Party, which must inform the other Contracting Parties accordingly.

Article 17

1. The Executive Committee shall adopt common rules for the examination of visa applications, shall ensure their correct implementation and shall adapt them to new situations and circumstances.

2. The Executive Committee shall also specify the cases in which the issue of a visa shall be subject to consultation with the central authority of the Contracting Party with which the application is lodged and, where appropriate, the central authorities of other Contracting Parties.

3. The Executive Committee shall also take the necessary decisions on the following:

- (a) the travel documents to which a visa may be affixed;
- (b) the visa-issuing authorities;
- (c) the conditions governing the issue of visas at borders;

(d) the form, content, and period of validity of visas and the fees to be charged for their issue;

(e) the conditions for the extension and refusal of the visas referred to in (c) and (d), in accordance with the interests of all the Contracting Parties;

(f) the procedures for limiting the territorial validity of visas;

(g) the principles governing the drawing up of a common list of aliens for whom an alert has been issued for the purposes of refusing entry, without prejudice to Article 96.

Section 2

Long-stay visas

Article 18

Visas for stays exceeding three months shall be national visas issued by one of the Contracting Parties in accordance with its national law. Such visas shall enable their holders to transit through the territories of the other Contracting Parties in order to reach the territory of the Contracting Party which issued the visa, unless they fail to fulfil the entry conditions referred to in Article 5(1)(a), (d) and (e) or they are on the national list of alerts of the Contracting Party through the territory of which they seek to transit.

CHAPTER 4

CONDITIONS GOVERNING THE MOVEMENT OF ALIENS

Article 19

1. Aliens who hold uniform visas and who have legally entered the territory of a Contracting Party may move freely within the territories of all the Contracting Parties during the period of validity of their visas, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).

2. Pending the introduction of a uniform visa, aliens who hold visas issued by one of the Contracting Parties and who have legally entered the territory of one Contracting Party may move freely within the territories of all the Contracting Parties during the period of validity of their visas up to a maximum of three months from the date of first entry, provided that they fulfil the entry conditions referred to in Article 5(1)(a), (c), (d) and (e).

3. Paragraphs 1 and 2 shall not apply to visas whose validity is subject to territorial limitation in accordance with Chapter 3 of this Title.

- (d) places of residence and routes travelled;
- (e) residence permits or visas issued by a Contracting Party;
- (f) the place where the application for asylum was lodged;
- (g) where appropriate, the date any previous application for asylum was lodged, the date on which the present application was lodged, the stage reached in the procedure and the decision taken.

3. In addition, a Contracting Party may ask another Contracting Party to inform it of the grounds invoked by an asylum seeker in support of an application and, where appropriate, the grounds for the decision taken on the asylum seeker. The Contracting Party requested shall consider whether it can comply with such a request. In all events the communication of such information shall be subject to the asylum seeker's consent.

4. Information shall be exchanged at the request of a Contracting Party and may only be exchanged between the authorities designated by each Contracting Party, once the Executive Committee has been informed thereof.

5. The information exchanged may only be used for the purposes laid down in paragraph 1. Such information may only be communicated to the authorities and courts and tribunals responsible for:

- determining the Contracting Party responsible for processing the application for asylum,
- processing the application for asylum,
- implementing obligations arising under this chapter.

6. The Contracting Party that forwards the information shall ensure it is accurate and up-to-date.

If it appears that a Contracting Party has supplied information that is inaccurate or should not have been forwarded, the recipient Contracting Parties shall be informed immediately thereof. They shall be obliged to correct such information or delete it.

7. Asylum seekers shall have the right to receive on request the information exchanged which concerns them as long as it remains available.

If they establish that such information is inaccurate or should not have been forwarded, they shall have the right to demand its correction or deletion. Corrections shall be made in accordance with paragraph 6.

8. Each Contracting Party concerned shall record the forwarding and receipt of information exchanged.

9. Information forwarded shall be held no longer than necessary for the purposes for which it was exchanged. The Contracting Party concerned shall assess in due course whether it is necessary for it to be held.

10. In any case, information thus forwarded shall enjoy at least the same protection as is provided for similar information in the law of the recipient Contracting Party.

11. If information is not processed automatically but is handled in some other form, each Contracting Party shall take the appropriate measures to ensure compliance with this Article by means of effective controls. If a Contracting Party has a body of the type referred to in paragraph 12, it may assign the control task to it.

12. If one or more Contracting Parties wishes to computerise all or part of the information referred to in paragraphs 2 and 3, such computerisation shall only be authorised if the Contracting Parties concerned have adopted laws applicable to such processing which implement the principles of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981 and if they have entrusted an appropriate national body with the independent monitoring of the processing and use of data forwarded pursuant to this Convention.

TITLE III

POLICE AND SECURITY

CHAPTER 1

POLICE COOPERATION

Article 39

1. The Contracting Parties undertake to ensure that their police authorities shall, in compliance with national law and

within the scope of their powers, assist each other for the purposes of preventing and detecting criminal offences, in so far as national law does not stipulate that the request has to be made and channelled via the judicial authorities and provided that the request or the implementation thereof does not involve the application of measures of constraint by the requested Contracting Party. Where the requested police authorities do not have the power to deal with a request, they shall forward it to the competent authorities.

2. Written information provided by the requested Contracting Party under paragraph 1 may not be used by the

requesting Contracting Party as evidence of the offence charged other than with the consent of the competent judicial authorities of the requested Contracting Party.

3. Requests for assistance referred to in paragraph 1 and the replies to such requests may be exchanged between the central bodies responsible in each Contracting Party for international police cooperation. Where the request cannot be made in good time using the above procedure, the police authorities of the requesting Contracting Party may address it directly to the competent authorities of the requested Party, which may reply directly. In such cases, the requesting police authority shall at the earliest opportunity inform the central body responsible for international police cooperation in the requested Contracting Party of its direct request.

4. In border areas, cooperation may be covered by arrangements between the competent Ministers of the Contracting Parties.

5. The provisions of this Article shall not preclude more detailed present or future bilateral agreements between Contracting Parties with a common border. The Contracting Parties shall inform each other of such agreements.

Article 40

1. Officers of one of the Contracting Parties who, as part of a criminal investigation, are keeping under surveillance in their country a person who is presumed to have participated in an extraditable criminal offence shall be authorised to continue their surveillance in the territory of another Contracting Party where the latter has authorised cross-border surveillance in response to a request for assistance made in advance. Conditions may be attached to the authorisation.

On request, the surveillance will be entrusted to officers of the Contracting Party in whose territory this is carried out.

The request for assistance referred to in the first subparagraph must be sent to an authority designated by each of the Contracting Parties and empowered to grant or to pass on the requested authorisation.

2. Where, for particularly urgent reasons, prior authorisation cannot be requested from the other Contracting Party, the officers carrying out the surveillance shall be authorised to continue beyond the border the surveillance of a person presumed to have committed criminal offences listed in paragraph 7, provided that the following conditions are met:

(a) the authority of the Contracting Party designated under paragraph 5, in whose territory the surveillance is to be continued, must be notified immediately, during the surveillance, that the border has been crossed;

(b) a request for assistance submitted in accordance with paragraph 1 and outlining the grounds for crossing the border without prior authorisation shall be submitted immediately.

Surveillance shall cease as soon as the Contracting Party in whose territory it is taking place so requests, following the notification referred to in (a) or the request referred to in (b) or, where authorisation has not been obtained, five hours after the border was crossed.

3. The surveillance referred to in paragraphs 1 and 2 shall be carried out only under the following general conditions:

(a) The officers carrying out the surveillance must comply with the provisions of this Article and with the law of the Contracting Party in whose territory they are operating; they must obey the instructions of the competent local authorities.

(b) Except in the situations outlined in paragraph 2, the officers shall, during the surveillance, carry a document certifying that authorisation has been granted.

(c) The officers carrying out the surveillance must at all times be able to prove that they are acting in an official capacity.

(d) The officers carrying out the surveillance may carry their service weapons during the surveillance save where specifically otherwise decided by the requested Party; their use shall be prohibited save in cases of legitimate self-defence.

(e) Entry into private homes and places not accessible to the public shall be prohibited.

(f) The officers carrying out the surveillance may neither challenge nor arrest the person under surveillance.

(g) All operations shall be the subject of a report to the authorities of the Contracting Party in whose territory they took place; the officers carrying out the surveillance may be required to appear in person.

(h) The authorities of the Contracting Party from which the surveillance officers have come shall, when requested by the authorities of the Contracting Party in whose territory the surveillance took place, assist the enquiry subsequent to the operation in which they took part, including judicial proceedings.

4. The officers referred to in paragraphs 1 and 2 shall be:

— as regards the Kingdom of Belgium: members of the 'police judiciaire près les Parquets' (Criminal Police attached to the Public Prosecutor's Office), the 'gendarmerie' and the 'police communale' (municipal police), as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with

- respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;
- as regards the Federal Republic of Germany: officers of the 'Polizeien des Bundes und der Länder' (Federal Police and Federal State Police), as well as, with respect only to illicit trafficking in narcotic drugs and psychotropic substances and arms trafficking, officers of the 'Zollfahndungsdienst' (customs investigation service) in their capacity as auxiliary officers of the Public Prosecutor's Office;
 - as regards the French Republic: criminal police officers of the national police and national 'gendarmerie', as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;
 - as regards the Grand Duchy of Luxembourg: officers of the 'gendarmerie' and the police, as well as customs officers, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives, and the illicit transportation of toxic and hazardous waste;
 - as regards the Kingdom of the Netherlands: officers of the 'Rijkspolitie' (national police) and the 'Gemeentepolitie' (municipal police), as well as, under the conditions laid down in appropriate bilateral agreements referred to in paragraph 6, with respect to their powers regarding illicit trafficking in narcotic drugs and psychotropic substances, trafficking in arms and explosives and the illicit transportation of toxic and hazardous waste, officers of the tax inspection and investigation authorities responsible for import and excise duties.
5. The authority referred to in paragraphs 1 and 2 shall be:
- as regards the Kingdom of Belgium: the 'Commissariat général de la Police judiciaire' (Criminal Investigation Department),
 - as regards the Federal Republic of Germany: the 'Bundeskriminalamt' (Federal Crime Office),
 - as regards the French Republic: the 'Direction centrale de la Police judiciaire' (Central Headquarters of the Criminal Police),
 - as regards the Grand Duchy of Luxembourg: the 'Procureur général d'Etat' (Principal State Prosecutor),
 - as regards the Kingdom of the Netherlands: the 'Landelijk Officier van Justitie' (National Public Prosecutor) responsible for cross-border surveillance.
6. The Contracting Parties may, at bilateral level, extend the scope of this Article and adopt additional measures in application thereof.
7. The surveillance referred to in paragraph 2 may only be carried out where one of the following criminal offences is involved:
- murder,
 - manslaughter,
 - rape,
 - arson,
 - forgery of money,
 - aggravated burglary and robbery and receiving stolen goods,
 - extortion,
 - kidnapping and hostage taking,
 - trafficking in human beings,
 - illicit trafficking in narcotic drugs and psychotropic substances,
 - breach of the laws on arms and explosives,
 - wilful damage through the use of explosives,
 - illicit transportation of toxic and hazardous waste.
- Article 41*
1. Officers of one of the Contracting Parties who are pursuing in their country an individual caught in the act of committing or of participating in one of the offences referred to in paragraph 4 shall be authorised to continue pursuit in the territory of another Contracting Party without the latter's prior authorisation where, given the particular urgency of the situation, it is not possible to notify the competent authorities of the other Contracting Party by one of the means provided for in Article 44 prior to entry into that territory or where these authorities are unable to reach the scene in time to take over the pursuit.
- The same shall apply where the person being pursued has escaped from provisional custody or while serving a sentence involving deprivation of liberty.
- The pursuing officers shall, not later than when they cross the border, contact the competent authorities of the Contracting Party in whose territory the hot pursuit is to take place. The hot pursuit will cease as soon as the Contracting Party in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the competent local authorities shall challenge the pursued person in order to establish the person's identity or to make an arrest.

- in the case of a legal person: the name or business name and registered place of business and the surname, forenames, date and place of birth, address and passport or identity card number of the person authorised to represent the legal person;
- (b) the model, manufacturer's number, calibre and other characteristics of the firearm in question and its serial number.

4. Each Contracting Party shall designate the national authority responsible for sending and receiving the information referred to in paragraphs 2 and 3 and shall immediately inform the other Contracting Parties of any change of designated authority.

5. The authority designated by each Contracting Party may forward the information it has received to the competent local police authorities and the authorities responsible for border surveillance, for the purposes of preventing or prosecuting criminal offences and infringements of rules of law.

TITLE IV

THE SCHENGEN INFORMATION SYSTEM

CHAPTER 1

ESTABLISHMENT OF THE SCHENGEN INFORMATION SYSTEM

Article 92

1. The Contracting Parties shall set up and maintain a joint information system, hereinafter referred to as 'the Schengen Information System', consisting of a national section in each of the Contracting Parties and a technical support function. The Schengen Information System shall enable the authorities designated by the Contracting Parties, by means of an automated search procedure, to have access to alerts on persons and property for the purposes of border checks and other police and customs checks carried out within the country in accordance with national law and, in the case of the specific category of alerts referred to in Article 96, for the purposes of issuing visas, residence permits and the administration of legislation on aliens in the context of the application of the provisions of this Convention relating to the movement of persons.

2. Each Contracting Party shall set up and maintain, for its own account and at its own risk, its national section of the Schengen Information System, the data file of which shall be made materially identical to the data files of the national sections of each of the other Contracting Parties by means of the technical support function. To ensure the rapid and effective transmission of data as referred to in paragraph 3, each Contracting Party shall observe, when setting up its national section, the protocols and procedures which the Contracting Parties have jointly established for the technical support function. Each national section's data file shall be available for the purposes of carrying out automated searches in the territory of each of the Contracting Parties. It shall not be possible to search the data files of other Contracting Parties' national sections.

3. The Contracting Parties shall set up and maintain, on a common cost basis and bearing joint liability, the technical support function of the Schengen Information System. The French Republic shall be responsible for the technical support function, which shall be located in Strasbourg. The technical

support function shall comprise a data file which will ensure via on-line transmission that the data files of the national sections contain identical information. The data files of the technical support function shall contain alerts for persons and property in so far as these concern all the Contracting Parties. The data file of the technical support function shall contain no data other than those referred to in this paragraph and in Article 113(2).

CHAPTER 2

OPERATION AND USE OF THE SCHENGEN INFORMATION SYSTEM

Article 93

The purpose of the Schengen Information System shall be in accordance with this Convention to maintain public policy and public security, including national security, in the territories of the Contracting Parties and to apply the provisions of this Convention relating to the movement of persons in those territories, using information communicated via this system.

Article 94

1. The Schengen Information System shall contain only those categories of data which are supplied by each of the Contracting Parties, as required for the purposes laid down in Articles 95 to 100. The Contracting Party issuing an alert shall determine whether the case is important enough to warrant entry of the alert in the Schengen Information System.

2. The categories of data shall be as follows:

- (a) persons for whom an alert has been issued;
- (b) objects referred to in Article 100 and vehicles referred to in Article 99.

3. For persons, the information shall be no more than the following:

- (a) surname and forenames, any aliases possibly entered separately;
- (b) any specific objective physical characteristics not subject to change;
- (c) first letter of second forename;
- (d) date and place of birth;
- (e) sex;
- (f) nationality;
- (g) whether the persons concerned are armed;
- (h) whether the persons concerned are violent;
- (i) reason for the alert;
- (j) action to be taken.

Other information, in particular the data listed in the first sentence of Article 6 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981, shall not be authorised.

4. Where a Contracting Party considers that an alert in accordance with Articles 95, 97 or 99 is incompatible with its national law, its international obligations or essential national interests, it may subsequently add to the alert contained in the data file of the national section of the Schengen Information System a flag to the effect that the action to be taken on the basis of the alert will not be taken in its territory. Consultation must be held in this connection with the other Contracting Parties. If the Contracting Party issuing the alert does not withdraw the alert, it shall continue to apply in full for the other Contracting Parties.

Article 95

1. Data on persons wanted for arrest for extradition purposes shall be entered at the request of the judicial authority of the requesting Contracting Party.

2. Before issuing an alert, the Contracting Party shall check whether the arrest is authorised under the national law of the requested Contracting Parties. If the Contracting Party issuing the alert has any doubts, it must consult the other Contracting Parties concerned.

The Contracting Party issuing the alert shall send the requested Contracting Parties by the quickest means possible both the alert and the following essential information relating to the case:

- (a) the authority which issued the request for arrest;
- (b) whether there is an arrest warrant or other document having the same legal effect, or an enforceable judgment;
- (c) the nature and legal classification of the offence;
- (d) a description of the circumstances in which the offence was committed, including the time, place and the degree of participation in the offence by the person for whom the alert has been issued;
- (e) in so far as is possible, the consequences of the offence.

3. A requested Contracting Party may add to the alert in the data file of its national section of the Schengen Information System a flag prohibiting arrest on the basis of the alert until the flag is deleted. The flag must be deleted no later than 24 hours after the alert has been entered, unless the Contracting Party refuses to make the requested arrest on legal grounds or for special reasons of expediency. In particularly exceptional cases where this is justified by the complex nature of the facts behind the alert, the above time limit may be extended to one week. Without prejudice to a flag or a decision to refuse the arrest, the other Contracting Parties may make the arrest requested in the alert.

4. If, for particularly urgent reasons, a Contracting Party requests an immediate search, the requested Contracting Party shall examine whether it is able to withdraw its flag. The requested Contracting Party shall take the necessary steps to ensure that the action to be taken can be carried out immediately if the alert is validated.

5. If the arrest cannot be made because an investigation has not been completed or because a requested Contracting Party refuses, the latter must regard the alert as being an alert for the purposes of communicating the place of residence of the person concerned.

6. The requested Contracting Parties shall carry out the action as requested in the alert in accordance with extradition Conventions in force and with national law. They shall not be obliged to carry out the action requested where one of their nationals is involved, without prejudice to the possibility of making the arrest in accordance with national law.

Article 96

1. Data on aliens for whom an alert has been issued for the purposes of refusing entry shall be entered on the basis of a

CHAPTER 4

APPORTIONMENT OF THE COSTS OF THE SCHENGEN
INFORMATION SYSTEM

Article 119

1. The costs of installing and operating the technical support function referred to in Article 92(3), including the cost of lines connecting the national sections of the Schengen Information System to the technical support function, shall be

borne jointly by the Contracting Parties. Each Contracting Party's share shall be determined on the basis of the rate for each Contracting Party applied to the uniform basis of assessment of value added tax within the meaning of Article 2(1)(c) of the Decision of the Council of the European Communities of 24 June 1988 on the system of the Communities' own resources.

2. The costs of installing and operating the national section of the Schengen Information System shall be borne by each Contracting Party individually.

TITLE V

TRANSPORT AND MOVEMENT OF GOODS

Article 120

1. The Contracting Parties shall jointly ensure that their laws, regulations or administrative provisions do not unjustifiably impede the movement of goods at internal borders.

The Executive Committee shall adopt the list of plants and plant products to which the simplification specified in the first subparagraph shall apply. It may amend this list and shall fix the date of entry into force for such amendments. The Contracting Parties shall inform each other of the measures taken.

2. The Contracting Parties shall facilitate the movement of goods across internal borders by carrying out formalities relating to prohibitions and restrictions when goods are cleared through customs for home use. Such customs clearance may, at the discretion of the Party concerned, be conducted either within the country or at the internal borders. The Contracting Parties shall endeavour to encourage customs clearance within the country.

2. Should there be a danger of harmful organisms being introduced or propagated, a Contracting Party may request the temporary reinstatement of the control measures laid down in Community law and may implement those measures. It shall immediately inform the other Contracting Parties thereof in writing, giving the reasons for its decision.

3. In so far as it is not possible in certain fields to achieve the simplifications referred to in paragraph 2 in whole or in part, the Contracting Parties shall endeavour either to create the conditions therefor amongst themselves or to do so within the framework of the European Communities.

3. Plant health certificates may continue to be used as the certificate required under the law on the protection of species.

This paragraph shall apply in particular to monitoring compliance with rules on commercial transport permits, roadworthiness of means of transport, veterinary inspections and animal health checks, veterinary checks on health and hygiene, including meat inspections, plant health inspections and monitoring the transportation of dangerous goods and hazardous waste.

4. The competent authority shall, upon request, issue a plant health certificate when a consignment is intended in whole or in part for re-export in so far as plant health requirements are met for the plants or plant products concerned.

4. The Contracting Parties shall endeavour to harmonise formalities governing the movement of goods across external borders and to monitor compliance therewith according to uniform principles. The Contracting Parties shall, to this end, work closely together within the Executive Committee in the framework of the European Communities and other international forums.

Article 122

1. The Contracting Parties shall step up their cooperation with a view to ensuring the safe transportation of hazardous goods and undertake to harmonise their national provisions adopted pursuant to international Conventions in force. In addition, they undertake, particularly with a view to maintaining the existing level of safety, to:

(a) harmonise their requirements with regard to the vocational qualifications of drivers;

(b) harmonise the procedures for and the intensity of checks conducted during transportation and within undertakings;

(c) harmonise the classification of offences and the legal provisions concerning the relevant penalties;

Article 121

1. In accordance with Community law, the Contracting Parties shall waive, for certain types of plant and plant products, the plant health inspections and presentation of plant health certificates required under Community law.

(d) ensure a permanent exchange of information and experience with regard to the measures implemented and the checks carried out.

2. The Contracting Parties shall step up their cooperation with a view to conducting checks on transfers of hazardous and non-hazardous waste across internal borders.

To this end, they shall endeavour to adopt a common position regarding the amendment of Community Directives on the monitoring and management of transfers of hazardous waste and regarding the introduction of Community acts on non-hazardous waste, with the aim of setting up an adequate infrastructure for its disposal and of introducing waste disposal standards harmonised at a high level.

Pending Community rules on non-hazardous waste, checks on transfers of such waste shall be conducted on the basis of a special procedure whereby transfers may be checked at the point of destination during clearance procedures.

The second sentence of paragraph 1 shall also apply to this paragraph.

Article 123

1. The Contracting Parties undertake to consult each other for the purposes of abolishing among themselves the current requirement to produce a licence for the export of strategic industrial products and technologies, and to replace such a licence, if necessary, by a flexible procedure in cases where the countries of first and final destination are Contracting Parties.

Subject to such consultations, and in order to guarantee the effectiveness of such checks as may prove necessary, the Contracting Parties shall, by cooperating closely through a coordinating mechanism, endeavour to exchange relevant information, while taking account of national law.

2. With regard to products other than the strategic industrial products and technologies referred to in paragraph 1, the Contracting Parties shall endeavour, on the one hand, to have export formalities carried out within the country and, on the other, to harmonise their control procedures.

3. In pursuit of the objectives set out in paragraphs 1 and 2, the Contracting Parties shall consult the other partners concerned.

Article 124

The number and intensity of checks on goods carried by travellers when crossing internal borders shall be reduced to the lowest level possible. Further reductions in and the final abolition of such checks will depend on the gradual increase in travellers' duty-free allowances and on future developments in the rules applicable to the cross-border movement of travellers.

Article 125

1. The Contracting Parties shall conclude arrangements on the secondment of liaison officers from their customs administrations.

2. The secondment of liaison officers shall have the general purposes of promoting and accelerating cooperation between the Contracting Parties, in particular under existing Conventions and Community acts on mutual assistance.

3. The task of liaison officers shall be to advise and to provide assistance. They shall not be authorised to take customs administration measures on their own initiative. They shall provide information and shall perform their duties in accordance with the instructions given to them by the seconding Contracting Party.

TITLE VI

PROTECTION OF PERSONAL DATA

Article 126

1. As regards the automatic processing of personal data communicated pursuant to this Convention, each Contracting Party shall, no later than the date of entry into force of this Convention, adopt the necessary national provisions in order to achieve a level of protection of personal data at least equal to that resulting from the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981.

2. The communication of personal data provided for in this Convention may not take place until the provisions for the protection of personal data as specified in paragraph 1 have entered into force in the territories of the Contracting Parties involved in such communication.

3. In addition, the following provisions shall apply to the automatic processing of personal data communicated pursuant to this Convention:

(a) such data may be used by the recipient Contracting Party solely for the purposes for which this Convention

stipulates that they may be communicated; such data may be used for other purposes only with the prior authorisation of the Contracting Party communicating the data and in accordance with the law of the recipient Contracting Party; such authorisation may be granted in so far as the national law of the Contracting Party communicating the data so permits;

- (b) such data may be used only by the judicial authorities and the departments and authorities carrying out tasks or performing duties in connection with the purposes referred to in paragraph (a);
- (c) the Contracting Party communicating such data shall be obliged to ensure the accuracy thereof; should it establish, either on its own initiative or further to a request by the data subject, that data have been provided that are inaccurate or should not have been communicated, the recipient Contracting Party or Parties must be immediately informed thereof; the latter Party or Parties shall be obliged to correct or destroy the data, or to indicate that the data are inaccurate or were unlawfully communicated;
- (d) a Contracting Party may not plead that another Contracting Party communicated inaccurate data, in order to avoid its liability under its national law vis-à-vis an injured party; if damages are awarded against the recipient Contracting Party because of its use of inaccurate communicated data, the Contracting Party which communicated the data shall refund in full to the recipient Contracting Party the amount paid in damages;
- (e) the transmission and receipt of personal data must be recorded both in the source data file and in the data file in which they are entered;
- (f) the joint supervisory authority referred to in Article 115 may, at the request of one of the Contracting Parties, deliver an opinion on the difficulties of implementing and interpreting this Article.

4. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II and Title IV. Paragraph 3 shall not apply to the communication of data provided for under Chapters 2 to 5 of Title III.

Article 127

1. Where personal data are communicated to another Contracting Party pursuant to the provisions of this Convention, Article 126 shall apply to the communication of the data from a non-automated data file and to their inclusion in another non-automated data file.

2. Where, in cases other than those governed by Article 126(1), or paragraph 1 of this Article, personal data are communicated to another Contracting Party pursuant to this Convention, Article 126(3), with the exception of subparagraph (e), shall apply. The following provisions shall also apply:

- (a) a written record shall be kept of the transmission and receipt of personal data; this obligation shall not apply where such a record is not necessary given the use of the data, in particular if they are not used or are used only very briefly;
- (b) the recipient Contracting Party shall ensure, in the use of communicated data, a level of protection at least equal to that laid down in its national law for the use of similar data;
- (c) the decision concerning whether and under what conditions the data subject shall, at his request, be provided information concerning communicated data relating to him shall be governed by the national law of the Contracting Party to which the request was addressed.

3. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II, Chapters 2 to 5 of Title III, and Title IV.

Article 128

1. The communication of personal data provided for by this Convention may not take place until the Contracting Parties involved in that communication have instructed a national supervisory authority to monitor independently that the processing of personal data in data files complies with Articles 126 and 127 and the provisions adopted for their implementation.

2. Where the Contracting Party has, in accordance with its national law, instructed a supervisory authority to monitor independently, in one or more areas, compliance with the provisions on the protection of personal data not entered in a data file, that Contracting Party shall instruct the same authority to supervise compliance with the provisions of this Title in the areas concerned.

3. This Article shall not apply to the communication of data provided for under Chapter 7 of Title II and Chapters 2 to 5 of Title III.

Article 129

As regards the communication of personal data pursuant to Chapter 1 of Title III, the Contracting Parties undertake, without prejudice to Articles 126 and 127, to achieve a level of protection of personal data which complies with the principles of Recommendation No R (87) 15 of 17 September 1987 of the Committee of Ministers of the Council of Europe

regulating the use of personal data in the police sector. In addition, as regards the communication of data pursuant to Article 46, the following provisions shall apply:

- (a) the data may be used by the recipient Contracting Party solely for the purposes indicated by the Contracting Party which provided the data and in compliance with the conditions laid down by that Contracting Party;
- (b) the data may be communicated to police forces and authorities only; data may not be communicated to other authorities without the prior authorisation of the Contracting Party which provided them;

- (c) the recipient Contracting Party shall, upon request, inform the Contracting Party which provided the data of the use made of the data and the results thus obtained.

Article 130

If personal data are communicated via a liaison officer as referred to in Article 47 or Article 125, the provisions of this title shall not apply unless the liaison officer communicates such data to the Contracting Party which seconded the officer to the territory of the other Contracting Party.

TITLE VII

EXECUTIVE COMMITTEE

Article 131

1. An Executive Committee shall be set up for the purposes of implementing this Convention.
2. Without prejudice to the special powers conferred upon it by this Convention, the overall task of the Executive Committee shall be to ensure that this Convention is implemented correctly.

Article 132

1. Each Contracting Party shall have one seat on the Executive Committee. The Contracting Parties shall be represented on the Committee by a Minister responsible for the implementation of this Convention; that Minister may, if necessary, be assisted by experts, who may participate in the deliberations.

2. The Executive Committee shall take its decisions unanimously. It shall draw up its own rules of procedure; in this connection it may provide for a written decision-making procedure.
3. At the request of the representative of a Contracting Party, the final decision on a draft on which the Executive Committee has acted may be postponed for no more than two months from the date of submission of that draft.
4. The Executive Committee may set up working parties composed of representatives of the administrations of the Contracting Parties in order to prepare decisions or to carry out other tasks.

Article 133

The Executive Committee shall meet in the territory of each Contracting Party in turn. It shall meet as often as is necessary for it to discharge its duties properly.

TITLE VIII

FINAL PROVISIONS

Article 134

The provisions of this Convention shall apply only in so far as they are compatible with Community law.

Article 135

The provisions of this Convention shall apply subject to the provisions of the Geneva Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967.

Article 136

1. A Contracting Party which envisages conducting negotiations on border checks with a third State shall inform the other Contracting Parties thereof in good time.
2. No Contracting Party shall conclude with one or more third States agreements simplifying or abolishing border checks without the prior agreement of the other Contracting Parties, subject to the right of the Member States of the European Communities to conclude such agreements jointly.

3. Paragraph 2 shall not apply to agreements on local border traffic in so far as those agreements comply with the exceptions and arrangements adopted under Article 3(1).

Article 137

This Convention shall not be the subject of any reservations, save for those referred to in Article 60.

Article 138

As regards the French Republic, the provisions of this Convention shall apply only to the European territory of the French Republic.

As regards the Kingdom of the Netherlands, the provisions of this Convention shall apply only to the territory of the Kingdom in Europe.

Article 139

1. This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Grand Duchy of Luxembourg, which shall notify all the Contracting Parties thereof.

2. This Convention shall enter into force on the first day of the second month following the deposit of the final instrument of ratification, acceptance or approval. The provisions concerning the setting up, activities and powers of the Executive Committee shall apply as from the entry into force of this Convention. The other provisions shall apply as from the first day of the third month following the entry into force of this Convention.

3. The Government of the Grand Duchy of Luxembourg shall notify all the Contracting Parties of the date of entry into force.

Article 140

1. Any Member State of the European Communities may become a Party to this Convention. Accession shall be the subject of an agreement between that State and the Contracting Parties.

2. Such an agreement shall be subject to ratification, acceptance or approval by the acceding State and by each of the Contracting Parties. It shall enter into force on the first day of the second month following the deposit of the final instrument of ratification, acceptance or approval.

Article 141

1. Any Contracting Party may submit to the depositary a proposal to amend this Convention. The depositary shall forward that proposal to the other Contracting Parties. At the request of one Contracting Party, the Contracting Parties shall re-examine the provisions of the Convention if, in their opinion, there has been a fundamental change in the conditions obtaining when the Convention entered into force.

2. The Contracting Parties shall adopt amendments to this Convention by common consent.

3. Amendments shall enter into force on the first day of the second month following the date of deposit of the final instrument of ratification, acceptance or approval.

Article 142

1. When Conventions are concluded between the Member States of the European Communities with a view to the completion of an area without internal frontiers, the Contracting Parties shall agree on the conditions under which the provisions of this Convention are to be replaced or amended in the light of the corresponding provisions of such Conventions.

The Contracting Parties shall, to that end, take account of the fact that the provisions of this Convention may provide for more extensive cooperation than that resulting from the provisions of the said Conventions.

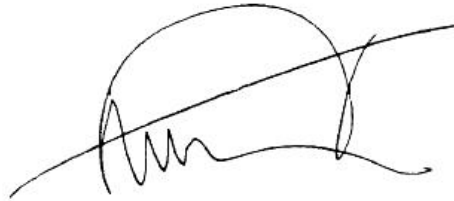
Provisions which conflict with those agreed between the Member States of the European Communities shall in any case be adapted.

2. Amendments to this Convention which are deemed necessary by the Contracting Parties shall be subject to ratification, acceptance or approval. The provision contained in Article 141(3) shall apply on the understanding that the amendments will not enter into force before the said Conventions between the Member States of the European Communities enter into force.

In witness whereof, the undersigned, duly empowered to this effect, have hereunto set their hands.

Done at Schengen, this nineteenth day of June in the year one thousand nine hundred and ninety, in a single original in the Dutch, French and German languages, all three texts being equally authentic, such original remaining deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit a certified copy to each of the Contracting Parties.

For the Government of the Kingdom of Belgium



For the Government of the Federal Republic of Germany



For the Government of the French Republic



For the Government of the Grand Duchy of Luxembourg



For the Government of the Kingdom of the Netherlands

