

## II

*(Non-legislative acts)*

## DECISIONS

## EUROPEAN COUNCIL DECISION

of 29 October 2010

**amending the status with regard to the European Union of the island of Saint-Barthélemy**

(2010/718/EU)

THE EUROPEAN COUNCIL,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 355(6) thereof,

Having regard to the initiative of the French Republic,

Having regard to the opinion of the European Commission,

Whereas:

- (1) Article 355 of the Treaty on the Functioning of the European Union (TFEU) allows the European Council, on the initiative of the Member State concerned and acting unanimously after consulting the Commission, to adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2 of Article 355.
- (2) In a letter from the French President dated 30 June 2010, the French Republic (hereinafter 'France') asked the European Council to take such a decision as regards the island of Saint-Barthélemy which is referred to in Article 355(1) of the TFEU. France has requested that the status of this island should change from that of outermost region, covered by Article 349 of the TFEU, to that of overseas country or territory, covered by Part Four of the TFEU.
- (3) France's request reflects the desire expressed by the elected representatives of the island of Saint-Barthélemy, which is a French overseas collectivity, governed by Article 74 of the French Constitution, with autonomy, to obtain a status with regard to the Union which would

be better suited to its status under national law, particularly given its remoteness from the mainland, its small insular economy largely devoted to tourism and subject to difficulties in obtaining supplies which hamper the application of some Union standards.

- (4) France has undertaken to conclude the agreements necessary to ensure that the interests of the Union are preserved when this change takes place. These agreements should relate firstly to monetary matters, as France intends to retain the euro as the sole currency on Saint-Barthélemy and it must be ensured that the application of the law of the Union in the essential fields of the good functioning of economic and monetary union is maintained. Secondly, such agreements should relate to taxation and aim to guarantee that the mechanisms of Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums<sup>(1)</sup> and Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments<sup>(2)</sup>, which aim in particular at combating fraud and cross-border tax evasion, will continue to apply in future to the territory of Saint-Barthélemy. The citizens of Saint-Barthélemy should remain citizens of the Union and should enjoy the same rights and freedoms within the Union as other French citizens, just as all citizens of the Union should continue to benefit from the same rights and freedoms in Saint-Barthélemy as they do now.

- (5) As a result, the change in the status with regard to the Union, of the island of Saint-Barthélemy, in response to the democratically expressed request of its elected representatives, should not jeopardise the Union's interests and should be consistent with the access of the island to autonomous status under national law,

<sup>(1)</sup> OJ L 336, 27.12.1977, p. 15.

<sup>(2)</sup> OJ L 157, 26.6.2003, p. 38.

HAS ADOPTED THIS DECISION:

*Article 1*

With effect from 1 January 2012, the island of Saint-Barthélemy shall cease to be an outermost region of the Union and shall have the status of overseas country or territory referred to in Part Four of the Treaty on the Functioning of the European Union (TFEU).

*Article 2*

The TFEU shall consequently be amended as follows:

1. in the first paragraph of Article 349, the words ‘Saint-Barthélemy’ shall be deleted;
2. in Article 355(1), the words ‘Saint-Barthélemy’ shall be deleted;

3. in Annex II, an indent shall be inserted, between that relating to ‘Saint Pierre and Miquelon’ and that relating to ‘Aruba’, which shall read as follows:

‘— Saint-Barthélemy,’

*Article 3*

This Decision shall enter into force on the date of its adoption.

It shall apply from 1 January 2012.

Done at Brussels, 29 October 2010.

*For the European Council*

*The President*

H. VAN ROMPUY

---