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COMIX 164

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. prev. doc.:	7194/23
Subject:	Draft Council Decision on the application of the provisions of the Schengen acquis in the area of Schengen Information System in the Republic of Cyprus

1. Article 3(2) of the 2003 Act of Accession provides that the provisions of the Schengen acquis not referred to in Article 3(1) of that Act, shall only apply in a new Member State pursuant to a Council decision to that effect, after verification, in accordance with the applicable Schengen evaluation procedures, that the necessary conditions for the application of all parts of the acquis concerned have been met in that new Member State, and after consulting the European Parliament.
2. The applicable Schengen evaluation procedures are set out in Council Regulation (EU) 2022/922¹, which replaced Council Regulation (EU) No 1053/2013².

¹ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15.6.2022, p. 1).

² Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

3. On 28 May 2019, Cyprus declared its readiness to be evaluated in all parts of the Schengen acquis. An evaluation carried out in accordance with the above procedures is, however, to take into consideration the special circumstances of Cyprus, as recognised in Protocol No 10 to the 2003 Act of Accession.
 4. The Schengen evaluation relating to data protection was carried out in Cyprus in November 2019, in accordance with Council Regulation (EU) No 1053/2013 applicable at that time. An evaluation report, adopted by means of Commission Implementing Decision C(2020)8150, confirmed that the necessary conditions for the application of the Schengen acquis relating to data protection had been met in Cyprus.
 5. This made it possible to set a date from which the Schengen acquis relating to the Schengen Information System (SIS), may apply in this Member State.
 6. The entry into force of the present Decision will allow for real SIS data to be transferred to Cyprus. The concrete use of these data will allow the Commission to verify the correct application of the provisions of the Schengen acquis relating to the SIS in Cyprus. This evaluation is scheduled to take place in September 2023.
 7. The Council consulted the European Parliament by letter of 3 September 2021. The European Parliament gave its favourable opinion on 3 May 2022.
 8. The Working Party for Schengen Matters, including the Mixed Committee partners Norway, Iceland, Switzerland and Liechtenstein, agreed to the draft Decision on 7 March 2023.
 9. Coreper is therefore invited:
 - to approve the draft Council Decision as finalised after the legal linguistic revision, and set out in document 7194/23; and
 - to recommend that the Council adopt it, as an 'A' item at a forthcoming meeting.
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