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SCH-EVAL 149
COMIX 507

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the full application of the provisions of the Schengen acquis in the Republic of Croatia
COUNCIL DECISION (EU) 2022/...

of …

on the full application of the provisions of the Schengen acquis
in the Republic of Croatia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2011 Act of Accession, and in particular Article 4(2) thereof,

Having regard to the opinion of the European Parliament¹,

¹ Opinion of 10 November 2022 (not yet published in the Official Journal).
Whereas:

(1) Article 4(2) of the 2011 Act of Accession provides that the provisions of the Schengen acquis not referred to in Article 4(1) of that Act are to only apply in Croatia 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 relevant acquis have been met in Croatia, including the effective application of all Schengen rules in accordance with the agreed common standards and with fundamental principles.

(2) By its Decision (EU) 2017/733\(^1\), the Council, after verification that the necessary conditions for the application of the data protection part of the Schengen acquis concerned had been met by Croatia, rendered the provisions of the Schengen acquis relating to the Schengen Information System (SIS) applicable to Croatia from 27 June 2017.

(3) Evaluations were carried out to verify that the necessary conditions for the application of the Schengen acquis had been met in all the remaining areas of the Schengen acquis, namely management of the external border, police cooperation, the SIS, return, visas, judicial cooperation in criminal matters and firearms, in Croatia, in accordance with the Schengen evaluation procedures applicable at the time as set out in Council Regulation (EU) No 1053/2013.

(4) In its communication of 22 October 2019 on the verification of the full application of the Schengen acquis by Croatia, the Commission concluded that it considered that Croatia had taken the measures needed to ensure that the necessary conditions for the application of all relevant parts of the Schengen acquis were met. Furthermore, it noted that Croatia would need to continue working consistently on the implementation of all the ongoing actions, in particular in the field of management of the external borders, to ensure that those conditions continue to be met. The Commission also confirmed that Croatia continued to fulfil the commitments linked to the Schengen acquis as undertaken in its accession negotiations.

(5) On 9 December 2021, the Council concluded that the necessary conditions for the application of all parts of the Schengen acquis had been fulfilled by Croatia.

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1 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).
(6) It is therefore possible to set the dates for the application of the Schengen acquis in full by Croatia, from which checks on persons at the internal borders with Croatia should be lifted.

(7) The restrictions on the use of the SIS, provided for in Decision (EU) 2017/733, should be lifted from the earliest date set for the application of the Schengen acquis in full by Croatia.

(8) The simplified regime for third-country nationals holding a national short-stay visa issued by Croatia for transit through or intended stays on its territory not exceeding 90 days in any 180-day period, introduced by Decision No 565/2014/EU of the European Parliament and of the Council\(^1\), should be maintained in order to avoid travel becoming more difficult for certain categories of persons. Consequently, certain provisions of that Decision should continue to apply for a limited transitional period.

\(^1\) Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC (OJ L 157, 27.5.2014, p. 23).
(9) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters’ association with the implementation, application and development of the Schengen acquis\(^1\) which fall within the area referred to in Article 1, points B, C, D and F, of Council Decision 1999/437/EC\(^2\).

(10) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen acquis\(^3\) which fall within the area referred to in Article 1, points B, C, D and F, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC\(^4\).

\(^1\) OJ L 176, 10.7.1999, p. 36.
\(^2\) Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31).
\(^3\) OJ L 53, 27.2.2008, p. 52.
(11) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen acquis\(^1\) which fall within the area referred to in Article 1, points B, C, D and F, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU\(^2\),

HAS ADOPTED THIS DECISION:


\(^{2}\) Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).
1. From 1 January 2023, checks on persons at internal land and sea borders with Croatia shall be lifted and the provisions of the Schengen acquis referred to in the Annex shall apply to Croatia in its relations with the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden, as well as Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation.

2. As regards checks on persons at internal air borders, they shall be lifted from 26 March 2023 and the provisions referred to in paragraph 1, to the extent that they regulate the abolition of checks on persons at internal air borders, shall apply as of that date.

3. All restrictions on the use of the Schengen Information System by Croatia shall be lifted from 1 January 2023.
Article 2

National short-stay visas issued by Croatia before 1 January 2023 shall remain valid during their period of validity, for the purpose of transit through the territory of other Member States or intended stays on their territories not exceeding 90 days in any 180-day period, insofar as they have recognised such short-stay visas for those purposes, in accordance with Decision No 565/2014/EU. The conditions set out in that Decision shall apply.

Article 3

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

Done at …,

For the Council

The President
ANNEX

List of the provisions of the Schengen acquis within the meaning of Article 4(2) of the 2011 Act of Accession to be rendered applicable to Croatia in its relations with the Member States applying the Schengen acquis in full, as well as Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation

A. The following provisions of the Convention signed in Schengen on 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19):

   Article 1 to the extent that it relates to other provisions referred to in this point, Article 18, Article 19(1), (3) and (4), Articles 20, 21 and 22, Articles 40 to 43, and Articles 126 to 130 to the extent that they relate to other provisions referred to in this point.

B. The following other legal acts of the Union, together with acts implementing them:


4. Article 4, point (b), and Article 9, point (c), of Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ L 405, 30.12.2006, p. 1);


9. Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list (OJ L 287, 4.11.2011, p. 9);


