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From: Presidency  
To: Delegations

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Subject: Draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania

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Delegations will find attached the draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania.

**COUNCIL DECISION**

of ...

**on the full application  
of the provisions of the Schengen *acquis*  
in the Republic of Bulgaria and Romania**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2005 Act of Accession of the Republic of Bulgaria and Romania, and in particular Article 4(2) thereof,

Having regard to the opinion of the European Parliament<sup>1</sup>,

Whereas:

- (1) Article 4(2) of the 2005 Act of Accession of the Republic of Bulgaria and Romania, provides that the provisions of the Schengen *acquis* not referred to in Article 4(1) of that Act, are to only apply in each of those States 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 Schengen *acquis* concerned have been met in those Member States.

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<sup>1</sup> OJ C 380 E, 11.12.2012, p. 160.

- (2) The Council, having verified that the necessary conditions for the application of the data protection part of the Schengen *acquis* had been met by Bulgaria and Romania, rendered the provisions of the Schengen *acquis* related to the Schengen Information System applicable to Bulgaria and Romania from 15 October 2010<sup>2</sup>, with the exception of the obligation to refuse entry into or stay on its territory to third country nationals for whom an alert has been issued by another Member State for the purposes of refusing entry or stay in accordance with Regulation (EC) No 1987/2006 of the European Parliament and of the Council and with the obligation to refrain from issuing SIS alerts and entering additional information as well as from exchanging supplementary information on third country nationals for the purposes of refusing entry or stay in accordance with Regulation (EC) No 1987/2006 (the ‘remaining provisions’).
- (3) The Council has verified, in accordance with the applicable Schengen evaluation procedures as set out in the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (SCH/Com-ex (98) 26 def.)<sup>3</sup>, that the necessary conditions for the application of the Schengen *acquis* have been met in all other areas of the Schengen *acquis* – namely air borders, land borders, police cooperation, data protection, the Schengen Information System, sea borders and visas – in Bulgaria and Romania.
- (4) On 9 June 2011, the Council concluded that the conditions in each of the above mentioned areas had been fulfilled by Bulgaria and Romania.

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<sup>2</sup> Council Decision 2010/365/EU on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania, OJ L 166 of 1.07.2010, p. 17.

<sup>3</sup> OJ L 239, 22.9.2000, p. 138.

- (5) It is therefore possible to set the dates for the application of the Schengen acquis in full by those Member States, from which checks on persons at the internal borders with those Member States should be lifted.
- (6) On 12 October 2017, the Council adopted Decision (EU) 2017/1908<sup>4</sup> putting into effect certain provisions of the Schengen acquis relating to the Visa Information System ('VIS') in Bulgaria and Romania.
- (7) On 25 June 2018, the Council adopted Decision (EU) 2018/934<sup>5</sup> putting into effect of the remaining provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania.
- (8) The simplified regime for third country nationals holding a national short-stay visa issued by Bulgaria or Romania for transit through or intended stays on their territories not exceeding 90 days in any 180-day period, introduced by Decision No 565/2014 /EU of the European Parliament and of the Council<sup>6</sup>, 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.

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<sup>4</sup> OJ L 269, 19.10.2017, p. 39.

<sup>5</sup> OJ L 165 of 2.07.2018, p. 37.

<sup>6</sup> 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 latter's association with the implementation, application and development of the Schengen *acquis*<sup>7</sup>, which fall within the area referred to in Article 1, points B, C, D, and F of Council Decision 1999/437/EC<sup>8</sup>.
- (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*<sup>9</sup> 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<sup>10</sup>.

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<sup>7</sup> OJ L 176, 10.7.1999, p. 36.

<sup>8</sup> 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).

<sup>9</sup> OJ L 53, 27.2.2008, p. 52.

<sup>10</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, 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* (OJ L 53, 27.2.2008, p. 1).

- (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*<sup>11</sup>, 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<sup>12</sup>,

HAS ADOPTED THIS DECISION:

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<sup>11</sup> OJ L 160, 18.6.2011, p. 21.

<sup>12</sup> 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).

*Article 1*

1. From [1 January 2023], checks on persons at internal land and sea borders with and between Bulgaria and Romania shall be lifted and consequently the provisions of the Schengen *acquis* referred to in the Annex to this Decision shall apply to Bulgaria and Romania amongst themselves and in their 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 Republic of Croatia], the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of 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.

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\* It is recalled that for technical reasons the date for the lifting of controls at the air borders has to coincide in practice with the dates of IATA summer/winter time schedule, i.e. either the last Sunday of March or the last Sunday of October.

*Article 2*

National short-stay visas issued by Bulgaria and Romania 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, in so far 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 Brussels,

*For the Council*

*The President*

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List of the provisions of the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession to be rendered applicable to Bulgaria and Romania amongst themselves and 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, Articles 18, 19(1), 19(3), 19(4), 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; in addition, Article 1 and Articles 126-130 to the extent that they are not covered by Council Decision (EU) 2017/1908;

- B. The following other legal acts of the Union together with acts implementing them:
1. Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149, 2.6.2001, p. 34);
  2. Council Decision 2004/191/EC of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 60, 27.2.2004, p. 55);

3. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60), to the extent not covered by Council Decision (EU) 2017/1908;
4. Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1), with the exception of Article 3, to the extent not covered by Council Decision (EU) 2017/1908;
5. Regulation (EU) No 265/2010 of the European Parliament and of the Council of 25 March 2010 amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006, as regards movement of persons with a long-stay visa (OJ L 85, 31.3.2010, p. 1);
6. 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).
7. Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences with the exception of Article 6.

8. Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council (OJ L 182 of 29.6.2013, p. 1), to the extent that it relates to other provisions referred to in this Annex;
9. Articles 1 and 6(5) a), Title III and the provisions of Title II and the annexes thereto referring to the Visa Information System, of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1) to the extent not covered by Council Decision (EU) 2017/1908;
10. Regulation (EU) 2017/2225 of the European Parliament and of the Council of 30 November 2017 amending Regulation (EU) 2016/399 as regards the use of the Entry/Exit System, (OJ L 327, 9.12.2017, p. 1) to the extent that it is not yet applicable in accordance with Article 66 (2) of Regulation (EU) 2017/2226;
11. Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20) to the extent that it relates to the Visa Information System as laid down in Regulation (EC) No 767/2008 and that it is not yet applicable in accordance with Article 66 (2) of Regulation (EU) 2017/2226;

12. Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, (OJ L 295, 21.11.2018, p. 99), to the extent that it relates to the Visa Information System as laid down in Regulation (EC) No 767/2008 and not covered by Council Decision (EU) 2017/1908, ETIAS as established by Regulation (EU) 2018/1240 of the European Parliament and of the Council and the Entry Exit System as established by Regulation (EU) 2017/2226 and referred to in this Annex;
13. Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, (OJ L 135, 22.5.2019, p. 27), to the extent that it relates to the Visa Information System as laid down in Regulation (EC) No 767/2008 and not covered by Council Decision (EU) 2017/1908, ETIAS as established by Regulation (EU) 2018/1240 and the Entry Exit System as established by Regulation (EU) 2017/2226 and referred to in this Annex;

14. Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85), to the extent that it relates to Visa Information System as laid down in Regulation (EC) No 767/2008 and not covered by Council Decision (EU) 2017/1908, ETIAS as established by Regulation (EU) 2018/1240 and the Entry Exit as established by Regulation (EU) 2017/2226 and referred to in this Annex;
15. Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) (OJ L 188, 12.7.2019, p. 25);
16. Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) No 603/2013, (EU) 2016/794, (EU) 2018/1862, (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the Visa Information System (OJ L 248, 13.7.2021, p. 1);
17. Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System, to the extent not covered by Council Decision (EU) 2017/1908 (OJ L 248, 13.7.2021, p. 11);

18. Regulation (EU) 2021/1152 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861 and (EU) 2019/817 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the European Travel Information and Authorisation System (OJ L 249, 14.7.2021, p. 15), to the extent that it relates to the Visa Information System as laid down in Regulation (EC) No 767/2008 and the Entry Exit System as established by Regulation (EU) 2017/2226, and that it is not yet applicable in accordance with Article 66 (2) of Regulation (EU) 2017/2226.
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