COUNCIL OF THE EUROPEAN UNION	**Brussels, 4 March 2013** **(OR. en)**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION fixing the date of application of Regulation (EC) No 1987/2006 of the European Parliament and of the Council on the establishment, operation and use of the second generation Schengen Information System (SIS II) **COMMON GUIDELINES** **Consultation deadline for Croatia: 6.3.2013**

COUNCIL DECISION 2013/…/EU

of ... 2013

fixing the date of application of Regulation (EC) No 1987/2006
of the European Parliament and of the Council
on the establishment, operation and use of the second generation
Schengen Information System (SIS II)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II)[1], and in particular Article 55(3) thereof,

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[1]   OJ L 381, 28.12.2006, p. 4.

Whereas:

(1) Article 55(3) of Regulation (EC) No 1987/2006 specifies the Regulation shall apply to the Member States participating in SIS 1+ from a date to be fixed by the Council, acting by the unanimity of its Members representing the Governments of the Member States participating in SIS 1+.

(2) In accordance with Article 11(3) of Council Regulation (EU) No 1273/2012 of 20 December 2012 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II)[1] the switchover into SIS II will start on the date fixed by the Council acting in accordance with Article 55(2) of Regulation (EC) No 1987/2006.

(3) In accordance with Article 55(3)(a) of Regulation (EC) No 1987/2006, the Commission has adopted the necessary implementing measures by Commission Implementing Decision [C(2013)1043][*] of ... 2013 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II)[2][**] and Commission Decision 2010/261/EU of 4 May 2010 on the Security Plan for Central SIS II and the Communication Infrastructure[3].

(4) In accordance with Article 55(3)(b) of Regulation (EC) No 1987/2006, all Member States fully participating in SIS 1+ have notified it that they have made the necessary technical and legal arrangements to process SIS II data and exchange supplementary information.

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[1]   OJ L 359, 29.12.2012, p. 32.
[*]   OJ: Please add the definitive reference number of the Decision in the OJ.
[2]   OJ L
[**] OJ: Please add the date and OJ reference of the Decision.
[3]   OJ L 112, 5.5.2010, p. 31.

(5) In accordance with Article 55(3)(c) of Regulation (EC) No 1987/2006, the Commission has declared the successful completion of a comprehensive test of SIS II, which was conducted by the Commission together with the Member States, and the relevant preparatory bodies of the Council validated on 6 February 2013 the proposed test result and confirmed that the level of performance of SIS II is at least equivalent to that achieved with SIS 1+.

(6) In accordance with Article 55(3)(d) of Regulation (EC) No 1987/2006, the Commission has made the necessary technical arrangements for allowing Central SIS II to be connected to N.SIS II of the Member States concerned.

(7) In accordance with Article 9(1) and (5) of Regulation (EU) No 1273/2012 the Member States participating in SIS 1+ have successfully completed functional SIRENE tests and the relevant preparatory body of the Council has validated their results on 15 February 2013.

(8) The conditions laid down by Article 55(3) of Regulation (EC) No 1987/2006 thus being fulfilled, it is for the Council to determine the date from which the SIS II shall apply to the Member States participating in the SIS 1+.

(9) In view of the need for the entry into operation of SIS II to be as early as possible, this Decision should enter into force on the day of its publication in the *Official Journal of the European Union*.

(10)   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, point G, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement[2].

(11)   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, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[4].

(12)   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*[5] which fall within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[6].

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[1]   OJ L 176, 10.7.1999, p. 36.
[2]   OJ L 176, 10.7.1999, p. 31.
[3]   OJ L 53, 27.2.2008, p. 52.
[4]   OJ L 53, 27.2.2008, p. 1.
[5]   OJ L 160, 18.6.2011, p. 21.
[6]   OJ L 160, 18.6.2011, p. 19.

(13)   In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Decision whether it will implement it in its national law.

(14)   This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*[1]; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(15)   This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis*[2]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

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[1]   OJ L 131, 1.6.2000, p. 43.
[2]   OJ L 64, 7.3.2002, p. 20.

(16) This Decision is without prejudice to the arrangements for the partial participation of Ireland and the United Kingdom in the Schengen *acquis* as determined by Decisions 2002/192/EC and 2000/365/EC respectively.

(17) As regards Cyprus, this Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

Regulation (EC) No 1987/2006 shall apply to the Member States participating in the SIS 1+ from 9 April 2013.

Article 2

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

Done at Brussels,

For the Council
The President

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