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COMIX 59

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia

COUNCIL DECISION (EU) 2017/...

of ...

**on the application of the provisions of the Schengen *acquis*
relating to the Schengen Information System
in the Republic of Croatia**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament¹,

¹ Opinion of 5 April 2017 (not yet published in the OJ).

Whereas:

- (1) Article 4(2) of the Act of Accession of Croatia provides that the provisions of the Schengen *acquis* not referred to in Article 4(1) of that Act, shall 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) The applicable Schengen evaluation procedures are set out in Council Regulation (EU) No 1053/2013¹.
- (3) The Schengen evaluation relating to data protection was carried out in Croatia in February 2016. The Commission adopted, by means of an implementing decision, an evaluation report confirming that the necessary conditions for the application of the Schengen *acquis* relating to data protection have been met in Croatia.

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).

- (4) In accordance with Article 1(1) of Commission Implementing Decision (EU) 2015/450¹ it has been verified that, from a technical point of view, the Croatian national system (N.SIS) is ready to integrate into the Schengen Information System ('SIS').
- (5) Croatia thus having made the necessary technical and legal arrangements to process SIS data and exchange supplementary information, it is now possible for the Council to set the date from which the Schengen *acquis* relating to the SIS shall apply in Croatia.
- (6) The entry into force of this Decision should allow for SIS data to be transferred to Croatia. The concrete use of these data should allow the Commission to verify the correct application of the provisions of the Schengen *acquis* relating to of the SIS in Croatia. Once it has been verified that the necessary conditions for the application of all parts of the Schengen *acquis* have been met in Croatia, the Council should decide on the lifting of checks at the internal borders.
- (7) A separate Council Decision should be adopted setting a date for the lifting of checks at internal borders with Croatia. Until the date set out in that Decision, certain restrictions on the use of the SIS in Croatia should be imposed.

¹ Commission Implementing Decision (EU) 2015/450 of 16 March 2015 laying down test requirements for Member States integrating into the second generation Schengen Information System (SIS II) or changing substantially their directly related national systems (OJ L 74, 18.3.2015, p. 31).

- (8) 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*¹ which fall within the area referred to in point G of Article 1 of Council Decision 1999/437/EC².

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).

- (9) 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*¹ which fall within the area referred to in point G of Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC² and with Article 3 of Council Decision 2008/149/JHA³.

¹ OJ L 53, 27.2.2008, p. 52.

² 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).

³ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union 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. 50).

- (10) 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 point G of Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU² and Article 3 of Council Decision 2011/350/EU³,

HAS ADOPTED THIS DECISION:

¹ OJ L 160, 18.6.2011, p. 21.

² Council Decision 2011/349/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 in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

³ 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. Subject to the conditions specified in this Article, from 27 June 2017, the provisions of the Schengen *acquis* relating to the Schengen Information System ('SIS'), set out in the Annex to this Decision, shall apply in the Republic of Croatia in its relations with:
 - (a) the Kingdom of Belgium, the Republic of Bulgaria, 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, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden;
 - (b) the United Kingdom of Great Britain and Northern Ireland with regard to the provisions referred to in Council Decision 2007/533/JHA¹; and
 - (c) the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Principality of Liechtenstein.

¹ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information Systems (SIS II) (OJ L 205, 7.8.2007, p. 63).

2. From 2 May 2017, alerts covered by Decision 2007/533/JHA and Regulation (EC) No 1987/2006 of the European Parliament and of the Council¹, as defined in point (a) of Article 3(1) of that Decision and in point (a) of Article 3 of that Regulation, as well as supplementary information and additional data, as defined in points (b) and (c) of Article 3(1) of that Decision and points (b) and (c) of Article 3 of that Regulation, that are connected with those alerts, may be made available to Croatia in accordance with the provisions of that Decision and that Regulation.
3. From 27 June 2017 Croatia shall be able to enter alerts and additional data into the SIS, to use SIS data and to exchange supplementary information, subject to the provisions of paragraph 4.
4. Until checks at internal borders with Croatia are lifted, Croatia:
 - (a) shall not be obliged 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;

¹ 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) (OJ L 381, 28.12.2006, p. 4.)

- (b) shall refrain from entering into the SIS alerts and additional data, 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.

Article 2

This Decision shall enter into force on the day following that 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*
relating to the Schengen Information System
in accordance with Article 4(2) of the Act of Accession of Croatia

1. Regulation (EC) No 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates¹;
2. 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)²;
3. Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II)³.

¹ OJ L 381, 28.12.2006, p. 1.

² OJ L 381, 28.12.2006, p. 4.

³ OJ L 205, 7.8.2007, p. 63.