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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 28 October 2014 |
| To: | Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2014) 713 final |
| Subject: | Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL repealing certain acts in the Area of Freedom Security and Justice |

Delegations will find attached document COM(2014) 713 final.

Encl.: COM(2014) 713 final



Brussels, 28.11.2014
COM(2014) 713 final

2014/0337 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

repealing certain acts in the Area of Freedom Security and Justice

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Ensuring that the EU legislative *acquis* remains up to date and fit for purpose is a priority for the Commission. Already in the Inter-institutional agreement of 16.12.2003 on better law-making¹, the European Parliament, the Council and the Commission agreed that the volume of the law of the European Union should be reduced by repealing acts that are no longer applied. Such acts should be removed from the law *acquis* of the European Union to improve transparency and give a higher degree of certainty for all citizens and all Member States.

This is in line with the Commission's policy on Regulatory Fitness. In its Communication of June 2014 on "Regulatory Fitness and Performance Programme (REFIT): State of Play and Outlook"², the Commission stated that it was screening the *acquis* in respect of police cooperation and judicial cooperation in criminal matters in order to identify acts which could be repealed in the context of the expiry of the transitional period set out in the Treaties.

The Commission has now completed its assessment on the legal acts related to the area of freedom, security and justice, including the former third pillar *acquis*. A number of acts adopted in recent decades have exhausted all their effects. They are no longer relevant because of their temporary nature or because their content has been taken up by successive acts. For reasons of legal certainty, the Commission proposes that the measures referred to in this proposal are revoked by the European Parliament and the Council.

I. *Decision of the Executive Committee Sch/Com-ex (95) PV 1 rev*³ referred to a very specific situation on the prior consultation requested by Portugal vis-à-vis Indonesian visa applicants. That Decision became obsolete as Regulation (EC) No 810/2009⁴ (Visa Code) and Regulation (EC) No 767/2008⁵ (VIS Regulation) provided for new rules on the prior consultation of other Member States.

II. *Decision of the Executive Committee SCH/Com-ex (95) 21*⁶ refers to Schengen States' obligation to exchange statistical information for better monitoring migration at the external borders with the support of Schengen Secretariat. That Decision became obsolete since Council Regulation (EC) No 2007/2004⁷ entrusted FRONTEX with carrying out risk analyses regarding emerging risks at the external borders and developing and operating information systems enabling the exchange of such information, including the Information and Coordination Network established by Decision 2005/267/EC⁸ and European border

¹ OJ C 321, 31.12.2003, p. 1.

² COM(2014) 368 final, 18.6.2014.

³ Decision of the Executive Committee of 28 April 1995 on common visa policy (Sch/Com-ex (95) PV 1 rev) (OJ L 239, 22.09.2000, p. 175).

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, 15.09.2009, p. 1).

⁵ 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).

⁶ Decision of the Executive Committee of 20 December 1995 on the swift exchange between the Schengen States of statistical and specific data on possible malfunctions at the external borders (SCH/Com-ex (95) 21) (OJ L 239, 22.9.2000, p. 176).

⁷ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

⁸ 2005/267/EC: Council Decision of 16 March 2005 establishing a secure web-based Information and Coordination Network for Member States' Migration Management Services (OJ L 83, 1.04.2005, p. 48).

surveillance system established by Regulation (EC) No 1052/2013⁹.

III. *Decision of the Executive Committee SCH/Com-ex (96) 13 rev 1*¹⁰ established the principles regulating the rights and obligations of representing and represented States in respect to the issuance of Schengen visas in third States where not all Schengen States are represented. That Decision became obsolete after the entry into force of Regulation (EC) No 810/2009¹¹ that introduced a new set of rules on the representation arrangements in situations where a Member State agrees to represent another Member State for the purpose of examining applications and issuing visas on behalf of that Member State.

IV. *Decision of the Executive Committee SCH/Com-ex (97) 39 rev*¹² established guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States. That Decision became obsolete after the entry into force of Council Regulation 343/2003¹³ and of Commission Regulation (EC) No 1560/2003¹⁴ providing for the elements of proof and circumstantial evidence that shall be used for determining the Member State responsible for examining the application for asylum.

V. *Decision of the Executive Committee SCH/Com-ex (98) 1 rev 2*¹⁵ provided for a number of measures aiming at increasing the efficiency of checks at external borders. That Decision became obsolete after the entry into force of Regulation (EC) No 562/2006 that introduced new rules on checks at external borders and of Council Regulation (EC) No 2007/2004 which entrusted FRONTEX with facilitating the application of Community measures relating to the management of external borders.

VI. *Decision of the Executive Committee SCH/Com-ex (98) 18 rev*¹⁶ established a procedure to be followed by the Schengen States experiencing serious difficulties in obtaining a laissez-passer to repatriate illegal foreign nationals. That Decision became obsolete since the specific obligations and procedures to be complied with by the authorities of the non-EU country and of EU States for the repatriation of foreign nationals who are irregularly residing in the EU are provided for in the readmission agreements that the EU concludes with third countries.

VII. *Decision of the Executive Committee SCH/Com-ex (98) 21*¹⁷ approved a number of common rules for affixing stamps to the passports of all visa applicants as a mean of

⁹ Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

¹⁰ Decision of the Executive Committee of 27 June 1996 on the principles for issuing Schengen visas in accordance with Article 30(1)(a) of the Convention implementing the Schengen Agreement (SCH/Com-ex (96) 13 rev 1) (OJ L 239, 22.9.2000, p. 180).

¹¹ 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).

¹² Decision of the Executive Committee of 15 December 1997 on the guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States (SCH/Com-ex (97) 39 rev) (OJ L 239, 22.09.2000, p. 188).

¹³ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, (OJ L 50, 25.2.2003, p. 1).

¹⁴ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 222, 5.9.2003, p. 3).

¹⁵ Decision of the Executive Committee of 21 April 1998 on the activities of the task force (SCH/Com-ex (98) 1 rev 2) (OJ L 239, 22.9.2000, p. 191).

¹⁶ Decision of the Executive Committee of 23 June 1998 on measures to be taken in respect of countries posing problems with regard to the issue of documents required for expulsion from the Schengen territory (SCH/Com-ex (98) 18 rev) (OJ L 239, 22.9.2000, p. 197).

¹⁷ Decision of the Executive Committee of 23 June 1998 on the stamping of passports of visa applicants (SCH/Com-ex (98) 21) (OJ L 239, 22.9.2000, p. 200).

preventing the same person from lodging multiple or successive visa applications. That Decision became obsolete after the entry into force of Regulation (EC) No 810/2009 (Visa Code).

VIII-IX. *Decision of the Executive Committee SCH/Com-ex (98) 37 def 2*¹⁸ introduced an integrated approach for stepping up the fight against illegal migration that were put into effect by the Decision of the Central Group SCH/C (98) 117¹⁹. Those Decisions became obsolete after the entry into force of Regulation (EC) No 377/2004²⁰ that established the common framework for posting immigration liaison officers in third countries, Regulation 562/2006 which provided for a set of common measures on the control at external borders and Council Decision 2009/371/JHA²¹ that entrusted Europol with specific tasks related to the exchange of information.

X. *Decision of the Executive Committee SCH/Com-ex (98) 59 rev*²² provided for a set of guidelines for the coordinated deployment of document advisers for air and maritime traffic and at Member States' consular representations with the aim to strengthen the combating of illegal immigration into the Schengen area. That Decision became obsolete after the entry into force of Regulation (EC) No 377/2004 that established new rules for the deployment of liaison officers in third countries.

XI. *Decision of the Executive Committee SCH/Com-ex (99) 7 rev 2*²³ approved the plan for Member States' reciprocal secondment of liaison officers to advise and assist in the performance of checking at the external borders. This decision became obsolete after the entry into force of Regulation (EC) No 562/2006 and Regulation (EC) No 2007/2004²⁴ which provide for the new legal framework of cooperation between Member States on the control of the external border, including secondment of liaison officers.

XII. *Council Regulation (EC) No 189/2008*²⁵ provided for the specifications relevant to certain SIS II tests with the aim to demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) work in accordance with the technical and functional requirements set out in the SIS II legal instruments. That Regulation exhausted its legal effect once the SIS II went live on 9 April 2013.

3. LEGAL ELEMENTS OF THE PROPOSAL

¹⁸ Decision of the Executive Committee of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/Com-ex (98) 37 def 2) (OJ L 239, 22.9.2000, p. 203).

¹⁹ Decision of the Central Group of 27 October 1998 on the adoption of measures to fight illegal immigration.

²⁰ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. (OJ L 64, 2.3.2004, p. 1).

²¹ Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

²² Decision of the Executive Committee of 16 December 1998 on coordinated deployment of document advisers (SCH/Com-ex (98) 59 rev) (OJ L 239, 22.9.2000, p. 308).

²³ Decision of the Executive Committee of 28 April 1999 on liaison officers (SCH/Com-ex (99) 7 rev 2) (OJ L 239, 22.9.2000, p. 411).

²⁴ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

²⁵ Council Regulation (EC) No 189/2008 of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II) (OJ L 57, 1.3.2008, p. 1).

Summary of the proposed measures

The proposal repeals a number of legal measures in the Area of Freedom, Security and Justice that have been identified as obsolete.

Legal basis

The legal basis for repealing Decision of the Executive Committee of 28 April 1995 on common visa policy (SCH/Com-ex (95) PV 1 rev) is Article 77(2)(a) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 20 December 1995 on the swift exchange between the Schengen States of statistical and specific data on possible malfunctions at the external borders (SCH/Com-ex (95) 21) is Article 77(2)(d) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 27 June 1996 on the principles for issuing Schengen visas in accordance with Article 30(1)(a) of the Convention implementing the Schengen Agreement (SCH/Com-ex (96) 13 rev 1) is Article 77(2)(a) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 15 December 1997 on the guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States (SCH/Com-ex (97) 39 rev) is Article 78(2)(e) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 21 April 1998 on the activities of the task force (SCH/Com-ex (98) 1 rev 2) is Article 77(2)(b) and Article 79(2)(c) and (d) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 23 June 1998 on measures to be taken in respect of countries posing problems with regard to the issue of documents required for expulsion from the Schengen territory (SCH/Com-ex (98) 18 rev) is Article 78(2)(g) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 23 June 1998 on the stamping of passports of visa applicants (SCH/Com-ex (98) 21) is Article 77(2)(a) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/Com-ex (98) 37 def 2) is Article 77(2)(b) and Article 79(2)(c) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Central Group of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/C (98) 117) is Article 77(2)(b) and Article 79(2)(c) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 16 December 1998 on coordinated deployment of document advisers (SCH/Com-ex (98) 59 rev) is Article 79(2)(c) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Decision of the Executive Committee of 28 April 1999 on liaison officers (SCH/Com-ex (99) 7 rev 2) is Article 87(2)(a) of the Treaty on the Functioning of the European Union.

The legal basis for repealing Council Regulation (EC) No 189/2008 of 18 February 2008 is Article

77(2)(b) of the Treaty on the Functioning of the European Union.

Principles of subsidiarity and proportionality

The measures concerned by this proposal are obsolete because their content has been taken up by successive acts. Therefore, it is in line with the principles of subsidiarity and of proportionality to repeal those measures. It is for the Union legislator to adopt the necessary measures to that effect.

Choice of instrument

Proposed instrument: European Parliament and Council decision.

4. BUDGETARY IMPLICATION

The proposal has no budgetary impact

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

repealing certain acts in the Area of Freedom Security and Justice

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(a),(b) and (d), Article 78(2)(e) and (g), Article 79(2)(c) and (d) and Article 87(2)(a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Improving the transparency of Union law is an essential element of the better lawmaking strategy that the institutions of the Union are implementing. In that context it is appropriate to remove from the legislation in force those acts which no longer serve any purpose.
- (2) A number of acts adopted in the Area of Freedom, Security and Justice are no longer relevant because their content has been taken up by successive acts, even though they have not been repealed.
- (3) Decision of the Executive Committee Sch/Com-ex (95) PV 1 rev²⁶ referred to a very specific situation on the prior consultation requested by Portugal vis-à-vis Indonesian visa applicants. That decision became obsolete after the entry into force of Regulation (EC) No 810/2009²⁷ and of Regulation (EC) No 767/2008²⁸ providing for new rules for the prior consultation of other Member States in relation to issuance of visas.
- (4) Decision of the Executive Committee SCH/Com-ex (95) 21²⁹ provided for the obligation of Member States to exchange statistical information for better monitoring the migration at external borders. That decision became obsolete after the entry into

²⁶ Decision of the Executive Committee of 28 April 1995 on common visa policy (Sch/Com-ex (95) PV 1 rev) (OJ L 239, 22.9.2000, p. 175).

²⁷ 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).

²⁸ 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).

²⁹ Decision of the Executive Committee of 20 December 1995 on the swift exchange between the Schengen States of statistical and specific data on possible malfunctions at the external borders (SCH/Com-ex (95) 21)(OJ L 239, 22.9.2000, p. 176).

force of Council Regulation (EC) No 2007/2004³⁰ which entrusted FRONTEX with the task of carrying out risk analyses regarding emerging risks and the current state of affairs at the external borders as well as to develop and operate information systems enabling the exchange of such information.

- (5) Decision of the Executive Committee SCH/Com-ex (96) 13 rev 1³¹ established the principles regulating the rights and obligations of representing and represented Member States in respect to the issuance of the Schengen visas in third countries where not all Schengen States are represented. That decision became obsolete after the entry into force of Regulation (EC) No 810/2009 that provides for new rules on the representation arrangements in situations where a Member State agrees to represent another Member State or the purpose of examining applications and issuing visas on behalf of that Member State.
- (6) Decision of the Executive Committee SCH/Com-ex (97) 39 rev³² approved the guiding principles for means of proof and indicative evidence under readmission agreements between Schengen States. That decision became obsolete after the entry into force of Council Regulation (EC) No 343/2003³³ and of Commission Regulation (EC) No 1560/2003³⁴ which provides for the elements of proof and circumstantial evidence that shall be used for determining the Member State responsible for examining the application for asylum.
- (7) Decision of the Executive Committee SCH/Com-ex (98) 1 rev 2³⁵ provided for a number of measures aiming at increasing the efficiency of checks at external border. That decision became obsolete after the entry into force of Regulation (EC) No 562/2006³⁶ that set out the rules on crossing external borders and of Council Regulation (EC) No 2007/2004 which entrusted FRONTEX with the task of facilitating the application of Community measures relating to the management of external borders by ensuring the coordination of Member States' actions in the implementation of those measures.

³⁰ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (OJ L 349, 25.11.2004, p. 1).

³¹ Decision of the Executive Committee of 27 June 1996 on the principles for issuing Schengen visas in accordance with Article 30(1)(a) of the Convention implementing the Schengen Agreement (SCH/Com-ex (96) 13 rev 1) (OJ L 239, 22.9.2000, p. 180).

³² Decision of the Executive Committee of 15 December 1997 on the guiding principles for means of proof and indicative evidence within the framework of readmission agreements between Schengen States (SCH/Com-ex (97) 39 rev) (OJ L 239, 22.9.2000, p. 188).

³³ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, (OJ L 50, 25.2.2003, p. 1).

³⁴ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 222, 5.9.2003 p. 3).

³⁵ Decision of the Executive Committee of 21 April 1998 on the activities of the task force (SCH/Com-ex (98) 1 rev 2) (OJ L 239, 22.9.2000, p. 191).

³⁶ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

- (8) Decision of the Executive Committee SCH/Com-ex (98) 18 rev³⁷ provided for a procedure to be followed by the Schengen States experiencing serious difficulties in obtaining a laissez-passer to repatriate illegal foreign nationals as well as the possibility to investigate at the Union level the need of using other means of a more binding nature against those third countries. That decision has become obsolete after the Union concluded readmission agreements with a number of third countries that set out the specific obligations and procedures to be complied with by the authorities of the third country and of Member States with regard to the repatriation of foreign nationals who are irregularly residing in the Union.
- (9) Decision of the Executive Committee SCH/Com-ex (98) 21³⁸ approved common rules for affixing stamps to the passports of all visa applicants as a mean of preventing the same person from lodging multiple or successive visa applications. That decision became obsolete after the entry into force of Regulation (EC) No 810/2009 that provided for a new set of rules for issuing visas and for stamping the applicant's travel document.
- (10) Decision of the Executive Committee SCH/Com-ex (98) 37 def 2³⁹ established a set of measures aiming at establishing an integrated approach for stepping up the fight against illegal migration that were put into effect by the Decision of the Central Group of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/C (98) 117). Those decisions became obsolete after the entry into force of Regulation (EC) No 377/2004⁴⁰ that established the common framework for posting immigration liaison officers in third countries, Regulation (EC) No 562/2006 which provided for a set of common measures on the control at external borders and the Council Decision 2009/371/JHA⁴¹ that entrusted Europol with specific tasks related to the exchange of information, including on countering illegal migration.
- (11) Decision of the Executive Committee SCH/Com-ex (98) 59 rev⁴² provided for a set of guidelines for the coordinated deployment of document advisers for air and maritime traffic and at consular representations of Member States with the aim to strengthen the combating of illegal immigration. That decision became obsolete after the entry into force of Regulation (EC) No 377/2004 that established new rules for the deployment of the liaison officers in third countries.
- (12) Decision of the Executive Committee SCH/Com-ex (99) 7 rev 2⁴³ has approved a plan for Member States' reciprocal secondment of liaison officers to advise and assist in the performance of tasks of security and checking at the external borders. That decision

³⁷ Decision of the Executive Committee of 23 June 1998 on measures to be taken in respect of countries posing problems with regard to the issue of documents required for expulsion from the Schengen territory (SCH/Com-ex (98) 18 rev) (OJ L 239, 22.9.2000, p. 197).

³⁸ Decision of the Executive Committee of 23 June 1998 on the stamping of passports of visa applicants (SCH/Com-ex (98) 21) (OJ L 239, 22.9.2000, p. 200).

³⁹ Decision of the Executive Committee of 27 October 1998 on the adoption of measures to fight illegal immigration (SCH/Com-ex (98) 37 def 2) (OJ L 239, 22.9.2000, p. 203).

⁴⁰ Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network. (OJ L 64, 2.3.2004, p. 1).

⁴¹ Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

⁴² Decision of the Executive Committee of 16 December 1998 on coordinated deployment of document advisers (SCH/Com-ex (98) 59 rev) (OJ L 239, 22.9.2000, p. 308).

⁴³ Decision of the Executive Committee of 28 April 1999 on liaison officers (SCH/Com-ex (99) 7 rev 2) (OJ L 239, 22.9.2000, p. 411).

became obsolete after the entry into force of Regulation (EC) No 562/2006 and Regulation (EC) No 2007/2004 that introduced a new legal framework for cooperation between Member States with regard to the control of the external border, including secondment of liaison officers.

- (13) Council Regulation (EC) No 189/2008⁴⁴ provided for the specifications relevant to certain SIS II tests with the aim to demonstrate that Central SIS II, the communication infrastructure and the interactions between Central SIS II and the national systems (N.SIS II) work in accordance with the technical and functional requirements set out in the SIS II legal instruments. That regulation exhausted its legal effect once the SIS II started operation on 9 April 2013.
- (14) For reasons of legal certainty and clarity, those obsolete decisions and the regulation should be repealed.
- (15) Since the objective of this Decision, namely the repeal of a number of obsolete Union acts in the Area of Freedom, Security and Justice cannot be achieved by Member States but only at Union level, this Decision complies with the requirements of the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (16) In accordance with Article 1 of the Protocol No 22 on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision.
- (17) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁴⁵. The United Kingdom is therefore not taking part in its adoption.
- (18) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002⁴⁶. Ireland is therefore not taking part in its adoption.
- (19) As regards Iceland and Norway, this Decision constitutes a development of 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*⁴⁷ which fall within the area referred to in Article 1 of Council Decision 1999/437/EC⁴⁸.

⁴⁴ Council Regulation (EC) No 189/2008 of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II) (OJ L 57, 1.3.2008, p. 1).

⁴⁵ 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* (OJ L 131, 1.6.2000, p. 43).

⁴⁶ Council Decision 2002/192/EC of 28 February 2002⁴⁶ concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁴⁷ OJ L 176, 10.7.1999, p. 36.

⁴⁸ 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).

- (20) As regards Switzerland, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded 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*⁴⁹, which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decisions 2008/146/EC⁵⁰ and 2008/149/JHA⁵¹.
- (21) 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*⁵² and 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 which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decisions 2011/349/EU⁵³ and 2011/350/EU⁵⁴,

⁴⁹ OJ L 53, 27.2.2008, p. 52.

⁵⁰ 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).

⁵¹ Council Decision 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).

⁵² OJ L 160, 18.6.2011, p. 21.

⁵³ 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).

⁵⁴ 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).

HAVE ADOPTED THIS DECISION:

Article 1

Repeal of obsolete acts

The Decisions of the Executive Committee Sch/Com-ex (95) PV 1 rev, SCH/Com-ex (95) 21, SCH/Com-ex (96) 13 rev 1, SCH/Com-ex (97) 39 rev, SCH/Com-ex (98) 1 rev 2, SCH/Com-ex (98) 18 rev, SCH/Com-ex (98) 21, SCH/Com-ex (98) 37 def 2, SCH/Com-ex (98) 59 rev, SCH/Com-ex (99) 7 rev 2, the Decision of the Central Group SCH/C (98) 117 and Council Regulation (EC) No 189/2008 are repealed.

Article 2

Entry into force

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President