



Council of the
European Union

Brussels, 3 February 2015
(OR. en)

5481/15

SCH-EVAL 6
SIRIS 7
COMIX 37

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION on the putting into effect of the provisions of the Schengen *acquis* on data protection and on the provisional putting into effect of parts of the provisions of the Schengen *acquis* on the Schengen Information System for the United Kingdom of Great Britain and Northern Ireland

COUNCIL IMPLEMENTING DECISION (EU) 2015/...

of ...

**on the putting into effect
of the provisions of the Schengen *acquis* on data protection
and on the provisional putting into effect of parts of the provisions
of the Schengen *acquis* on the Schengen Information System
for the United Kingdom of Great Britain and Northern Ireland**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 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 and in particular Article 6(1) and 6(3) thereof,

¹ OJ L 131, 1.6.2000, p. 43.

Whereas:

- (1) By Decision 2000/365/EC, the Council authorised the United Kingdom to participate in parts of the Schengen *acquis*.
- (2) Following the notifications of the United Kingdom of its wish to make use of the possibilities in accordance with Article 10(4) and (5) of Protocol No 36 on transitional provisions, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), Decision 2000/365/EC has been amended by Council Decision 2014/857/EU¹.
- (3) In accordance with Article 4 of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union ('Schengen Protocol'), annexed to the TEU and to the TFEU, Decision 2000/365/EC specifies in Article 6(3) thereof read in conjunction with Article 6(1) thereof, that the provisions referred to in Article 1(a)(ii) thereof, as well as other relevant provisions concerning the Schengen Information System (SIS) adopted since 1 December 2009, but not yet put into effect, are to be put into effect, between the United Kingdom and the Member States and other States for which these provisions have already been put into effect, when the preconditions for the implementation of those provisions have been fulfilled, by an implementing decision taken by the Council, acting with the unanimity of its members as referred to in Article 1 of the Schengen Protocol and of the representative of the Government of the United Kingdom.

¹ Council Decision 2014/857/EU of 1 December 2014 concerning the notification of the United Kingdom of Great Britain and Northern Ireland of its wish to take part in some of the provisions of the Schengen *acquis* which are contained in acts of the Union in the field of police cooperation and judicial cooperation in criminal matters and amending Decisions 2000/365/EC and 2004/926/EC (OJ L 345, 1.12.2014, p. 1).

- (4) In November 2012, the United Kingdom expressed its intention to commence implementation of the following parts of the Schengen *acquis*: the SIS and the related data protection rules.
- (5) In July 2013, a questionnaire was forwarded to the United Kingdom, whose replies were recorded, and a subsequent verification and evaluation visit was carried out in the United Kingdom in accordance with the procedures applicable in the area of data protection.
- (6) As regards the application of the Schengen *acquis* relating to data protection, the replies to the questionnaire, and the visit carried out in October 2013 demonstrated that the requirements relating to legislation, manpower levels, infrastructure and material resources had been satisfied.
- (7) Therefore, the Council was in a position to conclude on 3 March 2014 that the preconditions for the implementation by the United Kingdom of the provisions of the Schengen *acquis* as referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to data protection, have been fulfilled, allowing those provisions and their subsequent developments to be provisionally put into effect for the United Kingdom.
- (8) The United Kingdom indicated that it was ready to provisionally put into effect the parts of the Schengen *acquis* referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to the functioning of the SIS, as from ...*.

* OJ: Please insert the date of entry into force of this Decision.

- (9) Within six months from the date of the provisional putting into effect of those parts of the Schengen *acquis*, evaluation visits should be carried out in the United Kingdom to evaluate the functioning of the SIS in order to verify whether the SIS functions properly and whether Council Decision 2007/533/JHA ¹ is being applied correctly.
- (10) In accordance with the second paragraph of Article 23 of Council Regulation (EU) No 1053/2013 ², the Decision of the Executive Committee of 16 September 1998 ³ ('Decision of 16 September 1998') continues to apply until 1 January 2016 with respect to the evaluation procedures of the United Kingdom for the purpose of that evaluation.
- (11) In view of the outcome of that evaluation, the final putting into effect of the relevant parts of the SIS for the United Kingdom should be subject to a further Council implementing decision adopted in accordance with Article 6(1) and (3) of Decision 2000/365/EC read in conjunction with Article 4 of the Schengen Protocol.

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 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 of 6.11.2013, p. 27).

³ 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.) (OJ L 239, 22.9.2000, p. 138).

- (12) This Decision should therefore put into effect provisionally the parts of the Schengen *acquis* referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to the functioning of the SIS. Upon the successful completion of the above evaluations, the Council should, by 31 October 2015, examine the situation with a view to adopting an implementing decision setting the date for their final putting into effect.
- (13) In accordance with Article 2 of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway on the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Republic of Iceland and the Kingdom of Norway, on the other, in areas of the Schengen *acquis* which apply to these States ¹, the Mixed Committee, established pursuant to Article 3 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* ², has been consulted in accordance with Article 4 thereof with regard to the preparation of this Decision.

¹ OJ L 15, 20.1.2000, p. 2.

² OJ L 176, 10.7.1999, p. 36.

- (14) As regards Switzerland, this Decision constitutes a development of 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 Article 1 of Council Decision 1999/437/EC² read in conjunction with Article 3 of Council Decision 2008/146/EC³.

¹ OJ L 53, 27.2.2008, p. 52.

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 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).

- (15) As regards Liechtenstein, this Decision constitutes a development of 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 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ²,

HAS ADOPTED THIS DECISION:

¹ OJ L 160, 18.6.2011, p. 21.

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).

Article 1

1. The provisions referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to data protection, shall be put into effect and apply to the United Kingdom in its relations with 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, as from ...*.

2. The provisions referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to the functioning of the SIS, shall be put into effect and apply to the United Kingdom in its relations with 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, on a provisional basis and subject to conditions specified in this Article, as from ...*.

* OJ: Please insert the date of entry into force of this Decision.

3. As from 1 March 2015, SIS alerts defined in Chapters V (alerts in respect of persons wanted for arrest for surrender or extradition purposes), VI (alerts on missing persons), VII (alerts on persons sought to assist with a judicial procedure), VIII (alerts on persons and objects for discreet checks or specific checks) and IX (alerts on objects for seizure or use as evidence in criminal proceedings) of Decision 2007/533/JHA, as well as supplementary information and additional data, within the meaning of Article 3(1)(b) and (c) thereof, connected with those alerts, may be made available to the United Kingdom in accordance with that Decision.
4. As from 13 April 2015, the United Kingdom shall enter data into the SIS and use the SIS data referred to in paragraph 3 of this Article, in accordance with Decision 2007/533/JHA.

Article 2

1. Within six months from the date of provisional putting into effect of the provisions referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to the functioning of the SIS, evaluation visits shall be carried out in the United Kingdom in accordance with the relevant procedures provided for in the Decision of 16 September 1998, in order to verify whether the SIS is functioning and whether Decision 2007/533/JHA is being applied correctly.
2. In accordance with the relevant provisions of the Decision of 16 September 1998, the report of those evaluation visits shall be submitted to the Council.

3. Upon the successful completion of those evaluations, the Council shall, by 31 October 2015, in accordance with Article 6(1) and (3) of Decision 2000/365/EC read in conjunction with Article 4 of the Schengen Protocol, examine the situation with a view to adopting an implementing decision setting the date for the final putting into effect by the United Kingdom of the provisions referred to in Article 1(a)(ii) of Decision 2000/365/EC, insofar as they relate to the functioning of the SIS.

Article 3

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
