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NOTE

From:	Presidency
To:	Delegations
Subject:	Draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Croatia

Delegations will find attached the revised version of the draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Croatia. Changes compared to the previous version are marked in **bold underlined** and ~~strokethrough~~.

DRAFT COUNCIL DECISION

of

on the full application of the provisions of the Schengen acquis in the Republic of Croatia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2012 Act of Accession, and in particular Article 4(2) thereof¹,

Having regard to the Opinion of the European Parliament ²,

Whereas:

- (1) Article 4(2) of the 2012 Act of Accession 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) By Decision 2017/733, the Council, after verification that the necessary conditions for the application of the data protection part of the Schengen acquis concerned had been met by Croatia, rendered the provisions of the Schengen acquis related to the Schengen Information System applicable to the Member State concerned from 27 June 2017³.

¹ OJ L 112 of 24.4.2012, p. 21.

² OJ

³ OJ L 108 of 26.4.2017, p. 31.

- (3) In accordance with the applicable Schengen evaluation procedures as set out in the Council Regulation (EU) No 1053/2013⁴, evaluations were carried out to verify that the necessary conditions for the application of the Schengen acquis have been met in all the remaining areas of the Schengen acquis – management of the external border, police cooperation, the Schengen Information System, return, visas, judicial cooperation in criminal matters and firearms – in Croatia.
- (4) On 22 October 2019, the European Commission published a Communication on the verification of the full application of the Schengen acquis by Croatia⁵, concluding that "the Commission considers that Croatia has taken the measures needed to ensure that the necessary conditions for the application of all relevant parts of the Schengen acquis are met. Croatia will need to continue working consistently on the implementation of all the ongoing actions, in particular in the field of management of the external borders, to ensure that these conditions continue to be met. The Commission also confirms that Croatia continues to fulfil the commitments linked to the Schengen acquis as undertaken in its accession negotiations".
- (5) On 9 December 2021, the Council concluded that the conditions for the application of all parts of the relevant acquis had been fulfilled by Croatia⁶.
- (6) It is therefore possible to set the dates for the application of the Schengen acquis in full by that Member State, from which checks on persons at the internal borders with that Member State should be lifted.

⁴ 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).

⁵ COM (2019) 497 final of 22.10.2019

⁶ ST 14883/21

- (7) From the earliest such date, the restrictions on the use of the Schengen Information System, provided for in Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Croatia, should be lifted.
- (8) The simplified regime for third country nationals holding a national short-term visa issued by Croatia for transit through or intended stays on its territory not exceeding 90 days in any 180-day period, introduced by Decision No 565/2014 /EU of the European Parliament and of the Council⁷, 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.
- (9) 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*⁸, which fall within the area referred to in Article 1, points B, C, D, and F of Council Decision 1999/437/EC⁹.

⁷ 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).

⁸ OJ L 176, 10.7.1999, p. 36.

⁹ 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).

- (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* ¹⁰ 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 ¹¹.
- (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* ¹², 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 ¹³,

HAS ADOPTED THIS DECISION:

¹⁰ OJ L 53, 27.2.2008, p. 52.

¹¹ 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).

¹² OJ L 160, 18.6.2011, p. 21.

¹³ 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 the [1 January 2023], checks on persons at internal land and sea borders with Croatia shall be lifted and the provisions of the Schengen acquis referred to in Annex shall apply to Croatia 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 Republic of France, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, [Romania], the Republic of Slovenia and the Slovak Republic, the Republic of Finland and the Kingdom of Sweden as well as the Republic of 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.

3. All restrictions on the use of the Schengen Information System by Croatia shall be lifted as from [1 January 2023].

* 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-term visas issued by Croatia 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 recognized such short-term 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 day of its adoption.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels

For the Council

The President

List of the provisions of the Schengen acquis within the meaning of Article 4(2) of the
2012 Act of Accession to be rendered applicable in Croatia
in its relations with the Member States applying the Schengen acquis in full as well as Iceland,
Principality of Liechtenstein, Norway and Swiss Confederation

- A. The following provisions of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders ("the Schengen Convention") (OJ L 239, 22.9.2000, p. 19):

Article 1 to the extent that it relates to other provisions mentioned in this point, Articles 18, 19(1), 19(3), 19(4), 20, 21, 22, Articles 40-43, and Articles 126-130 to the extent that they relate to other provisions mentioned in this point;

- B. The following other instruments 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 (OJ L 60, 27.2.2004, p. 55);
3. Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5);

4. ~~Recommendation 2005/761/EC of the European Parliament and of the Council of 28 September 2005 to facilitate the issue by the Member States of uniform short stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research (OJ L 289, 3.11.2005, p. 23);~~
5. Point (b) of Article 4, and point (c) of Article 9 of Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ L 405, 30.12.2006, p. 1);
6. 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);
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 (OJ L 218, 13.8.2008, p. 129);
8. 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), with the exception of Article 3 (OJ L 243, 15.9.2009, p. 1);
9. 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);

10. 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);
- ~~11. Regulation (EU) No 154/2012 of the European Parliament and of the Council of 15 February 2012 amending Regulation (EC) No 810/2009 (OJ L 58, 29.2.2012, p. 3);~~
12. 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 mentioned in this Annex;
13. **Articles 1 and 6 (5) a) and** Title III of Regulation (EC) No 2016/399 of the European Parliament and of the Council of 11 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);
14. 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;**

15. 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 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;
16. 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 Visa Information System as laid down in Regulation (EC) No 767/2008, ETIAS as established by Regulation (EU) 2018/1240 of the European Parliament and of the Council and Entry Exit System as laid down in Regulation (EU) 2017/2226 and referred to in this Annex;
- ~~17. Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, (OJ L 236, 19.9.2018, p. 1.);~~
18. 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 Visa Information System as laid down in Regulation (EC) No 767/2008, ETIAS as laid down in Regulation (EU) 2018/1240 and Entry Exit System as laid down in Regulation (EU) 2017/2226 and referred to in this Annex;

19. 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, to the extent that it relates to Visa Information System as laid down in Regulation (EC) No 767/2008, ETIAS as laid down in Regulation (EU) 2018/1240 and Entry Exit as laid down in Regulation (EU) 2017/2226 and referred to in this Annex;
20. 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);
21. 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);
22. 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, (OJ L 248, 13.7.2021, p. 11);
23. Regulation (EU) 2021/1150 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) 2018/1862 and (EU) 2019/818 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. 1);
- ~~24. Regulation (EU) 2021/1151 of the European Parliament and of the Council of 7 July 2021 amending Regulations (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 European Travel Information and Authorization System, (OJ L 249, 14.7.2021, p. 7);~~

25. 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).
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