



Council of the
European Union

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SCH-EVAL 173
SIRIS 88
COMIX 506

'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)

Subject: Draft Council Implementing Decision (EU) XXX/2020 of [...] on the putting into effect of the provisions of the Schengen acquis on data protection and on the provisional putting into effect of certain provisions of the Schengen acquis in Ireland
- Decision to use the written procedure for the adoption

1. The Council Decision concerning Ireland's request to take part in some of the provisions of the Schengen acquis¹ was adopted on 28 February 2002, identifying the provisions of the Schengen acquis in which Ireland is authorized to participate.
2. In accordance with Article 4 of the Council Decision 2002/192/EC, "(1) [...] the provisions referred to in Article 1 of that Decision shall be put into effect, between Ireland 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 in all of these Member States and other States, by a decision taken by the Council."

¹ Council Decision concerning Ireland's request to take part in some of the provisions of the Schengen acquis (2002/192/EC), OJ L 64, 7.3.2002, p. 20–23

3. Regulation (EU) No 1053/2013², establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis applies to verify that the necessary conditions for the application of the relevant parts of the Schengen acquis have been met in Ireland.

4. On 8 January 2018, Ireland formally submitted its Declaration of readiness to be evaluated in the field of data protection and SIS/Sirene.

The evaluation report³, adopted on 9 August 2019, concluded that Ireland fulfils the conditions for the application of the Schengen acquis in the field of data protection.

As regards SIS, eu-LISA conducted in 2019 a test campaign in order to validate the integration of Ireland into SIS II, concluding that the Irish system is fit for purpose.

The application of this Implementing Decision will allow for SIS data, as well as supplementary information and additional data, to be transferred to Ireland on a provisional basis. The concrete use made of these data exchanges would allow to verify the correct application of the provisions of the Schengen acquis related to SIS in Ireland, through the applicable Schengen evaluation procedures.

5. Given that the Schengen acquis was conceived and functions as a coherent ensemble, any partial application by Ireland of the provisions of the Schengen acquis in which it participates must respect the coherence of the subject areas which constitute the ensemble of the acquis. Therefore, in order to apply provisionally the Schengen acquis related to the SIS, it is necessary that Ireland puts into effect also the parts of the Schengen acquis related to judicial cooperation, drugs cooperation, police cooperation and Articles 26 and 27 of the Schengen Convention in which it requested to participate from the same date as the SIS. To comply with the requirement of the coherence of the Schengen acquis, by letter of 7 July 2020, Ireland expressed its intention to commence implementation of the following parts of the Schengen *acquis*: judicial cooperation, drugs cooperation, police cooperation and Article 26 of the Convention implementing the Schengen Agreement⁴.

² OJ L 295, 6.11.2013, p. 27.

³ C(2019) 5710.

⁴ Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19).

Since the evaluations of those provisions will take place only at a later stage, those provisions shall also be put into effect by Ireland on a provisional basis.

6. A draft 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 certain provisions of the Schengen acquis in Ireland was prepared and discussed at the informal videoconferences of the members of the Working Party for Schengen Matters (Evaluation) of 15 July and 15 September 2020.

7. The Working Party for Schengen Matters (Evaluation), including the Mixed Committee partners Norway, Iceland, Switzerland and Liechtenstein, agreed on the above draft Council Implementing Decision on 25 September 2020.

8. In view of the above, the Permanent Representatives Committee is invited:

- to confirm its agreement on the text of a draft Council Implementing Decision as finalised by the lawyer-linguists and as set out in document 11319/20, and
- to decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision 2020/430, that the Council uses the written procedure for the adoption of the text of the Council Implementing Decision as laid down in document 11319/20.