



Brussels, 9 December 2021  
(OR. en)

14883/21

SCH-EVAL 160  
SCHENGEN 97  
COMIX 622

## OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council

On: 9 December 2021

To: Delegations

No. prev. doc.: 14764/21

Subject: Council conclusions on the fulfilment of the necessary conditions for the full application of the Schengen *acquis* in Croatia

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Delegations will find attached the Council conclusions on the fulfilment of the necessary conditions for the full application of the Schengen *acquis* in Croatia, approved by the Council at its meeting held on 9 December 2021.

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**Council conclusions on the fulfilment of the necessary conditions  
for the full application of the Schengen *acquis* in Croatia**

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING THAT:

1. Article 4(2) of the Act of Accession of Croatia<sup>1</sup> provides that the provisions of the Schengen *acquis* as integrated into the framework of the European Union and the acts building upon it or otherwise related to it not referred to in paragraph 1 of the same Article, while binding on Croatia from the date of accession, 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. That decision shall be taken by the Council, in accordance with the applicable procedures and while taking into account a Commission report confirming that Croatia continues to fulfill the commitments undertaken in its accession negotiations that are relevant for the Schengen *acquis*.
2. By letter of 6 March 2015, Croatia declared its readiness to start the Schengen evaluation process in all relevant policy areas as of 1 July 2015 with a view to a Council Decision on the full application of the Schengen *acquis*.

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<sup>1</sup> Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, OJ L112 of 24.4.2012 p. 21.

3. On 25 April 2017, Council Decision (EU) 2017/733<sup>2</sup> on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia was adopted. It allowed for SIS data to be transferred to Croatia. The concrete use of these data allowed the Commission to verify the correct application of the provisions of the Schengen *acquis* relating to the SIS in Croatia.
4. The applicable Schengen evaluation procedures are set out in Council Regulation (EU) No 1053/2013<sup>3</sup>. The Schengen evaluation of Croatia took place in accordance with Article 1(1)(b) of that Regulation. Between 2016 and 2020, teams consisting of experts from the Commission and from the Member States verified the application of the Schengen *acquis* by Croatia in the fields of data protection, police cooperation, the common visa policy, the management of external borders, return, the Schengen Information System, firearms and judicial cooperation in criminal matters. This process resulted in a series of evaluation reports adopted by the Commission in the period between 2016 and 2019, with findings and assessments, as well as recommendations for remedying the identified deficiencies adopted by the Council. Following the Council recommendations and in line with Article 16 of Regulation (EU) 1053/2013, Croatia provided the Commission and the Council with action plans on how to remedy deficiencies identified in the relevant evaluation reports. Based on the follow-up reports received, the Commission assessed the full implementation of the action plans and informed the Council's Working Party for Schengen Matters about the implementation of the action plans on a regular basis. The Commission closed the action plans for the evaluated fields; the last action plan, in the field of management of the external border, was closed on 2 February 2021<sup>4</sup>.

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<sup>2</sup> OJ L108 of 26.04.2017, L108. p. 31.

<sup>3</sup> 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).

<sup>4</sup> Ares(2021)890120 - Closure Action Plan external borders evaluation Croatia- 2019 revisit - communicated to the Working Party on Schengen Matters at its informal meeting of 1 February 2021 and to the JHA Council at its informal meeting of 12 March 2021.

5. On 22 October 2019, the European Commission published a Communication<sup>5</sup> on the verification of the full application of the Schengen *acquis* by Croatia, 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”.
6. In the same Communication the Commission also confirmed that “Croatia continues to fulfil the commitments linked to the Schengen *acquis* as undertaken in its accession negotiations”. The Council emphasises the importance of continuous fulfilment of those commitments.
7. The verification that the necessary conditions for the application of all parts of the Schengen *acquis* concerned have been met by Croatia is a precondition for the Council to be able to take a decision on the full application of the Schengen *acquis* and the resulting abolition of checks at internal borders.
8. The purpose of the following Council Conclusions is to establish that Croatia, subjected to the full evaluation procedure, fulfils the conditions for the application of all relevant parts of the Schengen *acquis*.
9. The approval of these Council conclusions is without prejudice to the adoption of the Council decision on the full application of the Schengen *acquis*.

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<sup>5</sup> COM (2019) 497 final of 22.10.2019.

10. The Council reiterates the importance of further strengthening of the Schengen area, including the ongoing negotiations on an efficient evaluation and monitoring mechanism. With a view to Croatia's accession to Schengen, Croatia is invited to continue working consistently on the implementation of the Schengen *acquis*, as well as commitments linked to the Schengen *acquis*.

In this regard, and taking into account the above,

**CONCLUDES THAT:**

- Croatia has fulfilled the necessary conditions for the application of all parts of the Schengen *acquis*.
- Thus, the preconditions have been fulfilled for the Council to be able to take the decision referred to in Article 4(2) of the Act of Accession of Croatia, allowing for the lifting of internal border controls.
- With a view to Croatia's accession to Schengen, Croatia is invited to continue working consistently on the implementation of the Schengen *acquis*, as well as commitments linked to the Schengen *acquis*.

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