Brussels, 30 December 2023
(OR. en)

17132/23

LIMITE

JAI 1732
SCH-EVAL 264
SCHENGEN 79
COMIX 607

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania
COUNCIL DECISION (EU) 2023/…

of …

on the full application of the provisions of the Schengen *acquis*
in the Republic of Bulgaria and Romania

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2005 Act of Accession, and in particular Article 4(2) thereof,

Having regard to the opinion of the European Parliament¹,

Whereas:

(1) Article 4(2) of the 2005 Act of Accession of the Republic of Bulgaria and Romania provides that the provisions of the Schengen *acquis* not referred to in Article 4(1) of that Act are to only apply in each of those Member States 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 *acquis* concerned have been met in those Member States.

By its Decision 2010/365/EU\(^2\), the Council, after verification that the necessary conditions for the application of the data protection part of the Schengen acquis had been met by Bulgaria and Romania, rendered the provisions of the Schengen acquis relating to the Schengen Information System (SIS) applicable to Bulgaria and Romania from 15 October 2010, with the exception of the obligation to refuse entry into or stay on their territories to third-country nationals for whom an SIS alert has been issued by another Member State for the purposes of refusing entry or stay in accordance with Regulation (EC) No 1987/2006 of the European Parliament and of the Council\(^3\) and with the obligation to refrain from issuing SIS alerts and entering additional information and to refrain from exchanging supplementary information on third-country nationals for the purposes of refusing entry or stay in accordance with Regulation (EC) No 1987/2006 (the ‘remaining provisions of the Schengen acquis relating to the SIS’).

The Council has verified, in accordance with the applicable Schengen evaluation procedures set out in the Decision of the Executive Committee of 16 September 1998\(^4\), that the necessary conditions for the application of the Schengen acquis have been met in all the remaining areas of the Schengen acquis, namely air borders, land borders, police cooperation, data protection, the SIS, sea borders and visas, in Bulgaria and Romania.

On 9 June 2011, the Council concluded that the conditions in each of the remaining areas of the Schengen acquis had been fulfilled by Bulgaria and Romania.


\(^4\) 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).
(5) It is therefore possible to set the dates for the application of the Schengen acquis by Bulgaria and Romania, from which checks on persons at the internal borders with those Member States should be lifted.

(6) On 12 October 2017, the Council adopted Decision (EU) 2017/1908\(^5\) putting into effect certain provisions of the Schengen acquis relating to the Visa Information System (VIS) in Bulgaria and Romania.

(7) On 25 June 2018, the Council adopted Decision (EU) 2018/934\(^6\) putting into effect the remaining provisions of the Schengen acquis relating to the SIS in Bulgaria and Romania.

(8) The simplified regime for third-country nationals holding a national short-stay visa issued by Bulgaria or Romania for transit through or intended stays on their territories not exceeding 90 days in any 180-day period, introduced by Decision No 565/2014/EU of the European Parliament and of the Council\(^7\), 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) It is appropriate, for technical and operational reasons, to lift first the checks at internal air and sea borders as soon as possible in 2024. Those checks should be lifted on the first possible date corresponding to the seasonal change of the IATA schedule.

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\(^7\) 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).
A further decision should be taken by the Council acting by unanimity in accordance with Article 4(2) of the 2005 Act of Accession of the Republic of Bulgaria and Romania, to establish an appropriate date for the lifting of checks at internal land borders, taking into account the relevant technical and operational arrangements at those borders and the state of play of the mutual cooperation referred to in recital 11. Member States and the Commission should work to enable the Council to take such a decision.

The Council takes note that there is a mutual understanding on future cooperation between certain Member States with the support of the Commission. The complementary measures and commitments outlined in the statements to the records of the Council will contribute to the mutual trust and cooperation between those Member States and are thus important factors which led the Council to take this Decision.

As regards Iceland and Norway, this Decision constitutes a development of the 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 latters’ 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/EC\(^9\).

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\(^8\) 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).
(13) 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\(^ {11}\).

(14) 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\(^ {13}\),

\(^{10}\) OJ L 53, 27.2.2008, p. 52.


\(^{13}\) 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).
HAS ADOPTED THIS DECISION:

Article 1

From 31 March 2024, checks on persons at internal air and sea borders with and between Bulgaria and Romania shall be lifted and the provisions of the Schengen acquis referred to in the Annex shall apply to Bulgaria and Romania between themselves and in their relations with the Kingdom of Belgium, 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 Republic of Croatia, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden, as well as Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation.

The Council shall endeavour to take a decision lifting checks on persons at internal land borders. That decision shall be taken by the Council acting by unanimity in accordance with Article 4(2) of the 2005 Act of Accession of the Republic of Bulgaria and Romania.

Article 2

National short-stay visas issued by Bulgaria and Romania before 31 March 2024 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 recognised such short-stay 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 date of its publication in the *Official Journal of the European Union*.

Done at …,

*For the Council*

*The President*
ANNEX

List of the provisions of the Schengen acquis within the meaning of Article 4(2) of the 2005 Act of Accession to be rendered applicable to Bulgaria and Romania between themselves and in their relations with the Member States applying the Schengen acquis in full, as well as Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation

A. The following provisions of the Convention signed in Schengen on 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders (OJ L 239, 22.9.2000, p. 19):

   Article 1 to the extent that it relates to other provisions referred to in this point, Article 18, Article 19(1), (3) and (4), Articles 20, 21 and 22, Articles 40 to 43 and Articles 126 to 130 to the extent that they relate to other provisions referred to in this point; in addition, Article 1 and Articles 126 to 130 to the extent that they are not covered by Decision (EU) 2017/1908.

B. The following other legal acts of the Union, together with acts implementing them:


   3. Article 4, point (b), and Article 9, point (c), 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);


7. 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);


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,
2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27), to the extent that it
relates to the Visa Information System as laid down in Regulation (EC) No 767/2008
and not covered by Decision (EU) 2017/1908 and the Entry/Exit System as established
by Regulation (EU) 2017/2226 and referred to in this Annex;

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
22.5.2019, p. 85), to the extent that it relates to the Visa Information System as laid
down in Regulation (EC) No 767/2008 and not covered by Decision (EU) 2017/1908
and the Entry/Exit System as established by Regulation (EU) 2017/2226 and referred to
in this Annex;

on Visas (Visa Code) (OJ L 188, 12.7.2019, p. 25);

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);

