

## COUNCIL DECISION

of 12 June 2007

**on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic**

(2007/471/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Act concerning the conditions of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, (hereinafter the 2003 Act of Accession), and in particular Article 3(2) thereof,

Having regard to the opinion of the European Parliament,

Whereas:

(1) Article 3(2) of the 2003 Act of Accession provides that the provisions of the Schengen *acquis* other than those mentioned in Annex I to the said Act shall only apply in a new Member State within the meaning of that instrument pursuant to a Council Decision to that effect after verification that the necessary conditions for the application of that *acquis* have been met.

(2) The Council has verified whether the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic (hereinafter the Member States concerned) ensure satisfactory levels of data protection through the following steps:

A full questionnaire was forwarded to the Member States concerned, whose replies were recorded, and verification and evaluation visits were made to all the Member States concerned, in accordance with the applicable Schengen evaluation procedures as set out in the Decision of the Executive Committee setting up a Standing Committee on the evaluation and implementation of Schengen (SCH/Com-ex (98) 26 def.)<sup>(1)</sup>, in the area of Data Protection.

(3) On 5 December 2006, the Council concluded that the conditions in this area had been fulfilled by the Czech Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland and the Republic of Slovenia. On 11 June 2007, the Council concluded that the conditions in this area had been fulfilled by the Republic of Estonia and by the Slovak Republic. It is therefore possible to set a date from which the Schengen *acquis* relating to the Schengen Information System (SIS) may apply in those Member States.

(4) The entry into force of this Decision should allow for real SIS data to be transferred to the Member States concerned. The concrete use of this data should allow the Council, through the applicable Schengen evaluation procedures as set out in SCH/Com-ex (98) 26 def., to verify the correct application of the provisions of the Schengen *acquis* relating to the SIS in the Member States concerned. Once these evaluations have been carried out, the Council should decide on the lifting of checks at the internal borders with the Member States concerned.

(5) A separate Council Decision should be taken setting a date for the lifting of checks at internal borders. Until the date of the lifting of checks set out in that Decision, certain restrictions on the use of the SIS should be imposed.

(6) 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 association of those two States with the implementation, application and development of the Schengen *acquis*<sup>(2)</sup> which fall within the area referred to in Article 1, point G, of Decision 1999/437/EC<sup>(3)</sup> on certain arrangements for the application of that Agreement.

<sup>(1)</sup> OJ L 239, 22.9.2000, p. 138.

<sup>(2)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(3)</sup> OJ L 176, 10.7.1999, p. 31.

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The provisions of the Schengen *acquis* relating to the SIS, as referred to in Annex I, shall apply to the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic amongst themselves and in their relations with the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the Republic of France, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland and the Kingdom of Sweden as well as the Republic of Iceland and the Kingdom of Norway from 1 September 2007.

2. The provisions of the Schengen *acquis* relating to the SIS, as referred to in Annex II, shall apply to the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic amongst themselves and in their relations with the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the Republic of France, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland and the Kingdom of Sweden as well as the Republic of Iceland and the Kingdom of Norway from the date foreseen in those provisions.

3. From 7 July 2007 real SIS data may be transferred to the Member States concerned.

From 1 September 2007, the Member States concerned, like the Member States in respect of which the Schengen *acquis* has already been implemented, will be able to enter data into the SIS and use SIS data, subject to the provisions of paragraph 4.

4. Until the date of the lifting of checks at internal borders with the Member States concerned, those Member States:

- (a) shall not be obliged to refuse entry to their territory or to expel nationals of third States for whom an SIS alert has been issued by another Member State for the purposes of refusing entry;
- (b) shall refrain from entering the data covered by the provisions of Article 96 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (hereinafter Schengen Convention) <sup>(1)</sup>.

*Article 2*

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 12 June 2007.

*For the Council*  
*The President*  
W. SCHÄUBLE

---

<sup>(1)</sup> OJ L 239, 22.9.2000, p. 19. Convention as last amended by Regulation (EC) No 1987/2006 of the European Parliament and of the Council (OJ L 381, 28.12.2006, p. 4).

## ANNEX I

**List of the provisions of the Schengen *acquis* relating to the SIS within the meaning of Article 3(2) of the 2003 Act of Accession to be rendered applicable to the Member States concerned**

## 1. In respect of the provisions of the Schengen Convention:

Article 64 and Articles 92 to 119 of the Schengen Convention.

## 2. Other provisions concerning SIS:

## (a) in respect of the provisions of the following Decisions of the Executive Committee established by the Schengen Convention:

Decision of the Executive Committee of 15 December 1997 amending the Financial Regulation on C. SIS (SCH/Com-ex (97)35) <sup>(1)</sup>;

## (b) in respect of the provisions of the following Declarations of the Executive Committee established by the Schengen Convention:

(i) Declaration of the Executive Committee of 18 April 1996 defining the concept of an alien (SCH/Com-ex (96) decl. 5) <sup>(2)</sup>;

(ii) Declaration of the Executive Committee of 28 April 1999 on the structure of the SIS (SCH/Com-ex (99) decl. 2 rev) <sup>(3)</sup>,

## (c) other instruments:

(i) Council Decision (2000/265/CE) of 27 March 2000 on the establishment of a financial regulation governing the budgetary aspects of the management by the Deputy Secretary-General of the Council, of contracts concluded in his name, on behalf of certain Member States, relating to the installation and the functioning of the communication infrastructure for the Schengen environment, 'Sisnet' <sup>(4)</sup>,

(ii) The SIRENE Manual <sup>(5)</sup>,

(iii) Council Regulation (EC) No 871/2004 of 29 April 2004 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism <sup>(6)</sup>, and any subsequent decisions on the date of application of those functions,

(iv) Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism <sup>(7)</sup>, and any subsequent decisions on the date of application of those functions,

(v) Regulation (EC) No 1160/2005 of the European Parliament and of the Council of 6 July 2005 amending the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, as regards access to the Schengen Information System by the services in the Member States responsible for issuing registration certificates for vehicles <sup>(8)</sup>,

(vi) Article 5(4)(a) and the provisions of Title II and the annexes thereto referring to the Schengen Information System (SIS) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) <sup>(9)</sup>.

<sup>(1)</sup> OJ L 239, 22.9.2000, p. 444. Decision as amended by Council Decision 2007/472/EC (See page 50 of this Official Journal).

<sup>(2)</sup> OJ L 239, 22.9.2000, p. 458.

<sup>(3)</sup> OJ L 239, 22.9.2000, p. 459.

<sup>(4)</sup> OJ L 85, 6.4.2000, p. 12. Decision as last amended by Decision 2007/155/EC (OJ L 68, 8.3.2007, p. 5).

<sup>(5)</sup> Parts of SIRENE manual were published in OJ C 38, 17.2.2003, p. 1. Manual was amended by Commission Decisions 2006/757/EC (OJ L 317, 16.11.2006, p. 1) and 2006/758/EC (OJ L 317, 16.11.2006, p. 41).

<sup>(6)</sup> OJ L 162, 30.4.2004, p. 29.

<sup>(7)</sup> OJ L 68, 15.3.2005, p. 44.

<sup>(8)</sup> OJ L 191, 22.7.2005, p. 18.

<sup>(9)</sup> OJ L 105, 13.4.2006, p. 1.

## ANNEX II

**List of the provisions of the Schengen *acquis* relating to the SIS within the meaning of Article 3(2) of the 2003 Act of Accession to be rendered applicable to the Member States concerned from the date foreseen in those provisions**

1. Regulation (EC) No 1986/2006 of the European Parliament and of the Council of 20 December 2006 regarding access to the Second Generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates <sup>(1)</sup>;
  2. Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) <sup>(2)</sup>;
  3. Council Decision 2007/.../EC of ... 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) <sup>(3)</sup>.
- 

<sup>(1)</sup> OJ L 381, 28.12.2006, p. 1.

<sup>(2)</sup> OJ L 381, 28.12.2006, p. 4.

<sup>(3)</sup> See Council document 14914/06. Decision not yet published in the Official Journal, but adopted on 12 June 2007, except in Bulgarian and Romanian (adoption in those languages scheduled for 10 July 2007).