

COUNCIL DECISION (EU) 2023/870**of 25 April 2023****on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Cyprus**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2003 Act of Accession, and in particular Article 3(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Article 3(2) of the 2003 Act of Accession provides that the provisions of the Schengen *acquis* not referred to in Article 3(1) of that Act are to apply in Cyprus only 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 Cyprus.
- (2) The applicable Schengen evaluation procedures are set out in Council Regulation (EU) 2022/922 ⁽²⁾, which replaced Council Regulation (EU) No 1053/2013 ⁽³⁾. An evaluation carried out in accordance with those procedures is, however, to take into consideration the special circumstances of Cyprus, as recognised in Protocol No 10 to the 2003 Act of Accession. In its declaration of readiness, Cyprus reiterated its commitment, once such an evaluation has been concluded, to undergo regular further Schengen evaluations on the aspects of the Schengen *acquis* made applicable by the Council.
- (3) The Schengen evaluation relating to data protection was carried out in Cyprus in November 2019, in accordance with the Schengen evaluation procedures applicable at that time, which are set out in Regulation (EU) No 1053/2013. An evaluation report, adopted by means of Commission Implementing Decision C(2020) 8150 in accordance with Article 14(5) of Regulation (EU) No 1053/2013, confirmed that the necessary conditions for the application of the Schengen *acquis* relating to data protection had been met in Cyprus.
- (4) In accordance with Article 1(1) of Commission Implementing Decision (EU) 2015/450 ⁽⁴⁾, it has been verified that, from a technical point of view, the national system of Cyprus is ready to be integrated into the Schengen Information System (SIS).
- (5) As Cyprus has made the necessary technical and legal arrangements to process SIS data and exchange supplementary information, it is now possible for the Council to set the date from which the Schengen *acquis* relating to the SIS is to apply in Cyprus.
- (6) This Decision should allow for SIS data to be transferred to Cyprus. The concrete use of such data should allow the Commission to verify the correct application of the provisions of the Schengen *acquis* relating to the SIS in Cyprus. Once it has been verified that the necessary conditions for the application of all parts of the Schengen *acquis* have been met in Cyprus, the Council should decide on the lifting of checks at internal borders with Cyprus.

⁽¹⁾ OJ C 465, 6.12.2022, p. 210.

⁽²⁾ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15.6.2022, p. 1).

⁽³⁾ 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).

⁽⁴⁾ Commission Implementing Decision (EU) 2015/450 of 16 March 2015 laying down test requirements for Member States integrating into the second generation Schengen Information System (SIS II) or changing substantially their directly related national systems (OJ L 74, 18.3.2015, p. 31).

- (7) The Council should adopt a separate decision setting a date for the lifting of checks at internal borders with Cyprus. Certain restrictions on the use of the SIS in Cyprus should be imposed until that date.
- (8) 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 latter's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾ which fall within the area referred to in Article 1, point G, of Council Decision 1999/437/EC ⁽⁶⁾.
- (9) 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* ⁽⁷⁾ which fall within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁸⁾ and Article 3 of Council Decision 2008/149/JHA ⁽⁹⁾.
- (10) 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* ⁽¹⁰⁾ which fall within the area referred to in Article 1, point G, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU ⁽¹¹⁾ and Article 3 of Council Decision 2011/350/EU ⁽¹²⁾,

HAS ADOPTED THIS DECISION:

Article 1

1. Subject to the conditions specified in this Article, from 25 July 2023, the provisions of the Schengen *acquis* relating to the Schengen Information System (SIS) set out in the Annex shall apply in the Republic of Cyprus in its relations with:

- (a) the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Croatia, 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 Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of

⁽⁵⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁶⁾ 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).

⁽⁷⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁸⁾ 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).

⁽⁹⁾ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union 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. 50).

⁽¹⁰⁾ OJ L 160, 18.6.2011, p. 21.

⁽¹¹⁾ Council Decision 2011/349/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 in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

⁽¹²⁾ 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).

Luxembourg, Hungary, Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden;

- (b) Ireland only with regard to the provisions referred to in Regulation (EU) 2018/1862 of the European Parliament and of the Council ⁽¹³⁾; and
- (c) the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway and the Swiss Confederation.

2. From 13 June 2023, the following alerts, supplementary information and additional data may be made available to Cyprus in accordance with Regulations (EU) 2018/1860 ⁽¹⁴⁾, (EU) 2018/1861 ⁽¹⁵⁾ and (EU) 2018/1862 of the European Parliament and of the Council:

- (a) alerts as defined in Article 2, point (4), of Regulation (EU) 2018/1860, Article 3, point (1), of Regulation (EU) 2018/1861 and Article 3, point (1), of Regulation (EU) 2018/1862;
- (b) supplementary information as defined in Article 2, point (5), of Regulation (EU) 2018/1860, Article 3, point (2), of Regulation (EU) 2018/1861 and Article 3, points (2), of Regulation (EU) 2018/1862 that is connected with the alerts referred to in point (a) of this paragraph; and
- (c) additional data as defined in Article 3, point (3), of Regulation (EU) 2018/1861 and Article 3, point (3), of Regulation (EU) 2018/1862 that are connected with the alerts referred to in point (a) of this paragraph.

3. From 25 July 2023, Cyprus shall be able to enter alerts and additional data into the SIS, to use SIS data and to exchange supplementary information, subject to paragraph 4.

4. Until checks at internal borders with Cyprus are lifted, Cyprus:

- (a) shall not be obliged to refuse entry into or stay on its territory to third-country nationals for whom an alert has been issued by another Member State for the purpose of refusing entry or stay in accordance with Article 24 of Regulation (EU) 2018/1861; and
- (b) shall refrain from entering into the SIS alerts and additional data, as well as from exchanging supplementary information on third-country nationals, for the purpose of refusing entry or stay in accordance with Article 24 of Regulation (EU) 2018/1861.

Article 2

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

Done at Luxembourg, 25 April 2023.

For the Council
The President
P. KULLGREN

⁽¹³⁾ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

⁽¹⁴⁾ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

⁽¹⁵⁾ Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

ANNEX

List of the provisions of the Schengen *acquis* relating to the Schengen Information System referred to in Article 1(1)

1. Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals ⁽¹⁾;
 2. Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 ⁽²⁾;
 3. Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU ⁽³⁾.
-

⁽¹⁾ OJ L 312, 7.12.2018, p. 1.

⁽²⁾ OJ L 312, 7.12.2018, p. 14.

⁽³⁾ OJ L 312, 7.12.2018, p. 56.