

DECISIONS

COUNCIL DECISION

of 9 June 2011

on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Principality of Liechtenstein

(2011/352/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to 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* (the Protocol) ⁽¹⁾, which was signed on 28 February 2008 ⁽²⁾ and entered into force on 7 April 2011, and in particular Article 10(1) thereof,

Whereas:

- (1) Article 10(1) of the Protocol provides that the provisions of the Schengen *acquis* shall be put into effect by the Principality of Liechtenstein only pursuant to a Council decision to that effect after verification that the necessary conditions for the implementation of that *acquis* have been fulfilled by the Principality of Liechtenstein.
- (2) The Council has verified that the Principality of Liechtenstein ensures satisfactory levels of data protection by taking the following steps: a full questionnaire was forwarded to the Principality of Liechtenstein, whose replies were recorded, and verification and evaluation visits were made to the Principality of Liechtenstein, in accordance with the applicable Schengen evaluation procedures as set out in the 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.) ⁽³⁾ (the Decision of the Executive Committee of 16 September 1998), in the area of Data Protection.
- (3) On 9 June 2011, the Council concluded that the Principality of Liechtenstein had fulfilled the conditions in the area of Data Protection. It is therefore possible to set a date from which the Schengen *acquis* relating to the Schengen Information System (SIS) may apply to the Principality of Liechtenstein.

- (4) The entry into force of this Decision should allow for real SIS data to be transferred to the Principality of Liechtenstein. The concrete use of these data should allow the Council, through the applicable Schengen evaluation procedures as set out in the Decision of the Executive Committee of 16 September 1998, to verify the correct application of the provisions of the Schengen *acquis* relating to the SIS in the Principality of Liechtenstein. Once those evaluations have been carried out, the Council should decide on the lifting of checks at internal borders with the Principality of Liechtenstein.
- (5) The Agreement between the Principality of Liechtenstein, the Republic of Iceland and the Kingdom of Norway concerning the implementation, application and development of the Schengen *acquis* and concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Liechtenstein, Iceland or Norway stipulates that it shall be put into effect in respect of the implementation, application and development of the Schengen *acquis* on the same date as the Protocol is put into effect.
- (6) A separate Council Decision should be adopted setting a date for the lifting of checks at internal borders. Until the date set out in that Decision, certain restrictions on the use of the SIS should be imposed,

HAS ADOPTED THIS DECISION:

Article 1

1. From 19 July 2011, the provisions of the Schengen *acquis* relating to the SIS, as referred to in Annex I, shall apply to the Principality of Liechtenstein in its relations with the Kingdom of Belgium, the Republic of Bulgaria, 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 Luxembourg, the Republic of Hungary, the 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.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Council Decisions 2008/261/EC (OJ L 83, 26.3.2008, p. 3) and 2008/262/EC (OJ L 83, 26.3.2008, p. 5).

⁽³⁾ OJ L 239, 22.9.2000, p. 138.

2. The provisions of the Schengen *acquis* relating to the SIS, as referred to in Annex II, shall apply from the date laid down in those provisions to the Principality of Liechtenstein in its relations with the Kingdom of Belgium, the Republic of Bulgaria, 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 Luxembourg, the Republic of Hungary, the 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.

3. From 9 June 2011, real SIS data may be transferred to the Principality of Liechtenstein.

From 19 July 2011, the Principality of Liechtenstein shall be allowed to enter data into the SIS and use SIS data, subject to paragraph 4.

4. Until the date of the lifting of checks at internal borders with the Principality of Liechtenstein, the Principality of Liechtenstein:

- (a) shall not be obliged to refuse entry to its territory to or to expel third country nationals for whom an SIS alert has been issued by a Member State for the purpose of refusing entry;
- (b) shall refrain from entering the data covered by 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 ⁽¹⁾ (the Schengen Convention).

Article 2

This Decision shall enter into force on the day of its adoption.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 9 June 2011.

For the Council

The President

PINTÉR S.

⁽¹⁾ OJ L 239, 22.9.2000, p. 19.

ANNEX I

List of the provisions of the Schengen *acquis* relating to the SIS to be rendered applicable to the Principality of Liechtenstein

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

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

2. In respect of decisions and declarations of the Executive Committee established by the Schengen Convention concerning the SIS:

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

(b) — Declaration of the Executive Committee of 18 April 1996 defining the concept of an alien (SCH/Com-ex (96) decl. 5) ⁽²⁾,

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

3. In respect of other instruments concerning the SIS:

(a) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽⁴⁾ in so far as it applies in relation to the processing of data within the SIS;

(b) Council Decision 2000/265/EC 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' ⁽⁵⁾;

(c) the SIRENE Manual ⁽⁶⁾;

(d) 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 ⁽⁷⁾, and any subsequent decisions on the date of application of those functions;

(e) 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 ⁽⁸⁾, and any subsequent decisions on the date of application of those functions;

(f) 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 ⁽⁹⁾;

(g) 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) ⁽¹⁰⁾;

(h) Council Regulation (EC) No 1104/2008 of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) ⁽¹¹⁾;

(i) Council Decision 2008/839/JHA of 24 October 2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) ⁽¹²⁾.

⁽¹⁾ OJ L 239, 22.9.2000, p. 444.

⁽²⁾ OJ L 239, 22.9.2000, p. 458.

⁽³⁾ OJ L 239, 22.9.2000, p. 459.

⁽⁴⁾ OJ L 281, 23.11.1995, p. 31.

⁽⁵⁾ OJ L 85, 6.4.2000, p. 12.

⁽⁶⁾ Parts of the SIRENE Manual were published in OJ C 38, 17.2.2003, p. 1. The 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).

⁽⁷⁾ OJ L 162, 30.4.2004, p. 29.

⁽⁸⁾ OJ L 68, 15.3.2005, p. 44.

⁽⁹⁾ OJ L 191, 22.7.2005, p. 18.

⁽¹⁰⁾ OJ L 105, 13.4.2006, p. 1.

⁽¹¹⁾ OJ L 299, 8.11.2008, p. 1.

⁽¹²⁾ OJ L 299, 8.11.2008, p. 43.

ANNEX II

List of the provisions of the Schengen *acquis* relating to the SIS to be rendered applicable to the Principality of Liechtenstein from the date laid down 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 ⁽¹⁾.
 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) ⁽²⁾.
 3. Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ⁽³⁾.
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⁽¹⁾ OJ L 381, 28.12.2006, p. 1.

⁽²⁾ OJ L 381, 28.12.2006, p. 4.

⁽³⁾ OJ L 205, 7.8.2007, p. 63.