



Plenary sitting

A9-0264/2022

28.10.2022

REPORT

on the draft Council decision on the full application of the provisions of the
Schengen acquis in the Republic of Croatia
(10624/2022 – C9-0222/2022 – 2022/0806(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Paulo Rangel

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the full application of the provisions of the Schengen acquis in the Republic of Croatia
(10624/2022 – C9-0222/2022 – 2022/0806(NLE))**

(Consultation)

The European Parliament,

- having regard to the Council draft (10624/2022),
- having regard to Article 4(2) of the 2012 Act of Accession pursuant to which the Council consulted Parliament (C9-0222/2022),
- having regard to the Commission's communication of 22 October 2019 on the verification of the full application of the Schengen *acquis* by Croatia (COM(2019)0497),
- having regard to the Council conclusions of 9 December 2021 on the fulfilment of the necessary conditions for the full application of the Schengen *acquis* in Croatia (14883/21),
- having regard to Article 67 of the Treaty on the Functioning of the European Union (TFEU), which establishes an area of freedom, security and justice and which provides that the Union is to ensure the absence of internal border controls for persons,
- having regard to Article 21(1) TFEU and Article 45 of the Charter of Fundamental Rights of the European Union, which ensure the right of citizens to move and reside freely within the territory of the Member States,
- having regard to its resolutions of 8 July 2021¹ and 30 May 2018² on the Annual Reports on the functioning of the Schengen area as well as its resolutions of 11 December 2018³, of 13 October 2011⁴ and of 8 June 2011⁵ on the Schengen enlargement process,
- having regard to the judgment of the European Court of Human Rights in the case of M. H and others v. Croatia (15670/18 and 43115/18) of 18 November 2021,
- having regard to the annual report of the Independent mechanism of monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration

¹ Texts adopted, P9_TA(2022)0350

² Texts adopted, P8_TA(2018)0228

³ Texts adopted, P8_TA(2018)0497

⁴ Texts adopted, P7_TA(2011)0443

⁵ Texts adopted, P7_TA(2011)0254

and international protection of July 2022,

- having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0264/2022),
1. Approves the Council draft as amended;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to substantially amend its draft;
 4. Instructs its President to forward its position to the Council and the Commission.

AMENDMENTS: 3

Amendment 1

Draft decision

Recital 4

Council draft

(4) On 22 October 2019, the European Commission published a Communication on the verification of the full application of the Schengen acquis by Croatia⁵, 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. The Commission also confirms that Croatia continues to fulfil the commitments linked to the Schengen acquis as undertaken in its accession negotiations".

Amendment

(4) On 22 October 2019, the European Commission published a Communication on the verification of the full application of the Schengen acquis by Croatia⁵, 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. The Commission also confirms that Croatia continues to fulfil the commitments linked to the Schengen acquis as undertaken in its accession negotiations". ***Croatia should inform the European Parliament and the Council in writing by ... [six months following the date of entry into force of this Decision] of follow-up actions***

undertaken following the action plan in the field of the management of external borders and the implementation of any ongoing actions related thereto.

⁵ COM (2019) 497 final of 22.10.2019

⁵ COM (2019) 497 final of 22.10.2019

Or. en

Justification

Following the publication of the Commission's Communication on the verification of the full application of the Schengen acquis by Croatia in October 2019, several NGOs and media outlets repeatedly reported of abuse, violence and illegal pushbacks of migrants by Croatia's border officials. In November 2020, the Commission decided to revisit and reassess the application of the Schengen acquis by Croatia, in particular as regards the management of the external borders. Given that some concerns remain, it would be important to follow up on the action plan in respect of external borders and the implementation of the actions Croatia needed to take in that field, and for Croatia to report on this follow up to the European Parliament and the Council.

Amendment 2

Draft decision

Recital 4 a (new)

Council draft

Amendment

(4a) In accordance with Article 13 of Council Regulation (EU) 2022/922, the Commission should, in its annual evaluation programme following the full implementation of Schengen acquis, include as a priority either a periodic evaluation of Croatia's application of the Schengen acquis in the field of management of the external borders or a thematic evaluation of the respect for fundamental rights at Union external borders that should include a visit to Croatia. In either case, such an evaluation should assess the compliance of border management operations with fundamental rights requirements under Union and international law and the Commission should make appropriate recommendations for actions aimed at

addressing any identified deficiencies.

Or. en

Justification

In the Commission's assessment of the application of the Schengen acquis in the management of the external borders by Croatia several deficiencies were originally identified and an action plan was put in place to remedy them. In view of the full application of the Schengen Acquis to Croatia, the European Parliament calls on the Commission to include in its upcoming annual evaluation programme, either a periodic evaluation of Croatia, with a focus on external border management, or a thematic evaluation on the respect for fundamental rights at Union external borders, an evaluation that should involve a visit to Croatia. Whatever the form of evaluation, it should assess the compliance of border management operations with fundamental rights requirements under Union and international law. The Commission should make appropriate recommendations for actions aimed at addressing any identified deficiencies.

Amendment 3

Draft decision

Recital 5

Council draft

(5) On 9 December 2021, the Council concluded that the conditions for the application of all parts of the relevant acquis had been fulfilled by Croatia⁶.

⁶ ST 14883/21

Amendment

(5) On 9 December 2021, the Council concluded that the conditions for the application of all parts of the relevant acquis had been fulfilled by Croatia⁶ ***and invited Croatia to continue working consistently on the implementation of the Schengen acquis and on commitments linked to the Schengen acquis.***

⁶ ST 14883/21

Or. en

Justification

The fact that the Schengen acquis might apply in full to a particular Member State should in no way lessen the obligations on that Member States to comply with all aspects of the Schengen acquis.

EXPLANATORY STATEMENT

Schengen Background

The Schengen cooperation has started on 14 June 1985, with the Schengen Agreement, allowing for the abolishment of systematic border controls at the internal borders of the signatory states and for the creation of a common area with free movement of persons as well as a single external border (with common rules on external border controls, a common visa policy, police and judicial cooperation and the establishment of the Schengen Information System (SIS)).

The initial membership of 5 Member States (Belgium, Germany, France, Luxembourg and the Netherlands) has been extended over time. Currently, the Schengen area comprises 26 Schengen Member States: the EU countries Austria, Belgium, Denmark, France, Finland, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia as well as the 3 associated non EU countries, Norway, Iceland and Switzerland and Liechtenstein. Four other Member States, namely Bulgaria, Croatia, Cyprus and Romania are bound by the Schengen *acquis*, however, internal border controls have not yet been lifted in respect of these Member States.

The border-free Schengen Area guarantees free movement to more than 400 million EU citizens. Free movement of persons enables every EU citizen to travel, work and live in an EU country without special formalities, along with non-EU nationals legally present on the EU territory. Schengen underpins this freedom by enabling citizens to move around the Schengen area without being subject to border checks, representing one of the greatest achievements of the EU with direct impact in the life of its citizens.

Schengen Evaluation of Croatia

Croatia adopted the Schengen *acquis* when joining the EU in 2013. According to Article 4(2) of the Act of Accession¹, the full Schengen *acquis* can only apply in Croatia following a Council decision to that effect, after verification, through the applicable evaluation procedures, that the necessary conditions for the application of all parts of the Schengen *acquis* have been met. The successful conclusion of these procedures constitute the precondition for the abolition of checks at internal borders with the country.

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*.

In line with the Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*², evaluation procedures took place between 2016 and 2019 with teams of experts from the

¹ OJ L112, 24.4.2012, p.22

² OJ L 295, 6.11.2013, p. 27.

Commission and the Member States, to verify 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.

Following a series of evaluation reports and on-site visits assessing the fulfilment by Croatia of the conditions for the application of the Schengen acquis in each of the relevant policy fields, deficiencies were identified and a number of recommendations to remedy the issues found during the evaluation procedures were adopted by the Council.

Throughout the evaluation procedures, Croatia provided the Commission with follow-up reports on the implementation of the action plans related to the 2016 and 2017 recommendations, including the still outstanding actions identified during 2019, particularly pertaining to external border management.

Subsequently, on 22 October 2019, the Commission adopted a Communication³ considering that Croatia had taken the necessary steps to ensure the conditions for the application of all relevant parts of the Schengen acquis were met, while stating that the country should continue implementing ongoing measures in the field of management of external borders. The last action plan for the evaluated fields was then officially concluded by the Commission in February 2021.

In the above mentioned Communication, the Commission has also confirmed that Croatia continues to fulfill the six commitments made on accession that are relevant for the Schengen acquis, namely in the areas of judiciary and fundamental rights, as provided in Article 4(2) of the Act of Accession.

The Council, with its Conclusions of 9 December 2021, also confirmed that Croatia has fulfilled all the necessary conditions for the application of all parts of the Schengen *acquis*. The approval of these conclusions was without prejudice to the adoption of the Council decision on the full application of the Schengen *acquis*. This integration decision should be made by the Council, by unanimous decision of all governments of the states which are already part of the Schengen area, as well as Croatia.

In its resolutions of 8 July 2021 on the Annual Report on the Functioning of the Schengen area (2019/2196(INI)) and of 30 May 2018 on the Annual Report on the Functioning of the Schengen area (2017/2256(INI)), the European Parliament underlined the importance of the enlargement process and reiterated Parliament's support for the accession of Croatia as soon as the necessary conditions were met. The Parliament also urged the Council to honour its commitment and take an immediate decision on the abolition of checks at internal borders allowing respective Member States to rightfully join the area of free movement without internal border controls.

Rapporteur's conclusions

Taking into account the results of the evaluation procedures and the necessary revisits carried out by the expert teams, the rapporteur concludes that there are no obstacles to full

³ COM(2019) 497 final of 22 October 2019.

membership for Croatia. These experts' conclusions were already confirmed by the Commission and approved by the Council.

At this moment, Croatia has proved that it is prepared to apply all the provisions of the Schengen *acquis* in a satisfactory manner.

It should also be taken in account the need for a constant assessment of compliance with fundamental rights at the external borders in all Member States, which was implemented through the introduction of the Independent Monitoring Mechanism in Croatia.

In this context, the Rapporteur calls on Member States to honour their commitments under the EU legal framework as regards the Schengen accession criteria by adopting the decision on the full application of the Schengen *acquis* in Croatia.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Croatia
References	10624/2022 – C9-0222/2022 – 2022/0806(NLE)
Date of consultation or request for consent	29.6.2022
Committee responsible Date announced in plenary	LIBE 7.7.2022
Rapporteurs Date appointed	Paulo Rangel 10.10.2022
Discussed in committee	10.10.2022
Date adopted	25.10.2022
Result of final vote	+ : 45 – : 8 0 : 5
Members present for the final vote	Abir Al-Sahlani, Konstantinos Arvanitis, Pietro Bartolo, Vladimír Bilčík, Malin Björk, Vasile Blaga, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Damien Carême, Patricia Chagnon, Caterina Chinnici, Lena Düpont, Lucia Ďuriš Nicholsonová, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Łukasz Kohut, Moritz Körner, Jeroen Lenaers, Juan Fernando López Aguilar, Nadine Morano, Javier Moreno Sánchez, Theresa Muigg, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Birgit Sippel, Sara Skytvedal, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Milan Uhrík, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Susanna Ceccardi, Gwendoline Delbos-Corfield, Erik Marquardt, Matjaž Nemec, Janina Ochojska, Philippe Olivier, Sira Rego, Franco Roberti, Rob Rooken, Róza Thun und Hohenstein
Substitutes under Rule 209(7) present for the final vote	Asim Ademov, Mohammed Chahim, Morten Løkkegaard
Date tabled	28.10.2022

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
NI	Milan Uhrík
PPE	Asim Ademov, Vladimír Bilčík, Vasile Blaga, Karolin Braunsberger-Reinhold, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Janina Ochojska, Paulo Rangel, Karlo Ressler, Sara Skytvedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
RENEW	Abir Al-Sahlani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Morten Løkkegaard, Maite Pagazaurtundúa, Ramona Strugariu, Róza Thun und Hohenstein, Yana Toom
S&D	Pietro Bartolo, Mohammed Chahim, Caterina Chinnici, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Theresa Muigg, Matjaž Nemec, Franco Roberti, Birgit Sippel, Elena Yoncheva
VERTS/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Gwendoline Delbos-Corfield, Erik Marquardt, Tineke Strik

8	-
ECR	Joachim Stanisław Brudziński, Patryk Jaki, Rob Rooken, Jadwiga Wiśniewska
ID	Patricia Chagnon, Philippe Olivier
THE LEFT	Malin Björk, Sira Rego

5	0
ECR	Vincenzo Sofo
ID	Susanna Ceccardi, Annalisa Tardino
PPE	Nadine Morano
THE LEFT	Konstantinos Arvanitis

Key to symbols:

+ : in favour

- : against

0 : abstention