

# Schengen Agreement Member Countries

As of 21/12/07 the following countries are member states of the Schengen agreement:

Austria  
Belgium  
Denmark  
Estonia  
Finland  
France  
Germany  
Greece  
Hungary,  
Iceland,  
Italy,  
Latvia  
Lithuania,  
Luxembourg,  
Malta,  
Netherlands,  
Norway,  
Poland,  
Portugal,  
Slovakia,  
Slovenia,  
Czech Republic,  
Spain  
Sweden  
Switzerland (from 12/12/08)

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## JUSTICE AND HOME AFFAIRS

## The Schengen acquis and its integration into the Union

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During the 1980s, a debate opened up about the meaning of the concept of "free movement of persons". Some Member States felt that this should apply to EU citizens only, which would involve keeping internal border checks in order to distinguish between citizens of the EU and non-EU nationals. Others argued in favour of free movement for everyone, which would mean an end to internal border checks altogether. Since the Member States found it impossible to reach an agreement, France, Germany, Belgium, Luxembourg and the Netherlands decided in 1985 to create a territory without internal borders. This became known as the "Schengen area". The name was taken from the name of the town in Luxembourg where the first agreements were signed. This intergovernmental cooperation expanded to include 13 countries in 1997, following the signing of the Treaty of Amsterdam. The Treaty of Amsterdam incorporated the decisions taken since 1985 by Schengen group members and the associated working structures into EU law on 1 May 1999.

### Development of the Schengen area

The first agreement between the five original group members was signed on 14 June 1985. A further convention was drafted and signed on 19 June 1990. When it came into effect in 1995, it abolished the internal borders of the signatory states and created a single external border where immigration checks for the Schengen area are carried out in accordance with a single set of rules. Common rules regarding visas, asylum rights and checks at external borders were adopted to allow the free movement of persons within the signatory states without disturbing law and order.

Accordingly, in order to reconcile freedom and security, this freedom of movement was accompanied by so-called "compensatory" measures. This involved improving coordination between the police, customs and the judiciary and taking necessary measures to combat important problems such as terrorism and organised crime. In order to make this possible, a complex information system known as the Schengen Information System (SIS) was set up to exchange data on people's identities and descriptions of objects which are either stolen or lost.

Little by little the Schengen area has been extended to include every Member State. Italy signed the agreement on 27 November 1990, Spain and Portugal joined on 25 June 1991, Greece followed on 6 November 1992, then Austria on 28 April 1995 and finally Denmark, Finland and Sweden joined on 19 December 1996. (Details of the position of the United Kingdom and Ireland are given below).

### Measures adopted by Schengen group members

Among the main measures are:

- the removal of checks at common borders, replacing them with external border checks;
- a common definition of the rules for crossing external borders;
- separation in air terminals and ports of people travelling within the Schengen area from those arriving from countries outwith the area;
- harmonisation of the rules regarding conditions of entry and visas for short stays;
- coordination between administrations on surveillance of borders (liaison officers, harmonisation of instructions and staff training);
- the definition of the role of carriers in the fight against illegal immigration;
- requirement for all non EU nationals moving from one country to another to lodge a declaration;
- the drawing up of rules for asylum seekers ( [Dublin Convention](#) );
- the introduction of rights of surveillance and not pursuit;

- the strengthening of legal cooperation through a faster extradition system and faster distribution of information about the implementation of criminal judgments;
- the creation of the Schengen Information System (SIS).

These measures, together with the decisions and declarations adopted by the Executive Committee set up by the 1990 implementing convention, the steps taken in order to implement the convention by the authorities on whom the Executive Committee conferred decision-making powers, the agreement signed on 14 June 1985, the convention implementing that agreement, signed on 19 June 1990, and the protocols and accession agreements which followed, constitute the Schengen acquis.

### **The Schengen Information System (SIS)**

At the heart of the Schengen mechanism, an automatic network was set up, after many technical difficulties had been overcome, to allow all police stations and consular agents from Schengen group Member States to access data on specific individuals, or vehicles and objects which are lost or stolen.

Member States supply the network through national networks (N-SIS) which are connected to a central system (C-SIS), and this is supplemented by a network known as SIRENE (Supplementary Information Request at the National Entry), made up of representatives from the national and local police, customs and the judiciary.

The SIS is regarded as the cornerstone of "Schengen-land" and it was clearly important that its incorporation into the European Union framework should not jeopardise its operation. The Council was particularly careful about this point, and a number of practical decisions were taken which allowed the Secretary-General of the Council to manage certain budget aspects of the development of SIS [Official Journal L 123, of 13.05.1999].

In 1999 the Member States decided not to extend the contract for the SIRENE network which, accordingly, ended on 23 August 2001. It will be replaced by a new communication system called SISNET which will eventually become a "European Information System" also containing data on immigration. The Deputy Secretary-General of the Council is authorised by Decision of 17 December 1999 to conclude and administer contracts for the installation and functioning of SISNET [Official Journal L 337 of 30.12.1999].

### **Incorporating the Schengen Agreement into the European Union Framework**

A protocol attached to the Treaty of Amsterdam incorporates the developments brought about by the Schengen agreement into the European Union framework. The Schengen area, which is the first concrete example of enhanced cooperation between thirteen Member States, is now within the legal and institutional framework of the EU, thus coming under parliamentary and judicial scrutiny and attaining the objective of free movement of persons enshrined in the Single European Act of 1986 while ensuring democratic parliamentary control and giving citizens accessible legal remedies when their rights are challenged (Court of Justice and/or national courts depending on the area of law).

In order to make this integration possible, the Council of the European Union took a number of decisions. First of all, as set out in the Treaty of Amsterdam, the Council took the place of the Executive Committee created under the Schengen agreement. On 1 May 1999, it established a procedure for incorporating the Schengen secretariat into the general secretariat of the Council including arrangements relating to Schengen secretariat staff [Official Journal L 119 of 07.05.1999]. Following that, new working groups were set up to help the Council manage the situation.

One of the Council's most important tasks in incorporating the Schengen area was to choose from among the provisions and measures taken by the signatory states those which formed a genuine *acquis*, i.e. a body of law which could serve as a basis for further cooperation. A list of the elements which make up the *acquis*, setting out the corresponding legal basis for each in the treaties (EC treaty or the Treaty on European Union) [Official Journal L 176 of 10.07.1999 - corrigendum: Official Journal L 9 of 13.01.2000] was adopted on 20 May 1999. All these acts, except those considered to be confidential, are published in the Official Journal, an important consideration in that they form part of the legal rules which countries seeking EU membership must adopt into their own national legislation.

The Schengen area does not include all the Member States, but Ireland and the United Kingdom can join at a later date. Moreover, although Denmark has signed the Schengen agreement, it can choose within the EU framework whether or not to apply any new decisions taken under the agreements.

### **Relations with Iceland and Norway**

Together with Sweden, Finland and Denmark, Iceland and Norway belong to the Nordic passport union, which abolished their internal border checks. Sweden, Finland and Denmark became members of the Schengen group when they joined the EU. Iceland and Norway have been associated with the development of the agreements since 19 December 1996. Although they did not have voting rights on the Schengen Executive Committee, they were able to express opinions and formulate proposals.

An agreement was signed between Iceland, Norway and the EU on 18 May 1999 in order to extend that association [Official Journal L 176 of 10.07.1999]. They continue to participate in the drafting of new legal instruments building on the Schengen *acquis*. These acts are adopted by the EU Member States alone they apply to Iceland and Norway as well.

In practice, this association takes the form of a joint committee outwith the EU framework, made up of representatives from the Icelandic and Norwegian governments and members of the EU Council and the Commission. Procedures for notifying and accepting future measures or acts have been laid down. The Committee adopted its rules of procedure on 29 June 1999 [Official Journal C 211 of 23.07.1999].

An agreement approved by the Council on 28 June 1999 covers relations between Iceland and Norway on the one hand and Ireland and the United Kingdom on the other in areas of the Schengen *acquis* applying to Iceland and Norway [Official Journal L 15 of 20.01.2000].

On 1 December 2000 the Council adopted the Decision on the application of the Schengen *acquis* in Denmark, Finland and Sweden, and in Iceland and Norway [Official Journal, L 309 of 09.12.2000]. The Council decided that, as from 25 March 2001, the Schengen arrangements would apply to the five countries of the Nordic passport union. In addition, the SIS arrangements were put into effect as from 1 January 2000. In order to check whether the SIS functioned and was applied properly, the aforementioned decision provided for evaluation visits to be carried out in all the Nordic States. Reports on the visits were subsequently submitted to the Council prior to 1 March 2001.

On the basis of the report submitted by the Swedish Presidency, the General Affairs Council of 26 February 2001 confirmed that the five members of the Nordic Union were able to apply the Schengen arrangements in full as from 25 March 2001. The visits carried out in January and February showed that the SIS had been applied properly and that checks at external borders (in ports and airports) complied with requirements.

### **The participation of Ireland and the United Kingdom**

In accordance with the protocol to the Treaty of Amsterdam, Ireland and the United Kingdom can take part in all or part of the Schengen arrangements if the thirteen Schengen group Member States and the government representative of the country in question vote unanimously in favour within the Council.

In March 1999 the United Kingdom asked to take part in some aspects of Schengen, namely police and legal cooperation in criminal matters, the fight against drugs and the Schengen Information System (SIS). A Council Decision approving the request of the United Kingdom was only reached on the 29 May 2000 because the dispute between Spain and the United Kingdom regarding Gibraltar delayed the process [Decision 2000/365/EC, published in Official Journal L 131 of 01.06.2000].

Ireland asked to take part in some aspects of Schengen by letters to the President of the Council of the European Union dated 16 June 2000 and 1 November 2001. The Commission and Council issued their opinion, emphasising that Ireland's partial participation should not undermine the overall consistency of the Schengen provisions. Ireland asked *inter alia* to take part in all the provisions concerning the implementation and operation of the Schengen Information System (SIS). On 28 February 2002 the Council adopted a decision on Ireland's request which took effect as of 1 April 2002 [Decision 2002/192/EC, published in Official Journal L 64 of 07.03.2002].

### **The second generation Schengen Information System ( SIS II )**

At present the Schengen Information System operates in 13 Member States and two non-member States (Norway and Iceland). However, the system was not designed, and therefore lacks the capacity, to operate in as many Member States as there will be in the Union after enlargement. It is therefore necessary to develop a new second generation Schengen Information System (SIS II). The two acts provide for the costs relating to the development of SIS II to be met by the general budget of the European Union,

conforming to the Council conclusion of 29 May 2001.

To enable the future Member States to use the system, and to take account of the latest developments in information technology, the Council adopted on 6 December 2001:

- Council Regulation (EC) No 2424/2001 on the development of the second generation Schengen information system (SIS II) based on Articles 66 of the Treaty establishing the European Community;
- Council Decision 2001/866/JHA on the development of the second generation Schengen information system (SIS II) based on Articles 30(1), 31 and 34 of the Treaty on European Union.

The reason for this distinction is that the purpose of the SIS is to improve police and judicial cooperation in criminal matters (covered by Title VI of the Treaty on European Union) and the policy on visas, immigration and the free movement of persons (covered by Title IV of the Treaty establishing the European Community). [Official Journal L 328 of 13.12.2001].

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