

Schengen Evaluation Process

Article 8 of the Schengen Protocol establishes that all Member States must totally accept the Schengen acquis.

Still, there are two categories of provisions of the Schengen acquis:

Provisions which are not related to the cancellation of internal border checking of the Member States (Category I)

Provisions directly related to the cancellation of internal border checking of the Member States (Category II)

The first category provisions must be applied till the moment of accession to the EU and are not the subject of the Schengen evaluation process, while the second category ones must be implemented and simultaneously applied with the cancellation of the internal border checking, being the subject of the Schengen evaluation process.

The latter stipulate that the candidate states must prove their capacity of accomplishing the relevant requests of the Schengen acquis, in a correct, efficient and uniform manner, being the subject of a unanimous decision of the EU Council.

Implementing and applying the First Category Provisions

The candidate states must implement and apply the first category provisions before joining the European Union, without being the subject of the Schengen evaluation process. Preparing and monitoring the provisions of this category are part of the preparing process for adhering to the European Union. Still, the new Member States can, in accordance with the Schengen acquis provisions, make the object of the Schengen evaluations regarding the correct applying of the first category provisions.

The Member States will continue the preparations for implementing and applying the provisions of the second category. This will imply adopting the legislation and the necessary measures in order to be sure of the fact that the hired personnel and the necessary investment in equipment and infrastructure are achieved.

The evaluation process previous to the second category provision implementation and applying

Implementing and applying the second category provisions suppose that all legislative, operative and technical pre-conditions have been accomplished, especially the requests regarding the access to SIS and the efficient external border checking.

Under these circumstances, the new Member States must take into account the recommendations and the best practices noticed during the Schengen evaluations which are carried out in other EU Member States.

Initiating the evaluation process implies that the preparations are sufficiently advanced.

The evaluation process will be initiated for a new Member State, at the request of that state, and it will be prepared in close cooperation with that state.

The evaluation process consists in checking out of all Schengen acquis necessary conditions to be accomplished. This means that the new Member State must prove its capacity of accomplishing the requests of the Schengen acquis, in a correct, efficient and

uniform manner. The Schengen evaluation is the responsibility of the Working Group Schengen Evaluation, within the EU Council. It is the responsibility of Working Group Schengen Evaluation to specify the criteria and the requests related to the external border checking which ought to be accomplished before canceling internal border checking. These criteria and requests are formulated depending on each case, on the basis of the characteristics of each member state (including the geographical location).

The first part of the evaluation process consists in filling up an extended questionnaire that will be sent to each Member State. This questionnaire will contain detailed questions about relevant aspects related to the implementation and application of the second category provisions. The answers to this questionnaire will be attentively analyzed by the evaluation team in order to allow the Council to analyze each Member State's capacity of practically applying the second category provisions.

When enough information is obtained, evaluation visits will be organized in order to check the preparations on the field.

When the visits are over, a report will be set up, analyzing the stage of preparation of each Member State for applying the second category provisions. This report may include recommendations destined to correct or enhance the less satisfactory aspects. At the same time, supplementary visits can be organized, after a certain period of time, in order to remedy the potential negative points.

The EU Council Decision regarding the implementation and application of the second category provisions

The final report of the Schengen Evaluation Group will be presented to the EU Council which will adopt the necessary decision for authorizing the applying of the second category provisions, on a certain suitable date/ dates.

The Council will take a separate decision for each new Member State regarding the implementation and application of the second category provisions. Theoretically, two or more Member States may request to be evaluated in the same time.