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1. What represents Schengen Acquis?

The word "acquis" from collocation "community acquis" grows from the past participle of the French verb "acquerir" (to acquire) and it pronounces like in French language [a'ki].

EN: *acquis communautaire; Community acquis*
FR: *acquis communautaire*
DE: *gemeinschaftlicher Besitzstand*

Denomination grows from French: acquis communautaire. In English it's used the original French lection or, sometimes, *Community acquis*. Rare, it's used the lection *Community patrimony*.

Acquis communautaire represents the entirety of rights and common obligations which applies to every member state. It is in continuous development and includes:

- content, principles and political objectives of the institution treaties of European Communities and the agreements which changed those treaties, including the treaties regarding the new members;

- the incumbency documents adopted for applying the treaties (directives, regulations, decisions)
- recommendations and notifications adopted by the EU institutions;
- the other documents adopted by the EU institutions (declarations, resolutions, framework decisions)
- common actions, common positions, signed conventions, resolutions, statements and other documents adopted regarding foreign policy and common security.
- common actions, common positions, signed conventions, resolutions, statements and other documents adopted regarding justice and internal affairs;
- international agreements signed by the Communities and those signed between EU members considering the EU activities;
- jurisprudence of The Court of Justice of European Communities and of The Trial Court.

Each community document must be understood in the general context of community policies from every sector. In this sense, *acquis communautaire* includes the community legislation, all the documents adopted in fields like Foreign policy, Common security, Justice and Internal Affairs, and mostly common objectives specified by the Treaties. The presentation of community policies is made, first of all, in the Green papers. (The green papers are official communications of the Commission regarding policies in different fields). These Green papers are addressed to the interested parties (influence groups, economic agents, community institutions) having the purpose to create a dialogue with the parties on different issues. The White papers follow after the deliberations issued by the Green papers and contain proposals of enactment or action in several fields contributing to the development of community policy therein, being necessary systematic and permanent accession of its.
Candidate states must harmonize the legislation with the acquis communautaire before EU accession.
The exceptions and derogations of the acquis are granted exceptionally and they have limited territory. The European Union has engaged to sustain the entire acquis communautaire and to develop it.
Having the perspective of new members, the Commission analyses, together with candidate states, the way in which the acquis communautaire is transposed in national legislation.
At present, the acquis communautaire is estimated to over 100 000 pages of Official Journal.

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2. Which is the legal framework regarding Schengen in the European field? Which are the main documents?

Schengen Agreement, Convention Implementing the Schengen Agreement, decisions and declarations adopted by the Schengen Executive Committee established in 1990, protocols and accession agreements which have followed, as well as all the documents adopted by the EU Council after the 1999 moment, constitutes the Schengen acquis.

3. What is Schengen Agreement? Which are the main differences between the statute of a Schengen state and a member of European Union state, regarding citizens' rights?

At the beginning of the 80's, a discussion regarding how significant is the term "free movement" has started, at European level. After long discussions, France, Luxembourg, Germany, Belgium and The Netherlands have decided to create a territory without internal borders. The agreement between these states was signed on 14 June 1985 in a little town named Schengen, from Luxembourg. The signing of the Convention Implementing the Schengen Agreement on 19 June 1990 followed.

In 1995, checks at the internal borders were eliminated and a single external border where the checks take place following clear rules was created. Also, common rules regarding visa, migration, asylum, police, judicial and custom cooperation were established. The most important measures adopted by the Schengen states were::

- abolishing the checks at the internal borders and defining a suite of rules for crossing the external borders;
- separation of the passenger flows in ports and airports;
- harmonization of rules regarding the conditions for visa issues;
- settlement of rules for asylum solicitants;
- introduction of several rules regarding cross-border surveillance and pursuit for police forces from Schengen states;
- consolidation of judicial cooperation trough a fast system of extradition and implementation of judiciary verdicts;
- set up of Schengen Information System.

All these measures, together with Schengen Agreement, the Convention Implementing the Schengen Agreement, decisions and declarations adopted by the Schengen Executive Committee established in 1990, protocols and agreements which followed represent Schengen acquis.

At the beginning, the Schengen Agreement and the Implementing Convention were not part from the community legal framework. This changed when the Amsterdam Treaty was signed, on 2 October 1997, becoming effective on 1 May 1999. A Protocol attached to the Amsterdam Treaty incorporates the Schengen acquis in the institutional legal framework of European Union.

From this moment, the Schengen acquis is part of the community legislation and was transferred in the new Title IV – Visa, Asylum, Immigration and other politics regarding the free movement of the persons.

Also, as an institutional evolution, according to the provisions of the Amsterdam Treaty, the Schengen Executive Committee was replaced by the Council and starting with 01.05.1999, the General Secretariat was incorporated in the General Secretariat of the Council. New working groups were created for assisting the Council in its activities.

At present there are 24 States implementing the acquis communautaire: France, Germany, Belgium, The Netherlands, Luxembourg, Portugal, Spain, Greece, Italy, Austria, Denmark, Finland, Iceland, Norway, Czech Republic, Estonia, Lithuania, Latvia, Malta, Poland, Slovakia, Slovenia, Sweden and Hungary.

Accession to the Schengen Territory means the accession to a territory in which the checks at the internal borders of the member states have been eliminated. This is the main difference between the statute of a Schengen state and an European Union state, from the perspective of checks at the internal borders.

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4. What is the Schengen evaluation?

It is a procedure during which experts delegated by Member States check the status quo of the preparations for the implementation of the Schengen standards. A positive result of the Schengen evaluation is a prerequisite for the EU Council decision on the abolition of checks at the internal borders and related enlargement of the Schengen area.

All the countries wanting to join the Schengen area must undergo an evaluation process, an opportunity to prove that the state concerned fulfils all the necessary conditions in order to become a Schengen state. At first, the country fills in an extended Evaluation Questionnaire, including many detailed questions concerning Schengen provisions.

When sufficient information was obtained, evaluation visits, to examine, in field, the readiness of the state to join Schengen will start.

The final report of the Schengen Evaluation Group shall be presented to JHA Council, which will adopt the necessary decision through which will authorize the application of the II Category provisions at the proper time.

For details, please check Schengen Evaluation Process section.

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5. Is it possible to withdraw from Schengen?

The Schengen acquis is part of the EU legal framework, which Romania cannot infringe. Romania accepted the EU regulations by joining the EU and signing the Treaty of Accession on 25 of April 2005. Thus, it is not possible to withdraw from Schengen.

Exceptionally and only for a limited period of time, however, it is possible, in the event of a serious threat to public policy or internal security, to temporarily reintroduce the checks of persons at the internal borders of a Schengen state.

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6. Is it possible to cross the border anywhere?

Yes, as long as we speak of the removal of restrictions connected with border crossing points and their opening hours. The right of free movement, however, will not be absolute; it will still be necessary to respect some interests safeguarded by the national law (national parks, protected landscape areas, private property, etc.). Certain restrictions might be applied also in the event of an exceptional temporary reintroduction of state border control.

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7. Is it possible that a Schengen Member State restrict free movement of a citizen of another Schengen state? If yes, under what conditions?

The right of free movement of another Member State's citizens may also be restricted, but only if they pose a threat to public policy, public security and public health. In an exceptional case, such persons may even be expelled from the given state's territory. This, however, has no effect on their free movement in the territories of other Member States.

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8. Is an alert in the SIS a reason for refusing entry to the Schengen territory?

Yes and no. An alert in the SIS is one of the reasons for refusing entry to the Schengen territory. However, in case of family members of citizens enjoying the Community right of free movement, it must always be considered whether the presence of such a person in the territory of a Schengen state presents a real, current and sufficiently serious threat to some fundamental interest of the Schengen states.

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9. How can a person find out that her personal data has been registered in SIS?

Any person is entitled to inquire whether and what personal data concerning that person

is contained in the Schengen Information System (SIS), why it has been entered (for which purpose) and by which authority. The right of the persons to have access at the information introduced in SIS concerning them is exercised always in compliance with the national legislation of the country in which they are claimed.
The communication of the information to the person which is involved can be refused if this fact is needful to make a legal operation regarding the alert or defending the rights and freedom of a third party. However, this thing can be refused during the validity period of an alert in purpose to make the surveillance discreetly.

Any person has the right to ask the authorities of control to check the data and the way in which these data were used. This right is provided by the national legislation of the Contracting Party to which is addressed the request.

In the same time, the right to be able to correct inaccurate data (wrongly introduced) regarding the person and to delete the data illegally introduced in SIS is certified.

All these rights are carried out according to national legislation of the state in which these are invoked; the procedures in every member state could be different. In Romania, this issue is stipulated in GEO no.128/15.09.2005, regarding the setting up, organization and activity of the National Information System for Alerts.

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10. Which are the rights of a person regarding the processing of its personal data?

The rights of a person are recognised to all the citizens, regardless of the provenance from a Schengen state or not.

The right to access the personal data in NSIS (when the person involved considers that is necessary, but only once a year free of charge);

- the request to the competent authorities (police, gendarmerie, custom) to be made in written dated and signed and to communicate the information regarding your personal data from NSIS;
- the competent authorities can refuse to communicate the requested information when this fact is needed for a legal action regarding the alert or to protect the rights and freedom of third parties;
- the requested competent authority has to communicate the information in 15 days from the moment when it has received the request;

The right to correct the wrong data and to delete the illegal data from the system

- you can ask the competent authority to correct your wrong data from the system, to delete the illegal data and to repair the damages created.
- the requested competent authority has to communicate the information 15 days from the moment when it has received the request;

The right to address the justice (for free)

You can complain to the competent Courts in order to have access, to correct or to delete data, to request information or to obtain compensations after an alert regarding your person.

For more information please check the site of the National Supervisory Authority for Personal Data Processing.

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