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From: General Secretariat of the Council
On: 20 September 2019
To: Delegations

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Subject: Council Implementing Decision setting out a recommendation addressing the deficiencies identified in the evaluation of **Ireland** in view of fulfilling the conditions necessary for the application of the Schengen *acquis* in the field of **data protection**

Delegations will find in the annex the Council Implementing Decision setting out a recommendation addressing the deficiencies identified in the evaluation of Ireland in view of fulfilling the necessary conditions for the application of the Schengen *acquis* in the field of data protection, adopted by the Council at its meeting held on 20 September 2019.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

RECOMMENDATION

addressing the deficiencies identified in the evaluation of Ireland in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of data protection

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen¹, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this decision setting out a recommendation is to recommend to Ireland remedial actions to address the deficiencies identified during the Schengen evaluation of the conditions necessary for the application of the Schengen acquis in the field of data protection, carried out in 2018. Following the evaluation, a report covering the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2019)5710.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) As good practice are seen amongst others the notable increase in human and financial resources assigned to the Data Protection Commission and the ethical and less intrusive method applied on social media platform by the Commission in its public awareness raising effort. The Data Protection Commission's active participation in European and international fora is noteworthy. The commitment taken by the Data Protection Commission to carry out the obligation laid down in Article 60(2) of the Council Decision within 2 years rather than 4 years after going live is worth highlighting.
- (3) In light of the importance of complying with the Schengen acquis on data protection in relation to the Schengen Information System II (SIS II), priority should be given to recommendations 3 to 6.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Ireland should, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

RECOMMENDS:

that Ireland should

Data Protection Authority (Data Protection Commission, thereafter: DPC)

1. ensure that the information on data subject's rights in relation to SIS II data on the DPC's website be more detailed and easier to access. In particular, specific standard forms/model letters for correction and deletion requests should be made available on its website;
2. confirm that the revised content of the DPC's website provides information on the possibility to lodge an appeal to the Court or a complaint to the DPC;

Schengen Information System

3. ensure that all relevant issues in relation to the protection of personal data are properly discussed by all stakeholders participating in the relevant national working groups before SIS II goes live;
4. ensure that all relevant measures are taken to preserve data quality throughout the information life cycle;
5. submit a specific security plan within the legal requirements;
6. ensure the successful implementation, also through the involvement of the DPC, of the data protection impact assessment;
7. ensure the development of a comprehensive policy guaranteeing that self-auditing activities in the sense of Article 10(k) of the Council Decision are in place before N.SIS II goes live;
8. confirm the change in policy, thereby ensuring that records kept at national level will not be kept indefinitely, but will comply with the time limit set out in law;

Rights of data subjects and awareness raising

9. ensure that access request forms in relation to SIS II be provided not only on An Garda Síochána's website but also made available physically as hard copies;
10. provide information on the advance planning of awareness raising events strictly geared towards the general public regarding the application of the provisions concerning the Schengen Information System;

11. ensure the necessary co-ordination between the DPC, An Garda Síochána and the Department of Justice and Equality on how to communicate the message to the general public regarding the application of the provisions concerning the Schengen Information System;

Done at Brussels,

For the Council

The President