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NOTE

From: General Secretariat of the Council
To: National Parliaments

Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of data protection by Liechtenstein

In accordance with Article 15(3) of Council Regulation 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 Schengen, the Council hereby transmits to national Parliaments the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of data protection by Liechtenstein¹.

¹ Available in all official languages of the European Union on the Council public register, doc. [10160/17](#)

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of data protection by Liechtenstein

THE COUNCIL 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 Schengen², 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 the principality of Liechtenstein remedial actions to address deficiencies identified during the Schengen evaluation in the field of data protection carried out in 2015. 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(2017) 2040].
- (2) The on-site team appreciates that the procedure to exercise the right of access to the personal data in SIS is free of charge and considers this a good practice together with the fact that the data subject is informed as soon as the reasons for the refusal of the direct access do not persist anymore.

² OJ L 295, 6.11.2013, p. 27.

- (3) In light of the importance to comply with the Schengen acquis, in particular the obligation to ensure that the national data protection supervisory authority has sufficient resources to fulfil its supervision tasks and that all necessary measures are taken to ensure that an audit of the data protection operations in VIS is carried out without any delay, priority should be given to implement recommendations 1, 2, 3 and 5.
- (4) This decision setting out a recommendation should be transmitted to the European Parliament and to the parliaments of the Member States. Within six months of its adoption, the evaluated Member State shall, pursuant to Article 16, paragraph 8 of Regulation (EU) No 1053/2013, provide the Commission its assessment on a possible implementation of the recommendations containing indications for possible further improvements,

HEREBY RECOMMENDS:

that Liechtenstein should

Data Protection Office and Data Protection Commission, including supervision

1. provide evidence that the issue of insufficient resources of the Data Protection Office has been addressed with the Landtag (Parliament) and inform of the results obtained;
2. inform of any legislative changes concerning the transfer of tasks in the exercise of the appeal powers of the Data Protection Commission, including on Schengen related matters;
3. take all necessary steps to carry out an audit of VIS in compliance with Article 41 (2) of VIS Regulation (EC) No 767/2008 immediately and provide the evidence attesting to this audit;
4. ensure that the necessary steps are taken with the aim to carrying out an audit of SIS II in compliance with Article 44 (2) of SIS II Regulation (EC) No 1987/2006 and Article 60 (2) of SIS II Decision 2007/533 within the requested timeframe;

VIS and SIS II

5. provide evidence that a practice of regular inspections into N.SIS II including content-oriented checks of N.SIS II logs and the deletion of SIS II - and VIS- related personal data is being put in place;
6. amend the Liechtenstein legislation to allow that checks of personal data of hotel guests are carried out against SIS II alerts;
7. provide comprehensive evidence that the new logging is compliant with the provision of Article 12 of the SIS II Decision 2007/533 and Article 51 of the N-SIS Ordinance.

Done at Brussels,

*For the Council
The President*
