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SIRIS 75
COMIX 516

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Subject: Schengen evaluation of the UNITED KINGDOM - Draft Council conclusions on the evaluation of the correct application of the Schengen acquis in the field of police cooperation, and on the completion of the process of evaluation of the state of preparedness to implement the relevant provisions of the Schengen acquis on the Schengen Information System

Delegations will find attached the partially declassified version of the above-mentioned document.



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**SCH-EVAL 41
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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Schengen evaluation of the UNITED KINGDOM - Draft Council conclusions on the evaluation of the correct application of the Schengen acquis in the field of police cooperation, and on the completion of the process of evaluation of the state of preparedness to implement the relevant provisions of the Schengen acquis on the Schengen Information System

1. It is proposed that the Working Party for Schengen Matters (Schengen Evaluation) at its meeting on 19 November 2015 agrees to submit the following comments to Council to provisionally conclude on the Schengen evaluation of the United Kingdom (UK).

2. Article 6(1) of Decision 2000/365/EC concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis, adopted by the Council on 29 May 2000 ¹ (amended by Decision 2014/857/EU ²), provides that the provisions of the Schengen acquis shall only be put into effect in the UK following a Council Decision, after verification that the preconditions for the implementation of those provisions have been fulfilled.

¹ OJ L 131, 1.6.2000, p. 43.

² OJ L 345, 1.12.2014, p.1. The consolidated version of Decision 2000/365/EC, as amended, was published in OJ C 430 of 1.12.2014, p.1.

3. To this end, verifications were initially conducted in the UK in 2004 in the field of police cooperation and data protection in accordance with the applicable Schengen evaluation procedures, by way of a questionnaire and evaluation visits, which resulted in the putting into effect of the relevant parts of the Schengen acquis³.

4. Regarding the SIS however, the UK decided to wait for SIS II to go live⁴, making a second round of verifications necessary in the fields of data protection, carried out in October 2013, and of police cooperation, carried out in June 2014. The results of these evaluation visits were satisfactory and the relevant reports were agreed by the Working Party for Schengen Matters (Schengen Evaluation) including the Mixed Committee partners Norway, Iceland, Switzerland and the Principality of Liechtenstein on 4 February 2014 (data protection) and on 13 November 2014 (police cooperation).

5. The Council adopted the required Conclusions on the implementation of the Schengen acquis in respect of **data protection** on 3 March 2014, making it possible to set a date from which the Schengen acquis relating to the Schengen Information System or "SIS", might apply in the UK, a prior condition for carrying out the SIS/SIRENE evaluation (see point 7 and 8). These conclusions can be found in doc. 5324/1/14 REV 1 RESTREINT.

6. **NOT DECLASSIFIED**

³ Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen acquis by the United Kingdom of Great Britain and Northern Ireland (OJ L 395, 31.12.2004, p.70).

⁴ Cf. recitals (2) and (3) of Decision 2004/926/EC.

7. On 10 February 2015, Council Implementing Decision 2015/215⁵ on the putting into effect of the provisions of the Schengen acquis on data protection and on the provisional putting into effect of parts of the provisions of the Schengen acquis on the Schengen Information System was adopted, allowing for SIS data to be made available to the UK, and providing that the UK could enter data in the SIS. The concrete use of these data on a provisional basis would allow the Council to verify the correct application of the provisions of the Schengen acquis relating to the SIS in the UK.

⁵ OJ L 36, of 12.2.2015.

8. The **SIS/SIRENE** evaluation, which subsequently took place early June 2015, was concluded and the report thereon agreed by the Working Party for Schengen Matters (Schengen Evaluation) on 19 November 2015 (doc.11780/15). The Working Party agreed on a set of recommendations addressed to the UK and considered that further proceedings were necessary before concluding the evaluation with a view to adopting the implementing decision setting the date for the final putting into effect by the United Kingdom of the provisions referred to in Article 1(a)(ii) of Decision 2000/365/EC ⁶, in so far as they relate to the functioning of the SIS.

NOT DECLASSIFIED

⁶ See FN 1 and 2.

NOT DECLASSIFIED

9. At its meeting on 8-9 October 2015, the Council, in line with the requirement set out in the Decision 2015/215, took note of the state of play in relation to the adoption of an implementing decision setting the date for the final putting into effect by the UK of the provisions of the Schengen acquis on the Schengen Information System (I/A item note 12246/15).

10. **NOT DECLASSIFIED**

11. Because it is stipulated in Article 23(2) of Council Regulation (EU) No 1053/2013⁷ that the Council's competences for carrying out Schengen evaluations under the current legal framework will cease on 1 January 2016, the continuation of the evaluation process must take place in the framework of the new evaluation mechanism provided for in that Regulation. The Council therefore invites the Commission to take the results of the evaluations mentioned above into account in its future dealings with the UK and to carry out the recommended revisit under the new mechanism.

⁷ Council Regulation (EU) No 1053/2013 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 (OJ L 295, 6.11.2013, p. 27).