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- Draft-Council conclusions on the state of preparedness of the
REPUBLIC OF MALTA towards the implementation of all provisions of the
Schengen acquis except SIS-related issues, air borders and sea borders

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 20 November 2006
(OR.en)**

**14524/2/06
REV 2**

RESTREINT UE

**SCH-EVAL 165
COMIX 883**

NOTE

from: the Schengen Evaluation Working Party
to: Coreper/Council - Mixed Committee

Subject : Schengen evaluation of the new Member States
- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF MALTA towards the implementation of all provisions of the Schengen acquis except SIS-related issues, air borders and sea borders

PART I

a. Background applicable to all new Member States

1. In 2005, the Schengen Evaluation Working Party started evaluating the readiness of the ten new Member States to implement the Schengen Acquis. All non-SIS-related evaluations of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia have now been completed, as is partially the case for Cyprus and for Malta. Altogether 58 themes have been evaluated for the ten countries in the course of nineteen evaluation missions.
2. The legal basis for the evaluation process in the new Member States is Article 3(2) of the 2003 Act of Accession in conjunction with the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (SCH/Com-ex (98) 26 Def).

3. According to Article 3(2) of the Act of Accession, the verification through evaluation procedures that the necessary conditions for the application of all parts of the acquis concerned have been met by the new Member States is a precondition for the Council to take Decisions on the abolition of checks at internal borders with those Member States.
4. The evaluations have been conducted new Member State by new Member State, and the Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will also be taken individually.
5. In taking these Decisions, the Council may determine that not all the new Member States will be ready to apply the Schengen acquis as a whole from the same date. In such a case, it may be necessary to organise additional visits in order to evaluate the application of the Schengen acquis at the borders between Member States at which the Council has decided not to abolish border checks and which have not already been evaluated.
6. The evaluation process started with a Declaration of Readiness for all non-SIS-related evaluations by the new Member States involved.
7. The Schengen Evaluation Working Party verified in writing the preparation for the application of all parts of the Schengen acquis by the new Member States through a questionnaire and a series of supplementary questions and answers.
8. The questionnaire was followed by evaluation visits by teams of experts which led to exhaustive reports containing factual descriptions as well as positive and critical assessments, and recommendations.
9. The purpose of the following Council Conclusions is to establish whether the new Member State in question, subjected to a full evaluation procedure, fulfills all the preconditions for the practical application of the relevant parts of the Schengen acquis. In case the preconditions have not been completely fulfilled, the Council conclusions indicate where additional measures are required and in which cases the necessary changes should be reassessed during new evaluation visits. These conclusions should be read in conjunction with the detailed evaluation reports. A list of the relevant reports and a follow-up table are annexed to these Council conclusions (doc. 10765/3/06 REV 3 SCHEVAL 110 COMIX 572).

b. Background for Malta

10. The Declaration of Readiness of Malta allowed to start the Schengen evaluation by 1 May 2006, with the exception of airports and seaports (doc. 8333/05 SCHEVAL 25 COMIX 260). Malta has later issued a second Declaration informing that it is now ready for the evaluation of its Airport and Seaport (doc. 14499/06 SCHEVAL 157 COMIX 875).
11. Inspections on site took place on the basis of the first Declaration in two Consulates. Police cooperation and Data protection have been assessed on site, too.
12. (Malta has provided the Schengen Evaluation Working Party with a follow up report, in which it states that it will be possible to remedy the weaknesses that have been detected without creating unnecessary delays.)¹

PART II - Specific findings

As stated before, the current conclusions should be read in conjunction with the evaluation reports. In these reports, many positive findings are mentioned in these, in some cases even best practices; However, for the purpose of the underlying conclusions and in particular with a view to defining which sites should be revisited, it is obvious that more focus has been put on weaknesses that should be remedied.

Border management strategy has not yet been evaluated, since the Declaration of readiness foresees that Malta will be prepared by the first quarter of 2007 to receive the Schengen evaluation.

Following the inspection of **visa issuance** at **Malta's** consular sections in Moscow and Tunis, Malta is, as far as its Embassy in Moscow was concerned, currently not in a position to implement the Common Consular Instructions/Schengen acquis in full in due course and did not meet the requirements. Significant shortcomings concerned the security of staff, material and premises; procedures; access to information; the role of the Embassy in the visa decision-making process and the submission of applications.

¹ To be confirmed by 24 November 2006.

In Tunis, no significant shortcomings were noted in the daily work implying that Malta may be in a position to implement the Common Consular Instructions/Schengen acquis in full in due course; access management, the availability of information and the security situation inside the premises were considered to be satisfactory.

The Unilateral recognition of Schengen visas, national long term visas and residence permits issued by Schengen States for the purpose of short stay in Malta is not in line with the acquis. Certain practices including the differentiation of fees, the security situation outside the building / consular premises and that of the visa management system, the number of visa stickers stored and the safe-keeping of stamps should be reviewed.

Finally, national legislation should take account of the procedural safeguards enjoyed by EU family members (refusals, right of appeal). It should be noted that the Maltese authorities have demonstrated capability to comply with the relevant Common Consular Instructions/Schengen requirements as attested by the result of the evaluation of its Embassy in Tunis following that of Moscow.

A revisit to Consulates is considered necessary.

Data protection in Malta was in many respects considered to rank among the best practices within the Schengen area.

Police cooperation:

The preparation of the Maltese Authorities for the full application of the Schengen should be accelerated. The lack of a concrete Action Plan, indicating a detailed operational plan with clear time limits for all measures in order to meet the Schengen requirements, make it difficult to assess the current situation and requires a revisit.

It is of utmost importance that the Maltese Authorities keep the time-schedule designed for establishing the SIRENE Office. The time schedule as such is well-functional, but no delays should be allowed.

The basic training in Schengen matters is included in the training curriculum of the police and there are ongoing Twinning projects with a view to provide tailor-made, specific trainings. The Handbook is available both as an electronic copy and as a paper copy and distributed to all police staff.

Introduction of the European Criminal Intelligence Model (ECIM), as specified in the Police Cooperation Handbook, is to be considered.

The Maltese Authorities should either extend their international relations by considering the secondment of liaison officers abroad or/and make use of other Member States' resources.

PART III- Conclusions¹

In order to allow the Council to take the Decisions referred to in Article 3(2) of the 2003 Act of Accession, Malta is requested to implement the recommendations listed in the evaluation reports, especially those referred to in Part II of these conclusions.

Malta is requested to inform the Council in writing on the follow-up it intends to give to the recommendations referred to in Part II as well as those contained in the evaluation reports.

In addition, the Council requires revisits of consulates (preferably including a different consulate than already evaluated) and of police cooperation.

¹ Malta: scrutiny reservation.

**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 14 November 2006

**10765/3/06
REV 3**

LIMITE

**SCH-EVAL 110
COMIX 572**

NOTE

from : Council Secretariat
to : Schengen Evaluation Working Party
Subject : Schengen evaluation of the new Member States
- Overview of reports and follow-up documents

Delegations will find enclosed an overview of the reports which were presented in the framework of the Schengen evaluation of the new Member States and their respective follow-up.

This table will be updated on a regular basis. Additions and/or modifications will be indicated in bold.

DECLASSIFIED

Country	Subject	References evaluation reports	adopted by Sch-eval	Follow-up docs	Council conclusions
CYPRUS	Data Protection	12748/2/06 REV 2 SCHEVAL 135	30.10.2006		
	Sea Borders (including airports)				
	Police Cooperation	14828/06 SCHEVAL 178	16-17/11		
	Visa <i>Follow-up (general)</i>				
CZ REPUBLIC					
	Data Protection	8399/1/06 REV 1 SCHEVAL 63	18.5.2006		
	Air Borders	12710/1/06 REV 1 SCHEVAL 129	30.10.2006	14554/06 SCHEVAL 169	
	Police Cooperation	8394/1/06 REV 1 SCHEVAL 60	18.5.2006	9295/06 SCHEVAL 83	
	Visa I (St. Petersburg)	12666/06 SCHEVAL 126	27-28.9.2006		
	Visa II (Kiev)	14097/1/06 REV 1 SCHEVAL 141	16-17/11	15301/06 SCHEVAL 184 (to be issued) 14817/06 SCHEVAL 175 (including police cooperation, data protection, visa and air borders)	
	<i>Follow-up (general)</i>				
ESTONIA					
	Data Protection	14179/1/06 REV 1 SCHEVAL 154	30.10.2006		
	Air Borders	12754/2/06 REV 2 SCHEVAL 137	30.10.2006		
	Land Borders	14175/1/06 REV 1 SCHEVAL 151	16-17/11		

	Sea Borders	12745/1/06 REV 1 SCHEVAL 132	30.10.2006	
	Police Cooperation	14171/1/06 REV 1 + ADD 1 SCHEVAL 148	16-17/11	
	Visa I (St. Petersburg)	12667/06 SCHEVAL 127	27-28.9.2006	
	Visa II (Kiev)	14098/06 SCHEVAL 142	30.10.2006	
	Follow-up (general)			
HUNGARY				
	Data Protection	8400/1/06 REV 1 SCHEVAL 64	18.5.2006	
	Air Borders	12711/06 SCHEVAL 130	27-28.9.2006	
	Land Borders	10470/1/06 REV 1 SCHEVAL 99	27-28.9	
	Police Cooperation	8395/1/06 REV 1 SCHEVAL 61	18.5.2006	9443/06 SCHEVAL 95
	Visa II (Kiev)	14099/06 SCHEVAL 143	30.10.2006	
	Visa III (Belgrade)	14732/06 SCHEVAL 171	16-17/11	
	Follow-up (general)			
LATVIA				
	Data Protection	14181/1/06 REV 1 SCHEVAL 156	30.10.2006	
	Air Borders	12755/1/06 REV 1 SCHEVAL 138	30.10.2006	

	Land Borders	14178/06 SCHEVAL 153	30.10.2006	
	Sea Borders	12746/06 SCHEVAL 133	27-28.9.2006	
	Police Cooperation	14174/1/06 REV 1 SCHEVAL 150	16-17/11	
	Visa I (St. Petersburg)	12668/06 SCHEVAL 128	27-28.9.2006	
	Visa II (Kiev)	14101/06 SCHEVAL 145	30.10.2006	
	<i>Follow-up (general)</i>			
LITHUANIA				
	Data Protection	14180/06 SCHEVAL 155	30.10.2006	
	Air Borders	12756/1/06 REV 1 SCHEVAL 139	30.10.2006	
	Land Borders	14177/06 + COR 1 SCHEVAL 152	30.10.2006	
	Sea Borders	12747/1/06 REV 1 SCHEVAL 134	30.10.2006	
	Police Cooperation	14173/1/06 REV 1 SCHEVAL 149	16-17/11	
	Visa I (Moscou)	12662/1/06 REV 1 SCHEVAL 122	30.10.2006	
	Visa II (Kiev)	14100/06 SCHEVAL 144	30.10.2006	
	<i>Follow-up (general)</i>			

MALTA	Data Protection	12749/1/06 REV 1 SCHEVAL 136	30.10.2006		
	Sea Borders (including airports)				
	Police Cooperation	14830/06 SCHEVAL 179	16-17/11		
	Visa I (Moscou)	12663/1/06 REV 1 SCHEVAL 123	30.10.2006	14579/06 SCHEVAL 170 (to be issued)	
	Visa III (Tunis)	14733/06 SCHEVAL 172	16-17/11		
	<i>Follow-up (general)</i>				
POLAND					
	Data Protection	6897/06 SCHEVAL 31	21.4.2006		
	Air Borders	10473/1/06 REV 1 SCHEVAL 101	27-28.9.2006	12152/06 SCHEVAL 119	
	Land Borders	14819/06 SCHEVAL 177	16-17/11		
	Sea Borders	8832/1/06 REV 1 SCHEVAL 78	30.6.2006		
	Police Cooperation	9064/1/06 REV 1 SCHEVAL 80	30.6.2006		
	Visa I (Moscou)	12665/06 SCHEVAL 125	27-28.9.2006		
	Visa II (Kiev)	14102/06 SCHEVAL 146	30.10.2006		
	<i>Follow-up (general)</i>				

SLOVAKIA	Data Protection	6898/06 SCHEVAL 32	21.4.2006		
	Air Borders	10474/1/06 REV 1 SCHEVAL 102	27-28.9.2006	12153/06 SCHEVAL 120	
	Land Borders	14818/06 SCHEVAL 176	16-17/11		
	Police Cooperation	9065/2/06 REV 2 SCHEVAL 81	27-28.9.2006		
	Visa II (Kiev)	14102/06 SCHEVAL 146	30.10.2006		
	Visa III (Belgrade)	14734/06 SCHEVAL 173	16-17/11		
	<i>Follow-up (general)</i>				
SLOVENIA	Data Protection	8401/06 SCHEVAL 65	18.5.2006		
	Air Borders	12712/06 SCHEVAL 131	27-28.9.2006		
	Land Borders	10471/1/06 REV 1 SCHEVAL 100	27-28.9.2006	12604/06 SCHEVAL 121	
	Sea Borders	8830/06 SCHEVAL 77	30.6.06	10735/06 SCHEVAL 109	
	Police Cooperation	8396/1/06 REV 1 SCHEVAL 62	18.5.2006		
	Visa I (Moscou)	12664/06 SCHEVAL 124	27-28/09		
	Visa III (Belgrade)	14735/06 SCHEVAL 174	16-17/11		
	<i>Follow-up (general)</i>			15302/06 SCHEVAL 185 (all subjects are covered) (to be issued)	