



Council of the  
European Union

026904/EU XXVI. GP  
Eingelangt am 18/06/18

Brussels, 18 June 2018  
(OR. en)

14524/1/06  
REV 1 DCL 1

SCH-EVAL 165  
COMIX 883

## DECLASSIFICATION

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of document: 14524/1/06 REV 1 RESTREINT UE/EU RESTRICTED

dated: 13 November 2006

new status: Public

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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

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

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

# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 November 2006 (13.11)  
(OR. en)**

**14524/1/06  
REV 1**

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**SCH-EVAL 165  
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## **NOTE**

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from : the Presidency  
to: the Schengen Evaluation Working Party

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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

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## **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. All non-SIS 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).

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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 by 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. No such visit has taken place so far.
6. The evaluation process started with a Declaration of Readiness for all non-SIS related evaluations by the 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, fulfill 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 is annexed to these Council conclusions.

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## 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 in situ, 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.)

## 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 CCI/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.

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In Tunis, no significant shortcomings were noted in the daily work (implying that Malta may be in a position to implement the CCI/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.

However 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).

**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.

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Introduction of the European Criminal Intelligence Model (ECIM) 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- Conclusions**

In order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession, it requests Malta to inform the Council in writing, on the follow-up it intends to give to these recommendations and those contained in the evaluation reports. Malta is also invited to remedy the weaknesses listed the evaluation reports, especially those referred to in Part II.

The Schengen partners must be kept informed of the measures adopted to this end.

In addition, the Council requires revisits of consulates (preferably at a different consulate) and of police cooperation.

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