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- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF HUNGARY towards the implementation of all provisions of the Schengen acquis except SIS-related issues

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

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

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THE EUROPEAN UNION

Brussels, 27 October 2006 (27.10)
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NOTE

from : the Presidency

to: the Schengen Evaluation Working Party

Subject : Schengen evaluation of the new Member States

- Draft-Council conclusions on the state of preparedness of the REPUBLIC OF HUNGARY towards the implementation of all provisions of the Schengen acquis except SIS-related issues

PART I

a. Background applicable to all new Member States

1. The Schengen Evaluation Working Party has started evaluating the new Member States from 2005 on and has completed by the end of 2006 all non-SIS-related tasks. Altogether 58 themes were evaluated for the ten countries in the course of nineteen evaluation missions.
2. The evaluations were meant to ascertain whether the countries involved are able to apply all parts of the Schengen acquis with the ultimate goal of allowing the Council to decide on the abolition of controls at internal borders.
3. The evaluation task fits within the requirements of Article 3(2) of the 2003 Act of Accession which foresees that the provisions of the Schengen acquis and the acts building upon it or related to it, listed in the Annex referred to in that Article, shall be binding on and applicable in the new Member States from the date of accession.

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The provisions and acts not referred to in that Annex, although binding on the new Member States from the date of accession, will only apply in a new Member State pursuant to a Council decision to that effect in accordance with that Article.

4. The Council Decisions referred to in Art 3(2) of the 2003 Act of Accession will be taken on a Member State-by-Member State basis. Each Member State will be evaluated on its own merits.
5. The legal basis for the evaluations is 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.
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 of the new Member States for the application by them of all parts of the Schengen acquis through a questionnaire and a series of supplementary questions and answers.
8. These visits 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 each of the new Member States subjected to the full evaluation procedure satisfies the conditions that are necessary for the application by it of all parts of the Schengen acquis, where additional follow-up measures are required and in which cases the necessary changes should be reassessed during inspection visits.
10. In taking the Decisions referred to in Article 3(2) of the 2003 Act of Accession, the Council may determine that all the new Member States will not 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 borders between Member States at which the Council has decided not to abolish border checks and which have not already been evaluated. No such evaluation has taken place so far.
11. These conclusions should be read in conjunction with the detailed inspection reports. A list of the relevant reports and a follow-up table is annexed to these Council conclusions.

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12. The Council considers it necessary to require follow-up measures to remedy the weaknesses that were detected during the evaluation process, in particular as to the ones mentioned in the following Part II, in order to allow the Council to adopt the Decisions referred to in point 3 and 9.

b. Background for Hungary

13. The Declaration of Readiness of Hungary allowed to start the Schengen evaluation by 1 May 2006, without any reservation.

14. Inspections on site took place at the land and air borders as well as in two Consulates. Police cooperation and Data protection have been assessed in situ, too.

15. (Hungary 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 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.

In the field of **border management**, Hungary has been positively assessed. The organisation is streamlined and functional, including national level competency for supervision and instruction. The personnel are professional and in general terms, the equipment is up to date.

Hungary faces heavy challenges at its **land borders** since it will become responsible for more or less 15 % of the future central-east external border of the EU. The legal and organisational basis for border management was considered very satisfactory. Weaknesses were detected in relation to the thoroughness of border checks and the procedures for border checks on rail traffic. Surveillance at the borders is carried out systematically; it has been suggested to rationalise and to upgrade the mobile resources.

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The reports conclude that the border management at the **air borders** is clearly organised and ranks at some stages as best practice. Whereas the airport of Budapest could already be assessed for generally meeting the Schengen requirement, construction work in Debrecen, is on-going

Following the inspection of Hungarian **visa issuance** at its consular sections in Kiev and Belgrade, it was concluded that Hungary may be in a position to implement the CCI/Schengen acquis in full in due course and that no significant shortcomings were noted in the daily work.

Access -management, electronic monitoring of the life-cycle of visa stickers and staff training was appreciated.

However particular attention should be paid to current practices involving the Hungarian honorary consul in Tbilisi; exemptions from personal appearance, the low number of interviews in relation to the number of applications and the low rejection rate (Belgrade); security risks concerning the checking of applicants and parts of the premises (Belgrade); the accreditation procedure and monitoring of travel agencies; collection of the handling fee; duration of the consultation procedure (Kiev); non-recognition of certain travel documents and the waiver of handling fees/invitations or travel medical insurance in certain cases. The relation with travel agencies should be closely monitored. Finally, national legislation should take account of the procedural safeguards enjoyed by EU family members (refusals, right of appeal).

Data Protection

The preparations with respect to Data protection and the SIS are already well-advanced in Hungary, and it should be ensured that the Commissioner remains entirely empowered with respect to the SIS.

Police cooperation

Most of the preparatory work for the full implementation of the Schengen acquis has already been accomplished as regards institutional and operational structures, whereas the practical execution of cross-border activities according to Articles 40 and 41 of the Schengen Convention is still hampered by the lack of bilateral agreements with the neighbouring countries and due to the arrangements of the Treaty on Accession.

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Hungary has set up and designated the International Law Enforcement Cooperation Centre as a single point of contact of international police cooperation, where all units involved are accessed through the front office. This guarantees effective and efficient cooperation.

The European Criminal Intelligence Model (ECIM) is to be introduced.

[PART III – Conclusions

The Council is of the opinion that Hungary has progressed in a substantial manner towards applying the Schengen acquis in full.

It is necessary to follow up the weaknesses that were detected, in particular to require correction of the weaknesses taken up in Part II, in order to allow the Council to take the Decisions referred to in Article 3(2) of 2003 Act of Accession. The Schengen partners must be kept informed of the measures adopted to this end. Among the weaknesses that will be re-visited in-situ, one can refer to the issues mentioned in Part II.]

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