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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14245/20
Subject:	Council Implementing Decision setting out recommendations addressing the deficiencies identified in the evaluation of Cyprus in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of data protection

Delegations will find enclosed the Council Implementing Decision setting out recommendations addressing the deficiencies identified in the evaluation of Cyprus in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of data protection, adopted by written procedure on 21 January 2021.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

RECOMMENDATIONS

addressing the deficiencies identified in the evaluation of Cyprus in view of fulfilling the conditions necessary for the application of the Schengen acquis in the field of data protection

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning 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 Schengen¹, 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 Cyprus remedial actions to address the deficiencies identified during the Schengen evaluation of the conditions necessary for the application of the Schengen acquis in the field of data protection, carried out in 2019. 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(2020)8150.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) The on-site team very much welcomes the recent increase in human and financial resources assigned to the Data Protection Authority (DPA). The engagement of the DPA in providing general awareness-raising activities and the upload of presentations and speeches on the DPA's website are considered as best practice. The training program for police officers on SIS II legislation and data protection put in place by the Cyprus Police is also seen as a good practice.
- (3) In light of the importance of complying with the Schengen acquis on data protection, priority should be given to implementing recommendations 1, 3, 5, 6, 8, 9 and 11.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Cyprus should, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

RECOMMENDS:

that Cyprus should:

Data Protection Authority (thereafter: DPA)

1. provide evidence for steps undertaken to ensure that the DPA possesses sufficient human and budgetary resources for the future monitoring and supervision of the processing of personal data in the framework of the Schengen acquis;
2. implement, and provide a copy, of a Supervision Plan of the Cypriot SIS and VIS covering the deployment and the implementation phase for the next three years including all planned supervisory activities both during the implementation phase and when the systems become operational;

Rights of data subjects

3. ensure that information about the processing of personal data and the exercise of their rights in SIS II and VIS on the websites of the Police and the MFA is also available at least in English and easily accessible to the data subjects. In particular, specific standard forms/model letters for data subjects' requests in relation to SIS II and VIS should be made available on their respective websites;
4. display a visible notice and provide data subjects with information leaflets on their rights and on the processing of their data at the premises of the MFA and in all places where authorities are processing personal data in N.VIS on behalf of the MFA, such as at the border control and the kiosks;

Visa Information System

5. ensure that a national legislation on N.VIS is put in place as soon as possible;
6. take all the necessary measures to implement the new N.VIS and to ensure its compliance with the VIS acquis and the data protection requirements;
7. ensure that the MFA implements a procedure for the collection and retention of logs aligned with the requirements of the VIS Regulation;
8. take the necessary measures to ensure the stability of the position of the Data Protection Officer at the MFA, and ensure his or her appropriate involvement during the design and implementation phases of the new N.VIS;

Schengen Information System

9. ensure that the national legislation on N.SIS II is adopted as soon as possible;
10. ensure that all relevant issues in relation to the protection of personal data are properly discussed by all stakeholders, and that a data protection impact assessment of the envisaged processing operations on the protection of personal data is carried out before N.SIS II goes live;

11. ensure that all relevant measures are taken to preserve data quality throughout the information life cycle;
12. carry out tests to ensure the proper integration of the N.SIS II with the Police legacy systems and to finalise the process to replace obsolete computer equipment;
13. ensure that personnel profiles are created and documented in accordance with Article 10(1)(g) SIS II Council Decision and Regulation;
14. submit a specific security plan in line with the legal requirements;
15. ensure the development of a comprehensive policy guaranteeing that self-auditing activities in the sense of Article 10(1)(k) of the SIS II Council Decision and Regulation are in place before N.SIS II goes live;

Awareness raising

16. provide information on the planning of activities for increasing the level of awareness of the public on SIS and VIS;

International Cooperation

17. confirm that the DPA will participate regularly in the activities of the SIS II Supervision Coordination Group and VIS Supervision Coordination Group set up in implementation of the Schengen acquis as of 2020.

Done at Brussels,

For the Council

The President
