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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	9770/25
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Denmark on the application of the Schengen acquis in the field of data protection

Delegations will find enclosed the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Denmark on the application of the Schengen acquis in the field of data protection, adopted by the Council at its meeting held on 12 June 2025.

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.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2022 evaluation of Denmark on 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(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) A Schengen evaluation in the field of data protection was carried out in respect of Denmark in October 2022. Following the evaluation, a report covering the findings and assessments, listing best practices, areas for improvement and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2024)4100 on 24 July 2024.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) The on-site team considered the following as good practices of the Danish competent authorities: the extensive efforts of the Danish Police Academy and the Danish National Police (DNP) to provide data protection training and carry out awareness raising activities for staff; the importance the DNP places on data protection by putting the Data Protection Unit at a prominent level in the organisational structure of the DNP as well as having data protection ambassadors in police districts and the National Special Crime Unit; the DNP have processes in place to monitor external threats to security and was actively defending DNP infrastructure against any risk of unauthorised entry; that personal data protection training is provided to local staff in consular posts; the handling of Visa Information System (VIS) access management and authentication and that VIS access rights are limited and subject to regular reviews; the MII's extensive VIS log control carried out by an automated software tool (Sherlock) to detect incidents in the log files; that the DPA's website provides general information in Danish and in English on the visa issuing procedure and notably contains some updated explanation regarding the VIS Regulation's amendments applicable since 3 August 2022.
- (3) Recommendations should be made on remedial actions to be taken by Denmark to address deficiencies identified as part of the evaluation. Considering the importance of complying with the Schengen *acquis*, priority should be given to implementing recommendations 4 and 7 set out in this Decision.
- (4) In accordance with Article 15(3) of Regulation (EU) No 1053/2013, the Council should transmit this Decision to the European Parliament and to the national Parliaments of the Member States.
- (5) Council Regulation (EU) 2022/922² applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with that Regulation.
- (6) Within two months of the adoption of this Decision, Denmark should, pursuant to Article 21(1) of Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Denmark should provide that action plan to the Commission and the Council.

2 Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

HEREBY RECOMMENDS

That Denmark should, with respect to:

The Data Protection Authority

1. ensure that the Director General of the Data Protection Authority (DPA) shall be dismissed only for the reasons set down in Article 53(4) General Data Protection Regulation³ and Article 43 (4) Law Enforcement Data Protection Directive⁴;
2. ensure that the Schengen Information System (SIS) supervisory activities by the DPA should also cover inspections of the SIRENE Bureau and of the N.SIS server room;
3. ensure that the DPA performs also inspection of more SIS end-user authorities on a regular basis including log-checks;
4. ensure that the DPA carries out future N.SIS audits within a four-year cycle;
5. ensure that the VIS supervisory activities by the DPA should also cover inspections of the Ministry of Foreign Affairs (MFA), as well as inspections of server rooms of the national VIS.
6. ensure that the DPA performs inspections of more VIS end-user authorities including consular posts on a regular basis which include also log checks.
7. ensure that the DPA carries out future N.VIS audits within a four-year cycle;

The Schengen Information System

8. ensure that the SIS controllership including the joint controllership are clarified and laid down sufficiently;
9. improve the SIS log controls by also using automatic log control;
10. ensure that the DNP develops a formal incident response plan to provide clear guidelines on how to react in the event of a breach or a cyber-event and that this process is tested regularly;

³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) – OJ L 119 of 4.5.2016, p.1.

⁴ Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ L 119/89 of 4.5.2016, p. 89.

The Visa Information System

11. ensure that the MII and MFA evaluate their disaster and recovery plans;
12. ensure that the MII includes penetration testing, or an equivalent testing method, in its annual reassessment of a risk and vulnerability analysis on a regular basis and if necessary due to a change of the risk represented by processing operations;
13. ensure that the MFA considers implementing an automated software tool to detect incidents in its UM-VIS log files;
14. ensure that the server room and entry doors to the server room of the MFA are monitored by CCTV;

The Public awareness and Rights of data subjects

15. ensure that there will be a single point of contact for SIS and VIS data subjects' requests that would coordinate the tasks of the different authorities;
16. improve the accessibility of the information on the Return Agency's website in relation to the right to rectification or erasure of personal data with respect to Article 24 SIS II alerts and provide it also in another language than Danish e.g. in English;
17. ensure that at the second-line border check at the airport information will be provided on the purposes of processing of personal data in SIS and VIS, on data subjects' rights and where a data subject can lodge a complaint;
18. inform children in an age-appropriate manner, including by using visual tools to explain the fingerprinting procedure, as required by Article 37(2) of the VIS Regulation.
19. ensure that the MFA updates its cover letter generated at the online visa application website (ApplyVisa) to reflect the VIS amendments applicable since 3 August 2022, in particular in order to clarify that data subjects are also granted a right to restriction of processing;
20. ensure that the MFA and the Immigration Appeals Board provide a specific model letter for data subjects' requests;
21. ensure that the website of the DPA indicates that data subjects are allowed to go directly to court against the decision of the controller.

Done at Brussels,

*For the Council
The President*
