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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.



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NOTE

from : the Working Party for Schengen Matters (Schengen evaluation)
to: Coreper / Council (Mixed Committee)

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Subject : Schengen evaluation of BULGARIA
- Council conclusions on completion of the process of evaluation of the state of preparedness of Bulgaria to implement all provisions of the Schengen acquis

1. The readiness of Bulgaria to fully implement the Schengen acquis was evaluated in 2009, 2010 and 2011 on the basis of the 2005 Act of Accession, in particular Article 4(2) thereof, in conjunction with the Decision of the Executive Committee of 16 September 1998 (cf. SCH/Com-ex (98) 26 def.), the Schengen Evaluation Programme 2008-2013 (doc. 6949/3/08 REV 3), the Provisional list and indicative calendar of evaluations for 2009 (doc. 11602/1/08 REV 1), the overview of programmes, participants, technical details for Schengen evaluations in 2009 (doc. 5160/1/09 REV 1), the Overview of programmes, participants, technical details for Schengen evaluations in 2010 (doc. 5250/1/10 and subsequent REV's) and the Overview of programmes, participants, technical details for Schengen evaluations in 2011 (doc. 5031/11 and subsequent REV's).

2. Following the Bulgarian declaration of readiness of 25 January 2008 to start the Schengen evaluations (doc. 6145/08), the Working Party for Schengen Matters (Schengen Evaluation) verified Bulgaria's preparations for the application of all parts of the Schengen acquis through a questionnaire and a series of supplementary questions and answers, followed by visits of teams of experts to evaluate the situation in the field of data protection, police cooperation, visa-issuance, land-, sea- and air borders. This process led to a series of exhaustive reports containing factual descriptions as well as positive and critical assessments and recommendations.

3. The verification that the necessary conditions for the application of all parts of the Schengen acquis concerned have been met by Bulgaria is a precondition for the Council to take a decision on the full application of the Schengen acquis and the resulting abolition of checks at internal borders.

4. The purpose of the following Council Conclusions is to establish that Bulgaria, subjected to the full evaluation procedure, fulfils all conditions for the practical application of all relevant parts of the Schengen acquis. These conclusions should be read in conjunction with the evaluation reports and the information on the follow-up given thereto. A list of the relevant reports is annexed.

PART II - Specific findings

5. The process of verifying the correct application by Bulgaria of the Schengen acquis in respect of **data protection**, concluded in February 2010, inter alia based on the progress made with the entry into force of relevant legislative measures, resulted in the Council's adoption of conclusions on the implementation of the Schengen acquis with respect to data protection (doc. 6713/10) on 26 April 2010. After a favourable opinion of the European Parliament, the Council adopted the Decision on the application of the provisions of the Schengen acquis relating to the Schengen information system on 29 June 2010¹, after which the loading of real SIS data started in Bulgaria.

On 5 November 2010, SIS was connected and became fully operational.

¹ Council Decision 2010/365/EU.

6. The **SIS/SIRENE evaluation**, which took place from 6-10 December 2010, revealed the appropriate implementation of the SIS and SIRENE functions in compliance with the relevant Schengen-Acquis. The implementation ensures quick response times. The personnel demonstrated competence in applying the relevant SIRENE-procedures, an extensive training-programme had been implemented and efficient training-tools are available (although further training in Latin characters and the transliteration-table was recommended). Problems at the time of the visit as regards the implementation of the query functionality for banknotes were properly taken care of during the follow-up. Further improvements, mainly at the SIRENE-bureau (reduction of the currently high level of manual interventions, the need to shorten the working-time and change to a three-shift model to further enhance the overall SIS and SIRENE-quality and changes in the procedures following a hit, in particular concerning ID-documents and firearms) are monitored closely in the course of the follow-up.

7. On **police cooperation**, it was demonstrated that most of the preparatory work for the implementation of the Schengen acquis has been done as regards institutional and operational structures. While at the time of the visit the bilateral agreements with neighbouring countries (Romania, Serbia, Greece) were still being drafted/finalised, so that the Committee could not assess/verify the implementation of Schengen provisions in practice, Bulgaria has in the meantime informed the Working Party that the Agreement with Romania on cross-border police cooperation in criminal matters entered into force on 16 June 2010 and that rules of procedure for cross-border hot pursuit have been elaborated. With FYROM, a Common Contact Centre was opened on 21 February 2011. Also with Serbia, a Common Contact Center will soon be operational. The Agreement with Greece on cross-border police cooperation in criminal matters has been ratified by the Bulgarian National Assembly; the ratification process in Greece is currently ongoing. A Common Contact Centre with Greece was opened in 2010 and further agreements on police cooperation with other (Member) States are under preparation or, as with Estonia and Hungary, have in the meantime been signed. Language training of police officers has been stepped up and IT and other necessary equipment as well as different modules for basic and continuous training have been further developed. Therefore all preparatory work for the implementation of the Schengen acquis regarding police cooperation is now completed.

8. Regarding the issuance of **visas**, on the basis of the information gathered and the checks carried out at Bulgaria's General Consulate in Istanbul and at its Embassy's Consular section in Chisinau and the information received on follow-up measures taken in the meantime, it is considered that Bulgaria is in a position to implement the Schengen acquis in full in due course, even if some points still merit some additional attention.

Regarding the submission and processing of visa applications, the clear division of tasks, including knowing who is involved in each different step of the examination, and the rotation schemes in place in Chisinau were considered a best practice for consular sections of this size. Furthermore proper attention was paid to completeness of applications.

The recommendations made inter alia on the examination of applicants' financial, social and professional status have in the meantime been implemented. Staff should however continue to be aware of the illegal immigration risk and other forms of misuse of visas as well as of the possible pressure on staff once Bulgaria starts to issue Schengen visas.

Regarding security related aspects, the thorough revision - in Istanbul - of the entire system relating to storage, registration, stock-monitoring and quantity of visa stickers has taken place, allowing for the possibility to establish the whereabouts of a visa sticker at all times.

Following up on the reminder that the comments made for these two locations could also be relevant for other locations, Bulgaria has issued the necessary instructions to all its consulates.

9. The Schengen evaluation of **air borders** revealed that infrastructure used for border checks responds to the requirements of the Schengen Borders Code and equipment for 1st and 2nd line is mainly sufficient and modern. Systematic tactical risk-analysis resulting in recommendations on levels of border checks as well as the tutoring system can be considered as best practices. The level of international cooperation with the neighbouring countries was acknowledged.

Detected shortcomings in the field of equipment, performance of border checks and training, full physical separation at Burgas airport and the obligation to communicate passenger data, linguistic skills and implementation of carriers' liability are currently being worked on.

10. As to **sea borders**, it was assessed that, the clear framework and implemented methods of cooperation between the Border Police units, Customs, the Maritime Administration, the fisheries and Aquaculture agencies and the Navy contribute to an increase of security at sea border.

Systematic tactical risk analysis, control of fishing vessels and border checks on pleasure crafts could be regarded as best practice. The border surveillance-system was found to meet in general the requirements of the Schengen Borders Code. The Integrated Coastal Surveillance System has become, as the follow-up has shown, fully operational on 8 December 2010. The level of equipment (1st and 2nd line) was, with a few exceptions, found to be in place. Detected shortcomings in the field of border checks, border surveillance (as regards sufficient staff), visa issuance, infrastructure and language skills have been addressed in the follow-up.

11. Finally, also the **land borders** evaluations showed, after the 2nd revisit, a pragmatic and professional level of cooperation at the border both as regards border checks and border surveillance. The equipment now available in 1st and 2nd line was noted positively (still ongoing deliveries and the reinforcement are being monitored in the course of follow-up).

Recommendations made in the course of the three visits in the field of border checks at the border between Bulgaria and Turkey, border surveillance (general approach, land- and airborne-surveillance), staffing (reinforcement through additional staff and detailed plans for redeployment after full Schengen implementation), communication, management- and language-training, situational awareness and strategic approach were, as it could be seen in the course of the revisits, properly implemented and will continue to be closely monitored during the follow up process. The automatic rotation-scheme was operational again and encouraging signs of improvement in international cooperation with Turkey could be observed.

To the already undertaken measures, Bulgaria has – as a proactive measure – agreed to prepare a “special package” of accompanying measures for a possible increase in migration-flows following full Schengen implementation.

PART III - Conclusions

12. On basis of the above, Bulgaria has on the whole shown that it is sufficiently prepared to apply both the non-SIS-related provisions of the Schengen acquis as well as its SIS-related provisions in a satisfactory manner. Even though some remaining issues still require an additional follow-up these do not constitute an obstacle to full application of all parts of the Schengen acquis in Bulgaria on condition that it joins Schengen together with Romania.

Thus, the preconditions have been fulfilled for the Council to be able to take the decision referred to in Article 4(2) of the 2005 Act of Accession, allowing for the lifting of internal border controls at the air, land and sea borders. The Council should return to the issue as soon as possible, but not later than September 2011.

13. Bulgaria is requested to ensure the implementation of the recommendations listed in the evaluation reports, especially those referred to in Part II of these conclusions and to inform the Council regularly within the first six months of full accession on the follow-up it is giving to these recommendations.

14. Finally, the Council draws attention to the Border Management Strategy as defined by the JHA-Council in December 2006, implying that any fundamental re-organisation of the functions of Integrated Border Management in any Schengen Member State should be reported to the Council via the Working Party for Schengen Matters (Schengen Evaluation) for an appropriate follow up.

Schengen evaluation of BULGARIA- REPORTS

Report on Data Protection

doc. 10607/1/09 REV 1 SCHEVAL 81 COMIX 472 LIMITE

Report on Police Cooperation

doc. 10424/09 SCHEVAL 80 ENFOPOL 153 COMIX 454 RESTREINT + COR 1

Report on Air borders

doc. 7200/10 SCHEVAL 30 FRONT 28 COMIX 177 RESTREINT + COR 1

Report on Land borders

Doc. 10115/10 SCHEVAL 56 FRONT 81 COMIX 387 RESTREINT + COR 1

Report on the first revisit of Land borders

Doc. 18110/10 SCHEVAL 157 FRONT 168 COMIX 835 RESTREINT

Report on the second revisit of Land borders

Doc. 8288/11 SCHEVAL 50 FRONT 38 COMIX 181 RESTREINT

Report on Sea borders

Doc. 15342/09 SCHEVAL 133 FRONT 95 COMIX 815 RESTREINT + COR 1

Report on Visa evaluation

doc. 12130/1/09 REV 1 SCHEVAL 96 VISA 241 COMIX 585 RESTREINT (Chisinau)

doc. 12132/1/09 REV 1 SCHEVAL 97 VISA 242 COMIX 586 RESTREINT (Istanbul)

Report on SIS/SIRENE

Doc. 18231/10 SCHEVAL 159 SIRIS 185 COMIX 181 RESTREINT + COR 1
