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**SCH-EVAL 58
COMIX 114**

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
On:	8 March 2018
To:	Delegations
No. prev. doc.:	6399/18
Subject:	Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of data protection

Delegations will find in the annex the Council Implementing Decision setting out a Recommendation addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of data protection, adopted by the Council at its meeting held on 8 March 2018.

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 2016 evaluation of Greece 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 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision is to recommend to Greece remedial actions to address deficiencies identified during the Schengen evaluation in the field of data protection carried out in 2016. 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(2017)7760].
- (2) The on-site team very much welcomed the Greek Data Protection Authority's decision to ensure effective awareness raising as well as training through a department dedicated to PR activities and considered this a best practice.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) In light of the importance of complying with the Schengen *acquis*, in particular the obligation to carry out sufficient supervision and ensure that all necessary measures are taken which comprise an audit of the data protection operations in Visa Information System (VIS) without any delay, priority should be given to implement recommendations 1 and 2.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Greece should, pursuant to Article 16(1) 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 Greece should

Data Protection Office and Data Protection Commission, including supervision

1. take all necessary steps to finalise the audit of VIS in compliance with Article 41(2) of Regulation (EC) No 767/2008 of the European Parliament and of the Council² as soon as possible;
2. ensure that the necessary steps are taken with the aim of finalising the audit of SIS II in compliance with Article 44(2) of Regulation (EC) No 1987/2006 of the European Parliament and of the Council³ and Article 60(2) of Council Decision 2007/533/JHA⁴ within the requested timeframe;

² Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p.60).

³ Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381 28.12.2006, p. 4).

⁴ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

Rights of the Data Subject

3. complement the details on the checks pursuant to Article 8(5) of Regulation (EU) 2016/399 of the European Parliament and of the Council⁵ contained in the leaflet which is handed out in the second line at Athens airport with information on the data subjects' access rights and provide evidence thereto;
4. display information on the rights of data subjects regarding SIS II alerts in the border crossing control zone of Athens airport;
5. elaborate internal work tools, such as guidelines or manuals, setting out the workflows for the handling of data subjects' access requests by the Hellenic Data Protection Authority (HDPa) and the Ministry of Foreign affairs (MFA);

VIS and SIS II

6. indicate in the action plan the measures by which the protection against viruses on workstations used for the registration of data via CD/DVD-ROM-drives in Embassies and Consular Posts is ensured;
7. indicate in the action plan the measures whereby unauthorised access to data on the CD/DVD-ROMs, including the unencrypted personal data, is prevented;
8. inform in the action plan about the finalisation of the installation and configuration process of the data access self-monitoring tool which was already procured;

⁵ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 077 23.3.2016, p. 1).

Awareness Raising

9. update the English website of the HDPA making sure that the information on the Joint Supervisory Authority (JSA) which no longer exists is replaced by information on the SIS II Supervision Coordination Group (SCG) also on the Greek version;
10. ensure that the English website of the Hellenic Police allows for the download of an English language version of the access request form;
11. ensure that the English website of the MFA allows for the download of an English language version of the access request form;

International Cooperation

12. confirm that the HDPA will participate in the activities of the SIS II SCG and VIS SCG, set up for implementing the Schengen acquis, at least once a year.

Done at Brussels,

For the Council

The President
