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From:	General Secretariat of the Council
On:	21 February 2023
To:	Delegations
No. prev. doc.:	5870/23
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of **Malta** on the application of the Schengen *acquis* in the field of **police cooperation**

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2021 evaluation of Malta on the application of the Schengen acquis in the field of police cooperation, adopoted by the Council at its meeting held on 21 February 2023.

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 2021 evaluation of Malta on the application of the Schengen *acquis* in the field of police cooperation

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 Schengen[1], 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 police cooperation was carried out in respect of Malta in September 2021. 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(2023) 200.

[1] OJ L 295, 6.11.2013, p. 27.

(2) The recently established Financial Crime Investigations Department has seen an impressive increase in staff members as well as competences. This has enabled it, for instance, to triple the number of complicated investigations and to set up a dedicated team for virtual financial assets. The Cyber Crime Unit doubled its staff and has invested almost exclusively in mobile forensic solutions allowing it to give agile support to investigations. The Criminal Intelligence and Analysis Unit, set up last year, centralises all national intelligence into an analytical database, detecting trends and patterns in a continuous manner. Those measures should be considered good practices.

(3) In view of the outcomes of the evaluation, as described in the evaluation report, recommendations should be made on remedial actions to be taken by Malta in order to address deficiencies identified as part of the evaluation.

(4) In light of the importance of complying with the relevant provisions of the Schengen *acquis*, priority should be given to implementing the recommendations set out in points 1,3, 4, 6, 7, 9, and 12 of this Decision.

(5) On 9 June 2022, the Council adopted Recommendation (EU) 2022/915 on operational law enforcement cooperation.[1] The Maltese authorities are invited to take this Recommendation into account when implementing the relevant recommendations set out in this Decision.

(6) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.

(7) Council Regulation (EU) 2022/922[2] 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 Regulation (EU) 2022/922.

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1 OJ L 158, 13.6.2022, p. 53–64.

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.

(8) Within two months of its adoption, Malta should, pursuant to Article 21(1) of Regulation (EU) 2022/922, 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 Malta should:

Risk assessment strategy

1. develop a separate international police cooperation strategy with clear strategic objectives and priorities, complemented by an action plan, taking also into consideration a crime threat assessment relating to Malta;

2. establish a national risk assessment strategy on serious and organised crime, with contributions from all law enforcement authorities, to allow for setting priorities, including priorities in terms of international police cooperation, for example regarding the conclusion or updating of bilateral agreements, and in terms of the dedicated allocation of human resources, equipment and other means;

Single Point of Contact

3. further integrate the different sections of the Single Point of Contact;

Case management systems

4. swiftly improve the automation of information processing at the Single Point of Contact, including the integration of the channels of International Criminal Police Organisation (Interpol) and the European Union Agency for Law Enforcement Cooperation (Europol) with the Case Management System, and add a workflow engine;

Information management and international databases

5. grant access to Interpol's databases to the Central Intelligence and Analysis Unit;

6. extend the access to Europol's Information System to all investigative units as well as the Criminal Intelligence and Analysis Unit;

7. develop a technical solution in order to provide police officers, including liaison officers abroad, with mobile access to relevant national and international databases, while ensuring security of such access;

8. develop an automated data loader into Europol's Information System;

9. integrate relevant international databases, including the Schengen Information System and Interpol's automated search facility, with the single search interface and improve the display of the hits;

10. ensure that the Border Guard System displays an error message when it is not available;

11. develop a technical solution in order to provide police officers with computerised access to registers for short-term stay of third-country nationals;

12. ensure full implementation and awareness of the access procedure for law enforcement purposes to the Visa Information System established under Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences[1];

[1] OJ L 218, 13.8.2008, p. 129 – 136.

Cross-border operational cooperation

13. develop a formal review mechanism for bilateral agreements with the aim to increase their operational effectiveness, especially by granting powers of apprehension to police officers of neighbouring countries in pursuit of a suspect;

14. ensure sufficient awareness about the possibilities of Article 40 of the Convention Implementing the Schengen Agreement[1];

Ethics

15. ensure legal protection of police whistle-blowers and raise awareness amongst police officers on the reporting methods of unethical behaviour, for instance via the available online platform;

Human resources and training

16. develop and implement a dedicated training curriculum, including e-learning, on the use of international police databases and cooperation tools, including those resulting from the Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union[2] and law enforcement access to the VIS, tailored to the different task descriptions, supported by tailor-made national manuals available on the intranet of the relevant law enforcement authorities and ensure that staff members of the Single Point of Contact are given priority access to such training;

[1] OJ L 239, 22.9.2000, p. 19–62.
[2] OJ L 386, 29.12.2006, p. 89–100.

17. implement a mandatory advanced training on on the use of international police databases and cooperation tools for staff starting of the Single Point of Contact as well as refreshment courses for other staff thereof;

18. develop a central human resources register enabling competency development and detection of training needs, accessible by managers within Maltese law enforcement and implement assessment criteria tailored to the different functions.

Done at Brussels,

For the Council
The President