



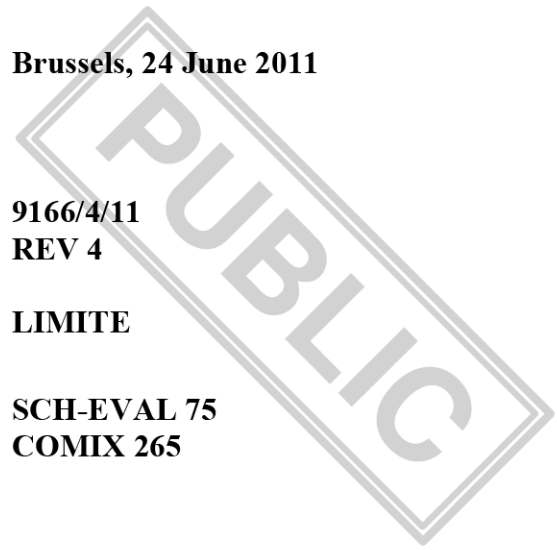
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 June 2011

**9166/4/11
REV 4**

LIMITE

**SCH-EVAL 75
COMIX 265**



DECLASSIFICATION

of document:	9166/3/11 REV 3 RESTREINT UE/EU RESTRICTED
dated:	9 June 2011
new classification:	LIMITE
Subject:	Schengen evaluation of ROMANIA - Council conclusions on completion of the process of evaluation of the state of preparedness of Romania to implement all provisions of the Schengen acquis

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



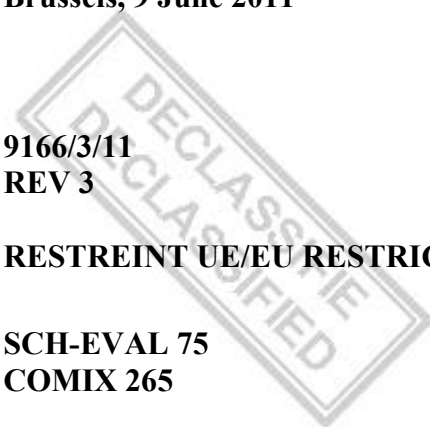
**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 June 2011

**9166/3/11
REV 3**

RESTREINT UE/EU RESTRICTED

**SCH-EVAL 75
COMIX 265**



NOTE

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

No. prev. doc. : 15335/4/10 REV 4 SCH-EVAL 126 COMIX 690 RESTREINT
6432/11 SCH-EVAL 25 COMIX 92 RESTREINT

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

1. The readiness of Romania to fully implement the Schengen acquis was evaluated in 2009 and 2010 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) and the Overview of programmes, participants, technical details for Schengen evaluations in 2010 (doc. 5250/1/10 and subsequent REV's).

2. Following Romania's declarations of readiness in 2007 (doc. 10611/07) and 2008 (doc. 6145/08) to start the Schengen evaluations, the Working Party for Schengen Matters (Schengen Evaluation) verified Romania'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 and the SIS. 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 Romania 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 Romania, 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 correct application by Romania of the Schengen acquis in respect of **data protection** was already concluded at the meeting of the Working Party on Schengen Matters (Schengen Evaluation) of 2 February 2010, which resulted in the Council conclusions on the implementation of the Schengen acquis with respect to Data Protection (doc. 6713/10). The latter were adopted on 26 April 2010. After a favourable opinion of the EP, the Council Decision on the applications of the provisions of the Schengen acquis relating to the Schengen information system was adopted on 29 June 2010, after which the loading of real SIS data started in Romania.

Since then Romania has reported considerable progress especially as regards legislative measures in the field of protection of personal data. Considering the laws adopted meanwhile and the administrative instructions now in place the points meriting attention in the original report can be considered remedied.

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

6. The **SIS/SIRENE** evaluation, which took place in December 2010, demonstrated that the SIS and SIRENE functions are implemented appropriately and in compliance with the Schengen acquis. In particular, it was noted that important investments had been made in training and that most of the staff is (theoretically) well prepared. The equipment and installations used for N.SIS and SIRENE are state of the art. Various mobile terminals are available to query the SIS. The SIS is well integrated into the existing applications with which officers are familiar.

Not all officers are however familiar yet with its practical functioning; further training, also on procedures in case of a misused identity, is therefore indicated. Efforts should continue in a number of areas, varying from the distribution of the tokens used for accessing the database applications to further development of the SIRENE workflow, and to the construction of the planned full disaster recovery site.

According to the follow up information provided, the problem of the missing A and M forms for the CISA Article 95 alerts has been solved and early January Romania resumed sending these alerts.

However, in view of the limited number of cases that could be checked since then and the importance of this issue, it should be closely monitored in the framework of 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. At the time of the visit, the bilateral agreements with neighbouring countries (Hungary, Bulgaria) were in the process of being drafted/finalised, so that the Committee could not assess/verify the implementation of Schengen provisions in practice, as regards cross-border surveillance and hot pursuit.

However, Romania meanwhile informed the Working Party through follow-up reports that the Agreements on police cooperation with Hungary and Bulgaria have now been ratified.

The Agreements will become fully functional as soon as Romania becomes a member of Schengen, though some operational cooperation (e.g. controlled delivery with Hungary) already took place and training on cross-border surveillance and cross-border pursuit was organized. Training on cross-border surveillance and pursuit also took place with Bulgaria. Further, the working procedures on cross-border surveillance were endorsed with Hungary, and agreed on with Bulgaria in October 2010. The technical infrastructure has been further developed and training (language, IT and professional) has been stepped up. 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, the checks carried out at the Romanian Embassy's visa section in Chisinau and at its General Consulate in Istanbul, and the subsequent follow up measures taken, Romania is now in a position to implement the Schengen acquis in full in due course. Most of the points meriting attention or reviewing have been remedied. The procedures for accreditation of travel agencies and the established standards, the clear division of tasks and the rotation schemes in place in Istanbul were considered best practices. The clear division of tasks and the rotation schemes in place in Chisinau as well as the local website and its detailed and clear information, were appreciated.

Regarding the submission and processing of visa applications, the recommendations made inter alia on re-organising the process of collecting the administrative fee, the examination and decision-making process and recommendations on procedural safeguards for family members of EU-citizens, have been implemented. The comments made on improving risk assessment (overstay/illegal immigration) and taking account of the results of consultation of all databases (incl. SIS) and of other Schengen Member States, as well as of the financial status of the applicant before taking a decision on issuing a visa, have been taken on board.

Staff should (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 Romania starts to issue Schengen visas; consulates have been instructed in this respect.

The recommendations on upgrading the security features of the buildings and of the IT system have been implemented. Following up on the reminder that the comments made for these two locations could also be relevant for other locations, Romania issued the necessary instructions to all its consulates.

9. The Schengen evaluation of **air borders** revealed in general a well structured public authority carrying out border management, a good professional competence of border police officers and agents and a satisfactory knowledge of the requirements of the Schengen Borders Code.

The available equipment (1st and 2nd line) was mainly sufficient. Detected shortcomings as regards carriers' liability and the ability to detect/reveal human traffickers were or are soon to be remedied according to the follow-up information received. The at the time of the first visit available infrastructure for the separation of Schengen and non-Schengen passengers required a revisit, during which it could be assessed that the relevant provisions had been properly implemented. The revisit also demonstrated that the minor shortcomings in 1st and 2nd line equipment had been remedied properly.

10. As to **sea borders**, it was assessed that the level of cooperation and communication (at national and international level) as well as the situational awareness and reaction capability were good. Border control is carried out with sufficient equipment and by specially trained border police officers and agents. There is also a good level of risk-analysis and a well-structured vertical chain of command.

Detected shortcomings as regards carriers' liability have, as could be seen from the follow-up provided, been remedied.

Other minor shortcomings i.a. in performing border checks, the need to improve training and language-skills in general, were also addressed properly in the follow-up process, as a result of which the overall number of patrolling missions could be increased.

11. Finally the **land borders** evaluation showed a good level of border checks, a professional overall tactical and operational approach in border surveillance, a professional way of carrying out risk-analysis and intelligence as well as good cooperation both internationally (FRONTEX) and with neighbouring countries. The available infrastructure and the staffing-level on the spot were found to be sufficient.

Detected minor shortcomings i.a. in performing border checks, the availability of EURODAC-scanners and other 1st and 2nd line equipment and the need to increase the number of unannounced inspections at regional and central level in order to avoid the risk of corruption (facilitating illegal immigration), were addressed in the follow-up process and most measures have been implemented.

The at the time of the first visit available infrastructure at two particular border crossing points and the level of border surveillance equipment, required a revisit, during which it could be established that the shortcomings had been remedied. During the revisit it could also be seen that both BCPs are now fully operational and equipped according to the relevant recommendations and that the available staff is capable of performing border checks in line with the provisions of the Schengen Borders Code. The shortcomings in border-surveillance equipment had also been remedied.

PART III - Conclusions

12. On basis of the above, Romania 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 additional follow-up efforts, they do not constitute an obstacle to full application of all parts of the Schengen acquis in Romania, on condition that it joins Schengen together with Bulgaria.

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. Romania 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-organization 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 ROMANIA - REPORTS

Report on Data Protection

Doc. 10608/1/09 REV 1 SCHEVAL 82 COMIX 473 LIMITE

Report on Police Cooperation

Doc. 10423/1/09 REV 1 SCHEVAL 79 ENFOPOL 152 COMIX 453 LIMITE

Report on Air borders

Doc. 7202/1/10 REV 1 SCHEVAL 31 FRONT 29 COMIX 179 LIMITE + COR 1

Report on Land borders

Doc. 10116/1/10 REV 1 SCHEVAL 57 FRONT 82 COMIX 388 LIMITE + COR 1

Report on Sea borders

Doc. 15343/1/09 REV 1 SCHEVAL 134 FRONT 96 COMIX 816 LIMITE + COR 1

Report on revisit of air- and land borders

Doc. 17226/1/10 REV 1 SCHEVAL 143 FRONT 163 COMIX 795 LIMITE

Report on Visa evaluation

Doc. 12133/2/09 REV 2 SCHEVAL 98 VISA 243 COMIX 587 LIMITE (Chisinau)

Doc. 12134/2/09 REV 2 SCHEVAL 99 VISA 244 COMIX 588 LIMITE (Istanbul)

Report on SIS/SIRENE

Doc. 18232/2/10 REV 2 SCHEVAL 160 SIRIS 186 COMIX 846 LIMITE

