



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 11 August 2010

12511/10

LIMITE

**SCH-EVAL 93
COMIX 530**

OUTCOME OF PROCEEDINGS

from: General Secretariat

on: 15 July 2010

Subject: Outcome of proceedings of the Working Party for Schengen Matters
- Schengen Evaluation

1. Adoption of the agenda + outcome of proceedings

The agenda CM 3870/1/10 REV 1 was adopted.

Attention was drawn to the existence of a COR 1 to the Outcome of proceedings of the last WP meeting (doc. 10459/10)

2. Presentation of the BE SCHENGEN MATTERS Team + Presentation of the BE Presidency programme for Schengen Evaluation

The Presidency briefly presented its priorities (“Let’s put Europe back into action”) and its main objectives in the area of the Schengen Evaluation, i.e. completing the evaluations of RO and BG, organising the evaluations of ES and PT, preparing the relevant Council Conclusions and the evaluations of 2011, discussing the follow-up after evaluations, organising training of leading experts and discussing the new Commission proposal on the Schengen evaluation mechanism (expected in October).

3. Draft calendar under BE presidency

doc. 11827/10 SCHEVAL 82 COMIX 470

The WP took note of the calendar, with one additional modification: the Troika on air borders for the Nordic countries is re-scheduled from 8/11 to 11/10 pm.

4. Feedback from WP's on : a) Schengen Acquis b) SIS/SIRENE c) SIS TECH

The Chair gave an overview of the main topics discussed in these WP's, which together with the Scheval WP, form an integral part of the newly established (i.e. on 1/7) *CWG for Schengen matters*.. This feed back will, from now on, form an integral part of the agenda.

ad a) ongoing discussions on the legal basis for establishment of the IT Agency

ad b) main issues: setting up of quality-desks in SIRENE bureaux and development of training for operators in cooperation with CEPOL

ad c) FL declared that it is technically ready (N.B. not to be confused with the formal Declaration of Readiness for SCHEVAL). Preparations for the technical integration of RO and BG into the SIS are ongoing (viz. doc. 11593/10 for information on delays)

5. First Mandate Evaluations 2010: BG and RO

5.1. *Draft reports land borders*

doc. 10115/10 SCHEVAL 56 FRONT 81 COMIX 387 RESTREINT (BG)

doc. 10116/10 SCHEVAL 57 FRONT 82 COMIX 388 RESTREINT (RO)

- Questions and answers by Member States and EC

doc. 11857/10 SCHEVAL 84 FRONT 103 COMIX 474 RESTREINT (BG)

doc. 11858/10 SCHEVAL 85 FRONT 104 COMIX 475 RESTREINT (RO)

- Draft report Bulgaria:

AT, CZ, DE, FR, and UK were satisfied with the BG answers to the additional questions.

AT asked BG to keep the WP closely informed of further progress in the course of the follow-up.

CZ addressed EvalCom's conclusion on p. 45, 5th bullet point (BG report), that the existence of a limited border competence zone for the Border Police was not compatible with the idea of a flexible Schengen-type border management. After explanations by the LE and agreement to delete the last part of the sentence (... "with more flexibility in the competences for the Border police officers also outside the zone"), the report was adopted.

- Draft report Romania:

DE, FR and UK were satisfied with the RO answers to the additional questions; the report was adopted.

5.2. *FOLLOW-UP*

- Compendium Bulgaria

doc. 11891/10 SCHEVAL 91 COMIX 483 RESTREINT

- Compendium Romania

doc. 11892/10 SCHEVAL 92 COMIX 484 RESTREINT

BG and RO informed the WP of the progress achieved in the field of data protection, police cooperation, visa, air- and sea borders. The chair asked BG and RO to continue their efforts and to include land borders in the next update of their compendia.

Deadline for the submission of questions is **20/8**; RO and BG should respond by **1/9**.

6. Second Mandate Evaluations 2010

6.1. Presentation and discussion

- Draft report visa - **GREECE**
Doc. 11616/10 SCHEVAL 77 VISA 171 COMIX 459 RESTREINT (London)
Doc. 11613/10 SCHEVAL 74 VISA 168 COMIX 456 RESTREINT (Tunis)
- Draft report visa - **ITALY**
Doc. 11615/10 SCHEVAL 76 VISA 170 COMIX 458 RESTREINT (London)
Doc. 11612/10 SCHEVAL 73 VISA 167 COMIX 455 RESTREINT (Tunis)
- Draft report visa - **AUSTRIA**
Doc. 11617/10 SCHEVAL 78 VISA 172 COMIX 460 RESTREINT (London)
Doc. 11614/10 SCHEVAL 75 VISA 169 COMIX 457 RESTREINT (Tunis)

The GSC presented the draft reports in the heading on behalf of the LE.

After comments by EL (supported by AT) regarding the mandate and the contents of visa-evaluations (see also statement at the end of the EL reports), SI and CZ expressed their concerns about the EL statement at the end of the reports, asking EL to reconsider and/or withdraw it. The Chair also asked to consider a rewording of the comments made by EL in the report.

AT, EL and IT stated that they will take the recommendations seriously and will keep the WP informed of progress made in the framework of follow-up.

The deadline for the submission of questions is **20/8**. AT/IT/EL should respond by **1/9**.

- Draft report air borders **GREECE**
Doc. 11740/10 SCHEVAL 79 FRONT 97 COMIX 463 RESTREINT
- Draft report sea borders **GREECE**
Doc. 11741/10 SCHEVAL 80 FRONT 98 COMIX 464 RESTREINT
- Draft report land borders **GREECE**
Doc. 11742/10 SCHEVAL 81 FRONT 99 COMIX 465 RESTREINT

The LE presented the reports in the heading.

EL, although underlining that it takes all recommendations seriously and will keep the WP informed of actions undertaken in the framework of follow-up, also expressed its concerns in light of the existing financial constraints.

AT, CZ, DE, PL, SE, and SI, in reacting to the content of the reports and the EL intervention, underlined the need for and importance of proper and timely follow-up; after a brief discussion, the chair recalled the existing procedures and urged delegations to submit their questions and comments in writing by **20/8** to which EL should reply by **1/9**.

The WP will come back to these issues and the question of a possible action plan at the next meeting; in the meantime, EL is requested to commence following-up where possible already now.

6.2. Discussion and adoption

- Draft report air borders **AUSTRIA** + replies to additional questions from MS
Doc. 10177/1/10 REV 1SCHEVAL 60 FRONT 86 COMIX 396 RESTREINT
Doc. 11859/10 SCHEVAL 86 FRONT 105 COMIX 476 RESTREINT

SI was satisfied with the AT answers to the additional questions. .

CZ, although generally satisfied with the AT answers, requested additional clarification which AT will provide in writing, also regarding how statistics are generated (Q by the Cion).

The report was adopted.

- Draft report police cooperation **GREECE** + replies to additional questions from MS
Doc. 9455/10 SCHEVAL 53 ENFOPOL 122 COMIX 341 RESTREINT
Doc. 11860/10 SCHEVAL 87 ENFOPOL 200 COMIX 477 RESTREINT

NO was satisfied with the EL answers to the additional questions. AT, CZ, DE and SI requested further clarification on a number of issues.

The deadline for the submission of additional questions is **20/8**. EL should respond to all open questions until **1/9**.

- Draft report SIS **BELGIUM**
doc. 9126/10 SCHEVAL 49 SIRIS 69 COMIX 322 RESTREINT

The report was adopted.

6.3 Follow-up report air borders FR

Doc. 11861/10 SCHEVAL 88 FRONT 106 COMIX 478 RESTREINT
+ ADD 1 (ex-RD n° 1)

FR presented the follow-up report in the heading.

AT was satisfied with the FR answers to the additional questions (RD 1).

The deadline for the submission of questions is **20/8**. FR should respond until **1/9**.

7. Draft Council Conclusions (second mandate)

- Draft Council Conclusions **FRANCE**
Doc. 7368/1/10 REV 1 SCHEVAL 38 COMIX 201 RESTREINT

The Chair presented the Conclusions in the heading.

A reference to a possible revisit of the sea borders, suggested by SI, will be integrated in a revision of the text (point 5.). The deadline for the submission of comments is 20/8; the item will be on the agenda again at the next meeting (9/9).

- Draft Council Conclusions **BELGIUM**
Doc. 11855/10 SCHEVAL 83 COMIX 473 RESTREINT

The deadline for the submission of comments is **20/8**; the item will be on the agenda again at the next meeting (9/9).

8. Overview of programmes, participants, technical details: 2010 – 2011

doc. 5250/4/10 REV 4 SCHEVAL 1 COMIX 34 + Room document 2 *

8.1. Draft programmes

- Evaluation data protection ES/PT

After a brief introduction of the programme as agreed in the troika by ES and PT, the programme was adopted.

- Evaluation police cooperation ES/PT

ES and PT introduced the programme as agreed in the troika. In case no comments are received before **23/7**, the programme will be considered adopted. The deadline for the nomination of experts is **1/9** (cob).

- Evaluation air borders ES/PT

ES and PT introduced the programme as agreed in the troika. In case no comments are received before **23/7**, the programme will be considered adopted. The deadline for the nomination of experts is **1/9** (cob).

- Evaluation land borders ES

ES and PT introduced the programme as agreed in the troika. In case no comments are received before **23/7**, the programme will be considered adopted. The deadline for the nomination of experts is **20/9** (cob).

- Evaluation sea borders ES/PT

ES and PT introduced the programme as agreed in the troika. In case no comments are received before **23/7**, the programme will be considered adopted. The deadline for the nomination of experts is **1/10** (cob).

- Evaluation SIS BG/RO (Room document 2)

RO and BG introduced the programme as agreed in the troika. RO expressed its concerns regarding the rescheduling (viz. doc. 11593/10 SCHEVAL 72: Technical integration of RO and BG into the SIS). In case no comments are received before **23/7**, the *content* of the programme will be considered adopted. The exact *dates* will be decided at the Sch-Eval meeting in September. The deadline for the nomination of experts is in any case **8/9** (cob).

8.2. Information on next troikas + deadlines for nominations of experts

The chair announced the following dates for the upcoming troikas:

- 16/7: SIS/SIRENE FR - the draft programme will be sent to delegates asap and may be agreed in silent procedure if no comments are received. The deadline for the nomination of experts is in any case **8/9** (cob).
- 8/9: Visa ES
- 11/10: Air borders Nordic Countries
- December: SIS/SIRENE Nordic Countries (date tbc)

* Once the draft programmes adopted by the Group (silent procedure until 23/07), they will be integrated in the updated version of the Sch-eval 1 document.

9. Country presentation

9.1. Replies PT to Schengen evaluation questionnaire

doc. 10416/10 SCHEVAL 64 COMIX 401 RESTREINT ADD 1 + ADD 2

Cion and CZ were satisfied with the PT answers.

The deadline for the submission of additional questions and/or comments is **20/8**; PT should reply by **1/9**.

9.2. ES presentation + replies to the questionnaire

doc. 11867/10 SCHEVAL 90 COMIX 481 RESTREINT

ES gave a brief country presentation touching on all relevant aspects of data protection, police cooperation, borders and visa issuance (organisational details and main changes since the previous evaluation in 2003) in light of its evaluation which will start in the second half of 2010.

Delegations will receive a copy of this presentation.

10. 5th CH Biannual report on the situation at the SWISS-LIECHTENSTEIN border

doc. 11866/10 SCHEVAL 89 CH 32 FL 28 COMIX 480

CH presented the report in the heading; the next report will be submitted in January 2011. The deadline for the submission of questions and/or comments is 20/8; CH should reply by 1/9.

11. Experimental thematic/regional evaluations - Conclusions

doc. 11867/10 SCHEVAL 90 COMIX 481

The Chair introduced the document and its main conclusions; the Presidency will not organise any thematic evaluations but should any of the incoming Presidencies wish to do so, the document contains a number of useful recommendations. CZ, NO and SE thanked the Presidency, expressed interest in the subject and volunteered, to participate in a THB evaluation in the future.. The CZ inquiry on whether the current document was complementary to doc. 15557/2/08 REV 2 was confirmed.

12. Information about the follow-up procedure of Schengen evaluations

The Chair announced that it would draft a note on the subject in the heading which will be prepared for discussion after summer.

13. AOB

i) Commission non-paper on carriers' liability

The Cion introduced its non-paper focusing on the main parts of Article 26 CISA and Directive 2001/51/EC.

Article 26 provides for:

- clear responsibilities for carriers transporting third-country-nationals across the external border (i.e. not intra-Schengen and not within the EU-MS and also not from EU/Schengen outbound);
- the clear responsibility for carriers to make sure that the third-country-nationals being transported have the travel-documents necessary for entry;
- the necessity to have appropriate sanctions in place against carriers not fulfilling their obligations.

It was further clarified that carriers are obliged to take the third-country-nationals back immediately themselves, provide any other possibility to leave the country or - if not possible - to bear the costs of the stay. Moreover, the rules apply only to air- and sea and travel by coaches.

As regards sanctions, these should be dissuasive, effective and proportionate and

- either the maximum should be no less than €5.000,--
- or the minimum should be no less than €3.000,-- or
- the maximum amount imposed as a lump sum for each infringement should be no less than €500.000,--

ii) Schengen Catalogue on Police Cooperation

The Chair announced that it would organise a FoP-meeting on this topic on 8/9, invitations for which will follow.

iii) Information on training for leading experts

The Presidency will organise a training-day for future leading experts in Brussels on 14 October. More information will follow.
