



Brussels, 27.4.2020  
COM(2020) 165 final

**SENSITIVE\*** : *Limited*

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL**

**Assessment of the United Kingdom's action plan to remedy the deficiencies identified in the 2017 evaluation on the application of the Schengen acquis in the field of the Schengen Information System**

---

\* Distribution only on a 'Need to know' basis - Do not read or carry openly in public places. Must be stored securely and encrypted in storage and transmission. Destroy copies by shredding or secure deletion. Full handling instructions <https://europa.eu/db43PX>

## 1. Introduction

On 10 February 2015, the Council adopted Implementing Decision (EU) 2015/215<sup>1</sup> on the putting into effect of the provisions of the Schengen *acquis* on data protection and on the provisional putting into effect of parts of the provisions of the Schengen *acquis* on the Schengen Information System (SIS) for the United Kingdom of Great Britain and Northern Ireland. Article 2(3) of this implementing decision stipulates that upon the successful completion of the necessary Schengen evaluations, the Council should examine the situation with a view to adopting a second implementing decision setting the date for the final putting into effect by the UK of the provisions concerning SIS.

To this end, a first Schengen evaluation visit to the United Kingdom was carried out from 7 to 13 June 2015. Following the visit, the Evaluation Committee concluded that the UK had only partially implemented the Schengen *acquis* related to SIS and that a further visit was necessary to conclude the evaluation proceedings before the second implementing decision setting the date for the final putting into effect by the UK of the provisions concerning the SIS could be adopted.

At its meeting on 8 and 9 October 2015, the Council took note of the state of play of the procedure (I/A item note 12246/15). In its conclusions of 4 December 2015<sup>2</sup>, the Council agreed with the assessment of the Evaluation Committee, including the need for a further visit before the decision on the full application of SIS provisions could be taken.

The Council also noted in the conclusions that, since its competence for carrying out Schengen evaluations was to cease on 1 January 2016, the continuation of the evaluation process would have to take place in the framework of the new evaluation mechanism under Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*<sup>3</sup>. The Council therefore invited the Commission to carry out the recommended revisit under the new Schengen evaluation mechanism, led by the Commission.

In line with Regulation (EU) No 1053/2013, the Commission has established an annual evaluation programme for 2017<sup>4</sup> with detailed plans for on-site visits to the Member States to be evaluated, areas to be evaluated and sites to be visited, and providing for the evaluation of the UK. Based on this annual programme, a team of Member States and Commission experts carried out an evaluation revisit between 5 and 10 November 2017 to verify the UK's application of SIS. Their evaluation report sets out their findings and assessments, including

---

<sup>1</sup> OJ L 36, 12.2.2015, p. 8.

<sup>2</sup> Council document 13378/1/15 REV 1 RESTREINT + COR 1.

<sup>3</sup> OJ L 295, 6.11.2013, p. 27.

<sup>4</sup> Commission Implementing Decision C(2016) 7387 establishing the first section of the annual evaluation programme for 2017 in accordance with Article 6 of Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

best practices and any deficiencies identified during the evaluation<sup>5</sup>. The report concluded that there were very serious deficiencies in the UK's implementation of SIS.

The Council adopted an Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2017 evaluation on the application of the Schengen *acquis* in the field of the SIS by the UK on 5 March 2020<sup>6</sup>. In accordance with Article 16 of the Regulation (EU) No 1053/2013, the UK provided the Commission and the Council with an action plan to remedy the serious deficiencies identified in the 2017 evaluation.

It should be noted that the UK will only remain connected to the SIS until the end of the transition period provided for in Withdrawal Agreement.

## **2. Assessment**

### *2.1. General assessment*

The Council Implementing Decision setting out a Recommendation listed 34 recommendations to the UK. The Council indicated that in light of the importance of complying with the Schengen *acquis* recommendations numbered from 1 to 25 should be implemented as a matter of priority. The Council emphasised that it is important to remedy these very serious deficiencies immediately.

The action plan submitted consists of several separate documents, all of which were analysed and taken into consideration in assessing the adequacy of the UK's action plan.

Concerning the overall adequacy of the action plan, the Commission considers that the action plan provided by the UK is not adequate. This is mainly because the implementation timelines of at least 10 of the recommendations are very lengthy and cannot be considered acceptable. In addition, the UK challenges nine recommendations adopted by the Council, meaning that UK disagrees on those recommendations. The documents submitted by the UK imply that the UK will not implement at all at least three of those recommendations, up to four of them will be implemented only partially and only two will be implemented in full. In addition, the information provided with regard to the implementation of certain actions is not detailed enough to allow assessing whether the deficiencies will be implemented effectively.

### *2.2. Detailed assessment*

For the following remedial actions, the Commission considers that accelerated implementation and additional information is needed:

---

<sup>5</sup> C(2018) 2250 final.

<sup>6</sup> Council document 6554/20.

- Recommendations 1, 2, 3, 4, 5, 7, 31 and 32: as stated by the UK authorities, the implementation of those recommendations will depend on finalising the ‘service layer’ project. The implementation timeline of this project is very lengthy. This would constitute at least four years of delay in remedying the identified deficiencies. In that regard, the UK authorities are kindly requested to provide further information on transitional measures that will be taken to remedy these deficiencies in the meantime, before the ‘service layer’ project is finalised.
- Recommendations 13 and 16: the UK is invited to provide additional information related to the implementation of those actions, in particular whether the implementation of those recommendations also relates to the ‘service layer’ project. The UK authorities are also kindly requested to accelerate the implementation of those actions as the relevant deficiencies, in particular the display of the binary data in the end-user applications, were already identified during the 2015 evaluation.
- Recommendations 1, 8, 11, 12, 19, 21, 22, 24 and 25: those recommendations are respectfully challenged by the UK. The Commission invites the UK to clearly indicate, for each of those challenged recommendations, whether the UK will implement them. The UK authorities are also invited to further explain whether the recommendations will be implemented only partially or in full.

Additional detailed information is also required in relation to:

- Recommendation 2: the UK authorities are kindly requested to specify what *‘the query by the SIS II ‘service layer’ to the UK National system for a hit/no hit result’* entails. The UK authorities are also kindly requested to specify whether all the SIS alert data will be provided to the end-users in such case. In addition, further information is required to understand whether the new Digital Services at the Border system will be synchronised with the N.SIS in real time.
- Recommendations 1, 2, 5, 6 and 18: in relation to the data consistency checks between the national and technical copies, the UK authorities are kindly requested to provide further information on the frequency of those checks and the summary of the results for the last six months, indicating whether the final outcome of the data consistency check campaigns was successful.
- Recommendation 9: the UK authorities are invited to provide further information on whether the Extradition (Provisional Arrest) Bill was officially enacted and whether this will cease systematic flagging of alerts for arrest (extradition requests) issued by Liechtenstein and Switzerland.

- Recommendation 10: the UK is kindly requested to provide further information on the steps taken to amend the practice of changing, in the Police National Computer, all flagged alerts for arrest into alerts on persons sought to assist with a judicial procedure.
- Recommendation 13: the UK authorities are invited to provide the Commission with further documentation on the mandatory procedures which are in place for the insertion of fingerprints and photographs in Article 26 and Article 36(3) alerts issued by the UK. Moreover, further explanation is required on whether there are such procedures in place for inserting fingerprints and photographs for all alerts on persons issued by the UK.
- Recommendation 20: the UK is kindly requested to send the Commission a print-screen illustrating the possibility to display the photograph of the victim and the perpetrator of misused identity in the SIRENE case management system.
- Recommendation 26: the UK is kindly requested to provide further information on the format of the training referred to in the recommendation (on-line modules/classroom training), provide a summary of the content of those trainings as well as the frequency of the training and the number of the SIRENE operators trained.
- Recommendation 29: the UK is invited to provide further details on the ‘Robotic Process Automation’ project and explain how does the project address the automation of the SIRENE case management system, in particular whether it enables automated check of incoming forms against national databases and facilitate the creation of SIRENE forms.
- Recommendation 33: the UK authorities are kindly requested to provide further information on how exactly the new processes and training address the issue of the SIS hit reporting procedure.

The Commission acknowledges that Recommendations 14, 15, 23, 26, 28 and 30 can be considered as implemented.

Recommendations 5, 6, 18, 20, 22, 25, 26, 27 and 29 can only be considered as implemented after additional information is provided or further actions are taken by the UK to implement those recommendations.

### **3. Conclusion**

In light of the above assessment of the action plan provided by the UK, the Commission concludes that it is not adequate. As indicated, in some cases, the implementation of the actions should be accelerated. Moreover, the UK is requested to provide additional detailed information.

In line with Article 16(4) of Regulation (EU) No 1053/2013, the UK is requested to report and provide the necessary information to the Commission on the actions that are still ongoing and those where additional information or clarification is needed within three months of adoption of the recommendations.