Council of the European Union

Brussels, 14 June 2023
(OR. en)

10427/23

Interinstitutional File: 2022/0360(NLE)

PARLNAT 132

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of **Spain** on the application of the Schengen *acquis* in the field of the **Schengen Information System**

In accordance with Article 15(3) of Council Regulation 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, the Council hereby transmits to national Parliaments the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Spain on the application of the Schengen *acquis* in the field of the Schengen Information System[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 9999/23.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2022 evaluation of Spain on the application of the Schengen *acquis* in the field of the Schengen Information System

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[2], 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 the Schengen Information System was carried out in respect of Spain in March 2022. 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(2022) 5556.

(2) As part of the evaluation, the on-site team identified a number of best practices, in particular the quality checks of alerts at central level before entering them in the SIS, which contribute to ensuring good data quality.

(3) In view of the importance of complying with the Schengen *acquis*, in particular the obligation to ensure the systematic use and full development of the Schengen Information System, priority should be given to implementing recommendations 1, 2, 3, 5, 8, 12, 13, 14, 15, 16, 18, 19, 21, 27, 30 and 33.

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

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

(5) Council Regulation (EU) 2022/922[3] 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.

(6) Within two months of its adoption, Spain should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Spain should provide that action plan to the Commission and the Council.

RECOMMENDS:

that Spain should:

N.SIS Office and N.SIS data centre

1. adopt a security plan containing all the necessary measures in accordance with parallel Articles 10 of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Business continuity

2. adopt a tested business continuity plan or disaster recovery plan and establish an operational back-up site for the N.SIS, in order for the necessary mechanisms to be in place to ensure smooth and uninterrupted operation, in line with parallel Articles 6 of Regulation (EC) No 1987/2006 (as amended by Regulation (EU) 2018/1861) and of Council Decision 2007/533/JHA (as amended by Regulation (EU) 2018/1862);

SIS Automated Fingerprint Identification System (AFIS)

3. implement and roll out to end-user authorities searches with fingerprints, in line with parallel Articles 22(3) of Regulation (EC) No 1987/2006 (as amended by Regulation (EU) 2018/1861) and of Council Decision 2007/533/JHA (as amended by Regulation (EU) 2018/1862);

[3] 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.

SIRENE procedures for exchange of supplementary information

4. ensure that the semi-automatic statistics collection system takes into account all necessary data for the automatic insertion;

SIRENE Bureau – physical and logical security

5. ensure that the physical access control in place at the SIRENE Bureau complies with the requirements of parallel Articles 10 of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

SIRENE procedures in the field of data quality

6. enhance the role of the SIRENE Bureau in monitoring and taking follow-up actions on data quality issues reported by eu-LISA, in line with parallel Articles 7(2) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

SIRENE workflow system

7. ensure more automation in the SIRENE workflow, include a system for attributing incoming messages and a common workflow with Interpol, Europol and national cases, and enhance the user-friendliness of the SIRENE application;

Creation of links

8. ensure that when creating alerts in the SIS applications used by the SIRENE Bureau and National Police (ARGOS) it is possible to create links between alerts, in accordance with Article 52 of Council Decision 2007/533/JHA;

9. train the end-users of Mossos d'Esquadra and Guardia Civil on how to use the linking functionality when creating alerts;

Biometric data

10. ensure that the Ertzaintza autonomous police end-users have direct access to the national AFIS and that the other police forces have direct access to the AFIS of the Ertzaintza;

11. ensure that more efficient use is made of the identity database of Spanish nationals (ADDNIFIL) for the accuracy of alerts entered into police applications;

12. implement tools or procedures for attaching fingerprints contained in the database on foreigners (ADEXTTRA) compliant with the minimum data quality standards and technical specifications determined for the CS-SIS;

13. ensure that photographs are systematically uploaded at alert creation, in accordance with parallel Articles 23 read in conjunction with Articles 20 of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Alerts on objects

14. implement the possibility to create alerts on boat engines in the ARGOS and the SIGO applications, in accordance with parallel Articles 1 and 9(1) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

15. ensure that alert creation in the NIP application is implemented for industrial equipment, containers and aircrafts and ensure that links can be created in all cases, in accordance with parallel Articles 1 and 9(1) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Availability and access

16. improve the connectivity and speed of ARGOS application and ensure a steady accessibility of the system, in accordance to Article 8(2) read in conjunction with Article 8(6) of the Schengen Borders Code, and parallel Articles 6(2) of Regulation (EC) No 1987/2006 (as amended by Regulation (EU) 2018/1861) and of Council Decision 2007/533/JHA (as amended by Regulation (EU) 2018/1862);

17. ensure that customs officers have direct access to the SIS, in order to enhance the utilisation of the system and increase the number of checks;

18. ensure that information on the screen when displaying SIS data is not visible from outside the booth of the border guards, in accordance with parallel Articles 10 of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Display of data and search options

19. ensure that the application interface provided by the N.SIS includes the fuzzy, any name and multicategory search functionalities, in accordance with the principle of equivalence of results laid down in parallel Articles 9(2) of Decision 2007/533/JHA and Regulation (EC) 1987/2006;

20. ensure the possibility to open the links directly in the N.SIS application, in order for them not to be only displayed as a list of Schengen IDs;

21. ensure that the applications used by the National Police (ARGOS), the Guardia Civil (SIGO) and the Mossos d'Esquadra (NIP) clearly and completely display all information available in the alert and that all search options are available in these applications as well as in the application used by Ertzaintza autonomous police (SIP), in accordance with parallel Articles 9(2) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

22. ensure that in the SIRENE application, when the search is carried out with the alias, the hit shows also the real identity and not only the alias;

23. improve the SIRENE, ARGOS, SIGO, NIP and SIP applications in the display of misused identity;

24. ensure that in the National Police application (ARGOS) and in the Ertzaintza application (SIP) SIS alerts are shown first in the list of candidates when there is data on the person also in the Interpol database;

25. enhance the user-friendliness of the display of information in the SIP application used by Ertzaintza;

Mobile police applications

26. ensure that Ertzaintza autonomous police have mobile equipment for checking SIS;

27. ensure that the mobile application used by the Guardia Civil and Mossos d'Esquadra clearly and completely display all information available in the alert, in accordance with parallel Articles 9(2) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Procedures related to matches and hits

28. ensure that the ANPR system of Mossos d'Esquadra is connected to the SIS and ensure that the ANPR system of the National Police functions adequately;

29. improve the procedures at ABC gates in case of alerts with a discreet check, in order to ensure the discreet nature of the check;

30. improve the end-to-end hit reporting process of the National Police, Guardia Civil and Mossos d'Esquadra, providing the end-users with a hit reporting template or standardised hit reporting procedures, in order to ensure that information is always timely reported to the SIRENE Bureau and fulfil requirements related to supplementary information exchange in case of a hit as required by parallel Articles 8 of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Immigration Office

31. provide the Immigration Office with direct access to alerts in the SIS on third-country nationals to be refused entry and stay in the EU and on issued or blank documents, in accordance with Article 27(3) of Regulation (EC) No 1987/2006;

32. ensure that throughout the process of assessing applications for stay or residence in the EU the documents belonging to applicants are checked in the SIS;

33. improve the process of following up on deportation orders in order to enter SIS alerts on invalidated documents, in accordance with parallel Articles 1 and 9(1) of Regulation (EC) No 1987/2006 and of Council Decision 2007/533/JHA;

Training

34. enhance the training possibilities for police forces in general (on the SIS and foreign languages) and ensure that the online module on the SIS developed by the SIRENE Bureau is available to the end-users of all police forces and not only of the National Police.

Done at Brussels,

For the Council
The President