Council of the European Union

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NOTE

From:	General Secretariat of the Council
To:	National Parliaments
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of **Germany** on the application of the Schengen acquis in the field of **management of the external borders**

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 2020 evaluation of Germany on the application of the Schengen acquis in the field of management of the external borders[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 12305/21

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2020 evaluation of Germany on the application of the Schengen *acquis* in the field of management of the external borders

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 management of the external borders carried out in respect of Germany in October 2020. 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(2021) 1850.

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

(2) In order to increase the situational awareness and quality of profiling of the border guards at Munich Airport, the Federal Police appointed a 'focus officer', responsible for delivering targeted briefings concerning incoming risk flights. The focus officer also serves as an interface between the border guards working at the first and second line of control. Given the significant passenger flow and high number of flights from risk areas at Munich Airport, the appointment and work of a 'focus officer,' is considered a point of particular interest.

(3) Recommendations should be made on remedial action to be taken to address shortcomings identified during the evaluation. In light of the importance of complying with the Schengen *acquis*, priority should be given to implementing the recommendations related to risk analysis (recommendation 2) and the national situational picture (recommendation 4).

(4) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States. Within three months of its adoption, Germany should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, 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 Germany should:

Governance of the European Integrated Border Management

1. establish a dedicated contingency plan for possible external border management crisis or adapt the current contingency plan related to crisis at the internal borders, in particular by establishing activation thresholds and possible cooperation with Frontex; ensure the contingency plan is tested on a regular basis;

Risk analysis and information exchange

2. ensure full alignment of risk analysis products at regional and local levels with the Common Integrated Risk Analysis Model 2.0, and regularly and systematically include the analysis of threats, vulnerabilities and impacts in the risk analysis products issued by the Federal Police; increase the use of data collected via the Federal Police 'Integrated Border Control Application' (IGA 2) for developing national and regional risk analyses and for data reporting to other strategic stakeholders (e.g. Frontex); and ensure the collection of data on checks performed with mobile checking devices used for sea border checks (MobiPol) for statistical and risk analysis purposes;

National and European situational awareness and early warning system - EUROSUR

3. ensure effective coordination by and functioning of the National Coordination Centre in full compliance with Article 21(3) of Regulation (EU) 2019/1896 of the European Parliament and of the Council[1] on the European Border and Coast Guard;

4. establish a comprehensive national situational picture in compliance with Article 25(2) of Regulation (EU) 2019/1896 on European Border and Coast Guard as well as the operational layer of EUROSUR in accordance with Article 9(5) of Regulation (EU) No 1052/2013 of the European Parliament and of the Council[2] establishing the European Border Surveillance System (EUROSUR);

Education and training

5. ensure that the border guards of the Federal Police and the Hamburg Waterway Police responsible for border checks at the seaports receive systematic refresher training on relevant Schengen provisions and establish a procedure for systematic verification of the level of knowledge of these border guards after they received a specific training;

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1 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

2 Regulation (EU) No 1052/2013 of the European Parliament and of the Council of 22 October 2013 establishing the European Border Surveillance System (Eurosur) (OJ L 295, 6.11.2013, p. 11).

Border checks and procedures

6. establish an automated interconnection between the mobile checking devices used for sea border checks by the Waterway Police (MobiPol) and the Federal Police (SMIS) to ensure a complete situational picture on the checks performed; ensure that all authorities performing border checks at the sea borders are equipped with comparable mobile checking devices that are able to verify the passport chip, read the machine readable zone and connect to the relevant EU databases; and ensure prompt deployment of the Integrated Border Control Application software of the Federal Police at the Port of Hamburg;

7. bring the checking procedures for pleasure boats arriving from or departing to third countries in compliance with Article 8 of Regulation (EU) 2016/399 of the European Parliament and of the Council[1] ('the Schengen Borders Code');

8. install the necessary second line equipment for a thorough document check (e.g. video spectral comparator, stereo zoom microscope) at the police headquarters and administration unit (Section 62) of the Hamburg Waterway Police and at the Customs administration in Stade;

9. bring the procedure to register and assign stamps to the border guard in compliance with Article 8(7) and Annex II(f) of the Schengen Borders Code;

Border surveillance

10. upgrade the maritime situational picture by integrating the radar information from thermal-vision cameras installed on the patrol cars of border control authorities;

[1] Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

Airport Munich

11. ensure that the second-line office in Terminal 1 is located closer to the first-line offices to optimise the efficiency of the border check procedure;

Regional Office of Bad Bramstedt

12. bring the control procedure of cruise-ships in compliance with Article 8(2) and Annex VI point 3.2.3 (a) (b) and (d) of the Schengen Borders Code, for example by developing or implementing a system to automatically and systematically check the passenger and crew-list (nominal list) against relevant databases;

Port of Bremerhaven

13. bring the refusal of entry form and information to be provided concerning the right of appeal in compliance with Article 14(3) and Annex V Part B of the Schengen Borders Code;

Port of Hamburg

14. bring the procedure for annulment and revocation of visa as well as the procedure for refusal of issuing visa at the border in accordance with Article 34 and Annex VI of the Visa Code;

15. establish joint risk analysis between authorities involved in border control.

Done at Brussels,

For the Council
The President