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**SCH-EVAL 185**
**FRONT 324**
**COMIX 537**

**OUTCOME OF PROCEEDINGS**

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| From: | General Secretariat of the Council |
| On: | 10 November 2020 |
| To: | Delegations |
| No. prev. doc.: | 11837/20 |
| Subject: | Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of **Poland** on the application of the Schengen acquis in the field of the **management of the external borders** |

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2019 evaluation of Poland on the application of the Schengen acquis in the field of management of the external borders, adopted by written procedure on 10 November 2020.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

**RECOMMENDATION**

**on addressing the deficiencies identified in the 2019 evaluation of Poland on the application of the Schengen acquis in the field of the 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 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The purpose of this Decision is to recommend to Poland remedial actions to address the deficiencies identified during the Schengen evaluation in the field of the management of the external border carried out in 2019. 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(2020) 10.

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

(2) In the Polish Border Guard there is a high level of implementation of the national risk analysis system for border control fully in line with the Common Integrated Risk Analysis Model (CIRAM) 2.0. The ongoing modernisation of the aerial capability for border surveillance of the Polish Border Guard contributes to increased situational awareness and detection capacity by implementing a new system called the "FlyEye" to make efficient use of the Unmanned Aerial Vehicles (UAV). The Polish Border Guard demonstrated innovative efforts to improve border surveillance by implementing state-of-the art technologies such as the tracking system Azymut 4.0 that supports the detection of Unmanned Aerial Vehicles used for perpetrating cross-border crime. The "*System Wspomagania Kierowania*" (SWK) is a staff planning system designed in close cooperation with border guard officers, available and used at all organisational levels, which allows for daily efficient human resources management.

(3) In light of the importance of complying with the Schengen acquis, in particular the efficient implementation of the European integrated border management, the setting up of a national quality control mechanism, the full implementation of Eurosur, border surveillance and checking procedures of person on entry, priority should be given to implementing recommendations 4, 7, 8, 14,16, 19, 20, 21, 28, 30, 31, 36, 37 and 38 below.

(4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Poland 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 Poland should:

**European Integrated Border Management:**

1. establish a national strategy for the European integrated border management, supported by an action plan, in line with Article 3(3.1) of the European Border and Coast Guard Regulation[1] and the consolidated results of the European integrated border management strategy process, and align it with the provisions of the Technical and Operational Strategy for European Integrated Border Management issued by the European Border and Coast Guard Agency (Frontex);

**Contingency planning:**

2. further improve the contingency plans related to mass influx of third country nationals at the Polish external borders by developing readiness to make use of European support such as joint operations coordinated by the European Border and Coast Guard Agency or rapid border interventions, including the possible implementation of the hot-spot concept; regularly test the functioning of contingency plans;

**Quality control mechanism:**

3. establish a comprehensive national quality control mechanism covering the whole European integrated border management concept and functions in line with the European standards; make this mechanism fully interoperable with the European quality control mechanism by ensuring a fully coordinated approach to the Schengen evaluation mechanism and vulnerability assessment process;

[1] REGULATION (EU) 2016/1624 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC.

**Human resources:**

4. revise the national strategic planning of human resources for border management in accordance with the operational needs, traffic flows, risk analysis and the threat levels; increase the staffing level for border control tasks (border checks and border surveillance) and include the strategic planning of human resources in the future national strategy for the European integrated border management in order to ensure efficient use of human resources for border control;

**Education and training:**

5. ensure regular and systematic specialised training for managerial staff of the Polish Border Guard at strategic, regional and local level in topics related to border control and new legislative developments;

**Risk analysis:**

6. establish a regular and systematic cooperation in risk analysis at strategic and tactical level between border guards and customs officers, such as shared and/or joint risk analysis products related to cross border crime (i.e. smuggling of excised goods, trafficking of different types) by also making use of the provisions of the Guidelines to develop the cooperation between the border guards and customs issued by the European Commission in December 2018;

**National Coordination Centre/Eurosur:**

7. provide specialised training for the Eurosur operators by using the support of the European Border and Coast Guard Agency and the train the trainers system;

8. consider uploading the incidents detected at the border crossing points and the ones relevant for the pre-frontier situational picture in the Eurosur system to compile a comprehensive national situational picture;

9. guarantee and maintain full functionality of National Coordination Centre 24/7 as required by Article 21(7) of the Regulation (EU) 2019/1896;

10. establish a fully-fledged operational layer in the national Eurosur system in accordance with the provisions of Article 24 (1.b) of Regulation (EU) 2019/1896;

**Border surveillance:**

11. strengthen the availability and use of canine teams for border surveillance; increase the number of tracking dogs for the land border surveillance, in particular in the areas where the technical surveillance system does not cover the entire length of the land border;

12. continue digitalising the communication system to allow for encrypted communication between the assets;

13. ensure that more crew members (besides the commanding staff) can operate the mobile observation posts of the Automated Radar Surveillance System;

14. urgently establish an automatic positioning system for the assets used for border surveillance at the land and sea borders and ensure all operational functions, in particular the on-line positioning of the patrols;

15. consider implementing at the national level the solution identified in the Regional Border Guard Unit of Nadbuzanski to identify the unmanned aerial means used to commit cross-border crimes;

16. reconsider the planning of the shifts and their duration for the duty officer and operators of the automated radar surveillance system (ARSS) centres;

**Border checks – Horizontal:**

17. improve the knowledge of English, and when needed Russian for border guards, in particular for those working in the first line of border checks, by also providing them with specific training allowing them to communicate with passengers and properly verify the entry conditions;

18. abolish systematic registration of entry and exit of persons enjoying the freedom of movement (i.e, EU/EEA/CH citizens and the non-EU family members of EU/EEA/CH citizens) and ensure compliance with Article 21 TFEU and Art 5(1) of Directive 2004/38 EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the EU and EEA member states and Switzerland;

**Border checks at the land borders:**

19. take all possible measures to enhance the cooperation with Belarus in order to regularly and systematically receive pre-arrival information on the number of passengers and passengers' identity to allow for proper risk analysis and related profiling of passengers travelling on board of the trains and sufficient number of resources allocated for the border checks;

20. re-assess and optimise the border check procedures in the first line to increase the efficiency of border check and decrease the waiting times e.g. by introducing the one-stop control model or joint border check teams (Border Guard and Customs);

21. revise the current procedure for first line border checks and the allocation of staff by considering the deployment of an additional border guard in the border crossing points to support first line border checks and survey the traffic flow;

22. increase the detection capabilities of persons hidden in the transportation means by also ensuring the adequate equipment to perform first line border checks on lorries but also other type of vehicles such as vans; intensify the checks performed on transportation means for the purpose of detection of persons who might be hidden in order to circumvent the border checks procedures;

**Border checks at the sea borders:**

23. bring the "All Passports" sign at the control booth in the passenger terminal at the border crossing point in Gdynia port in line with Annex III of the Schengen Borders Code[1];

24. reconsider the working arrangements for the implementation of border checks procedure at Górki Zachodnie border crossing point;

25. provide the border guard present at Górki Zachodnie border crossing point with additional sources of information on border and maritime situational awareness, for example with direct access by using a mobile communication device to the relevant elements of the maritime situational picture from the Automated Radar Surveillance System (ARSS);

**Border checks at the air borders:**

**Warsaw Chopin Airport Border Crossing Point**

26. regularly request feedback from end users concerning the utility and acceptance of risk analysis products; increase the number of staff of the risk analysis unit in order to maintain the generally good level of work of the risk analysis function at Warsaw Chopin airport;

27. improve the passenger flow at the arrival area “100” by using airport staff for equal distribution of passengers and by using the temporary infrastructure to its optimal capacity;

28. provide dedicated office space to conduct interviews with persons subject to second line checks;

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[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).

**Warsaw Modlin Airport Border Crossing Point**

29. improve the knowledge of border guards on border checks procedures (i.e. stamping rules and visa provisions) included in the Schengen Borders Code, but also in the applicable regulations and handbooks, such as the Schengen Handbook;

30. ensure the privacy of the persons placed in the facility for persons who were refused entry at Warsaw Modlin Airport by providing the bathroom with a door;

31. ensure that the general declarations regarding private flights are systematically transmitted by the captains to the border guards as required by Annex VI, point 2.3.1 of the Schengen Borders Code at Warsaw Modlin Airport;

**Wroclaw Copernicus Airport Border Crossing Point**

32. increase the number of officers deployed in the second line during each shift;

33. increase the visibility of the signposting used for separation of different lanes before the control booths;

34. ensure that arriving passengers can choose the lane and approach each control booth in one straight line in order to improve behavioural assessment by the border guards in the first line;

35. enlarge the arrival area and optimise the passenger flow by reorganising the existing division of arriving passengers;

36. ensure that the general declarations regarding private flights are transmitted by captains to the border guards as required by Annex VI, point 2.3.1 of the Schengen Borders Code at Wrocław Copernicus Airport;

37. ensure full separation of the Schengen and non-Schengen areas in accordance with Annex VI, point 2.1.1 Schengen Borders Code in order to avoid passing of documents or other objects between the two areas;

**Kraków John Paul II Airport Border Crossing Point**

38. increase the number of second line officers and establish long-term staff planning, anticipating the further increase of passengers at Kraków airport in the upcoming years;

39. ensure a proper border check of all passengers, including those with veiled faces; this check entails verifying the identity based on a passenger's physical appearance against the travel document;

40. ensure that passengers on arrival and departure are guided to the correct lanes in accordance with Article 10 paragraph 2 of the Schengen Borders Code.

Done at Brussels,

*For the Council*
*The President*