



Brussels, 5 October 2022
(OR. en)

13161/22

FIN 1025
JAI 1272
FREMP 203
SCHENGEN 94
FRONT 350

'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
Subject:	European Court of Auditors' Special Report No 13/2022: Free movement in the EU during the COVID-19 pandemic: limited scrutiny of internal border controls, and uncoordinated actions by Member States <i>- Designation of Working Party</i>

1. On 13 June 2022, the European Court of Auditors published Special Report No 13/2022 entitled "Free movement in the EU during the COVID-19 pandemic: limited scrutiny of internal border controls, and uncoordinated actions by Member States"¹.
2. In accordance with the rules set out in the Council conclusions on improving the examination of special reports drawn up by the Court in the context of the discharge procedure², each special report of the Court is examined in depth by a working party appointed by the Permanent Representatives Committee in order to draw up draft conclusions for adoption by the Council with a view to finding appropriate solutions to the problems raised.

¹ This special report is available on the Court's website: <http://eca.europa.eu>.

² Doc. 7515/00 FIN 127 + COR 1.

3. It is to be noted that the Special Report No 13/2022 is not presented to the Council in the context of the discharge procedure. Indeed, this report deals with matters addressed by a legislative proposal submitted by the Commission, namely the "Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders"³, the negotiations of which is still under way. According to Article 296 TFEU and as set out in Article 7 of the Council's Rules of Procedure, when legislative proposals are submitted to it, the Council shall refrain from adopting acts not provided for by the applicable legislative procedure. It follows that in the case in point, Council conclusions cannot be adopted regarding Special Report No 13/2022.
4. The Presidency nevertheless considers that it is in the Council's interest that the working party responsible for the related ordinary legislative procedure, namely the "Working Party on Frontiers", considers the findings of the Court of Auditors' special report in the context of the deliberations regarding the abovementioned legislative proposal.
5. In view of the above, the Permanent Representatives Committee is invited to task the "Working Party on Frontiers" to consider the findings of the Court of Auditors' special report in the context of the deliberations regarding the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders and to conclude that no Council conclusions should be drawn for this special report.

³ 2021/0428 (COD)