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 2021 evaluation of **France** on the application of the Schengen acquis in the field of **management of the external border**

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 2021 evaluation of France on the application of the Schengen acquis in the field of management of the external border[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 13663/21

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2021 evaluation of France on the application of the Schengen acquis in the field of management of the external border

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 border was carried out in respect of France in April 2021. Following the evaluation, a report covering the findings and assessments and listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2021) 5601.

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

(2) The use of mobile teams (Mobile Immigration Brigades) in Roissy Charles de Gaulle, Nice and Lyon airports is considered a point of particular interest. The team is specialised in *modus operandi*, document examination, fight against organised crime and irregular migration, and trained in behavioural detection. The use of the mobile teams and the flexible approach of intervention is considered an added value for the quality of the border checks.

(3) Recommendations should be made on remedial actions to be taken by France in order to address deficiencies identified as part of the evaluation. In light of the importance of complying with the Schengen *acquis*, priority should be given to implementing the recommendations related to the governance of the European Integrated Border Management: 1; risk analysis: 6; border checks and procedures: 18; and border surveillance: 24 and 25.

(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, France 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 France should:

Governance of the European integrated border management

1. urgently ensure efficient coordination and a uniform application of border control procedures by appointing a national authority to coordinate border management at the strategic level and streamlining the distribution of tasks between the national authorities involved in border control, in particular between the French National Police and the Customs Authority;

Interagency cooperation

2. improve the operational inter-agency cooperation between the border police and customs and take into account the provisions of the Guidelines issued by the European Commission on further development of the cooperation between border guards and customs of 21 November 2018;

Quality control mechanism and vulnerability assessment

3. develop a comprehensive national quality control system covering all components of the European integrated border management, including systematic and well planned evaluations of all border-crossing points and border surveillance components by well-trained experts from all border services as well as proper follow up to reports and recommendations;

4. provide all data requested by the European Border and Coast Guard Agency in the scope of the vulnerability assessment in accordance with Article 32(3) of the Regulation (EU) 2019/1896[1];

Risk Analysis

5. establish a comprehensive risk analysis system for border control covering the national, regional and local levels in accordance with Common Integrated Risk Analysis Model (CIRAM 2.0) by integrating the results of analysis from all national authorities involved in border control (border police, customs and border surveillance authorities), updating regularly the risk profiles and indicators and by ensuring sufficient number of trained staff;

6. implement the Common Integrated Risk Analysis Model (CIRAM 2.0) in the Customs Authority according to Article 29 of Regulation (EU) 2019/1896;

[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).

National Coordination Centre

7. establish the National Coordination Centre in compliance with Article 21 of Regulation (EU) 2019/1896;

8. establish the operational layer of EUROSUR in compliance with Article 24(1.b) of Regulation (EU) 2019/1896 and the analysis layer in accordance with Article 24(1)(c) of Regulation (EU) 2019/1896;

Human Resources

9. increase the number of permanent professional staff involved in border control and develop a coherent and coordinated strategic multi-annual plan for human resources for border control, covering all the relevant authorities and levels;

Education and training

10. develop at the national level a common, coordinated and certified training system covering all border control authorities in compliance with the Sectoral Qualification Framework for border guards;

11. ensure that customs officers involved in border checks receive sufficient training including regular refresher and document examination trainings to guarantee that they are specialised and properly trained professionals as required by Article 16 of Regulation (EU) 2016/399[1] ('the Schengen Borders Code');

12. ensure sufficient number of trained staff for the implementation of EUROSUR and ensure that staff deployed to perform border surveillance receives specialised training in border control as required by Articles 15 and 16 of the Schengen Borders Code;

13. ensure that at the sea borders the border guards receive systematic refresher training on relevant Schengen provisions, specifically on the border checks of British citizens, as well as on how to access and use the relevant legislation and information available;

[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).

14. ensure that the border guards carrying out first- and second-line border checks have an adequate level of English language proficiency;

15. increase the number of border guards participating in Advanced Level Document Officer (ALDO) trainings organised by Frontex in order to increase overall knowledge of forged documents at all visited border-crossing points and ensure the presence of at least one second-level document expert on each shift at Nîmes Garons and Nice Côte d'Azur airports;

Detection capabilities

16. urgently ensure specific detection capabilities for the border police performing border checks at the sea border-crossing points, in particular sufficient number of trained canine units specialised in the detection of persons hidden in vehicles;

Border checks and procedures

17. ensure that the border police has the legal possibility to conduct checks of means of transportation and objects in passengers' possession;

18. ensure that the procedure of visa verification is in compliance with Article 8(3)(b) of the Schengen Borders Code and Article 18 of the Regulation (EC) 2008/767 so that proper verification of the authenticity of the visa can be carried out; ensure that the checks of the authenticity of the chip data in the travel documents of persons enjoying the right of free movement are in accordance with Article 8(2) of the Schengen Borders Code; ensure that relevant databases to check means of transport, such as the Schengen Information System, are integrated in the national cross-border control system, to guarantee that border checks comply with article 8(3)(a)(vi) of the Schengen Borders Code;

Sanctions to carriers

19. take the necessary measures to impose sanctions on the carriers for cases when Advance Passenger Information is not submitted or is submitted late, in accordance with Article 4 of the Council Directive 2004/82/EC;

20. bring the practice of imposing fines to air carriers in compliance with Council Directive 2001/51/EC of 28 June 2001[1];

Visa processing at the border

21. bring the procedure of issuing visas at the border in compliance with Articles 34(5), 35 and 36 of the Visa Code[2] and ensure that all standard forms are updated in accordance with Annex I of the Visa Code and with the Commission Implementing Act C(2020)64 Final of 15/01/2020;

Border checks on pleasure boats

22. ensure that systematic border checks on all pleasure boats and small vessels at the French border coming from or departing to a third country are performed as required by Article 8 of the Schengen Borders Code;

Refusal of entry form

23. 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;

Border surveillance

24. plan and carry out border surveillance taking into account the risk analysis concluded on the basis of Common Integrated Risk Analysis Model (CIRAM 2.0) and divide the French Sea border in border sections for which impact levels are established, as required by Articles 29 and 30 of Regulation (EU) 2019/1896; establish the reaction capabilities taking into account the impact levels of the border sections as required by Article 35 of Regulation (EU) 2019/1896;

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[1] Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.

[2] Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15/09/2009, p.1)

25. bring the border surveillance procedures in compliance with Article 13 of the Schengen Borders Code by adapting the current system of border control and by developing an integrated technical sea border surveillance system, including long range thermal vision cameras, complemented by a system of mobile border patrols along the coastline in order to increase the detection capabilities for border surveillance, in particular at the English Channel on the French;

Port of Calais

26. bring the checks on seafarers in accordance with Article 8 and Annex VII point 3 of the Schengen Borders Code by ensuring that the nominal lists of crews and passengers received in advance, according to point 3.1.2. Annex VI of the Schengen Borders Code, are systematically checked against the relevant databases;

Marseille Airport

27. bring the procedures of checking private flights in compliance with Annex VI point 2.3.1 in conjunction with Article 19 of the Schengen Borders Code by requesting the staff manning private flights to use the general declaration form in accordance with Annex 2 to the Convention on International Civil Aviation and to include information concerning the crew in the general declaration;

Roissy Charles de Gaulle Airport

28. allocate the second-line office in premises with a space suitable for interviews and install the necessary equipment in order to ensure the proper implementation of the second-line checks in accordance with the Schengen Borders Code;

Basel Mulhouse Airport

29. ensure that minors in the holding facility have access to leisure activities, including play and recreational activities appropriate to their age, in accordance with Article 17(3) and (5) of Directive 2008/115/EC;

30. ensure that in all cases of refusal of entry, the third country national does not enter France in accordance with Article 14(4) of the Schengen Borders Code;

Lyon Saint Exupéry Airport

31. ensure that a sufficient number of staff are available during the evening passenger flow peak by, for example, modifying the duration of the shift.

Done at Brussels,

For the Council

The President