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 the **Netherlands** on the application of the Schengen acquis in the field of the **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 2021 evaluation of the Netherlands on the application of the Schengen acquis in the field of the management of the external borders[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 13664/21

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2021 evaluation of the Netherlands 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(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 the Netherlands in March 2021. 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) 5600.

(2) In light of the importance of complying with the Schengen *acquis*, in particular the data collection and situational awareness requirements, the procedures for the checking of persons and sea border surveillance, priority should be given to implementing recommendations 1, 6, 10, 12, 19.

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

(3) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States. Within three months of its adoption, the Netherlands 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 the Netherlands should

Vulnerability Assessment

1. urgently ensure coherent and comprehensive data collection for the vulnerability assessment process covering all national authorities involved in border control, and provide regularly all data requested by the European Border and Coast Guard Agency in the framework of the vulnerability assessment process in accordance with Article 32(3) of Regulation (EU) 2019/1896[1];

Contingency Planning

2. include in the national contingency plan clear procedures to request European support, and ensure proper dissemination and awareness of the national contingency plan at the local level;

[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).

Risk analysis and information exchange

3. compile risk analysis for border control in accordance with the Common Integrated Risk Analysis Model (CIRAM) by including in the assessment elements on vulnerabilities and impact; increase the use of information on cross-border crime in the risk analysis for border control; ensure a coherent feedback mechanism for the risk analysis to guarantee that the information generated at local level is duly integrated into the risk analysis at central level; ensure regular sharing of the results of risk analysis with the canine units before they are deployed to perform searches in the border-crossing points;

4. ensure that operational intelligence officers performing risk analysis for border control in the Royal Marechaussee and the Seaport Police systematically receive dedicated training on the Common Integrated Risk Analysis Model (CIRAM);

5. ensure sufficient number of trained staff for risk analysis in the Seaport Police;

6. ensure that the Seaport Police and the Coast Guard carry out risk analysis in accordance with the Common Integrated Risk Analysis Model (CIRAM) as required by Article 29(1) of Regulation (EU) 2019/1896, and regularly use risk analysis for planning the operational activities and for allocation of resources as required by Article 29(7) of Regulation (EU) 2019/1896;

National situational awareness and EUROSUR

7. develop the National Coordination Centre in compliance with Article 21(3) of Regulation (EU) 2019/1896 and establish a tailored national concept of training for EUROSUR operators;

8. establish the analysis and operational layers of EUROSUR in accordance with Article 24(1)(b) and 24(1)(c) of Regulation (EU) 2019/1896 and systematically include all incidents detected during border control in the events layer of EUROSUR, including those related to the fight against cross-border crime and those detected at the border-crossing points, to ensure a comprehensive and complete situational picture;

9. establish interinstitutional agreements for the purpose of EUROSUR to integrate relevant information from other authorities involved in border management;

National capabilities

10. analyse the staffing needs for border control; formulate coherent and coordinated strategic planning for human resources for border control covering all the relevant authorities to ensure that the staff tasked to perform border control is sufficient and receives enough training, including refresher trainings, specifically on the border checks of British citizens, as well as on how to access and use the relevant legislation and information available;

11. increase the detection capabilities in the border crossing points Hoek van Holland and port of Rotterdam, in particular by increasing the number of canine units specialised in detection of persons;

External border control

12. ensure that all pleasure boats coming from or departing to a third country are subject to systematic border checks in accordance with Article 8 of the Schengen Borders Code and with point 3.2.5 of Annex VI of the Schengen Borders Code; establish a legal framework and working procedures between the national authorities involved in border control and the Harbour Masters to ensure systematic reporting of all incoming/departing pleasure boats;

13. bring the procedure of issuing visas at border crossing points Schiphol and Rotterdam airport in compliance with Article 35 of the Visa Code and ensure that the officers responsible for issuing refusals of entry have a sound knowledge of the provisions on annulment and revocation of visas;

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

15. adapt the booths for border checks on lorries at border crossing point Hoek van Holland, for instance by raising their positioning to allow efficient document and visual checks; enlarge the lanes used for border checks on lorries to allow for efficient surveillance;

16. ensure safe working conditions for border guards and adequate infrastructure to perform efficient border checks on lorries at Rotterdam sea border crossing point, such as control booths or mobile offices;

17. ensure that all border guards use their own login credentials when performing border checks and searches in relevant databases to allow proper identification of the border guard who performed a border check;

18. ensure efficient operational coordination and response time to border incidents by establishing an integrated automated positioning system of all assets involved in border surveillance from various authorities; increase the detection, identification and reaction capabilities of the sea border surveillance by upgrading the border surveillance system, install specific equipment such as cameras;

19. ensure a coherent national sea border surveillance strategy and operational planning covering all national authorities involved, based on the results of risk analysis and clear coordination, command and control functions; designate and empower a national authority to coordinate the border surveillance at the Netherlands' borders;

[1] INSERT REF

20. ensure that the general declaration at border crossing point Rotterdam airport is systematically submitted prior to take off in the third country airport, in accordance with the provisions of Article 8, Annex VI 2.3.1 of Regulation (EU) 2016/399 of the European Parliament and the Council[1] ('the Schengen Borders Code');

21. take the necessary measures at border crossing point Rotterdam airport to improve the performance of the document readers in order to ensure the checks of authenticity of the chip data in the travel documents of persons enjoying the right of free movement, in accordance with Article 8(2.b) of the Schengen Borders Code;

22. establish direct access for the Royal Netherlands Marechaussee to the perimeter surveillance closed circuit television (CCTV) cameras at the railway border crossing points.

Done at Brussels,

For the Council
The President

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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) (OJ L 77, 23.3.2016, p. 1).