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Subject: Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2017 evaluation of **Spain** on the application of the Schengen *acquis* in the field of **management of the external border**

Delegations will find in the annex the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Spain on the application of the Schengen *acquis* in the field of management of the external border, adopted by the Council at its meeting held on 12 November 2018.

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 2017 evaluation of Spain 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 Schengen¹, 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 Spain remedial actions to address the deficiencies identified during the Schengen evaluation in the field of management of the external border carried out in 2017. 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(2018) 1520.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) As core component of their national Integrated Border Management system, Spain established the National Border Posts Coordination Centre (CEFRONT) being a point of coordination and reference for all the operational activities related to the border crossing points. The bilateral cooperation with Morocco is well established and includes the exchange of liaison officers at different levels and regular joint sea patrols. Also, the bilateral cooperation between the Spanish Civil Guard and the Portuguese National Republican Guard is well established under a memorandum of cooperation on sea border patrolling, exchange of information and maritime situational picture. The Advance Passenger Information system of the National Police is very well developed and Spain has implemented a national entry/exit system in their national database to support the border check procedure.
- (3) In light of the importance of complying with the Schengen acquis priority should be given to *urgently* implement the recommendations relating to the deficiencies identified at the two land border crossing points visited, El Tarajal I (Ceuta) and Benin-Enzar (Melilla), which deficiencies are considered to be serious taking into account the geographical location of the border crossing points (bordering Morocco) and the migration pressure at this external land border; recommendation 29, 53 and 61. Furthermore, priority should be given to implementing the recommendations related to the national Integrated Border Management strategy: 1; the staffing level of the National Police: 3, 31, 34, 35 and 37; the interagency cooperation between the National Police, the Civil Guard and the Customs Administration in the area of border control and risk analysis: 5, 9 and 14; the border surveillance system: 13; the training of the border guards of the National Police on the identification of false and forged documents and the use of the specialised equipment: 18; and the registration of irregular migrants: 30 and 54;

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

Integrated Border Management Concept

1. establish a national Integrated Border Management strategy in line with Article 3(3) and Article 4 of the European Border and Coast Guard Regulation (EU) 2016/1624; establish a multiannual action plan supporting the strategy; make full use of the Integrated Border Management training programme provided by the European Border and Coast Guard Agency (the Agency) when developing the national Integrated Border Management strategy and action plan.
2. establish a comprehensive national situational picture covering all functions of the Integrated Border Management concept;

Human resources, Training, Professionalism

3. ensure that the National Police is sufficiently staffed with properly trained border guards for carrying out border checks in accordance with the Schengen acquis and to manage the number of investigations related to illegal immigration; urgently improve the knowledge of the border guards of the National Police of the Schengen rules, different languages and the detection of forged or falsified documents to raise the level of professionalism and quality of border control;
4. ensure a uniform level of border control training for all the staff in the National Police and the Civil Guard in accordance with the Common Core Curriculum;

Interagency cooperation

5. enhance the interagency cooperation between the National Police, the Civil Guard and the Customs Administration in the area of border control by concluding a formal trilateral cooperation agreement to set permanent cooperation structures for the coordination of border control activities (border checks and border surveillance) and address the exchange of information and risk analysis, the organisation of regular meetings, joint operations, joint training, and use of equipment;
6. formalise and step up the interagency cooperation in the field of border surveillance by signing cooperation documents between all relevant national authorities present at sea;

Risk analysis

7. ensure the full implementation of the Common Integrated Risk Analysis Model 2.0 at national, regional and local level by both the National Police and the Civil Guard; provide sufficient specialised training in risk analysis for all the staff of the Civil Guard performing this task;
8. develop a comprehensive system for the collection of statistical data and for case handling and case management, including qualitative and quantitative information containing all cases (investigations, refusals, asylum, etc.) processed at border crossing points; provide access to the system for relevant personnel at all levels for analytical purposes plus adequate training and standard operating procedures to improve the situational awareness and risk based allocation of resources and measures at border crossing points; provide specialised handbooks/guidelines for the staff in charge with statistics;
9. ensure a harmonised and coherent risk analysis function by improving the strategic, operational and tactical cooperation in risk analysis and exchange of information between the Civil Guard, the National Police and the Customs Administration to ensure a comprehensive national situational awareness and improve the response time;

10. implement the risk analysis application SIDI at all levels of the Civil Guard with full access to the analysts and provide training on how to use this analytical tool;

Quality control mechanism

11. establish a permanent national quality control mechanism (national "Schengen evaluation") covering all parts and functions of the national IBM system and including all authorities involved in integrated border management; establish the necessary national capacity to contribute the European Border and Coast Guard Agency led vulnerability assessment;

Border surveillance and situational awareness

12. enhance the maritime situational awareness by upgrading the national sea border surveillance system introducing new layers in the system; for example, integrate in the system the position of own and of other relevant authorities' surveillance assets, the area of responsibility of the local coordination centres, the search and rescue zones and vessel tracking systems like the VTMS and LRIT;
13. ensure that the national sea border surveillance system is fully operational and take compensatory measures where necessary to avoid gaps in the sea border surveillance, for example by placing mobile technical equipment or additional patrols at those areas where a surveillance station is out of order or under maintenance;
14. improve the capacity of the national maritime surveillance system by enhancing the cooperation between the Civil Guard and the Customs Administration and make better use of the customs surveillance capabilities;
15. develop standard operating procedures for the operators in the local coordination centres; ensure that every operator has clearly defined tasks and that the operators in the local coordination centre in Ceuta have access to risk analysis products;

16. replace the old inoperable thermal vision camera in the port of Melilla and relocate it to a higher and safer location;
17. enhance the situational awareness of the Civil Guard at the local coordination centre in Ceuta by integrating in the operational picture the own sea and land border surveillance assets as well as the own area of responsibility;

Border checks – Horizontal issues

18. increase the training of the border guards of the National Police on the identification of false and forged documents and the use of the specialised equipment; increase the number of manual checks on documents performed by the border guards in the first-line;
19. improve the performance of telecommunication infrastructure serving first line officers for the consultation of national databases, SIS II and VIS by upgrading the document reader software with the missing document template patterns and by adding electronic certificates to the Public Key Infrastructure Systems in order to provide for a common setup all over the country; ensure proper and uninterrupted functioning of the IT system needed for performing border checks;
20. bring the border checks fully in line with Article 8(3) (a) of the Schengen Borders Code and provide the border guards with the necessary training to systematically verifying all the entry conditions; provide for systematic checks of the third country nationals holding a visa in the VIS and other relevant databases in line with Article 8 (3) (b) of the Schengen Borders Code;
21. ensure that evasion of the border check is not possible , e.g. by equipping the border guards with the necessary mobile devices in order to carry out border checks on board of pleasure boats;

22. ensure that the travel documents of third-country nationals are stamped in accordance with the Schengen standards (border crossing points Port of Almeria and El Tarajal in Ceuta);
23. ensure that the form for informing third country nationals who are subject to a thorough second line check on the purpose and procedures for the second line check is available in all the official languages of the Union in accordance with Article 8(5) of the Schengen Borders Code and that it is provided to the respective third country national before the thorough second line check takes place;
24. bring the visa issuing procedure at the external borders in line with Article 35 of the Visa Code and the respective annexes of the Visa Code regarding the assessment if the exceptional case for issuing a visa at the border exists, including the issuing of a visa with limited territorial validity;
25. provide ship-masters with a signed copy of the crew-list after the list is checked against the relevant data bases;
26. ensure the full implementation of the carrier's liability Directive 2001/51/EC, by introducing penalties for carriers at the sea border crossing points;
27. ensure that the computer screens in the control booths are not visible to unauthorised persons, for example by using opaque film to cover the glass (Barcelona, Madrid and Malaga Airports);
28. ensure the proper physical separation of the Schengen and non-Schengen area at the airports visited, in line with Annex VI of the Schengen Borders Code (for example at the pier P10 in Terminal 1 of Barcelona El Prat Airport);
29. urgently increase the capacity for border checks on vehicle lanes at the border crossing points Beni-Enzahar in Melilla and Tarajal I in Ceuta to ensure an efficient high and uniform level of control, in accordance with Article 15 of the Schengen Borders Code, for example by introducing several additional lanes, where possible, or as a short term solution by using mobile devices (passport scanners and fingerprint readers);

Registration procedure

30. bring the registration of irregular migrants in line with Article 9 and 14 of the Eurodac Regulation by ensuring that the fingerprints of all irregular migrants are systematically collected and sent to the central system in Madrid in a period of maximum 72 hours; install electronic fingerprinting terminals at those BCPs and police stations involved in the registration procedure and referral mechanism of irregular migrants and asylum seekers, in particular at border crossing point Benin-Enzar in Melilla and the police stations in Algeciras and Almeria;

Human resources and training

31. increase the number of staff at the police stations in areas under high migration pressure, especially in Algeciras and Almeria, to manage the registration, screening and interviewing of migrants;
32. ensure that all the border guards who are performing border checks receive sufficient specialised training on the basis of a coherent planning; enhance the implementation of the tutorship system to develop the knowledge and practice of the border guards working in the first line; enhance the knowledge of border guards on the border check procedures either by extending the length of the initial course and/or by providing (mandatory) regular refreshment or specialised courses on the basis of a coherent planning;
33. ensure that all the border guards have sufficient language skills in accordance with the purpose of their tasks to guarantee that border checks are carried out in line with the SBC, including a particular focus on the training of French and Arabic to the border guards working at the ports of Almeria and Algeciras and the border crossing points in Melilla and Ceuta;

34. increase the number of trained staff to carry out border checks at the external air borders to ensure an efficient high and uniform level of control in accordance with Article 15 of the Schengen Borders Code;
35. urgently increase the number of staff responsible for risk analysis at the airports of Barcelona, Madrid and Malaga to cover 24 hour per day ensuring business continuity;

Equipment and Automated Border Control systems

36. equip all first line control booths with the necessary technical devices for performing border checks in line with the Schengen requirements (Barcelona, Madrid and Malaga Airports and the passenger terminal in the port of Almeria);
37. increase the number of staff responsible for supervising the Automated Border Control systems at Madrid and Barcelona Airports; increase the use of ABC systems, for example by providing systematic guidance and more visible signposting to increase passengers' awareness on the availability of this solution to undertake the border checks;

Madrid Barajas Airport

38. ensure direct access of the staff responsible for statistics to all relevant portals, websites and databases, in particular CEFROnt and Frontex products (Pulsar) to enlarge the situational awareness and enrich the data collection process;
39. increase the use of the data base FALSIFI and the Frontex Reference Manual for document examination; provide regular refreshment training on document fraud to the officers deployed to perform thorough document inspections on the basis of a coherent planning;
40. bring the assigning procedure of entry and exit stamps in line with point 4 of Annex IV of the Schengen Borders Code and change the security code for the stamps in the second line at regular intervals, in line with Point 2 of the same annex; store the entry and exit stamps in a secure locked storage;

Barcelona El Prat Airport

41. identify urgently the optimal solution to ensure a sufficient number of trained border guards to cope with the daily tasks and the growing number of passengers at Barcelona El Prat Airport to ensure an efficient, high and uniform level of control in accordance with Article 15 of the Schengen Borders Code;
42. reposition the control booths in terminal 1 to allow a smooth passenger flow and ensure the supervision of the border control zone;
43. ensure the proper physical separation of Schengen and non-Schengen area in the pier P10 in Terminal 1 in line with Annex VI of the Schengen Borders Code;

Malaga Costa del Sol Airport

44. organise compulsory refreshment courses for all border guards on the basis of a coherent planning system;
45. ensure a sufficiently sized second line office close to the first line and a sufficiently sized premise for inadmissible persons; ensure a proper separation of flows of queuing passengers and decrease the queuing time by enhancing the border control facilities and by providing dedicated control booths for crew and disabled persons;

Port of Almeria

46. ensure monitoring of the passenger and vehicle flow at the passenger terminal in the Port of Almeria by providing the border control authorities access to the closed circuit TV cameras owned by the Port Administration; provide the border guards in the first line with the adequate equipment to conduct proper check on the authenticity of documents and increase the manual document check; provide training on advanced skills for the detection of falsified documents to, at least, several border guards from the National Police; ensure that there is at least one document expert per shift available at the border crossing point;

47. ensure systematic check against the relevant databases of all travel documents in line with Article 8 (2) (3) of the Schengen Borders Code and ensure that the travel documents of all third country nationals are stamped in line with Article 11 (1) of the Schengen borders code;

Port of Algeciras

48. make use of risk analysis indicators (e.g. itinerary of the ship, incidents with stowaways) for making a decision on whether to perform a-physical checks on cargo ships;
49. enhance the knowledge of the border guards on the stamping procedure of documents of third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and knowledge on where to find specimen and travel document databases such as IFADO and PRADO; bring the stamping procedure of travel documents of third country nationals holding a multiple entry visa in line with Article 11(1) SBC;
50. increase the capacity of Algeciras BCP for carrying out border checks at the vehicle lanes during peak times, for example, by introducing additional lanes or as a short term solution by using mobile devices (passport scanners and fingerprint readers);
51. bring the verification of the identity of the holder of a visa and of the authenticity of the visa in line with Article 8 (3) (b) of the Schengen Border Code;

Beni-Enzar (Melilla)

52. provide training in advanced skills for the detection of falsified documents and adjust the length and content of document training for all border guards to an adequate level; ensure the presence of at least one document expert per shift;
53. carry out border checks in line with Article 8 and 11 of the Schengen Borders Code ensuring that all EU and third country nationals are systematically checked in the relevant databases and that the travel documents of third country nationals are systematically stamped on entry and exit; make e.g. full use of the passengers' control booth also outside the opening hours of the lane for the pedestrians benefitting from the specific arrangement for local border traffic;

54. provide specific training for all police officers involved in the registration process of the irregular migrants (registration and screening) on the basis of a coherent planning as well as updated reference materials also encompassing guiding questions for the purpose of establishing the real nationality of the irregular migrants therefore minimizing the risk of abuse of the asylum procedure;
55. provide adequate training on the SBC and border checks related issues (e.g. on document analysis) to the border guards to increase the level of knowledge and professionalism in border checks;

Farhana (Melilla)

56. provide systematic entry and exit checks of the travel documents of persons crossing the BCP Farhana to verify that the person crossing the border is a person who enjoys the right to local border traffic;

Melilla Port - Police control Point

57. increase the knowledge on stamping procedures by providing the necessary training;
58. take appropriate measures to prevent circumvention of the police checks carried out at the port;

El Tarajal (Ceuta)

59. introduce regular briefings per shift in order to inform everyone about risks and threats, including migration related issues, criminal network, terrorism etc.;
60. bring the issuance of visas fully in line with the provisions of the Visa Code by installing the necessary equipment for issuing visas at the border at El Tarajal;

61. carry out border checks in line with Article 8 of the Schengen Borders Code and ensure that all EU citizens and third country nationals are systematically checked against the relevant EU, international and national databases and that finger prints of third country nationals holding a short stay visa are systematically checked; introduce a systematic check on pedestrians and persons in vehicles on exit; ensure that the travel documents of the third-country nationals are stamped in accordance with the Article 11 of the Schengen Borders Code;
62. introduce a permanent refreshment training system to ensure a standard level of knowledge about the Schengen Acquis and updates related to the Schengen Border Code and the other main provisions including the knowledge on how to access and use national or international databases of travel documents, e.g. IFADO/PRADO;
63. improve the communication between National Police and Civil guard at the first line to ensure a higher level of security in the area of the border crossing point;
64. bring the refusal of entry procedure in line with Article 14(2) of the Schengen Borders Code, ensuring that the refusal of entry decision is substantiated by using the form indicated in Annex V of the Schengen Borders Code and stating the precise reason for refusal;
65. provide border guards in the first and second line with sufficient document checking equipment to be able to perform document checks in accordance with the Schengen requirements. Improve the communication infrastructure serving first line officers for the consultation of national databases, SIS II and VIS; ensure adequate infrastructure to prevent unauthorised observation of computer screens, including the installation of a longer cable attached to the fingerprint readers;
66. correct the malfunction of the IT system regarding checks against the databases and provide a technical update of the manual process regarding the check of visa stickers and fingerprints.

Done at Brussels,

*For the Council
The President*
