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 2019 evaluation of France on the application of the Schengen acquis in the field of management of the external air borders (Border Crossing Points Orly Airport Paris and Nice Airport)

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 2019 evaluation of France on the application of the Schengen acquis in the field of management of the external air borders (Border Crossing Points Orly Airport Paris and Nice Airport [1].

[1] Available in all official languages of the European Union on the Council public register, doc. 6194/20

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2019 evaluation of France on the application of the Schengen acquis in the field of management of the external air borders (Border Crossing Points Orly Airport Paris and Nice Airport)

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 France remedial actions to address the deficiencies identified during the Schengen evaluation revisit in the field of management of the external borders 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) 201.

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

(2) At Orly Airport, the French border police has access to a database administrated by the airport authority with real-time information about the expected numbers of passengers and flights in a certain time slot at arrivals or departures. Also the number of passengers queuing can be seen in this database. The border police uses this information to make decisions on how many first line officers are necessary at departures or arrivals. The system allows the commanding officer to conduct advance staff planning and optimize staff rosters.

(3) In light of the importance of complying with the Schengen acquis, in particular requirements related to the staffing level for border control, border check procedures, the infrastructure, the use of risk analysis to support border checks and the use of Visa Information System, priority should be given to implementing recommendations: 2 to 7, 9 to 12, 16 to 20, 23 to 27, 29 to 36.

(4) This Decision should be transmitted to the European Parliament and to the 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 and the steps to be taken to implement them and to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

RECOMMENDS:

that France should

1. improve the mastery of English by border guards performing first and second line checks;

2. further enhance the cooperation between Customs and DCPAF by ensuring better sharing of information or creating common risk analysis products;

3. establish written contingency plans covering all situations related to migration and border control at the airports;

4. improve the knowledge of border guards in the first line on specific risk indicators related to the profiling of potential terrorist fighters;

5. ensure that more border guards are trained in risk analysis and that risk analysis products are prepared on a systematic and regular basis;

6. make use of European Border and Coast Guard Agency tools for risk analysis and disseminate risk profiles and indicators via intranet to make them available to all border guards;

7. ensure that information on refusals of entry is used for risk analysis and consider registering this data electronically in order to use it more efficiently;

8. ensure that the form for informing third-country nationals who are subject to a thorough second-line check on the purpose and procedures is provided to passengers undergoing these checks in accordance with Article 8(5) of the Schengen Borders Code;

9. ensure that the risk analysis is carried out fully in line with Common Integrated Risk Analysis Model 2.0 and in accordance with Article 11 of the European Border and Coast Guard Regulation;

10. ensure that border guards follow trainings and other activities organised by EBCGA;

Border crossing point Orly Airport

11. establish a more comprehensive and regular training system in order to ensure a sufficient level of knowledge of the border control procedures;

12. ensure that border checks of third-country nationals are carried out more thoroughly and increase the use of the available equipment for detection of forged documents;

13. install the necessary equipment (e.g. microscope) in second line offices in each terminal in order to ensure that thorough second line checks can be carried out in accordance with the Schengen Borders Code;

14. ensure that proper and clear signposting is in use, in order to avoid confusion among EU/EEA/CH nationals and third country nationals arriving in Terminal 4;

15. improve the first line procedure in order to ensure the proper check of passengers, crew members, persons with reduced mobility and airport staff, by separating the lane for crew from the regular passengers;

16. ensure full separation of the Schengen and non-Schengen areas in Terminal 3 in accordance with Annex VI, point 2.1.1 Schengen Borders Code;

Border crossing point Nice Airport

17. improve the content of the training programme to include more border check-specific trainings, in particular on the provisions of the Schengen Borders Code, but also on other topics linked to border management such as risk analysis and the rights of EU/EEA/CH citizens and their family members;

18. increase urgently the number of staff dealing with border checks in order to ensure an efficient, high and uniform level of control as required in Article 15 and 16 of the Schengen Borders Code;

19. use reservists only for support tasks and not for border checks, unless properly trained;

20. ensure that border checks on persons on private flights are carried out in line with the provisions of paragraph 2.3 of Annex VI of Regulation 2016/399 (Schengen Borders Code) by receiving the General Declaration in advance;

21. ensure that the control booth in General Aviation Terminal is properly equipped with document checking equipment (UV light, magnifying glass, finger print reader);

22. improve the communication between the passenger and the border guard by adapting the front glass in the control booths in Terminal 2;

23. install physical barriers between the booths in the arrival area in Terminal 1 in order to prevent circumventing of border checks;

24. ensure proper communication between the first and second line officers, availability of second line officers in order to avoid that first line officers need to leave the booth when transferring passengers to the second line;

25. install the necessary equipment in the second line office in Terminal 2 and relocate a second line officer permanently to Terminal 2 at all times in order to ensure that thorough second line checks can be carried out in accordance with the Schengen Borders Code;

26. ensure regular briefings for each shift in order to share updated relevant information concerning risk indicators, risk profiles and typical modus operandi of cross-border crime;

27. increase the number of stamps and improve the registration procedure of stamps in order to ensure that the identity of each border guard to whom a given stamp is assigned at any given time is always clear in order to fulfil the requirements of Annex II (f) of the Schengen Borders Code;

28. ensure that the identity of the visa holder and the authenticity of the visa is systematically verified by using the number of the visa sticker in combination with verification of fingerprints of the visa holder in accordance with Article 18(1) of the VIS Regulation;

29. ensure that border checks are carried out in line with Article 8 of the Schengen Borders Code, in particular by performing thorough checks on entry of third-country nationals by making use of risk profiles and the available equipment for detection of forged documents;

30. urgently ensure that technical failure of the Visa Information System is fixed and checks are carried out in line with Article 18 of the VIS Regulation (EC) No 767/2008;

31. improve the performance of telecommunication infrastructure serving first line border guards for the consultation of national databases, SIS II, Interpol SLTD and VIS;

32. ensure that the authenticity of biometric data stored in the chip of the passport is always checked as required in Article 8 of the Schengen Borders Code;

33. urgently make the necessary arrangements to ensure that passengers from non-Schengen flights arrive to the first-line border checks at a different time or are clearly separated from the passengers arriving from Schengen flights and bring the situation in line with Annex VI (2.1.3.) of the Schengen Borders Code;

34. ensure that the travel documents of third-country nationals are stamped in accordance with the Schengen standards as specified in Article 11 and Annex IV of the Schengen Borders Code and section 1.4 of the Schengen Handbook;

35. ensure that the practice of affixing 'souvenir stamps' is abolished in order to follow stamping requirements as laid down in Article 11 and Annex IV of the Schengen Borders Code;

36. impose sanctions on air carriers in line with Directive 2001/51 EC.

Done at Brussels,

For the Council
The President