



Council of the  
European Union

Brussels, 10 March 2023  
(OR. en)

7241/23

LIMITE

SCH-EVAL 55  
ENFOPOL 104  
COMIX 117

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Interinstitutional File:  
2023/0039(NLE)

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#### NOTE

From:	Working Party for Schengen Matters / Mixed Committee (EU-Iceland, Norway and Switzerland, Liechtenstein)
To:	Permanent Representatives Committee/Council
No. prev. doc.:	6663/23
Subject:	Draft Council implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of <b>Spain</b> on the application of the Schengen <i>acquis</i> in the field of <b>police cooperation</b>

Delegations will find enclosed the Draft Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2022 evaluation of Spain on the application of the Schengen *acquis* in the field of police cooperation, agreed by the Working Party for Schengen Matters on 7 March 2023.

Draft

## **COUNCIL IMPLEMENTING DECISION**

**setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Spain on the application of the Schengen *acquis* in the field of police cooperation**

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<sup>1</sup>, 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 police cooperation was carried out in respect of Spain in February 2022. 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(2023) 120.

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<sup>1</sup> OJ L 295, 6.11.2013, p. 27.

- (2) At strategic level, Spain has set up an elaborate system to ensure strategic alignment and operational coordination between its various law enforcement agencies. Both National Police and Guardia Civil have a network of experts on international police cooperation to assist and advise the criminal intelligence units at regional level on the use of the instruments of international police cooperation. Spain has a specific system related to gender violence supported by dedicated teams at regional level.
- (3) Recommendations should be made on remedial actions to be taken by Spain in order to address deficiencies identified as part of the evaluation. Priority should be given to implementing recommendations 8-10, 12, 15 and 17.
- (4) On 24 May 2022, the Council adopted Recommendation (EU) 2022/915 on operational law enforcement cooperation.<sup>1</sup> The Spanish authorities are invited to take this Recommendation into account when implementing the relevant recommendations set out in this Decision.
- (5) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.
- (6) Council Regulation (EU) 2022/922<sup>2</sup> applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with Regulation (EU) 2022/922.
- (7) Within two months of its adoption, Spain should, pursuant to Article 21(1) of Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Spain should provide that action plan to the Commission and the Council,

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<sup>1</sup> OJ L 158, 13.6.2022, p. 53–64.

<sup>2</sup> Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

RECOMMENDS:

that Spain should

#### **Risk assessment strategy, risk analysis and similar analytical products**

1. develop a comprehensive risk and threat assessment strategy, identifying the needs to augment police cooperation with other Schengen States and third countries, based on relevant and objective criteria;
2. ensure the exchange of all strategic knowledge and analytical products between its own law enforcement agencies and with other Schengen States, in particular with regards to criminality in the border regions and itinerant criminal groups;

#### **Ethics**

3. continue the efforts to put in place legislation for the protection of whistle blowers;
4. establish an internal affairs function at regional level and provide relevant continuous training to law enforcement officers for prevention purposes;
5. set up a process through which individuals can anonymously report law enforcement officers' misconduct or corruption;

#### **Bilateral agreements**

6. adapt its declarations to the Convention Implementing the Schengen Agreement to remove the limitations for cross border hot pursuit by the French and Portuguese police on Spanish soil and/or reinitiate negotiations to amend its bilateral agreements with Portugal and France in order to extend the possibilities for cross border hot pursuit so that these meet the needs of its police forces and become an effective tool to fight cross border crime in the Schengen area.

7. implement the Council Decision 2003/170/JHA in order to better represent the interests of Spain and the other Member States.

### **Single Point of Contact**

8. further develop the Spanish Single Point of Contact by integrating the different international channels into one unit.

### **Case management systems**

9. set up an electronic case management system for the Spanish Single Point of Contact and the Police and Customs Cooperation Centres, which will ensure the automation of information processing, tracking of deadlines and monitoring of back-log, incorporating all channels of international information exchange. Spanish liaison officers should have access to this system;

### **Information management and databases**

10. develop a single search functionality by speeding up the current project of the National Police and by improving the existing system of the Guardia Civil, with full access to national and international databases, with clear actions to be taken and with warning markers, both for desktop computers and mobile devices. Provide this functionality to Spanish liaison officers abroad.
11. prepare written guidelines (listing for instance practical examples) regarding the choice of international police cooperation tools and communication channels;
12. extend direct access to Europol's Secure Information Exchange Network Application to the investigative units of the competent authorities and also to Police and Customs Cooperation Centres bordering with Portugal, taking advantage of the full capacity of this tool, and ensure the 24/7 monitoring of incoming messages;

13. grant search access into the Europol Information System and Europol's search engine QUEST (Querying Europol's Systems) to investigative units, along with corresponding training of end-users, and improve the automated data loader feeding information into Europol's Information System, so that it includes information on active investigations;
14. improve information exchange with the police authorities of the other Schengen States on the basis of the national implementation of Council Framework Decision 2006/960/JHA, respecting all conditions laid down in this instrument;
15. establish the national procedures to ensure lawful access to the Visa Information System (VIS), including searches with biometric data, for law enforcement purposes in line with the Council Decision 2008/633/JHA;

#### **Radio telecommunication**

16. ensure, in partnership with France and Portugal, the interoperability of cross-border radio telecommunication tools in accordance with Art 44 of the Convention Implementing the Schengen Agreement;

#### **Human resources and training**

17. provide more in-depth compulsory continuous training for all relevant staff on the use of international police databases and cooperation tools (such as VIS for law enforcement and the Council Framework Decision 2006/960/JHA) tailored to the different task descriptions. Priority should be given to staff members of the Single Point of Contact;
18. increase the number of training courses in foreign languages and facilitate the access to such training at regional level;

## **Cross-border police cooperation**

19. examine all requests for cross border surveillance notwithstanding prior refusal of a request in the same case.

Done at Brussels,

*For the Council*

*The President*