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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 2017 evaluation of Portugal on the application of the Schengen acquis in the field of management of the external land 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 2017 evaluation of Portugal on the application of the Schengen acquis in the field of management of the external land border¹.

¹ Available in all official languages of the European Union on the Council public register, doc.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2017 evaluation of Portugal 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 Schengen², 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 Portugal 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)300.

² OJ L 295, 6.11.2013, p. 27.

- (2) The cooperation between the Portuguese National Republican Guard and Spanish Civil Guard under a memorandum of cooperation, foreseeing e.g. to conduct joint patrols at sea and land and exchange operational staff, as well as the agreement to integrate the Portuguese technical maritime surveillance system (SIVICC) with the Spanish surveillance system (SIVE) and share the maritime situational picture, is considered as a good practice. Other points of particular interest are, among others, the extensive network of liaison officers in third countries of source and transit of migratory flows and the Borders Portal in use by the Portuguese immigration and border service being a well-developed tool supporting the border guards in their daily activities.
- (3) In light of the importance of complying with the Schengen acquis priority should be given to implementing recommendations related to human resources and training: 3, 4, 25, 30, 33 and checking, stamping and visa issuing procedures: 20, 29 and 31.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Portugal 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 Portugal should:

Integrated Border Management Concept

1. further develop the national integrated border management (IBM) strategy by defining clear and prioritised strategic objectives based on a comprehensive risk analysis and taking into account the latest strategic development in the European Union's strategic framework; include long term human resources' plans into the strategy; complement the strategy by establishing a clear monitoring and updating process and a concrete timeline for implementation; further develop the current strategy and action plan by describing also the allocated budget needed for the implementation of the strategy; connect the strategy to the national programme on the Internal Security Fund (ISF) Borders;
2. create a comprehensive national IBM situational picture covering border checks, sea border surveillance and return; enhance the sea border situational picture by integrating relevant parts of the navy and the maritime police surveillance systems into the national situational picture maintained by the National Republican Guard (GNR) in the National Coordination Centre;

Human resources, professionalism and training

3. ensure that the Immigration and Border Service (SEF) is sufficiently staffed for carrying out border checks in accordance with the Schengen acquis and for allowing all border guards to attend training/refresher courses and have time to check the updated information related to the activities they carry out (latest *modus operandi*, changes in legislation, etc.);
4. analyse to which extent the national curricula for the SEF and the GNR border guard training is in line with the EU Common Core Curriculum; use Frontex' Interoperability Assessment instrument on a regular basis;

5. ensure that the SEF border guards are more frequently trained and establish a training programme with regular training hours for officers during working time with updated information about the latest trends of documents fraud, modus operandi of irregular migrants and risk analysis, including sea border risk analysis, to maintain the required level of skills;
6. ensure sufficient training on Schengen and related control procedures to GNR officers;

Inter-agency cooperation

7. further develop inter-agency cooperation by establishing permanent and more systematised cooperation structures and formalise the cooperation between the relevant authorities at all levels by written agreements to guarantee efficient and unified operational cooperation;

Risk analysis

8. set up a system or procedure for prioritising and filtering relevant analytical products and early warnings for the border guards of SEF and harmonise the layout and structure of these risk analysis reports making them more concise which would help the reader to quickly absorb the information contained in these reports (for instance highlighted key points of interest, harmonised way of visualisation or dashboards for commonly used indicators); consider establishing closer cooperation of SEF's Central Analytical Unit with the local units working at the airports and exchange information on a regular basis concerning the application and development of a common analytical methodology product portfolio and a customised product structure;

National quality control mechanism

9. further develop the national quality control system to regularly evaluate all components and elements of the national border management system by covering all relevant organisations and functions on a regular basis, conducting national evaluations with properly trained experts familiar with the Schengen requirements and evaluation methodology and by taking into account the results of the evaluations for the planning system;
10. establish the needed capacity to contribute to the vulnerability assessment in line with the European Border and Coast Guard Regulation and the Common Vulnerability Assessment Methodology established by the Management Board of the European Border and Coast Guard Agency; make full use of this information when developing the national quality control system;

Sea border surveillance

11. establish a clear cooperation and coordination procedure on the exchange of information between the Integrated Surveillance, Command and Control Centre of the GNR and the National Centre for Maritime Coordination COMAR of the Navy and the National Maritime Authority to improve the situational awareness and the response capacity;
12. ensure the use of a secured communication system (e.g. Tetra) between all relevant sea border surveillance authorities;
13. continue developing the technical surveillance system in the area of the autonomous regions of Madeira and the Azores to establish proper operational and tactical situational awareness, e.g. by considering the use of radar, sensors and cameras with night operation features and the possibility to record events and by implementing technical development projects allowing access to a common situational picture and maximal information exchange between all the relevant authorities;

14. establish an action plan on modernisation of the GNR maritime fleet with a view to providing and maintaining an accurate and appropriate reaction capability in terms of maritime border surveillance;

National Coordination Centre (NCC)

15. enhance the national situational picture and situational awareness in the NCC by integrating different maritime surveillance systems and adding all national assets used for border surveillance in the national situational picture;

Border checks – Horizontal issues

16. ensure that, when stamping, the print of the stamps is of good quality;
17. set up a system for regular operational briefings for the staff at the air and sea port of Lisbon before they take up their duties in order to provide them with the latest information about document fraud, modi operandi etc., as well as ongoing cases relevant for their work to enhance the quality of the border checks;
18. ensure that all passengers and crew on the nominal lists are subjected to entry checks beforehand, in order to carry out thorough checks according to risk indicators; make more and better use of automatic checks of crew and passenger lists via the TOPICK system (e.g. by ensuring that the crew and passengers lists are received in a format that allows for automatic checks);
19. ensure that mobile checking devices with access to the relevant databases are available and used at all sea border crossing points to increase the quality of border checks on board vessels;
20. ensure that visa issuing at the border is done in accordance with Article 35 and 36 of the Visa Code, also in the case of seamen, by verifying that all conditions are fulfilled including that the person has not been in a position to apply for a visa in advance;

21. bring the visa fee in line with Article 16(1) of the Visa Code and take into account the provisions of Visa Facilitation Agreements where applicable;
22. ensure closer interagency cooperation at the Airports of Lisbon and Porto to improve the operational results;

Port of Lisbon

23. ensure a sufficient number of control booths in the new passenger terminal, taking into account the passenger flow and the increasing number of cruise ships arriving at the port; ensure that there is a second line office in the new passenger terminal to perform border checks in line with the Schengen Borders Code;

Port of Setúbal

24. ensure that equipment for document checks and mobile checking devices with access to the relevant databases are available and used to increase the quality of border checks;

Port of Leixões

25. ensure a sufficient number of border guards for carrying out border checks in line with the Schengen acquis; ensure a sufficient number of control booths and lanes taking into account the increasing number of cruise ships arriving at the port;

Port of Funchal

26. ensure the presence of at least one border guard with advanced document knowledge and enhance the basic knowledge on the detection of forged and falsified documents;
27. improve the training of border guards on visa issuance at the border and bring the procedure in line with the Visa Code; improve training of border guards concerning shore leave to be able to give correct information to seamen;

28. ensure that border guards are able to find all relevant legislation and risk analysis products;
29. bring the stamping procedure of travel documents of third country national passengers who are going ashore and who are, based on point 3.2.3 of Annex VI of the Schengen Borders Code subjected to border checks, in line with the Schengen Border Code; improve training on the checking and stamping procedures related to passenger and crew on cruise-ships;

Lisbon Airport

30. increase the number of staff to avoid any further negative impact on different aspects of border control; improve the working conditions for the border guards;
31. ensure that during the border check all entry conditions are verified for all third country nationals;
32. increase the number of staff supervising the automated border control (ABC) gates and adjust the booth at arrivals to allow proper profiling of passengers as well as the possibility to communicate with the passenger or conduct border checks at the booth, if necessary;

Porto Airport

33. ensure that the number of staff continues to increase in line with the passenger flow increase;
34. ensure the availability of at least one border guard (apart from the shift leader) primarily performing second line tasks per shift;
35. ensure quality and frequency of the local risk analysis products by constantly upgrading the risk indicators and risk profiles;
36. increase the number of the border guards able to perform risk analyses tasks and ensure that they receive proper risk analysis training (e.g. Frontex training on CIRAM 2.0);

37. adjust the position of the booth of the border guard operating the ABC gates at arrivals to allow proper profiling of passengers and increase the number of staff supervising the ABC gates; relocate the ABC gates at departures in order to be used more;
38. ensure full separation of the Schengen and non-Schengen area by installing a full physical separation above the toilet block at level 0 at the departure area to bring the infrastructure in line with Point 2.1.1 of Annex VI of the Schengen Borders Code;

Funchal Airport

39. ensure a proper risk analyses training (e.g. Frontex CIRAM 2.0) for at least two borders guards in order to perform risk analyses tasks;
40. adjust the position of the booth of the border guard operating the ABC gates at departures to allow proper profiling of passengers;
41. adapt the control booths to ensure that the border guards are in a higher position and remove the glass wall in front of the booth to facilitate profiling of the passengers;
42. adjust the glass wall at the flex gates area to separate the traffic flows fully.

Done at Brussels,

For the Council

The President
