



Council of the
European Union

025327/EU XXVI. GP
Eingelangt am 08/06/18

Brussels, 8 June 2018
(OR. en)

11450/02
ADD 1 DCL 1

SCH-EVAL 20
COMIX 483

DECLASSIFICATION

of document: ST 11450/02 ADD 1 RESTREINT UE
dated: 27 September 2002
new status: Public

Subject: Replies from the Netherlands to the questionnaire put forward to the Benelux countries with a view to the evaluation of the application of the Schengen acquis
- Answers to the additional questions and further requests for clarification by the German delegation (document 12401/02 SCH-EVAL 21 COMIX 537)

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



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THE EUROPEAN UNION

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ADDENDUM TO THE NOTE

from : the Netherlands delegation
to : the Working Party on Schengen Evaluation
Subject : Replies from the Netherlands to the questionnaire put forward to the Benelux countries with a view to the evaluation of the application of the Schengen acquis - Answers to the additional questions and further requests for clarification by the German delegation (document 12401/02 SCH-EVAL 21 COMIX 537)

Schengen Information System (SIS)

Re question 30

The additional question put to Luxembourg re question 29 also applies for the Netherlands.

Under Article 141 of the Code of Criminal Procedure, the Netherlands Public Prosecutor's Office is responsible for detecting criminal offences and accordingly directs any investigations. The Public Prosecutor's Office can thus be regarded as an authority within the meaning of Article 101(1)(b) of the Schengen Convention.

RESTREINT UE

Firearms and ammunition

Re question 106

According to the information provided by Netherlands, reports of cases of firearms purchases within the meaning of Article 8(2), sentence 2 of Directive 91/477/EEC are forwarded via the designated Netherlands central authority. Statistics on reports are not recorded.

Question: Are the other reports required under the Directive (e.g. on the transfer of firearms) also forwarded via the designated central authority to the other Member States? Are there any future plans for a statistical record of all reports?

Yes, as far as permanent transfer of weapons is concerned (art.13). For permanent transfer consent is required from the Centrale Dienst In- en uitvoer CDIU. The CDIU informs the Dutch Central Authority (the National Police Services, the Central Criminal Intelligence Agency). The Dutch Central Authority informs the member state through Interpol Channels.

The CDIU registers the number of consent given. There is no registration of information exchanged between member states.

Chapters VII (Readmission) and VIII (Entry)

Re questions 121 and 122

No figures on expelled or returned persons have been provided. We know for a fact that such statistics are indeed kept – albeit in a somewhat different way than in Germany. You are requested to forward them.

Such statistics are not kept. There are no further figures available.

RESTREINT UE

Re question 124

It is not clear why a person who, for whatever reasons, cannot leave the country should be granted refugee status ("...he will continue to be offered refuge".) The impossibility of obtaining a travel document is cited as an example of why an alien cannot leave the country.

If an alien is unable to depart for reasons beyond his control, he can be offered further housing for a limited period of time. This measure only applies to displaced persons. The impossibility to depart the country will not lead to the granting of any status.

Question: Does the reply also apply to persons who have entered the country illegally without having applied for asylum? What measures do the Netherlands' authorities take to help an alien required to leave the country to acquire travel documents, or are such steps left entirely to the alien?

This measure does not apply to persons who have entered the country illegally without having applied for asylum.

The prime responsibility for obtaining a travel document lies with the alien.

The Netherlands' authorities however cooperate with certain embassies of countries of origin to determine the nationality and identity of the alien. If the nationality and identity of an alien is determined, the embassy of the country of origin is likely to provide a travel document.

Re question 126

Are any other (i.e. decentralised) authorities involved in acquiring repatriation documents?

No

Re question 127

Have the Netherlands already signed or ratified the additional protocols to the UN Convention against Transnational Organized Crime on trafficking in human beings and the smuggling of migrants?

The Netherlands have signed but not ratified the additional protocols to the UN Convention against Transnational Organized Crime on trafficking in human beings and the smuggling of migrants.

RESTREINT UE

Re question 133

It is not clear why no figures can be given here.

In the original document figures are given.

Question: Which authority in the Netherlands is competent in this area? What legal basis and administrative practice are involved? Why are no statistics collected?

The military police is competent in this area.

The legal basis is laid down in Section 4 of the Aliens Act:

1. A carrier through whose intermediary an alien has been brought to an external border or into the territory of the Netherlands shall take the necessary measures and exercise such supervision as may reasonably be expected of it to prevent a situation in which the alien does not comply with section 3, subsection 1 (a).

2. A carrier may be required to take a copy of the travel document relating to the alien and to hand this to the border control officers.

3. Rules concerning the application of subsections 1 and 2 may be laid down by or pursuant to Order in Council.

4. Subsections 1 and 2 shall also apply to every carrier that is guilty of violating outside the Netherlands the obligations referred to in these subsections.

The existing legislation to combat illegal immigration is provided for by Section 197a of the Penal Code (see the reply to question 3).

Statistics are collected and are given in the original document.

Re question 140:

In the second paragraph of the reply it appears that only regional statistics have been provided.

Question: What are the figures for the entire territory of the Netherlands?

The figures for the entire territory of the Netherlands are given in the reply to question 15.

RESTREINT UE

Police cooperation

Re question 150

You are asked to reply to the second question.

If, according to National legislation, information may be forwarded to non-Schengen countries through police channels it will be “for police use only”. If judicial authorities there wish to use the information as evidence in legal proceedings this requires the explicit consent of the legal authorities in our country.

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