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COVER 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 2015 evaluation on the application of the Schengen acquis in the field of management of the external border by Germany

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 the application of the Schengen acquis in the field of management of the external border by Germany.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of management of the external border by Germany

THE COUNCIL 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 Recommendation is to recommend to Germany remedial actions to address deficiencies identified during the Schengen evaluation in the field of management of the external border carried out in 2015. 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(2016) 25.
- (2) Interagency cooperation at the strategic level is effectively implemented within the Joint Analysis and Strategy Centre in Illegal Migration (GASIM). The centre, bringing under a permanent structure analyst from seven authorities - including the Federal Police, the Federal Office for Migration and Refugees, and the Customs Administration - to develop a common knowledge on migration issues, is highlighted as a best practice.

¹ OJ L 295, 6.11.2013, p. 27.

Also considered to be a best practice is: the well-established wide network of German Immigration Liaison Officers as a part of the implementation of Integrated Border Management Concept in third countries; the pre-check system that is in place for the visa application of seamen; the intranet website (LIES) for risk analysis and situational awareness; the Passenger Data File used to analyse Advanced Passenger Information data; the centralized computer system in use at Frankfurt Airport to handle the doors for separating the Schengen and non-Schengen passenger flow; the system of advanced training for border guards of the Federal Police in Munich Airport and; the interagency cooperation in the maritime domain between the Federal Police and the Customs administration concerning planning, common training, coordination and border surveillance.

- (3) In light of the importance to comply with the Schengen acquis, in particular the uniform level of control at the external border, separation of Schengen/non-Schengen passenger flow at Munich Airport and the cooperation between the Federal Police and the Bavarian Police, priority should be given to implement recommendations 7, 9, 16, 17, 19, 20, 22 and 23 below.
- (4) This Recommendation should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, the evaluated Member State shall, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan to remedy the deficiencies identified in the evaluation report and provide this to the Commission and the Council,

HEREBY RECOMMENDS:

Germany should:

Integrated Border Management Concept

1. further develop the new Integrated Border Management concept by taking into account other relevant stakeholders involved in border management and support the related Action Plan with a clear allocation of financial and human resources needed for the different actions;

2. develop a national quality control mechanism involving all relevant authorities responsible for border control and covering the whole border management system. For example, by developing a systematic and effective national evaluation mechanism, including a clear reporting and follow-up system to find out and remedy possible vulnerabilities and weak points in the border management system. This quality control system could be based on trained evaluators from all authorities involved in border control and led by the Federal Police;

Risk analysis

3. develop at central level the risk analysis on a range of data collected systematically at the external borders (e.g. detections of document fraud, refusals of entry, clandestine entry, visa issued, passenger flow, etc) in order to compare and contrast the situation at different border areas and by different authorities (border areas manned by the Federal Police or the Customs Administration). This analysis would be a first step towards identifying possible vulnerabilities and strengths among border areas;

4. prioritise the information related to the risk analyses available in LIES system by putting a special emphasis on the content of “briefing grepo” (briefing for the Border Guard), in order to improve the awareness of border guards on risk analysis products and detection of forged documents;

5. fully implement the provisions of the Council Directive 51/2001/EC² by applying the sanctions to all carriers;

Training, staff and resources

6. harmonise and implement training programmes and training curricula according to relevant parts of the EU Common Core Curriculum (CCC) in all border authorities. Take into account also the training needs of all border authorities when selecting participants to Frontex training courses.

² Council Directive 51/2001/EC of 28 June 2001, supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985: OJ L187, 10.7.2001, p.45

Intensify the training related to forged and falsified documents and make better use of available Frontex tools in this regard. These measures should guarantee that human resources (specially trained professionals) to conduct border control are in place in all situations;

7. raise the level of knowledge of the Customs officers responsible for border checks by providing the necessary training and equip all border crossing points (BCP's) with appropriate equipment for performing border checks in line with Article 14 and 15 of Regulation (EC) No 562/2006³. Prepare a clear and certificated training system based on relevant parts of the EU CCC for all customs officers conducting border controls. Consider to mentor or exchange Customs officers between different BCP's, to improve their knowledge of border control procedures;

8. consider to cease the employment of harbour masters for carrying out border checks, however in all cases guarantee that the training of harbour masters in the area of border checks fulfils the Schengen requirements, and provide them with the proper equipment for conducting border checks in the meantime;

Border Checks

9. ensure that more systematic verification in the databases containing alerts on documents and on persons enjoying the right of free movement under Union law traveling to/from risk areas, are performed. Ensure that the systematic verification in the databases containing alerts on documents and persons traveling to/from risk areas are performed in the e-Gate checks;

10. ensure a better use and knowledge of the Schengen Handbook for Border Guards⁴, including the use of contact points established for verifying the authenticity of EU border stamps;

³ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code); OJ L 105, 13.4.2006, p. 1.

⁴ Commission Recommendation C(2006) 5186 establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States competent authorities when carrying out the border control of persons, of 6 November 2006 as updated on 15 June 2015.

11. improve the implementation of e-Gates border checks procedure, by instructing border guards to perform supplementary thorough checks on all entry conditions on third country nationals during the enrolment procedure and randomly while using the e-Gates;

Frankfurt Airport

12. optimise the passenger flow by increasing the visibility of the signposting used for the separation of different lanes before the control booths and ensure that the passengers can choose the line and approach each control booth in one straight line;

13. improve the ergonomics of the control booths to allow border guards to perform proper behavioural analysis and to prevent unauthorized observation of computer screens;

14. improve the efficiency of the checks performed on persons with reduced mobility, by allocating at least one first line post with the fingerprint scanner accessible to this category of passengers;

15. improve the practical implementation of border checks procedures by verifying all entry conditions on third country nationals;

Munich Airport

16. improve the handling of passenger flows during the border checks procedures, by ensuring an increased capacity of the holding area in Terminal 1;

17. relocate the second line office in a closer position to the first line offices and enlarge the capacity of the waiting rooms in the second line office in Terminal 1;

18. optimise the visibility of interchangeable signposts in order to ensure an efficient passenger flow by improving the illumination of signposts used for the separation of traffic flows;

19. adjust the control booths in Terminal 1 in such way that the border guard faces the queuing passengers allowing to make a behavioural assessment and to know which passenger will approach the booth. Make the necessary improvements to prevent that the data displayed on the monitor of a border guard can be seen by unauthorized persons;

20. improve the passenger traffic flow management by arranging more space between the snake shape system and the control booths in Terminal 1 with longer vertical lines, in order to facilitate profiling;
21. improve the handling of the supplementary checks on persons by increasing the use of second line facilities when supplementary interviews are needed to assess the fulfilment of entry conditions;
22. ensure the full separation of Schengen/non Schengen area as required in Article 2.1.1. Annex VI of Regulation (EC) No 562/2006 by installing a higher physical barrier as a preventive measure;

Nuremburg Airport

23. consolidate the cooperation between the Federal and the Bavarian State Police by organising common training related to border issues as well as exchange of police officers from the Federal Police and the Bavarian State Police;
24. improve the implementation of the border check procedures by providing additional training and instructing border guards to verify all the entry requirements according to Article 7 of Regulation (EC) No 562/2006;

Hamburg Port

25. develop the risk assessment related to cargo ships to indicate also the type of checking activities and the number of control officers needed according to the type and level of risk;
26. conduct more dedicated and border specific risk analyses for the Port of Hamburg comparable with the risk analysis performed by local Federal Police units;
27. improve the practical implementation of border checks procedures on disembarking seamen, both EU citizens and third country nationals in need of a transit visa, by respectively performing all relevant border checks and verifying if all entry conditions are fulfilled, in accordance with Article 5 and 7 of the Regulation (EC) No 562/2006;

28. restrict the access to stored stamps and provide for a possibility to register the issuance of the stamp to the border guard officer before transporting the set of stamps to the Cruise terminal;
29. provide the border guards performing first and second line checks with the necessary basic equipment and consider providing for mobile equipment to get access to the necessary data bases (e.g. SIS II, VIS) and all legislation on the spot;
30. make the necessary improvements at the visa office concerning the location of the fingerprint device to prevent that the data displayed on the monitor of a border guard or restricted paper documents can be seen by unauthorized persons;
31. perform checks on pleasure boats arriving from third countries immediately or in reasonable timeframe after arrival;

Port of Rostock and Warnemünde Cruise Centre

32. improve the ergonomics of the control booths in the Cruise Centre to allow border guards to perform proper behavioural assessment of the queuing passengers;
33. make the necessary improvements at the second line office concerning the location of the fingerprint device to prevent that the data displayed on the monitor of a border guard or restricted paper documents can be seen by unauthorized persons;

Sea border surveillance

34. continue the efforts already made for integrating information from different existing maritime surveillance related systems and sensors, and establish an integrated maritime situational picture based on radars, cameras or other maritime information systems, such as infrared and heat imaging surveillance devices, e.g. in the form of a multi-sensor platform to cover the most risky areas;
35. consider adapting the legal basis to ensure the possibility to send still and live images for sea border surveillance;

36. further develop risk analysis for identifying the most risky areas for border surveillance;
37. consider to enhance cooperation with the Navy concerning the exchange of information on detected and identified targets to improve the maritime situational awareness.

Done at Brussels,

*For the Council
The President*
