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From: General Secretariat of the Council

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To: Delegations

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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 the management of external borders by Hungary

Delegations will find in the Annex the 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 the management of external borders by Hungary, adopted by the Council at its 3480th meeting held on 12 July 2016.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

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 the management of external borders by Hungary

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 Schengen¹, 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 Hungary remedial actions to address deficiencies identified during the Schengen evaluation in the field of the management of external borders carried out in 2015. Following the evaluation, a report covering the findings and assessments and listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision [C(2016)5099].
- (2) Bilateral cooperation between Hungary and Serbia at regional and local level is very well organised.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) It is important to remedy each of the deficiencies identified with the least possible delay. In view of the importance of complying with the Schengen acquis, priority should be given to implementing recommendations 5, 8, 9, 10, 11, 12, 13, 14, 16, 20, 21 and 22.
- (4) This Recommendation should be transmitted to the European Parliament and the parliaments of the Member States. Within three months of its adoption, Hungary should, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan to remedy the deficiencies identified in the evaluation report and submit it to the Commission and the Council,

HEREBY RECOMMENDS

that Hungary should:

A. With regard to Kelebia Border Policing Office and Kelebia railway border crossing point

Border checks procedures

1. encourage the use of technical equipment, such as magnifying glasses, during first-line controls of train passengers;
2. increase the use of technical devices for second-line checks on documents;
3. register the second-line activities, including the subject and type of checks being performed;

Human resources and training

4. improve the language skills of border guards for better performance of border checks;
5. ensure that the second-line document specialist has good knowledge of how to use the device for document examination available at this border crossing point;

B. With regard to Tompa border crossing point

Infrastructure

6. improve the infrastructure facilities for border checks by providing a clearly marked lane for pedestrians crossing the border and a marked booth to be used by pedestrians;
7. allocate one of the existing exit lanes for vehicles with passengers claiming a VAT refund. This lane should be fully equipped with facilities to conduct border checks in line with the Schengen standards for border crossing points detailed in the Schengen Catalogue;
8. improve the monitoring and surveillance system for the border crossing point in order to prevent unauthorised crossing of pedestrians;
9. improve the infrastructure facilities for checks of lorries by increasing the height of the control booth to allow the first-line officer to be on the level of the heavy goods driver and by installing a protective shelter for the border checks area to enable constant use of suitable technical equipment for searching lorries regardless of weather conditions;

Border checks procedures

10. consider sharing the current existing infrastructure for customs checks and providing for physical checks of the lorries to be carried out by both border guards and customs officers at the same time;

C. With regard to Szeged Border Policing Office and Rösztke border crossing point

Risk analyses

11. ensure the communication to the local risk analysis unit of any useful information or intelligence collected by the criminal police during the criminal investigation related to trafficking of human beings and human smuggling;

12. ensure that all risk analysis products are disseminated to all levels involved in border management, starting with the first-line officers. In order to facilitate access to such information, the existing risk analysis product could be adapted to the needs of first- and second-line officers and should be easily accessible from any working station by using, for instance, a desktop shortcut;

Border checks procedures

13. ensure that border guards in the first line verify all entry conditions for third country nationals in accordance with Article 8(3) of Regulation (EU) No 2016/399 of the European Parliament and of the Council²;
14. improve the verification of entry and exit conditions for persons enjoying the right to freedom of movement under Union law by increasing the level of consultation of databases and regular use of risk analyses;
15. increase the cooperation and synergy between police and customs authorities at Rösztke border crossing point and in particular avoid searching lorries twice;
16. reconsider the need for registration of supplementary checks in the first line;

Human resources and training

17. increase the number of staff available during each shift at Rösztke border crossing point, enabling quality control to be increased without jeopardising the traffic flow;
18. assign a minimum of two police officers for lorry checks at entry, providing them with suitable equipment and infrastructure for quick and efficient checks. In view of the risk of death of human beings hidden in the lorries, the border guards should undergo specific training in relation to those specific checks and should be regularly briefed on the latest *modus operandi*;

² Regulation (EU) No 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

Infrastructure

19. adjust the signposting to be in full compliance with Annex III to Regulation (EU) No 2016/399;
20. improve the separation of the entry and exit flows of vehicle lanes by extending the separation fence and ensuring that the gate provided is always closed, so that the entry flows and exit flows do not get mixed;
21. ensure that, before entering the bus terminal, there is no possibility for bus passengers to mix with vehicle passengers who have already gone through the entry control and thus avoid border checks;
22. upgrade the bus terminal by installing barriers between control booths that are not in use, thereby making it impossible to avoid border checks;
23. adjust the height of the booths in the bus terminal so that border police officers can face the passengers and can engage in better face-to-face communication and carry out easier profiling.

Done at Brussels,

For the Council

The President
