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From: General Secretariat of the Council

On: 13 October 2016

To: Delegations

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Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Luxembourg on the application of the Schengen acquis in the field of management of the external border

Delegations will find in the annex the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Luxembourg on the application of the Schengen acquis in the field of management of the external border, adopted by the Council at its 3490th meeting held on 13 October 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 2016 evaluation of Luxembourg 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 Council Regulation (EU) No 1053/2013 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) Following the 2016 Schengen evaluation of Luxembourg's management of the external border, a report covering the findings and assessments and listing the best practices and deficiencies identified was adopted by Commission Implementing Decision C(2016)3256. The purpose of the present Decision is to recommend the remedial action that Luxembourg should take to address the deficiencies.
- (2) The National Coordination Centre (NCC) is located at the single point of contact (SPOC) of the Grand Ducal Police's Department for International Affairs. The SPOC also hosts the SIRENE bureau, the Europol contact point and the Interpol national central office, and reports directly to the Directorate-General. It is also the national Frontex point of contact (NFPOC). Locating the NCC in the SPOC is considered good practice, since it brings together all international communication tools.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) It is important to remedy each of the deficiencies identified with as little delay as possible. In view of the importance of compliance with the Schengen acquis, Luxembourg should give priority to implementing the recommendations on airport staffing and further developing the national integrated border management (IBM) strategy.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, Luxembourg must establish an action plan to remedy the deficiencies identified in the evaluation report and submit this to the Commission and the Council,

HEREBY RECOMMENDS:

Luxembourg should:

Integrated border management (IBM)

1. prepare a national IBM strategy on the basis of the EU approach to IBM, which should be supported by a concrete multi-annual action plan setting out clear priorities, requisite resources and deadlines for completion;
2. prepare a cooperation agreement or memorandum of understanding setting out general principles and practical forms of cooperation between the airport police and the customs administration;

Risk analysis system

3. develop the national (strategic) risk analysis system and procedures fully in line with the EU Common Integrated Risk Analysis Model (CIRAM 2.0); strategic risk analysis should pay special attention to assessing the vulnerabilities of the border control system and determine future human resource requirements accordingly;

4. increase the capacity of the Airport Police Unit (UCPA) to conduct risk analysis;
5. ensure that the UCPA border control section (SCA) systematically uses advance passenger information (API) to identify passengers who may match risk profiles;

Border checks

6. ensure that:

the common risk indicators (CRIs) on foreign terrorist fighters (FTF) are obtained from Europol and made available to the UCPA;

airport staff are specifically briefed on the use of the CRIs, in particular as regards officers' powers to stop and examine at exit or entry, on the sole basis of the CRIs, persons suspected of being foreign terrorist fighters;

there are clear procedures for officers to follow in such cases;

7. organise specialised training (or arrange participation in a dedicated Frontex training course) for border guards who perform second-line checks, with a view to ensuring that these are carried out in an efficient, effective and uniform way;
8. effectively enforce national legislation on overstay (raising fines and recording the identity of over-stayers);
9. inform passengers subject to second-line checks of the purpose of and procedure for such checks, before carrying them out, so as to achieve the objective of Article 8(5) of the Schengen Borders Code (SBC) ²;
10. bring the national legislation on carriers' liability into line with Council Directive 2001/51/EC;

² Schengen Borders Code of 9 March 2016, OJ L 77, 23.3.2016, p. 1.

11. to ensure that entry conditions are fulfilled, verify more thoroughly that passengers have sufficient means of subsistence;
12. ensure that a sufficient level of IT security is guaranteed under all circumstances;
13. ensure that the arrival control lanes at Luxembourg Findel Airport are properly observed, so that the whole waiting area is monitored and border guards can monitor passenger queues properly;
14. identify appropriate national (criminal) databases to be used for thorough first-line searches and ensure that they are searched automatically/systematically, in line with Article 8 SBC;
15. ensure that it is always possible to establish the identity of the border guard who has used any given stamp;
16. stamp general declarations for private flights, as required by point 2.3.2 in Annex VI SBC;
17. ensure that the colour of the stamp is in line with Schengen requirements;

Human resources

18. as a matter of urgency, increase staffing levels at Luxembourg Findel Airport, to ensure consistently high-quality border checks.

Done at Brussels,

For the Council

The President
