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European Union**

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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 2015 evaluation on the application of the Schengen acquis in the field of management of the external borders by the Netherlands

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 2015 evaluation on the application of the Schengen acquis in the field of management of the external borders by the Netherlands[1].

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[1] Available in all official languages of the European Union on the Council public register, doc. 14322/16

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 the external borders by the Netherlands

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 [2], 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 the Netherlands 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, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision [C(2016)3250].

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[2]   OJ L 295, 6.11.2013, p. 27.

(2)   In the Netherlands regular self-evaluations (national Schengen evaluation) are conducted on Border Crossing Points by experts trained by a Frontex Schengen evaluation course to assess if the BCP is organized in accordance with the Schengen Acquis and commonly agreed standards for border management. This type of systematic evaluation guarantees unified approach at all border crossing points and helps to find out vulnerabilities in the system. It is therefore considered as an example of good practice.

(3)   The risk-based preventive measures taken by the multi-agency and multi-disciplinary criminal investigative teams at the air borders have clearly a positive impact on disclosure of cross-border crimes, such as the facilitation of the illegal migration and trafficking in human beings and drugs, and therefore should serve as an example of good practice.

(4)   Swift communication between the second line and the documentation centre at the back office, ensured by air tube, guarantees fast and a high-quality document examination and should, therefore, be further promoted as good practice.

(5)   The absolute priority of the RNM to take over to manage security cameras of the airport provider in emergency situations before other stakeholders gives RNM useful additional tool to improve situational awareness in exceptional situations.

(6)   It is important to remedy each of the deficiencies identified with the least possible delay. In light of the importance to comply with the Schengen acquis, priority should be given to implement recommendations related to: 1) the occasional lack of border checks in some border crossing points, 2) the lack of sufficiently qualified staff at several border crossing points, 3) the need to organise regular training on border checks (document examination) for border guards and 4) the performance of the document readers in most border crossing points in order to improve the quality of border checks in the first line. Border control should also be the main priority of the responsible organisations.

(7)   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:

The Netherlands should:

Integrated border management

1.   Prepare a comprehensive annual and multiannual action plan to guarantee effective implementation of the national IBM strategy. This action plan should include allocation of needed resources, responsibilities and timelines. It should also include a long term human resoruces plan needed to conduct border control according to Schengen requirements by specially trained professionals in all situations and in all circumstances;

Risk analysis system

2.   Develop and implement the missing CIRAM 2.0 elements and bring the national risk analysis system fully in line with CIRAM 2.0.. A unified approach to risk analysis at all hierarchical levels and all border authorities should be guaranteed by well-coordinated training. The partly existing capability to assess possible vulnerabilities should also be developed further as a part of the national risk analysis system;

The feedback mechanisms for the reporting of updated information or intelligence based on identified targets should be made more formal;

<u>Human resources management and training</u>

3.   Develop the quality of border control by intensifying refreshment training of border guards responsible for border checks by developing and regularly implementing a comprehensive refreshment training system related to border checks and procedures (especially related to document examination). Ensure that border guards responsible also for second line activities have received adequate training needed at the second line document examination (by participating in the higher level document expert training). Maintain the level of professionalism of the managerial level by organising regular border management related refreshment training;

Border checks

4.   Urgently take necessary measures to guarantee that border checks are conducted at every BCP and for all passengers according to the SBC;

5.   Develop the current checking procedures so that, when necessary, also means of transport and the objects in passenger's possession are checked by the competent authorities. RNM officers should undertake searches of the baggage and belongings of persons submitted to the second line or refused entry in order to increase the ability to verify a person's account as well as to increase information that would be of use to the intelligence process;

6.   Revise the practice of checking pleasure boats and fishing vessels to fully meet Annex VII of the SBC;

National Coordination Centre (NCC/Eurosur)

7.   Bring the Dutch National Coordination Centre fully in line with the EUROSUR Regulation;

Airport of Eindhoven

Risk analysis

8.   Produce specific local risk analysis products for the needs of this border crossing point;

Human resources management and training

9.   Increase the number of staff in the second line;

Infrastructure and equipment

10.   Take appropriate measures to prohibit ~~an~~ undetected entering via the access line to the second line office of the RNM during the conduct of border checks at the arrival;

11.   Take the necessary measures to improve the performance of the document readers in order to improve the quality of border checks in the first line;

12.   Adapt the current booths in order to ensure an appropriate overview of the area taking into account privacy protection of the personal data examined within the booth;

13.   Install mirrors to fulfil the requirement (closer to the booths);

14.   Adapt the control booths to facilitate profiling of the passengers;

15.   Ensure consultation of all databases required in the first line even during downtime situations;

16.   Merge both locations used as second line facilities into one and ensure that they are not too far from the first line and that they have at their disposal all necessary material, incl. connections to the relevant databases, allowing the officers to perform effective second line checks;

17.	Extend the distance between the booth and the beginning of the queue in front of the control booths;

Border checks procedures

18.	Use the electronic reference tools during daily work to perform border control more accurately;

19.	Hand over written information before the thorough second line check starts;

20.	Store 24/7 the entry/exit stamps in a secure way ensuring effectively that the risks of abuse are limited to an absolute minimum;

21.	Implement an efficient carriers' liability procedure in line with Directive EC 2001/51;

Amsterdam Airport Schiphol

Risk analysis

22.	Ensure the production and distribution of weekly and monthly operational reports that are of a lower confidentiality level so that it would enable the first and second line officers to obtain regular access. Currently, officers are only able to access the daily briefings;

Human resources management and training

23.	Take the necessary measures in order to conduct border control efficiently, including an increase in the number of staff dealing with border checks;

Infrastructure and equipment

24.	Bring the sign posting in line with Annex III of the SBC;

25.	Take the necessary measures to improve the performance of the document readers in order to improve the quality of border checks in the first line;

26.   Ensure consultation of all databases required in the first line even during downtime situations;

27.   Install mirrors at all locations of the border crossing lanes;

28.   Adapt the control booths to facilitate profiling of the passengers;

29.   Adapt the old booths in order to ensure an appropriate overview of the area before the booth taking into account privacy protection of the personal data examined within the booth. See recommendation 12;

Border checks procedures

30.   Ensure implementation of the provisions of the SBC regarding the transmission of general declarations;

31.   Hand over written information as laid down in the provisions of Article 7(5) of the SBC;

32.   Ensure an adequate procedure for the border check of persons who claim the status of a CIP in line with the provisions of the SBC, in particular Articles 5 and 7;

33.   Review the current procedure on carriers' liability in order to bring the procedure more in line with Directive 2001/51;

34.   Improve the cooperation between the RNM and the Public Prosecutor and introduce a regular exchange of information and feed-back on all cases reported by the RNM for possible sanctions on air carriers;

Rotterdam The Hague Airport

Risk analysis

35.   Enhance the flow of risk analysis products from the central level to the regional level;

36. Hold more regular and timely meetings between the intelligence unit and customs in order to establish a regular channel of information exchange and the opportunity to discuss in more detail issues of mutual interest in the area of movements of persons and goods;

37. Hold regular meetings with RNM Intelligence Units in other districts that may face similar issues that may lead to better coordination of activities and actions;

Human resources management and training

38. Immediately take the necessary measures to avoid any uncontrolled border crossing in the future, including an increase in staff;

39. Establish a training system for newly recruited border guards;

Infrastructure and equipment

40. Bring the sign posting in line with Annex III of the SBC;

41. Take the necessary measures to improve the performance of the document readers in order to improve the quality of border checks in the first line;

42. Adapt the current booths in order to ensure an appropriate overview of the area taking into account privacy protection of the personal data examined within the booth;

43. Reserve a dedicated room for second line activities close to the control booths;

44. Install a CCTV system in the area of the control booths in the arrival area to avoid unauthorised crossing of the border to outside the operating hours of the RNM;

Border checks procedures

45. Ensure that the airport operator is not allowed to open the gates without the prior consent of the border guards and that missed flight and relaxations are reported in line with the provisions of Article 9 of the SBC;

46. Use the electronic reference tools during daily work to perform border control more accurately;

47. Ensure that only the shift leader (or the person in charge) has the key from the safe where the entry and exit stamps are stored;

48. Implement an efficient carriers' liability procedure in line with Directive 2001/51 EC;

Port of Amsterdam (IJmuiden)

49. Improve the current infrastructure at Felison terminal;

50. Prevent any unauthorized observation of personal data from computer screens;

51. Ensure sufficient number of proper trained personnel to border guard functions in order to increase the level of professionalism in border control;

Port Europoort

52. Bring the sign posting in line with Annex III of the SBC for vehicles on the terminal;

53. Improve the current infrastructures at the Europoort terminal;

54. Guarantee sufficient number of personnel to border guard functions in order to ensure border control in line with the SBC;

55. Develop appropriate solutions to separate passengers flow from staff of different operators transiting through checking point. Install mirrors in order to proper monitor passengers flow;

56. Equip all officers conducting border checks with mobile equipment for detection of forged documents;

57. Guarantee that border checks are implemented in all conditions for all persons;

BCP Port of Rotterdam

58.   Redesign the control booths in the cruise terminal to allow sufficient profiling;

59.   Update information of the ZUIS system as soon as possible;

60.   Align the training courses of SPP with the CCC;

BCP Port of Hoek van Holland

61.   Prevent any unauthorized observation of personal data;

62.   Install mirrors in order to proper monitor passengers flow;

63.   Increase the number of properly trained officers available for second line check;

64.   Carry out border checks in full compliance with the article 7 of the SBC, paying special attention to the entry conditions for third-country nationals required by the art. 5 of the same Regulation (training related finding);

65.   Allocate sufficient human resources and ensure consistency of quality of work of the various elements performing border checks;

66.   Guarantee that border checks are implemented in all conditions for all persons;

Sea border surveillance

67.   Implement existing plans for building new radars including opto-electronic device to cover the current surveillance gaps and to facilitate the detection of small targets;

68.   Improve the situational awareness by integrating the relevant maritime information systems in view of building up the new Maritime Operational Centre (MOC concept).

Done at Brussels,

For the Council
The President

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