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Subject: Council Implementing Decision setting out a Recommendation on addressing the serious deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of management of the external borders by Greece

Delegations will find in the Annex the Council Implementing Decision setting out a Recommendation on addressing the serious deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of management of the external borders by Greece, adopted by the Council at its 3445th meeting held on 12 February 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 serious deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of management of the external borders by Greece

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:

- (1a) The EU is at present facing an unprecedented migratory and refugee crisis following a sharp increase of mixed migratory flows in 2015. This has led to severe difficulties in several Member States in ensuring efficient external border controls in accordance with the Schengen acquis and in the reception and processing of migrants arriving.

Greece is, mainly due to its geographical situation, particularly affected by these developments due to a shift in migratory flows and an increase in the number of migrants arriving in Greece. The massive inflow is of a nature that would put the external border control of any Member State under severe pressure.

¹ OJ L 295, 6.11.2013, p. 27.

78,5 percent of all illegal external border crossings into Greece in the period of January to October 2015 took place in the last 3 months of that period. So far more than 90.000 people were rescued in over 2.500 incidents. This creates great challenges in the management of the migratory and human crisis (many people arriving are in need of international protection without applying for asylum).

Greece has taken a number of measures to deal with the situation, but in the particular unprecedented crisis situation further efforts are needed.

The overall functioning of the Schengen area is at serious risk, and action needs to be taken urgently. The difficulties faced in the protection of the external borders by Greece is an issue relevant to the whole EU and must be solved in the interest of the whole EU. It is of utmost importance that Greece addresses the issues identified in the report adopted by the Commission as a matter of priority and urgency. It is necessary that all Member States show solidarity and collectively take responsibility to address the situation and ensure the continued functioning of the Schengen area. In addition to an efficient border management, the effective implementation of the hotspots approach with the assistance of the relevant agencies, and of the relocation scheme, is of particular importance in this context.

- (1) An unannounced on-site evaluation visit to Greek sea border sites (Chios and Samos Islands) and land border sites (Orestiada, Fylakio, Kastanies, Nea Vyssa) was carried out from 10 to 13 November 2015. Following this visit, a report covering the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted on 2 February 2016 by Commission Implementing Decision [C(2016)450]. The purpose of this Recommendation is to recommend to Greece remedial actions to address the serious deficiencies identified during the Schengen evaluation in the field of management of external border carried out in 2015.

- (2) The sea border sites visited at Chios and Samos islands are of crucial importance for the functioning of the whole Schengen area as the Aegean Sea is currently the most exposed area for irregular migration with more than 572.000 persons arriving between January and October 2015. Over the entire year 2015, more than 868.000 irregular migrants arrived at this section of the external border.
- (3) The on-site visit carried out from 10 to 13 November 2015 revealed serious deficiencies in the carrying out of external border control by Greece, in particular due to the lack of appropriate identification and registration of irregular migrants at the islands, of sufficient staff, and of sufficient equipment for verifying identity documents. Under the current circumstances, situational awareness and reaction capability are not sufficient for efficient border surveillance. These serious deficiencies relating to external border control constitute a serious threat to public policy and internal security and put at risk the overall functioning of the area without internal border control.
- (4) The serious deficiencies referred to represent, as far as the carrying out of external border controls is concerned, a situation where the obligations referred to in Article 16(1) and (4) of Regulation (EU) No 1053/2013 have not been met.
- (5) While it is acknowledged that Greece is under unprecedented pressure through the high number of persons arriving, an adequate functioning of the identification, registration and reception is indispensable given the subsequent secondary movements to other Member States which have led several Member States to reintroduce temporary border controls at their internal borders and which puts the functioning of the whole Schengen area at risk.

- (6) Therefore 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, as regards: the registration procedure: 3, 5, 6, 7, 8, 9, 10, 11, 40, 41 and 42; sea border surveillance: 12, 13 and 14, risk analyses: 15, 16 and 17, international cooperation: 18; border checks procedures: 22, 23, 25, 26, 27 and 28; human resources and training: 19 and 43; and infrastructure and equipment: 34, 47 and 48.
- (7) Bearing in mind the unprecedented migratory pressure at the Greek external border as a whole, these recommendations should be implemented also at any other border sections of Greece where necessary, in order not to jeopardise the functioning of the Schengen area.
- (8) This Recommendation should be transmitted to the European Parliament and to the parliaments of the Member States. Within one month of the date of its adoption, the evaluated Member State shall, pursuant to Article 16(1) 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. Within 3 months of the same date it shall report on the implementation thereof pursuant to Article 16(4) of Regulation (EU) No 1053/2013.

HEREBY RECOMMENDS:

Greece should

A) for the sites visited at the sea border:

Registration procedure

1. clearly state in the documents of 'suspension of removal' which are provided to the irregular migrants during the registration process, that the document does not give the irregular migrant the right to stay and enter other Member States, and include, where necessary, certain obligations aimed at avoiding the risk of absconding (in line with Article 7(3) of the Return Directive);

2. improve the quality of the 'temporary stay' documents, including certain security features, making it less easy to falsify the documents;
3. reinforce the Hellenic Police (HP) staffing for registration;
4. provide, taking into account the expected number of migrants arriving based on a risk assessment approach, the necessary facilities for accommodation during the registration process (including for vulnerable persons);
5. carry out systematic checks of irregular migrants' travel documents for signs of falsification or counterfeiting and check migrants and their travel documents against SIS, Interpol and national databases during the registration process, in order to do that, passport scanners should be used in the registration procedure;
6. perform registration in line with the Article 14 of the Eurodac regulation, by ensuring timely collection and transmission of migrants' fingerprints;
7. provide an adequate number of functioning fingerprint scanners and Eurodac terminals with direct access to the Eurodac system to guarantee that all arriving migrants are registered and make sure that they are supported by adequate and sufficient IT capacity (uninterrupted internet, broadband);
8. increase the quality of finger prints taken manually during the registration process so that it meets the standards required to be registered in the EURODAC system;
9. take appropriate measures to ensure that all irregular migrants are fully identified, fingerprinted and registered into Eurodac whilst fully respecting fundamental rights and human dignity;

10. immediately launch return procedures for irregular migrants who are not seeking asylum and who are not in need of international protection, in line with the Return Directive (2008/115), and provide for a swift transfer of third-country nationals who are eligible to be returned and readmitted to Turkey in accordance with the bilateral Protocol between Greece and Turkey, ensuring their physical transfer, while taking appropriate measures to prevent absconding.

Border surveillance

12. taking measures to improve sea border surveillance by establishing a comprehensive and effective coastal surveillance system covering the whole sea border between Greece and Turkey; the surveillance system should provide the possibility to detect all vessels, including small boats that are crossing the sea border from Turkey to Greece; in order to identify, detect and apprehend illegal border crossers, the system should be supported by an offshore element: offshore patrol boats and vessels, helicopters, fixed wing aircraft and other means, as well as a sufficient number of land patrols on the island;

13. ensure, in the short term, sufficient patrolling activity especially between the islands, as well as a sufficient number of patrol boats kept in readiness for rapid reaction;

14. consider, in order to ensure full situational awareness, the sharing of information between the relevant authorities involved and the Coast Guard;

Risk analyses

15. establish and implement at local level, as soon as possible, a risk analysis system;

16. nominate and train the necessary personnel at local level for carrying out risk analysis activities;

17. familiarise the first line border guards with the common foreign terrorist fighters risk indicators;

International cooperation

18. consider to establish cooperation with the Turkish border control authorities at local level as it exists at the land border with Turkey;

Human resources and training

19. increase training at the local level especially on forged and falsified documents, risk analysis and updated legislation; this could also be done by the exchange of officers between BCP's as well as by making better use of the available Frontex tools with regard to forged and falsified documents;

20. provide language training to border guards with a particular focus on Turkish and English;

21. train more border guards to be able to work at the second line check with devices for advanced checks of the travel documents;

Border checks procedures

22. bring border checks on EU citizens in line with the Commission recommendation of 15 June 2015 on EU citizens coming from risk areas;

23. intensify the use of relevant document analysis tools in order to ensure efficient document fraud detection;

24. provide third country nationals who are subject to a thorough second line check with written information on the purpose and procedure for such a check in accordance with Article 7(5) of the Schengen Border Code;

25. issue the visa fully in line with the Visa code by integrating the photo of the visa applicant in the visa sticker;

26. perform checks on cruise ships based on the crew and passenger list, in line with Annex VI 3.2.3 (b) of the Schengen Border Code;
27. perform checks on pleasure boats coming from third countries at a border crossing points;
28. conduct third country nationals' border checks in line with Article 7 of the SBC, especially by carrying out interviews on entry conditions such as purpose of stay and means of subsistence (border crossing point Chios);
29. bring the procedure to annul or revoke a visa at the border in line with Article 34 of the Visa Code (border crossing point Chios);
30. take appropriate measures to ensure access to iFado for the border guards at the BCP (Samos);

Infrastructure and equipment

31. take appropriate measures to provide the first line control booths with magnifying devices in order to enhance the document checks;
32. improve the conditionality of the control booth shelter in order to prevent unauthorized persons from observing the computer screen;
33. ensure that all border guards involved in border checks are able to access and use the updated versions of the Schengen Borders Code (SBC), the Schengen Handbook (SHB) and respective Annexes;
34. ensure the proper functioning of the visa fingerprint scanners at the control booths in order to carry out the checks on third country nationals who are in possession of a visa in line with Article 7, paragraph 3(aa) of the SBC (border crossing point Chios);
35. provide the possibility for border guards at the Port of Chios to observe the passenger flow e.g. by installing a video surveillance system (CCTV);
36. ensure that the recommendations 31 to 35 on infrastructure and equipment are taken into account when building the new passenger terminal in Samos.

B) for the sites visited at the land border

Police directorate Orestiada

37. develop more comprehensive situational awareness and the role of the Regional Coordination Centre by integrating functions currently covered by the Regional Control Centre and Nea Vyssa centre; this could be done for instance by relocating the surveillance centre from Nea Vyssa to the regional I.B.M. & Monitoring centre at the PD Orestiada, to ensure a more comprehensive situational picture and allowing the latter centre to monitor and operate more effectively in one place; this development would also save human resources;

38. finalise the installation of GPS transmitters to the patrolling vehicles or units to enable the surveillance centre to monitor their location;

39. continue with the efforts for strengthening the cooperation with Bulgaria and Turkey and to participate actively in the future activities of the 'Trilateral Common Contact Center for police and customs cooperation';

Reception center Fylakio

Registration procedure

40. take appropriate measures to provide an adequate number of Eurodac terminals, taking into account the expected number of migrants arriving based on a risk assessment approach, to guarantee that they are all registered in the Eurodac system;

41. ensure the availability of a sufficient number of screening experts and make an effort to provide a sufficient number of interpreters in the languages required in order to cope with any potential mass influx of irregular migrants;

42. perform systematic checks of irregular migrants and their travel documents against SIS, Interpol (SLDT) and national databases during the registration process; provide and develop the necessary capacity (expertise and equipment) to check the authenticity of travel documents, in line with Article 12 SBC in combination with Article 7 SBC;

BCP Kastanies

Human resources and training

43. increase the number of staff per shift at BCP Kastanies and ensure the deployment of at least one officer in the second line in order to guarantee smooth border crossing and to avoid irregular crossings and long queuing, in line with Article 14 and 15 of the SBC;

Infrastructure and equipment

44. extend the VIS verification application (CVIS) in order to provide the first line with all information stored inside the VIS in order to facilitate the examination of the entry conditions;

45. take appropriate measures to ensure that all electronic resources are updated regularly;

46. reallocate the heart beat detector at the BCP Kastanies since there is no cargo traffic allowed to cross at this BCP to another BCP at the Greek land borders or ports where it can be used for the border checks of heavy good vehicles;

47. bring the current infrastructure in line with the Schengen requirements with a comprehensive development plan taking into account all Schengen requirements including traffic management, control booths, lanes, surveillance system and fencing;

48. improve traffic management and surveillance of at the border crossing point to ensure that border checks are carried out systematically;

Border checks procedures

49. ensure that persons subjected to thorough second line checks are informed in advance about the purpose of such a check;

C) General Recommendation

50. take appropriate measures to ensure that at all external borders of Greece, external border control is carried out and brought in line with the Schengen Acquis in order not to jeopardise the functioning of the Schengen area.

Done at Brussels,

For the Council

The President