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From:	General Secretariat of the Council
On:	29 January 2018
To:	Delegations
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Subject:	COUNCIL IMPLEMENTING DECISION setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of **Denmark** 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 addressing the deficiencies identified in the 2017 evaluation of Denmark on the application of the Schengen acquis in the field of management of the external border, adopted by the Council at its meeting held on 29 January 2018.

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.

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Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2017 evaluation of Denmark 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 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 Schengen[1], and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1)   The purpose of this decision setting out a recommendation is to recommend to Denmark remedial actions to address deficiencies identified during the Schengen evaluation in the field of management of the external border carried out in 2017. 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(2017)5130.

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

(2)   The Danish National Police has possibilities to remotely connect equipment for document examination to e.g. the document expertise centre at Copenhagen airport, or to the second line officer, and provide the same view of the document as the first line officer has. Sharing this information can speed up the process, provide specialist document expertise or prevent unnecessary second line checks.

(3)   In light of the importance to comply with the Schengen acquis, in particular the checking procedures of person on entry, priority should be given to implement recommendations 2, 18, 19, 20, 31, 32, 35 and 64 below.

(4)   This decision setting out a 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 (1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide this to the Commission and the Council,

HEREBY RECOMMENDS:

that Denmark should

A)   Integrated Border Management (IBM)

Integrated Border Management Concept

1.   further develop the national strategy on border management to make it fully in line with the EU IBM concept; the developed IBM strategy should be based on the relevant articles of the European Border and Coast Guard (EBCG) Regulation (EU) 2016/1624 and it should be in line with the EU's technical and operational IBM strategy to be prepared by Frontex in close cooperation with the Commission and other stakeholders by the end of 2017; the strategy should cover all relevant authorities and it should be supported by a multiannual action plan including responsible authorities, clear timetables and needed financial and human resources; the strategy should be connected to the National Programme for ISF-Borders and Visa;

Sea border surveillance

2.   make better use of the existing legal basis and cooperation structures to develop a more integrated approach to border management by combining border checks and border surveillance in a more coherent way;

3.   develop a comprehensive and integrated national situational picture in line with the Schengen requirements covering all external borders and all relevant border authorities and take the Schengen requirements better into account when planning and implementing sea border surveillance by the Navy on behalf of the Danish National Police (DNP); connect these tasks to the national IBM strategy development process;

Interagency cooperation

4.   ensure that the DNP and Customs formalise further their cooperation; a Memorandum of Understanding or another kind of written agreement and a long/mid-long term action plan should be drawn up to create a more solid structure for information sharing, joint analysis and joint operations; this should be done as a part of the IBM strategy process;

5.   formalise the cooperation between the DNP and customs at the regional level by making written agreements on practical cooperation at the regional level; it is also recommended to make use of Commission Guidelines on cooperation between Customs and Border guards when developing cooperation;

Risk analysis

6.   further develop a national risk analysis system fully in line with the Common Integrate Risk Analysis Model (CIRAM) 2.0 and cover also sea borders by risk analysis;

7.   use CIRAM based risk analysis to guide the sea border surveillance conducted by the Navy; for this purpose and for the exchange of related information on the maritime border situation picture, the DNP should develop a framework for cooperation in the field of risk analysis with the Navy (and the port authorities in the context of small vessels without automatic identification system transponders);

8.   prepare risk analysis in cooperation with the Danish Customs and Tax Administration and share the results between the two organisations;

9.   consider including findings of neighbouring countries and regional organisations into the risk analysis and share the findings with the risk analysis functions of the police districts; this is especially the case in Copenhagen port, which is administratively and operationally closely connected to Malmö port; risk analysis for these ports should be better coordinated between the Danish police district of Copenhagen and the Swedish counterparts to create more holistic situational image of possible changes in border situation in neighbouring ports;

10.   develop more concrete risk analysis products related to sea border traffic and carry out operational checks of ships and crew members when this is justified on the basis of a formal risk assessment and profiling conducted through the risk analysis system established by the DNP;

11.   include a training of risk analysis in the national multi-annual training programme and make full use of risk analysis trainings at European level (Frontex trainings);

12.   ensure that sufficient and valid data is available for risk analysis including a system to support efficient data search and analysis against multiple criteria;

Human Resources and Training

13.   further develop a national training system and relevant training programmes on border control to guarantee that all staff involved in border checks (and for core Navy staff involved in sea border surveillance) has received the necessary training and has the necessary skills to conduct border control in line with the Schengen acquis;

14.   analyse to which extent the national common core curriculum is in line with the EU common core curriculum; it is recommended to make full use of Frontex' Interoperability Assessment instrument on a regular basis;

15.   ensure that all police officers performing border checks attend the courses and establish a training programme with regular training hours for officers during working time with updated information about the latest trends of documents fraud, modus operandi of irregular migrants and risk analysis, to maintain the required level of border management skills;

16.   further develop the national Schengen evaluation mechanism (national quality control) to cover all IBM related functions (sea border surveillance and return) and participating organisations; due to the specific situation of the Faroe Islands and Greenland it is also important that the national quality control mechanism on border control and return covers also these islands;

B) Recommendations on individual sites visited

Horizontal issues

17. develop a unified and reliable system to collect the necessary statistical information on border crossing traffic to be used for risk analysis and planning of work; the Navy should be involved in this system;

18. ensure a second line functionality in line with the Schengen requirements to all border crossing points;

19. increase the number of operational (random) face to face checks for sea traffic passengers and crew members crossing external borders to raise the probability of detection of irregular migrants/wanted persons or false documents and to create a more reliable situational picture;

20. check pleasure boats in accordance with Article 8 and Annex VI of the Schengen Borders Code;

21. ensure that the form for informing third country nationals, who are subject to a thorough second line check on the purpose and procedures for second line check is available in all the official languages of the European Union in accordance with Article 8(5) of the Schengen Border Code (Regulation (EU) 2016/399);

Sea border

BCP Port of Aarhus

22. provide proper training on detection of forged documents for officials issuing visas or Transfer Permits;

23. ensure the practical implementation of Article 11 (4) and Annex IV 4 (b) of the Schengen Borders Code by assigning stamps to border guards at any given time;

24.   ensure that the administrative checks for all persons on the passenger and crew lists arriving at Danish ports are performed prior to the arrival of the ships in accordance with Annex VI, paragraph 3.1 and Annex VII, paragraph 3 of the Schengen Borders Code;

BCP Port of Copenhagen

25.   ensure that the seaman's travel documents details will be transmitted in advance in order to be administratively or physically checked, and ensure that if the ship is planned to be checked it can be done before the seafarers go ashore;

26.   identify and solve the technical problem or ensure that a border check could be done in advance also for exit checks in line with Article 8 of the Schengen Borders Code;

Air border

General

27.   ensure that the implementation of the national advance passenger information (API) project continues and the data exchange is extended to all non-Schengen in- and outbound flights and to all airports in Denmark. The national API office should be staffed with an appropriate number of dedicated analysts;

28.   ensure that relevant risk profiles are developed, updated and communicated at local level to all officers involved in border checks in written format using an effective distribution channel (e.g. the police intranet network POLNET);

29.   ensure that risk analysts at the local level receive tailored training on border management related risk analysis and enhance their knowledge on the analytical framework developed by Frontex (CIRAM 2.0); and ensure that sufficient staff, including during weekends and holiday periods, are assigned to ensure the sustainable functioning of risk analysis;

30.   improve the connectivity of the IT-systems, e.g. iFado (Intranet False and Authentic Documents Online) and improve the machine readable zone (MRZ) readers at Copenhagen Airport;

31. ensure that all first line officers at the air borders are familiar with the different border checks procedures in the first line and perform border checks on EU citizens according to the Article 8 (2) of the Schengen Borders Code;

32. ensure that all entry conditions on third country nationals are verified in accordance with Article 8 (3) of the Schengen Borders Code;

33. adapt the relevant legal provisions and increase the amount of the applicable financial penalties to carriers in order to bring it in line with Article 4 (1) of Directive 2001/51 EC;

34. ensure more use of the available equipment, if relevant, for the detection of forged documents;

BCP Copenhagen Airport

35. continue the ongoing recruitment of staff to ensure the availability to perform first and second line checks without straining the workload for the present police staff at the airport; specific border management tasks should be given priority over the police task relating to public order which will enable a higher level of quality, consistency and resources;

36. increase the number of training days for the first and second line officers;

37. increase the capacity of the Copenhagen Airport risk analysis team to ensure that risk analysis is conducted in line with CIRAM 2.0 in a more demanding operational environment and make use of available Frontex tools;

38. ensure that the risk analysts at Copenhagen Airport develop effective and formal cooperation with the analytical units of national partner services (e.g. customs) on local level;

39. instruct the officers in the first line to pay attention to all minors, also those travelling accompanied and to verify if the persons accompanying minors have the parental care over them;

40. improve the knowledge of border guards related to the meaning of the letters corresponding to the reason for refusal of entry (Annex V Part B of the Schengen Borders Code);

41. increase the knowledge of staff dealing with visa issuance, in particular regarding the rights of family members of EU nationals;

42. ensure proper communication between officers in the first line and passengers at the arrival on the second floor;

BCP Billund Airport

43. increase the number of staff and build on the experience already gained by them to step up the support in peak periods;

44. provide sufficient and more structured training to staff, in particular on the entry and exit procedures; topics for training should include the use of available equipment, detection of false and forged documents, interviewing, profiling, second line of control, and issuance of visa;

45. improve the communication between the officers and the passengers in the first line;

46. make full use of the second line facilities available in the close vicinity of the first line of control;

47. ensure that the glass doors towards the departure gates at the both sides of the departure hall are always closed and enable all police officers to open these doors in case of need and before starting border checks;

48. ensure that first-line officers at Billund Airport are aware of the content of relevant risk analysis products (including risk profiles);

49. ensure that the UV light box is positioned in a way allowing checking the document while being seated;

BCP Aarhus Airport

50.   ensure that all officers deployed to perform border checks are sufficiently trained in order to ensure sufficient level of knowledge;

51.   take appropriate measures (insulation, heating/cooling) to guarantee a reasonable comfort of passengers queuing for border control;

52.   perform a technical inspection of the Visa Information System (VIS) verification system to identify the source of this vulnerability and ensure that the biometric features can properly be verified;

53.   ensure proper guiding and signal posting to channel the passenger flow to the border control area and take the necessary measures to prevent unauthorised persons entering and leaving the reserved areas (Annex VI, 2.1.3 of the Schengen Borders Code);

BCP Aalborg Airport

54.   provide regular and tailor made refreshment training for all staff and in particular for the officers not performing border checks in the winter months, to ensure sufficient border check quality;

55.   ensure that the booth at departure and the second line are equipped;

56.   ensure secure distribution of the stamps in accordance with recommendation 51 of the Schengen Catalogue to maintain the adequate level of security;

57.   ensure that the border guards are able to find all relevant legislation, risk analysis products and other relevant documents at their disposal;

C) Border surveillance and situational awareness

National Coordination Centre (NCC)

58.   develop the Danish NCC fully in line with Article 5 of the EUROSUR Regulation (EU) 1052/2013;

59.   create a National Situational Picture in line with Article 8 of the EUROSUR Regulation including:

- the events layer, showing incidents detected by the Police, Customs, Navy and other relevant authorities and suspicious vessels etc.

- the operational layer, showing the real-time positions of patrols and assets of the Navy (when conducting actions of border surveillance), the Home Guard and other relevant authorities on a law enforcement mission;

- the analysis layer, merging risk analysis coming from the different national authorities collected and analysed at tactical, operational and strategic level;

Sea border surveillance

60.   further develop intervention capability of the Armed Forces and their operational units when conducting border surveillance tasks on behalf of the DNP, taking border related risk analysis, cross border crime situation and illegal immigration into account;

61.   improve the practical cooperation based on the existing legal basis between the DNP and the Navy in order to develop more systematic sea border surveillance in accordance with the Schengen Borders Code;

62.   develop a training for key personnel conducting border surveillance on mobile units, operations and surveillance centres in accordance with the relevant parts of the common core curriculum;

63.	further develop the capacity of sea border surveillance system to detect and identify targets coming into territorial waters in all weather conditions by enhancing night vision capacity and radar coverage or by using of offshore elements;

64.	implement sea border surveillance in line with Article 13 of the Schengen Borders Code by ensuring that unauthorised border crossings can always be detected; this could be done e.g. by focusing more on small unidentified targets in territorial waters and by taking into account risk analysis related to sea borders when planning sea border surveillance.

Done at Brussels,

For the Council
The President

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