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From:	General Secretariat of the Council
On:	17 June 2022
To:	Delegations
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Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2021 evaluation of Malta on the application of the Schengen acquis in the field of management of the external borders

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2021 evaluation of Malta on the application of the Schengen acquis in the field of management of the external borders, adopted by the Council at its meeting held on 17 June 2022.

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.

RECOMMENDATION

on addressing the deficiencies identified in the 2021 evaluation of Malta on the application of the Schengen *acquis* in the field of management of the external borders

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(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) A Schengen evaluation in the field of management of the external borders was carried out in respect of Malta between 20 and 24 September 2021. 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(2022) 940.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) Recommendations should be made on remedial actions to be taken by Malta in order to address deficiencies identified as part of the evaluation. In light of the importance of complying with the Schengen acquis, in particular, as regards the National Coordination Centre and national situational picture, training of new border guards and maritime situational awareness and picture, priority should be given to implementing recommendations (5), (8) and (15).
- (3) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States. Within three months of its adoption, Malta should, pursuant to Article 16 (1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy the deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

RECOMMENDS:

that Malta should:

European Integrated Border Management

1. further develop, adopt and test the National Contingency Plan for border management;
2. improve the national quality control mechanism by covering all European integrated border management components, provide for systematic and well-planned evaluations and evaluation reports and recommendations, ensure follow up based on clear deadlines and responsibilities;
3. improve the quality and consistency of data collection for reporting to Frontex' vulnerability assessment, in particular in relation to the number of queries in the Schengen Information System, national databases and the Advanced Passenger Information system for border control purposes;

4. develop strategic or operational reports on trafficking in human beings and update the risk indicator on terrorism;

National and European situational awareness and early warning system – EUROSUR

5. further develop the National Coordination Centre in compliance with Article 21 of Regulation (EU) 2019/1896¹, by ensuring 24/7 operational capacity and involvement in the coordination, planning and implementation of national border control; establish and maintain a comprehensive real time national situational picture in compliance with Article 25(2) of Regulation (EU) 2019/1896 and establish the operational and analysis layer of EUROSUR in compliance with Article 24(1)(b) and (1)(c) of the Regulation (EU) 2019/1896;

National capabilities for border control

6. ensure the allocation of a sufficient number of permanent staff for performing border checks;
7. increase the knowledge and capacity within the Armed Forces of Malta to detect (potential) victims of trafficking in human beings by providing methodologically sound and practice-oriented training on how to detect, identify possible victims and deal with such situations;
8. ensure that all newly recruited police and civilian immigration officers of the Malta Police Force receive the border guard training *before* being deployed at a border crossing point to perform border checks and increase the duration of this training to ensure sufficient time is given to acquire the necessary level of expertise to perform effective border checks;

Border checks

9. ensure the availability and use of mobile devices with access to the relevant databases at all sea border crossing points to increase the quality of border checks on-board vessels;

¹ OJ L 295, 14.11.2019, p. 1–131.

10. ensure the training of police officers on the use of the document examination equipment in the second line and improve their overall knowledge on the detection of forged documents to increase the quality of border checks;
11. bring the procedure of issuing visas at the external border in compliance with Article 35(3) and (4) of the Visa Code¹ by issuing uniform visa and update the visa application forms in accordance with Article 11 and Annex I of the Visa Code;
12. improve the distribution of alerts and related information from the Passenger Information Unit to the border guard authorities at the airport, especially to the first line;
13. ensure compliance with Article 8(6) of the Schengen Borders Code in conjunction with Article 21 TFEU and Article 5(1) of Directive 2004/38 EC as well as of the EU data protection acquis by terminating the practice of systematically registering persons enjoying the right of free movement (i.e. EU/CH/EEA citizens and their family members) in the border control system;
14. bring the border check procedures of pleasure boats in compliance with Article 8 and Annex VI point 3.2.4 and point 3.2.5 of the Schengen Borders Code by systematically performing border checks on all pleasure boats and small vessels at the Maltese border and provide risk analysis products and indicators tailored for the border check of pleasure boats;

Border surveillance

15. urgently upgrade the stationary radar system by guaranteeing full radar coverage and long-range day/night electro-optical cameras with an effective range beyond the territorial waters with the ability to identify all objects crossing the territorial waters to improve the situational awareness of the Armed Forces of Malta and to maintain a full maritime surveillance situational picture;

¹ OJ L 243, 15.9.2009, p. 1–58.

Specific sites

Malta International Airport

16. ensure proper profiling by the police officers of the passenger flow at the Automated Border Control gates; ensure that the area on both sides of the Automated Border Control gates at arrival is secured and prevented from bypassing the border checks by installing physical barriers.

Done at Brussels,

For the Council

The President
