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From:	General Secretariat of the Council
On:	25 September 2023
To:	Delegations
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Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Denmark on the application of the Schengen <i>acquis</i> in the field of the management of the external borders

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2022 evaluation of Denmark on the application of the Schengen *acquis* in the field of the management of the external borders, adopted by the Council at its meeting held on 25 September 2023.

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 2022 evaluation of Denmark on the application of the Schengen *acquis* in the field of the 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 in respect of Denmark was carried out in September 2022. Following the evaluation, a report containing the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision [C(2023) 1100].

¹ OJ L 295, 6.11.2013, p. 27.

- (2) Recommendations should be made on remedial actions to be taken by Denmark in order to address deficiencies identified as part of the evaluation. In light of the importance of complying with the Schengen *acquis*, in particular the protection of the external borders and the carrying out of checks of persons on entry, priority should be given to implementing recommendations related to the governance of the European integrated border management (1), reporting for the vulnerability assessment process (4), risk analysis (9), national situational picture (14), human resources (16), education and training (20), border check quality (23) and sea border surveillance (32).
- (3) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.
- (4) Council Regulation (EU) 2022/922¹ applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with Regulation (EU) 2022/922.
- (5) Within two months of the adoption of this Decision, Denmark should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Denmark should provide that action plan to the Commission and the Council.

RECOMMENDS:

that Denmark should:

¹ Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

National governance of European integrated border management

1. ensure effective governance of the European integrated border management and coherent national overview and coordination of border control at the national level, for example by establishing a strategic coordination function for border control in the Danish National Police; ensure appropriate human resources, legal and procedural tools for the strategic coordination of border control in the Danish National Police;
2. ensure a sufficiently unified, coordinated and effective implementation of border control functions in the Danish National Police;

National quality control mechanism

3. establish an efficient national quality control mechanism covering all components of the European integrated border management, in particular sea border surveillance and border checks; provide for systematic evaluations performed by the main national authorities involved in border control; ensure that these evaluations have effective and timely follow-up;
4. collect, validate and provide the required data for the vulnerability assessment process carried out by Frontex, including data on training for the Defence Command Denmark, maritime surveillance (number of hours flown by aerial assets, number of patrolling hours by maritime assets), number of queries in Interpol database of Stolen and Lost Travel Documents, number of Schengen Information System queries about objects and contribution to the European Border and Coast Guard (hosting capacity at the border crossing points and border sections), in order to comply with Articles 11(1), 12(1) and 32(3) of Regulation (EU) 2019/1896 on European Border and Coast Guard;

Inter-agency cooperation

5. further develop the formal cooperation with the customs in the area of border control tasks and establish cooperation plans with clear activities, exchange of information and risk analysis as well as joint operations;

Cooperation with the European Border and Coast Guard Agency

6. introduce national measures ensuring that it is possible for the European Border and Coast Guard Standing Corps officers to be deployed on Danish territory with executive powers and have access to relevant databases to carry out their tasks;
7. use and share the services provided by Frontex for developing and facilitating border control, such as Vessel of Interest Database, the Fusion Services and others;

Risk analysis

8. ensure sufficient number of staff for risk analysis at the national level in accordance with Article 15 of the Regulation (EU) 2016/399 (Schengen Borders Code);
9. regularly produce risk analysis at strategic, operational and tactical level and disseminate such analysis to all levels and to all national authorities involved in border control; regularly update the risk profiles at national, district and local level;
10. align the risk analysis products at local level with the Common Integrated Risk Analysis Model by including vulnerabilities and impact; increase the number of trained analysts at the airports of Copenhagen and Billund; provide specialised training for the staff responsible for risk analysis and ensure a clear methodology to support their work (e.g. a handbook);
11. ensure that border guards have sufficient awareness of risk profiles on Foreign Terrorist Fighters;

National and European situational awareness and early warning system – EUROSUR

12. ensure sufficient number of trained staff for the National Coordination Centre to guarantee 24/7 functionality and perform the tasks as requested by Articles 21(7) and 21(3) of Regulation (EU) 2019/1896 on European Border and Coast Guard and Articles 15 and 16 of the Schengen Borders Code;

13. establish and use the operational and analysis layers in EUROSUR in accordance with Article 24(1)(b) and (c) of Regulation (EU) 2019/1896;
14. establish a coherent and complete national situational picture in accordance with Article 25 of Regulation (EU) 2019/1896; establish a functional inter-agency cooperation to guarantee complete situational awareness and appropriate reaction capabilities;

National capabilities for border control

15. draft and adopt a national capability development plan based on the contribution from all national authorities involved in border control as set out in Article 9(4) of Regulation (EU) 2019/1896;

Human resources

16. urgently increase the number of specialised staff to efficiently implement several functions related to border control at national level (strategic coordination, governance of the European integrated border management, risk analysis, situational awareness, implementation of EUROSUR, strategic approach to sea border checks and surveillance, national quality control mechanism, coherent reporting to vulnerability assessment and others) as required by Article 15 of the Schengen Borders Code;
17. ensure coherent strategic planning and sufficient human resources at district levels for performing border control tasks as required by Article 15 of the Schengen Borders Code;
18. increase the number of officers trained to detect document fraud at the sea borders in all police districts in order to improve the level of expertise on document fraud;

Education and training

19. improve the content of the national border control training programme in the Danish National Police by tailoring its content to the needs of first line officers and ensure that the basic training is further aligned to the Frontex Common Core Curriculum;

20. establish a coherent and harmonised system for continuous and specialised training for border control at national, regional and local level in accordance with Article 16(1) of the Schengen Borders Code; conclude national and local annual planning for continuous and specialised training related to border control by including, among others, first and second line training programmes, local courses on border and document checks, use of equipment, training of civilian border guards and other relevant training related to border control;

Contingency planning

21. complete the contingency plan with the following elements: thresholds for escalation, communication channels and information sharing/requests with/from neighbouring Member States, EU and international institutions and organisations, procedures for requesting a Frontex rapid intervention, list of facilities that could serve as temporary accommodation centres, Standard Operating Procedures for registration, screening, debriefing and expression of intention to apply for asylum at the border, and financial resources;

Border check quality and procedure

22. ensure that the procedure of checking the seafarers and passengers is carried out in accordance with Articles 11 and 19 in conjunction with Annex VI, point 3.1.1 of the Schengen Borders Code, by performing the entry and exit checks of seafarers and passengers at sea border crossing points at the moment of embarkation or disembarkation;
23. improve the quality of border checks at the air borders and bring them in compliance with Articles 8(2), 8(3) and 8(6) of the Schengen Borders Code, read in conjunction with Directive 2004/38/EC, by increasing the knowledge of the border guards of the Schengen Borders Code, especially the entry conditions and proper use of border check equipment;

24. ensure that the procedure of checking civilian sea crewmembers embarking and disembarking from a ship lying in a roadstead or during passage only takes place at the port or in an area set aside for that purpose, located in the immediate vicinity of the vessel, in accordance with Articles 5 and 19 read in conjunction with Annex VI, point 3.1.1 of the Schengen Borders Code;
25. ensure systematic border checks on all pleasure boats at the Danish external sea borders as required by Articles 8 and 19 in conjunction with Annex VI point 3.2.5 of the Schengen Borders Code; ensure that pleasure boats arriving/departing from/to a third country are allowed to moor only in the border crossing points in accordance with Article 5(1) of the Schengen Borders Code;
26. bring the border check procedures on minors at Aarhus Airport in accordance with Article 20 read in conjunction with Annex VII points 6.1, 6.2 and 6.3 of the Schengen Borders Code and increase the specific training for border guards on this topic;
27. bring the refusal of entry procedure in compliance with Article 14(4) of the Schengen Borders Code by ensuring that in all cases a third-country national refused entry does not enter the territory of Denmark;
28. bring the standard form for refusal of entry in line with Annex V part B of the Schengen Borders Code and make available a list of lawyers for the persons whose entry was refused;
29. bring the practice of imposing fines to air carriers in compliance with Council Directive 2001/51/EC and Council Directive 2004/82/EC;
30. bring the procedure of issuing visas at the border in compliance with Articles 35(1) and 36(1) of the Visa Code by installing the necessary equipment and providing training for the staff; ensure that the standard application form is used in accordance with Article 11 and Annex I of the Visa Code;

31. bring the procedures of checking private flights in compliance with Annex VI point 2.3.1 in conjunction with Article 19 of the Schengen Borders Code by ensuring that properly filled in general declarations are received;

Sea border surveillance

32. ensure that sea border surveillance is carried out in accordance with Article 13 of the Schengen Borders Code, if needed by including in the agreement established between the Danish National Police and the Defence Command Denmark a clear scope and strategic objectives; establish standard operation procedures, guidelines, concrete action plans or any other methodologies for sea border surveillance for the purpose of external border management as defined in the Schengen Borders Code;
33. establish a risk analysis for sea border surveillance in accordance with the Common Integrated Risk Analysis Model as requested by Article 29(1) of Regulation (EU) 2019/1896 on European Border and Coast Guard;
34. ensure systematic and regular data exchange between the Danish National Police and the Defence Command Denmark for the purpose of sea border surveillance in order to establish a complete and comprehensive national maritime situational picture; share it with all relevant national authorities at central and district level;
35. provide training on sea border surveillance to the Danish National Police and the Defence Command Denmark in accordance with their specific roles in sea border surveillance as set out in Article 16 of the Schengen Borders Code;

Copenhagen Airport

36. ensure proper planning and use of first line officers at Copenhagen Airport for a smooth passenger flow and sufficient time for efficient border checks;

37. ensure a sufficient number of experienced police officers that have the necessary professional expertise to handle the wide variety of border guarding tasks at Copenhagen Airport;

Port of Copenhagen

38. bring the checks of seamen going ashore in compliance with Article 20 read in conjunction with Annex VII point 3 of the Schengen Borders Code by checking whether they are in possession of seamen's book;
39. suspend the practice of issuing refusal of entry decisions for inadmissible persons who do not leave the cruise ship and do not request access to the territory in accordance with Article 19, Annex VI points 3.2.2 and 3.2.3 of the Schengen Borders Code;

Port of Esbjerg

40. ensure that border guards perform risk-based checks on means of transport and their inner parts through physical inspection and by using specific technical equipment or canine teams in accordance with Article 19, in conjunction with Annex VI point 3.2.9(g) of the Schengen Borders Code; ensure that border guards have access to risk profiles and indicators, aimed at adequately identifying risk on illegal immigration and cross border crime related to truck transport.

Done at Brussels,

For the Council

The President
