



Council of the
European Union

166652/EU XXVII. GP
Eingelangt am 13/12/23

Brussels, 11 December 2023
(OR. en)

16725/23

Interinstitutional File:
2023/0398(NLE)

SCH-EVAL 257
FRONT 414
COMIX 583

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
On:	11 December 2023
To:	Delegations
No. prev. doc.:	16154/23
Subject:	Council Implementing Decision setting out recommendations for remedial actions aimed at addressing the (serious) deficiencies identified in the 2023 unannounced evaluation of France on the application of the Schengen <i>acquis</i> in the field of management of the external borders

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the (serious) deficiencies identified in the 2023 unannounced evaluation of France 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 10-11 December 2023.

In line with Article 22(4) of Council Regulation (EU) 2022/922 of 9 June 2022, this Recommendation will be forwarded to the European Parliament and national Parliaments.

RECOMMENDATIONS

for remedial actions aimed at addressing the (serious) deficiencies identified in the 2023 unannounced evaluation of France 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) 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) No 1053/2013¹, and in particular Article 22(4) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Article 4(3), point (b), Article 18(4) and Article 19(4) of Regulation (EU) 2022/922, the Commission organised an unannounced evaluation to assess France's management of the external borders by means of a visit to a border crossing point on 4 and 5 September 2023.
- (2) Following that evaluation, the Commission adopted a report by Commission Implementing Decision C(2023) 7100 identifying serious deficiencies relating to external border checks which have, or risk to have in a short and medium perspective, a significant negative impact on one or more Member States, as well as on the functioning of the Schengen area. The draft report was shared with the French authorities on 15 September 2023. Their comments on the draft report were received on 29 September 2023.

¹ OJ L 160 15.6.2022, p. 1.

- (3) This Decision should set out recommendations for remedial actions which should be taken by France in order to address the identified serious deficiencies. In light of nature of the findings and the need to swiftly ensure uniform and high-level border checks, all recommendations are given the same level of priority. This Decision should set proportionate time limits for some recommendations to ensure their effective implementation. This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.
- (4) Within one month of the adoption of this Decision, France should, pursuant to Article 22(6) of Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the serious deficiencies identified in the evaluation report. France should provide that action plan to the Commission and the Council. France should report to the Commission and the Council on the implementation of its action plan every three months from the date of notice of receipt of the review of the action plan and until the Commission considers that all recommendations are fully implemented.
- (5) In accordance with Article 22(7) of Regulation (EU) 2022/922, a revisit to verify the progress made in implementing the recommendations should be organised no later than one year from the date of the evaluation activity.

RECOMMENDS:

France should

Human resources for border control:

1. provide for a sufficient number of trained staff to ensure an efficient, high and uniform level of border control, in line with Articles 15 of Regulation (EU) 2016/399 of the European Parliament and of the Council¹, including by ensuring that recruitment procedures meet the required standards; by June 2024;

¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) *OJ L 77, 23.3.2016, p. 1.*

Border control training:

2. integrate the common core curricula into the annual training system for border control in line in with Article 62 (6) of the Regulation (EU) 2019/1896 of the European Parliament and of the Council¹ and provide regular basic and specialised trainings to ensure sufficient knowledge and specialisation as well as adequate skills of border guards, as required by Article 16(1) of Regulation (EU) 2016/399; by June 2024;
3. revise the training curricula for the civilian administrative border guards; by June 2024;

Border checks:

4. ensure minimum border checks for all passengers and thorough borders checks for all third-country nationals, in line with Articles 8(2) and (3) of Regulation (EU) 2016/399;
5. increase the awareness of border guards about risk profiles and indicators, including on foreign terrorist fighters, and increase the use of risk analysis products and profiling techniques in the first-line checks; by June 2024;
6. increase the capacity to detect document fraud and establish an effective second line function in the vicinity of the first line;
7. upgrade the functionalities of the national Schengen Information System application to ensure clear and complete display of query results, including the details of the alert and the actions to be taken;
8. implement the SIS Automated Fingerprint Identification System to enable identifications based on fingerprints, in accordance with Article 9(1) and Article 33(2) of Regulation (EU)

¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

2018/1861 of the European Parliament and of the Council¹ and Article 9(1) and Article 43(2) of Regulation (EU) 2018/1862 of the European Parliament and of the Council²;

9. ensure adequate verification of entry conditions and stamping of third-country nationals' travel documents undergoing automated border control process in accordance with Articles 8 and 11 of Regulation (EU) 2016/399;
10. ensure that the nature of discreet checks is not jeopardised in case of a hit when the third-country national uses ABC gates, in line with Article 37(3) of Regulation (EU) 2018/1862 and Annex I to Commission Implementing Decision C(2021) 92;
11. ensure that the Advance Passenger Information data is checked against the Schengen Information System to give full effect to Council Directive 2004/82/EC³ and effectively combat cross-border crime and irregular migration;
12. ensure that sanctions are imposed on carriers when Advance Passenger Information data is missing, incomplete, false, or late, in accordance with Article 4 of Directive 2004/82/EC;
13. ensure that fines are imposed to air carriers as required by Article 26(2) of the Schengen Convention⁴ and Article 4 of the Council Directive 2001/51/EC⁵;

¹ Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006, *OJ L 312*, 7.12.2018, p. 14.

² Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU, *OJ L 312*, 7.12.2018, p. 56.

³ Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, *OJ L 261*, 6.8.2004, p. 24.

⁴ Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, *OJ L 239*, 22/09/2000, p.19.

⁵ Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, *OJ L 187*, 10.7.2001, p. 45.

14. bring the procedure of issuing visas at the border in line with Article 35 of Regulation (EC) No 810/2009 of the European Parliament and of the Council¹;

Risk analysis and information exchange:

15. carry out risk analysis in accordance with the Common Integrated Risk Analysis Model (CIRAM), integrating information from all relevant authorities including Advance Passenger Information System data, to deliver the necessary analysis products that support decision-making, planning and allocation of resources for border control, as required by Article 29(1) of Regulation (EU) 2019/1896; by June 2024.

Done at Brussels,

For the Council

The President

¹ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), *OJ L 243, 15.9.2009, p. 1*.