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CM 5950/23

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JAI
SCH-EVAL
SCHENGEN
COMIX
PROCED

COMMUNICATION

WRITTEN PROCEDURE

Contact:	schengen.evaluation@consilium.europa.eu
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Subject:	Council Decision on the full application of the Schengen acquis in the Republic of Bulgaria and Romania <ul style="list-style-type: none">• Decision to use the written procedure• Adoption• Approval of a letter• End of written procedure

Delegations are informed that the written procedure, opened by CM 5949/23 of 30 December 2023 at 18h52, and extended by CM 5949/23 REV 1, was completed on 30 December 2023 at 21:30 and that all the delegations:

1. agreed to the use of the written procedure;
2. agreed to adopt Council Decision on the full application of the Schengen acquis in the Republic of Bulgaria and Romania, as set out in document 17132/23, and
3. agreed on the draft letter to be addressed to the European Parliament, as set out in the annex to the CM 5949/23.

Please note that for the German version a corrigendum was issued in agreement with of the Austrian and the German delegations.

Therefore, the above Council decision is adopted and the letter to be addressed to the European Parliament is approved.

Two statements were made in the context of the written procedure:

1. a Statement by Austria, Bulgaria and Romania, and
2. a Statement by the Commission.

Both those statements are annexed to this communication.

JOINT AUSTRIAN, ROMANIAN AND BULGARIAN STATEMENT DATED 29.12.2023**This statement complements that made by the European Commission****Continuation of joint efforts to fight irregular migration (complementary measures and commitments)****1) Further strengthening EU external border protection**

Bulgaria and Romania should be further supported in protecting the external borders of the EU – an effort undertaken for the benefit of the EU27:

- FRONTEX presence at the Bulgarian/Turkish border should be at least tripled; furthermore, the presence of FRONTEX border guards at the Serbian/Bulgarian border should be increased.
- Substantial financial support released by the European Commission for the protection of the Bulgarian and Romanian external borders (expansion of border surveillance: e.g., off road vehicles, drones, electronic surveillance systems, maintenance fence).
- Stabilize the pilot projects at external borders (BG-TK and RO-SER) and commit to move to a more structural arrangement (e.g., joint action plan or declaration with the European Commission and Agencies).

2) Boosting up border controls at the land borders between Bulgaria and Romania as well as by Romania at the border with Hungary (e.g., multilateral teams for compensatory measures creating a multi-filter system to further address irregular migration)

3) Working together to limit secondary movements in accordance with Union law, in particular by committing to swiftly and diligently applying the Dublin acquis in full, through immediately taking back all asylum seekers for which Bulgaria and Romania are responsible in accordance with the Dublin Regulation (and the future Asylum and Migration Management Regulation), without any limitations (especially concerning the number of people to be taken back within an month), by taking back beneficiaries of international protection in BG and RO as well as by guaranteeing quick (max. 3 working days) responses to take back/take charge requests. This is currently especially relevant for Afghan and Syrian asylum seekers.

By doing so we acknowledge the importance of a functioning asylum system for the functioning of Schengen; we furthermore send the signal that asylum seekers cannot choose their country of destination and that their asylum claim will be processed by the responsible Member State.

4) Deploying document advisers (including Austrian advisers) for relevant flights at airports in Bulgaria and Romania; spot checks upon arrival in Austria in accordance with Union law.

5) Commitment to discuss in 2024 on a functioning Schengen Area and preparatory work for compensatory measures at Romania and Bulgaria border.

Lifting of air borders

- Decision to be adopted in December 2023 with date of entry into application for air borders in accordance with change of flight schedules, e.g., March 2024.

Lifting of sea borders

- Decision to be adopted in December 2023 with date of entry into application for sea borders same as for air borders.

Way forward

Commitment to discuss in 2024 a date for a possible lifting of the checks at land borders also depending on the successful implementation of all complementary measures and commitments (points 1 to 5) leading to a significant improvement of the migratory situation in Austria.

Statement by the Commission on the Draft Council Decision on the full application of the provisions of the Schengen acquis in the Republic of Bulgaria and Romania

The Commission considers that, to assist Bulgaria and Romania in protecting the external borders of the Union, it is important, on the one hand, to ensure the reinforced presence of border guards, including advanced level document officers at airports, of the European Border and Coast Guard Standing Corps, in particular at the borders between Bulgarian and Türkiye, and between Bulgaria and Serbia. On the other hand, substantial financial support from the Union for the protection of the Bulgarian and Romanian external borders will need to continue to be provided to strengthen border control. Furthermore, the pilot projects developed by Bulgaria and Romania at external borders have proven effective and deserve to be turned into more structural arrangements.

The Commission recalls that the functioning of the Schengen area will continue to be discussed in 2024 in the Schengen Council in the framework of the Schengen governance cycle. Operational cooperation efforts will continue to be ensured with support from the Schengen Coordinator.

This statement complements that made by Bulgaria, Romania and Austria.