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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	2 June 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	REGULATORY SCRUTINY BOARD OPINION - Proposal for a COUNCIL REGULATION on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing Regulation (EU) No 1053/2013

Delegations will find attached document SEC(2021) 225.

Encl.: SEC(2021) 225

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Schengen evaluation and monitoring mechanism (Council Regulation (EU)1053/2013)

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

The Schengen evaluation and monitoring mechanism aims to ensure that the countries participating in the EU's internal border-free area implement the rules correctly. It monitors the implementation of the Schengen acquis. This includes control of external borders, visa policy, the Schengen information system, data protection, police cooperation, judicial cooperation in criminal matters, and the absence of internal border controls. Five to seven Member States are evaluated each year, resulting in recommendations for remedial action. The implementation of these recommendations is reviewed on a regular basis.

The new pact on migration announced a "strategy on the future of Schengen". This strategy will cover a revision of the 2013 Regulation on the Schengen evaluation mechanism, following the completion of a first monitoring five-year cycle. The objective is to make the evaluation procedure more efficient and allow a more flexible, targeted use of the instrument.

This opinion concerns a draft impact assessment which may differ from the final version.

Commission européenne, B-1049 Bruxelles - Belgium. Office: BERL 08/010. E-mail: regulatory-scrutiny-board@ec.europa.eu

(B) Summary of findings

The Board notes the additional useful information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains some shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The problem analysis does not sufficiently draw on available evidence.

(2) The report is not sufficiently clear on the link between the problems, the policy objectives and the policy options (i.e. the intervention logic).

(3) The impact analysis and the comparison of options are incomplete. The preferred option does not correspond to the analysis and relies on unclear criteria.

(C) What to improve

(1) The problem analysis needs to be reinforced by making better use of all available evidence, including contributions from stakeholders. It should clarify how it links to the findings of the evaluation. The analysis should better reflect what deficiencies and gaps the initiative aims to solve. It should better distinguish between the shortcomings of the current Regulation and the new challenges and problems that require a revision. It could explain why the problem analysis deviates from the six themes of the review mechanism.

(2) The report should provide a clearer intervention logic, demonstrating the link between the problems, the policy objectives and the policy options. In particular, it should clarify the problem (driver) that corresponds to the fundamental rights objective. It should further explain the link between the problem analysis and the proposed institutional changes and evaluation format. More detail should be provided on how thematic evaluations could improve the current evaluation practice and how the new governance scheme would achieve a better institutional balance.

(3) The report presents a preferred combination of measures, which has not been assessed separately and which deviates from the results of the main options analysis. To enhance clarity, the preferred package of measures should be included as a self-standing option. It should be assessed against clear criteria to better substantiate the final choice of preferred option. In this context, considerations regarding political and legal feasibility should be brought out more clearly. The report should better explain what the fundamental political choices are for the different options.

(4) The report should further elaborate on the impact analysis. For each option, including the preferred one, it should outline all significant impacts on the different categories of stakeholders that will potentially be affected. It should provide justification for all estimates and explain how the calculations were made. It should also analyse how the preferred option compares to other options against the assessment criteria.

(5) The REFIT dimension should be clarified, explaining how the initiative would enhance simplification and reduce administrative burdens. The report should explain how it intends to alleviate the impact on human resources that is a concern raised by several stakeholders.

(6) Stakeholder opinions should be reflected throughout the report, especially where their views differ on specific issues.

The Board notes the estimated costs and benefits of the preferred option in this initiative, as summarised in the attached quantification tables. *Some more technical comments have been sent directly to the author DG.*

(D) Conclusion **The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.**	
Full title	Proposal for a revision of the Schengen evaluation and monitoring mechanism (Council Regulation (EU)1053/2013)
Reference number	PLAN/2020/8679
Submitted to RSB on	17 February 2021
Date of RSB meeting	17 March 2021

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ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

Overview of Benefits (total for all provisions) – Preferred Option			
Description	***Member States***	***European Commission***	***EU bodies and agencies***
Targeted evaluation visits and a decreased use of announced evaluations compared to other tools	Member States evaluated would benefit as visits become shorter since they would dedicate less financial resources to transport, food and civil servants mobilised for the visit.	Cost savings for the Commission would result in particular as regard evaluations financial costs, while preparation would possibly offset the advantages of shorter visits.	EU bodies and agencies may also have minor savings (up to EUR 2 000 per year), also due to shorter evaluation visits, that should not be entirely offset by wider participation in other fields.
Reduced number of Member States Experts	At least 6 000 working hours less for the Member States contributing experts. Savings of up to 10-15% on the financial costs for the evaluated Member States.	Saving as regards the financial costs of the evaluation missions. As such, costs depend largely on the evaluation team size, a reduction by 22% could easily reduce the costs of evaluation visits by almost 15% (Member States experts represent ~80% of the team).	None
Simplification of administrative procedures	At least 230 working hours, due to the lower frequency to reply to the standard questionnaire (a 50% reduction). The Commission cannot quantify further savings but would be far more significant, especially in relation to the follow-up.	At least 2 320 working hours, mainly due to the simplified information of the assessment of the action plan and the reduced frequency of the follow-up reports to be assessed. The Commission cannot quantify further savings due to the declassification of the reports but may be significant.	None

Overview of Costs (total for all provisions) – Preferred Option

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Description	*Member States*	*European Commission*	*EU bodies and agencies*
Wider scope of the evaluations (inclusion of new elements)	The Commission will integrate new elements in existing evaluations not generating significant additional costs, but the wider scope would rather affect the profile of the experts involved.		
Wider use of unannounced and thematic evaluations	The Commission expects that any costs would be offset by the savings in announced evaluations as the overall absolute number of visits a year would remain largely the same.		
Creation of a pool of experts	Setting up and managing the pool could generate some additional costs. It is expected that any costs would be off-set by the savings in the selection procedure		None
Trainings, additional sources of information, coordination with the EU bodies and agencies	Additional costs for national administrations would be marginal as training costs are covered by the Commission and EU agencies	The Commission does not expect additional costs to be substantial as the Commission provides normally only trainers. Additional training in the field of Visa or Data Protection would amount to EUR 70 000-100 000.	These measures would generate costs for EU agencies. An estimation of the costs is not possible as costs would depend on the number and modalities of trainings and scope of the information required which is unknown at this stage.
Wider participation of EU agencies experts	This measure would have no or a negligible impact on the logistic costs of Member States evaluated	This measure would have no or a negligible impact on the logistic costs of the Commission	Costs would arise only for the EU agencies concerned but should be rather limited, i.e. about 50-70 working hours and EUR 2 000 per additional expert

This opinion concerns a draft impact assessment which may differ from the final version.

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Electronically signed on 19/03/2021 10:32 (UTC+01) in accordance with article 11 of Commission Decision C(2020) 4482