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To: Delegations

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Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of **Belgium** 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 2020 evaluation of Belgium 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 19 July 2021.

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 2020 evaluation of Belgium 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 Belgium in October 2020. 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(2021) 1910.
- (2) The checks and surveillance of general aviation and in particular small airplanes and helicopters is considered a point of particular interest as it is carried out in a thorough manner, resulting in many cases in the discovery of drug smuggling and other cross-border crimes, going to and coming from the United Kingdom.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) Recommendations should be made on remedial actions to be taken by Belgium in order to address deficiencies identified as part of evaluation. In light of the importance of complying with the Schengen *acquis*, priority should be given to implementing the recommendations related to strategic coordination in border management (1); risk analysis (5); education and training (11); border checks and procedures (14,15,17); and strategic and operational planning for border surveillance (26).
- (4) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States. Within three month of its adoption, Belgium should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council.

RECOMMENDS:

that Belgium should:

Governance of the European Integrated Border Management

1. urgently improve the national strategic coordination in border management and also improve the decision-making process in alignment with the recommendations issued in the 2015 evaluation and the thematic evaluation of the national strategies for Integrated Border Management; increase the number of staff in the Border Unit of the Federal Police to be able to develop efficiently the horizontal requirements of the Schengen *acquis* and provide it with strategic coordination powers over the entire components of the European Integrated Border Management;
2. set up a dedicated contingency plan for possible border management crisis and / or adapt the current national plan to the operational requirements, in particular by establishing clear activation indicators and command and control functions; ensure the contingency plan is tested on a regular basis;

Interagency cooperation

3. establish regular and systematic operational inter-agency activities and data exchange methods to ensure efficient inter-agency cooperation in border management;

National quality control mechanism

4. establish a fully-fledged national quality control mechanism to cover all the components of the European Integrated Border Management and the national authorities responsible for its implementation;

Risk analysis and information exchange

5. implement urgently the Common Integrated Risk Analysis Model (CIRAM 2.0) and bring the Risk Analysis in compliance with Article 29 of Regulation (EU) 1896/2019 by setting up a risk analysis system for border control covering the national, regional and local levels and involving all authorities responsible for border control; by increasing the capacity to perform risk analysis at the national, regional and local levels; and by issuing regular and systematic risk analysis products to support managerial decisions;

National and European situational awareness and early warning system – EUROSUR

6. establish the National Coordination Centre in compliance with Article 21(3) of Regulation (EU) 2019/1896 on European Border and Coast Guard;
7. establish interinstitutional agreements for integrating relevant information from other authorities involved in border management to ensure a comprehensive national situational picture and reaction capacity, in particular with the Immigration Office, Customs and the Navy, and include the possibility to deploy liaison officers to the National Coordination Centre;

8. establish a comprehensive national situational picture in compliance with Article 25 of Regulation (EU) 2019/1896 on European Border and Coast Guard as well as the operational and analysis layers of EUROSUR in accordance with Article 9(5) and (7) of Regulation (EU) 2013/1052 establishing the European Border Surveillance System (EUROSUR);

Human resources

9. urgently establish a coherent human resources policy related to border management tasks at strategic, regional and local levels covering all categories of staff. In this context, re-assess the current staffing needs, considering the tasks to be performed by the police officers, and align them to the current and upcoming challenges;
10. re-assess the staffing needs for efficient implementation of EUROSUR, urgently recruit, train and deploy additional staff to the Port of Antwerp, and increase the number of police officers deployed in the Maritime Information Centre (MIK) to carry out analytical tasks;

Education and training

11. urgently establish an obligatory refresher / continuous training system for police officers who work in border control and include a supervision mechanism to have an overview of who attended the courses and when, in compliance with Article 16(1) of the Schengen Borders Code. The training system should ensure that all staff receive the basic one-month training for border guards before being deployed to implement border management-related tasks, and improve the level 2 national training and the curricula for document experts by ensuring better alignment with the length and content of the course for advanced level document officers established by Frontex;
12. ensure that at Brussels National Airport all border guards receive the specialised training before they start to perform border checks; ensure that operators working on EUROSUR receive specialised training; and that the Navy staff participating in border control receives the necessary training;

13. ensure additional training on predictive border profiling to the border guards performing behavioural detection at Airport Gosselies – Charleroi / Brussels South;

Border checks and procedures

14. provide for a legal basis to allow border guards to impose fines in case pilots do not submit the general declaration;
15. ensure that the Advance Passenger Information (API) data is checked against the Schengen Information System (SIS) and Interpol database, and implement a system for distribution of alerts and other information to the border guard authorities at the airports; ensure that all the necessary measures are taken to oblige the air carriers to transmit Advance Passenger Information for the purpose of carrying out checks on persons at the external borders, as required by Article 3 of the Council Directive 2004/82/EC of 29 April 2004;
16. simplify the refusal of entry and visa issuance procedures, for instance by giving more decision-making powers to the Police shift leaders or middle managers, while keeping the supervision function of the Immigration Office where necessary; at the same time, bring the refusal of entry procedure in compliance with Article 14(2), (3) and (4) of Regulation (EU) 2016/399 ('Schengen Borders Code')¹;
17. bring the practice on second-line check in compliance with Article 8(5) of the Schengen Borders Code as amended by ensuring that third-country nationals subject to a thorough second-line check are provided with written information prior to those checks in order to inform them about the purpose of those checks;
18. bring the procedures on checking the pleasure boats arriving from or departing to third countries in compliance with Article 8 of the Schengen Borders Code;

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).

19. improve, at Brussels National Airport – Zaventem and Airport Gosselies – Charleroi / Brussels South, the procedure for submitting the relevant information to the second-line, for example, by transmitting the information electronically, in order to avoid interfering with the performance of first-line checks;

Infrastructure and equipment

20. establish direct access to the surveillance CCTV cameras at the Federal Police premises at the sea border crossing points and ensure that mobile devices with access to the relevant databases are available and used at all sea border crossing points to increase the quality of border checks on-board vessels;
21. ensure that in the Port of Zeebrugge, in the cruise terminal, at the departures, the area between the control booths is secured and prevented from bypassing the border checks by installing physical barriers between the booths;
22. ensure that passengers arriving at Brussels National Airport – Zaventem and Airport Gosselies – Charleroi / Brussels South are divided properly between EU/EEA/CH nationals and ‘All passports’, preventing the possibility for passengers to change the lane just before the border checks in order to ensure division of passenger flows and enable proper behavioural assessment of all passengers;
23. ensure, at the Airport of Antwerp, proper physical separation of the area designated for border checks in the departure from the other public spaces of the airport and install physical barriers between the booths at arrival and departure in order to avoid uncontrolled crossing of the border line;

Border surveillance

24. increase the detection and reaction capabilities for sea border surveillance by upgrading the border surveillance system, installing modern equipment on board of all vessels used by the police for border surveillance, and by purchasing additional coastal patrol boat and rapid intervention boats for the Port of Antwerp;

25. ensure efficient operational coordination and a decreased response time to border incidents including by revising the alert procedure in case of a border incident;
26. ensure strategic and operational planning for border surveillance, based on the results of risk analysis and a coherent operational strategy;

Airport Gosselies – Charleroi / Brussels South

27. ensure that daily briefings are performed at the beginning of every shift and update on the events in the last 24h or on any new phenomena or modus operandi relevant for the border control activity at the airport;
28. increase networks bandwidth and stability of access to relevant databases;
29. improve the existing registration system and ensure that the stamps are properly stored and there is a controlled process of receiving the stamps prior to the shift and ensure that the travel documents of the third-country nationals are stamped in accordance with Article 11(3)(g) of the Schengen Borders Code;
30. ensure that visas are issued in accordance with Article 27 of the Visa Code and make sure that the technical equipment is always operational and ready to use;

Brussels Midi

31. ensure that the first-line is properly equipped for border checks;
32. improve the security measures to prevent access to the Eurostar tracks without undergoing border checks;

Port of Zeebrugge

33. ensure that the border checks on lorry drivers are always carried out at the booths when crossing the border;

34. ensure that in case the checks are carried out in advance based on passengers list, the data received are checked at the border crossing point against the data in the travel document in accordance with Article 8(2e) of the Schengen Borders Code. Additionally, ensure the checks of authenticity of the chip data in the travel documents of persons enjoying the right of free movement are in accordance with Article 8(2) last paragraph of the Schengen Borders Code;
35. bring the procedure to assign stamps to the police officers in compliance with Annex II (f) of the Schengen Borders Code;

Port of Antwerp

36. increase awareness on Schengen Borders Code on the presumption as regards fulfilment of conditions of duration of stay and refusal of entry and on Visa Code by ensuring that standard forms are updated and in line with Annex 1 of the Visa Code;
37. ensure the procedures for refusal of visa and refusal of entry are applied according to Article 32(2) and Annex VI of the Visa Code and Article 14(2) and Annex V of the Schengen Borders Code.

Done at Brussels,

For the Council
The President
