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From:	General Secretariat of the Council
To:	Delegations
Subject:	Council Implementing Decision setting out recommendations addressing identified common areas for improvement resulting from the 2024 thematic Schengen evaluation ‘Bridging national gaps: towards an effective EU return system through common solutions and innovative practices’

Delegations will find in the annex the Council Implementing Decision setting out recommendations addressing identified common areas for improvement resulting from the 2024 thematic Schengen evaluation ‘Bridging national gaps: towards an effective EU return system through common solutions and innovative practices’ adopted by the Council at its meeting held on 5 March 2025.

In line with Article 24 of Council Regulation (EU) 2022/922 of 9 June 2022, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out

RECOMMENDATIONS

addressing identified common areas for improvement resulting from the 2024 thematic Schengen evaluation ‘Bridging national gaps: towards an effective EU return system through common solutions and innovative practices’

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 24 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Council in its conclusion of 17 October 2024 called for determined action at all levels to facilitate, increase and speed up returns from the European Union, using all relevant EU policies, instruments and tools, including diplomacy, development, trade and visas.

¹ OJ L 160 15.6.2022, P. 1, ELI: <http://data.europa.eu/eli/reg/2022/922/oj>.

- (2) A thematic evaluation of Member States' practices and capabilities to ensure the effective return of third-country nationals with no right to stay in the territories of the Member States applying the Schengen *acquis* was carried out in 2024 by an evaluation team composed of experts from Member States, the Commission, as well as observers from the European Union Agency for Fundamental Rights and the European Border and Coast Guard Agency (Frontex). The thematic evaluation aimed at reinforcing the capacity of Member States in fulfilling their legal obligations to return third-country nationals without a legal right to stay, and to contribute to a uniform, harmonised and efficient implementation of the Schengen *acquis*, taking into account that return is key to ensure an effective and credible migration management, including to limit secondary movements, as well as to sustainably address some of the key threats for the internal security of the Schengen area. The thematic evaluation also aimed at identifying key common obstacles limiting national authorities' ability to carry out effective returns and identifying common Union solutions and practices that would bring an added value to a common EU system for return.
- (3) Given that the return process is closely linked to the overall implementation of the Schengen *acquis*, resulting in a complex process where a high number of actors, authorities and stakeholders are involved, the thematic evaluation focused on three different policy topics: return, protection of the external borders, and management of IT systems. The main objective of this approach was to assess if Member States take all necessary measures to enforce return decisions, while ensuring the respect of the fundamental rights of the third-country nationals concerned, and to identify possible actions to be taken to improve in these areas.
- (4) Following the thematic evaluation, the Commission adopted a report¹ containing the assessment of common areas for improvement and listing best practices identified during the thematic evaluation².
- (5) All States applying the Schengen *acquis* in full have been evaluated as part of this thematic evaluation in accordance with the methodology provided for in the Schengen evaluation guide set out in Commission Recommendation C(2023) 6790³.
- (6) The evaluation team operated under the coordination of lead experts from the Commission and the Member States (Sweden). It was further composed of a second expert from the Commission and national experts from Austria, Belgium, Czechia, Denmark, Estonia, Finland, Italy, Latvia, Liechtenstein, Lithuania, Norway, Poland, Portugal, Slovenia, Spain and Switzerland. Observers designated by Frontex and the European Union Agency for Fundamental Rights supported the work of the evaluation team.

¹ C(2024) 9171.

² These are practices considered by the evaluation team as improving the effectiveness of the EU return system. These have not undergone a compliance check with EU law, since Member States applying the Schengen *acquis* remain fully responsible for ensuring compliance with the applicable rules.

³ Commission Recommendation C(2023) 6790 of 16 October 2023 on the establishment of a Schengen evaluation guide to be used for the implementation of the Schengen evaluation and monitoring mechanism.

- (7) The evaluation team developed a dedicated questionnaire and analysed the results of past Schengen evaluation reports to identify common challenges and best practices relevant for the thematic evaluation.
- (8) The recommendations set out in this Decision and the best practices collected and described in the report have been structured around three building blocks: (1) a well-functioning Schengen system requires effective return, (2) ensuring effectiveness at key stages of the return process between national authorities, and (3) maximising national efficiency through stronger European cooperation. These building blocks need effective horizontal planning, including for adequate capabilities, streamlined procedures, and effective coordination both at national and Union level, including through the use of technology.
- (9) The thematic evaluation underscores the importance of return as a key part of the national strategies for European Integrated Border Management. Effective interagency cooperation at national level is a key pre-requisite for a well-functioning national return system and consequently for a common European one. Achieving such a system requires enhanced information exchange for more efficient and effective decision-making, through the best use of information available to authorities at national level and within Union large-scale information systems, mainly the Schengen Information System.
- (10) Ensuring the swift initiation of the return process following the procedures connected to the end of legal stay is key to comply with the obligation to issue return decisions without delay to illegally staying third-country nationals within the limits and safeguards of the Return Directive as interpreted by the Court of Justice of the European Union. At the same time, all relevant fundamental rights safeguards need to be in place to ensure that third-country nationals are subject to an individual assessment that takes into account their situation and needs, as well as access to an effective remedy. The Schengen *acquis* on return gives Member States a margin for establishing effective operational procedures and modalities that respect fundamental rights.
- (11) The identification of illegally staying third-country nationals is a necessary step for the effective implementation of the return procedure, including through the effective use of all available tools and information at national and Union level.

- (12) An effective return system requires the possibility for dignified and sustainable return on a voluntary basis, which is preferred over forced return. The use of return counselling and of available reintegration assistance are key tools to encourage voluntary return. For the voluntary return system to be reliable, and to prevent absconding and secondary movements, the effective monitoring of third-country nationals ordered to leave is also necessary to ensure that they comply with their return obligations. This is facilitated by the functionalities of the Schengen Information System, which should be complemented with effective measures at national level to achieve the desired effect.
- (13) To avoid potential security implications, it is vital to have effective procedures and cooperation mechanisms between authorities at national and Union level to identify as early as possible third-country nationals without a legal right to stay who pose a security threat, and to prioritise their return. For the same reason, effective cooperation between relevant authorities is needed to return third-country nationals without a legal right to stay who are serving a prison sentence.
- (14) The upgraded Schengen Information System, which includes alerts on return, reinforces the return procedures when effectively utilised, including through the sharing of biometric data and the reporting of hits, as well as the exchange of supplementary information between Member States.
- (15) An effective implementation of the Schengen *acquis* and of existing European tools are valuable resources for further enhancing the effectiveness of returns. However, additional measures and enhanced practices should be followed by Member States applying the Schengen *acquis* to maximise their impact.
- (16) The report identified common areas for improvement faced by Member States when preparing or carrying out procedures to return third-country nationals without a legal right to stay. The report also contains numerous best practices to support Member States in addressing existing challenges.
- (17) This decision identifies recommendations for remedial actions to address the common areas for improvement identified during the evaluation. Pursuant to Article 23(3) of Regulation (EU) 2022/922, Member States are to submit to the Commission and the Council an action plan to implement the recommendations. This should be done within three months after this Decision enters into force. The action plan should provide for adequate remedial measures to address the areas for improvement.

- (18) In addition, building on the vast range of best practices collected and described in the report, Member States should consider their added value towards a more effective Union return system and the feasibility to implement them, in consultation, where relevant, with the Member States who have already implemented them. Member States are encouraged to identify in the individual action plans those best practices that they intend to implement and may outline in the action plan reasons which do not allow them to implement the other best practices, considering national legal and operational specificities.
- (19) Pursuant to Article 23(3), second subparagraph, of Regulation (EU) 2022/922, the Commission, after consultation with the evaluation team, is to review the adequacy of the action plans within one month of its submission. Pursuant to Article 23(3), third and fourth subparagraphs, of that Regulation, Member States are to report to the Commission and the Council on the implementation of their action plan every six months from the date of notice of receipt of the review of the action plan, until the Commission considers the action plan fully implemented.
- (20) In cases where identical or comparable recommendations addressing areas for improvement set out in this Decision are also addressed to an individual Member State in the framework of their periodic evaluation, the concerned Member State may refer to how it has addressed those recommendations in other relevant action plans. The follow-up process will seek to create further synergies between reporting obligations stemming from the periodic evaluation and those stemming from the thematic evaluation.
- (21) This Decision should be transmitted to the European Parliament and to the national parliaments of the Member States.

RECOMMENDS:

that the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Croatia, the Czech Republic, the Kingdom of Denmark, the Republic of Finland, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Republic of Iceland, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Principality of Liechtenstein, the Republic of Malta, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Kingdom of Sweden and the Swiss Confederation should:

I. A WELL-FUNCTIONING SCHENGEN SYSTEM REQUIRES EFFECTIVE RETURNS

Return as a key part of Schengen governance

1. Ensure the effective implementation of return as an integral part of the relevant components of national strategies for European Integrated Border Management, promoting the effective cooperation between all involved stakeholders, as provided for in Articles 3 and 8(6) of Regulation (EU) 2019/1896¹ of the European Parliament and of the Council;
2. Establish and update on a regular basis the capability development and contingency plans for return, based on the outcome of a risk analysis, as provided for by Articles 9(3) and (4) and 29(7) of Regulation (EU) 2019/1896;

II. ENSURING EFFECTIVENESS AT KEY STAGES OF THE RETURN PROCESS BETWEEN NATIONAL AUTHORITIES

Effectively initiating and managing return procedures

3. Ensure that a return decision is issued without undue delay to any third-country national staying illegally on the territory of a Member State in accordance with Article 6(1) of Directive 2008/115/EC of the European Parliament and of the Council², and taking into account the possibilities provided for in Article 6(6) of that Directive;
4. Assess the national appeal system for return decisions (notably on number of instances, appeal deadlines, conditions for granting automatic suspensive effect, deadlines for judicial review) and take measures that results in prompt appeal procedures contributing to the overall effectiveness of return, in accordance with Article 8(1) of Directive 2008/115/EC, while ensuring full respect of the fundamental rights of the persons concerned, in accordance with Article 13 of that Directive;
5. Ensure the enforcement of return decisions in an effective and proportionate manner in accordance with Article 8(1) of Directive 2008/115/EC, by taking measures to deal in a swift manner with subsequent applications for international protection that do not contain new facts or circumstances, and which are lodged for the sole purpose of delaying or hampering removal;

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 (OJ L 295, 14.11.2019, p. 1, ELI: <http://data.europa.eu/eli/reg/2019/1896/oj>).

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98, ELI: <http://data.europa.eu/eli/dir/2008/115/oj>).

Digital Return Case Management System to ensure coordination between authorities (including large-scale IT systems)

6. Develop and further improve the national return case management system taking into account the model for national return case management systems (RECAMAS) established by Frontex, and developments of digital solutions for migration and asylum procedures at EU level and making full use of the support available from the Agency pursuant to Article 48(1), point (c) of Regulation (EU) 2019/1896;

Identification procedure, including through the use of large-scale IT systems supporting the application of the Schengen *acquis*

7. Further improve and optimise the use of all available tools (such as national and EU databases, support of the liaison officers' network) and incentives (such as offering adapted voluntary return and reintegration assistance, vocational training) to facilitate the identification of third-country nationals subject to return, in view of enforcing a return decision in accordance with Article 8(1) of Directive 2008/115/EC;

Credible return systems: coherence between voluntary and forced returns

8. Use all available tools to promote the possibilities to give full effect to Article 7(1), as outlined in recital 10 of Directive 2008/115/EC, and to provide for enhanced return counselling and return assistance, including the assistance provided in line with Article 48(1), point (a), of the Regulation (EU) 2019/1896;
9. Establish appropriate mechanisms to monitor the compliance with an obligation to return, so as to enforce the return decision if no period for voluntary departure has been granted or if the obligation to return has not been complied with within the granted period for voluntary departure, in accordance with Article 8(1) of Directive 2008/115/EC;
10. Ensure that the exit of a third-country national subject to return is systematically and without delay registered in the Schengen Information System, and enter an alert on refusal of entry as relevant, by effectively carrying out thorough checks on exit at the external borders in accordance with Article 8(3) points (g) and (h) of Regulation (EU) 2016/399 of the European Parliament and of the Council¹ and ensuring that supplementary information is shared via SIRENE in line with Article 5 of Regulation (EU) 2018/1860 of the European Parliament and of the Council²;

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 (OJ L 77, 23/03/2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/399/oj>).

² Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1860/oj>).

Prioritised return of criminals and those who pose a security threat

11. Take all necessary measures to return as soon as possible third-country nationals subject to a return decision not granting a period for voluntary departure, as well as third-country nationals who are serving a prison sentence, without prejudice to national criminal law, in accordance with Article 8(1) of Directive 2008/115/EC;
12. As soon as the threat is established, systematically include the information about the threat posed by an illegally staying third-country national to public policy, public security or national security, in accordance with Article 4(1), point (o), of Regulation (EU) 2018/1860, in the alerts on return contained in the Schengen Information System;
13. Ensure the full use of the possibilities provided for by Article 7(4) and Article 11(2) of Directive 2008/115/EC concerning the granting of a period for voluntary departure and the length of entry bans, in cases concerning illegally staying third-country nationals that pose a risk to public policy, public security or national security;

III. MAXIMISING NATIONAL EFFICIENCY THROUGH STRONGER EUROPEAN COOPERATION

Enhancing exchange of information for more efficient and effective decision-making

14. Ensure that the national competent authorities involved in examining the conditions and taking decisions related to the entry, stay and return of third-country nationals, as well as those carrying out checks on third-country nationals who are illegally entering or staying on the territory of the Member States, have full access to data and the right to search such data in the Schengen Information System in accordance with Article 17 of Regulation (EU) 2018/1860, Article 34 of Regulation (EU) 2018/1861 of the European Parliament and of the Council¹ and Article 44 of Regulation (EU) 2018/1862 of the European Parliament and of the Council²;
15. Ensure that swift national procedures are in place to exchange information between relevant authorities so that alerts on return are entered in the Schengen Information System without delay following the issuance of a return decision, in accordance with Article 3(1) of Regulation (EU) 2018/1860;

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, ELI: <http://data.europa.eu/eli/reg/2018/1861/oj>).

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, ELI: <http://data.europa.eu/eli/reg/2018/1862/oj>).

16. Ensure that available biometric data referred to in Article 4(1), points (u) and (v), of Regulation (EU) 2018/1860 is included in alerts on return contained in the Schengen Information System, to improve identification;

Operational support through Frontex

17. If and when appropriate, fully use the operational support available through Frontex provided for in Articles 48 and Article 50 of Regulation (EU) 2019/1896 to enhance the effectiveness of return activities; and adapt national systems and procedures to allow for the full use of such possibilities;
18. Use the operational support available through Frontex to deploy return teams provided for in Articles 52 of Regulation (EU) 2019/1896, while ensuring full operational integration in accordance with Articles 54 and 82 of Regulation (EU) 2019/1896, to respond to the lack of human resources that hinder effective and speedy enforcement of returns, especially in cases where a large number of third-country nationals are subject to the return process at the same time.

Done at Brussels, 6 March 2025

*For the Council
The President*
