



Brussels, 24.11.2015  
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2015/0267 (NLE)

*LIMITED*

Proposal for a

**COUNCIL RECOMMENDATION**

**on addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of police cooperation by Belgium**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### **Reasons for and objectives of the proposal**

On 7 October 2013 the Council adopted Regulation (EU) No 1053/2013<sup>1</sup>, establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*. In line with the Regulation, the Commission has established a multiannual evaluation programme 2014 - 2019<sup>2</sup> and an annual evaluation programme for 2015<sup>3</sup>, with detailed plans for on-site visits to the Member States to be evaluated, areas to be evaluated and sites to be visited.

The areas to be evaluated cover all aspects of the Schengen *acquis*; management of the external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation in criminal matters, as well as the absence of border control at internal borders. In addition, fundamental rights issues and the functioning of authorities that apply the relevant parts of the Schengen *acquis* are taken into account in all evaluations.

Based on the multiannual and annual programmes, a team of Member States and Commission experts carried out an evaluation of Belgium's implementation of police cooperation between 25 and 29 May 2015. Their evaluation report<sup>4</sup> sets out their findings and assessments, including best practices and any deficiencies identified during the evaluation.

Alongside the report the team made recommendations for remedial action aimed at addressing the deficiencies.

This proposal reflects those recommendations, but not the recommendations included in the report that were aimed to achieve a 'best practice' and were not linked to a deficiency.

Against this background, the current proposal for a Council Recommendation seeks to ensure that Belgium applies all Schengen rules related to police cooperation correctly and effectively.

#### **Consistency with existing provisions in the policy area**

These recommendations serve to implement the existing provisions in the policy area.

#### **Consistency with other Union policies**

These recommendations don't have links with other key Union policies.

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<sup>1</sup> OJ L 295, 6.11.2013, p. 27.

<sup>2</sup> Commission Implementing Decision C(2014)3683 of 18 June 2014 establishing the multi-annual evaluation programme 2014 - 2019 in accordance with Article 5 of the Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*

<sup>3</sup> Commission Implementing Decision C(2014) 7881 of 30 October 2014 establishing the first section of the annual evaluation programme for 2015 in accordance with Article 6 of Council Regulation (EU) No1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*

<sup>4</sup> C(2015) 7502

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **Legal basis**

Council Regulation (EU) no 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis.

### **Subsidiarity**

Article 15(2) of Council Regulation (EU) No 1053/2013 specifically requests the Commission to submit a proposal to the Council to adopt recommendations for remedial action aimed at addressing any deficiencies identified in the course of the evaluation. Action at Union level is required to strengthen mutual trust between the Member States and to ensure better coordination at Union level in order to guarantee that all Schengen rules are applied effectively by the Member States.

### **Proportionality**

Article 15(2) of Council Regulation (EU) No 1053/2013 mirrors the specific powers of the Council in the field of mutual evaluation of the implementation of Union policies within the area of freedom, security and justice.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

### **Ex-post evaluations/fitness checks of existing legislation**

n.a.

### **Stakeholder consultations**

In line with Article 14(5) and Article 21(2) of Council Regulation (EU) no 1053/2013 Member States gave their positive opinion on the evaluation report in the Schengen Committee of 12 June 2015.

### **Collections and use of expertise**

n.a.

### **Impact assessments**

n.a.

### **Regulatory fitness and simplification**

n.a.

### **Fundamental rights**

The protection of fundamental rights when applying the Schengen acquis was taken into account during the evaluation process.

**4. BUDGETARY IMPLICATION**

n.a.

**5. OTHER ELEMENTS**

n.a.

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THE COUNCIL 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 Schengen<sup>5</sup>, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Recommendation is to recommend to Belgium remedial actions to address deficiencies identified during the Schengen evaluation in the field of police cooperation carried out in 2015. 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(2015) 7502].
- (2) Belgium has a well-functioning system of international police cooperation, supported by clear workflows and strong links between the different elements of organisation, as well as a very robust network of information exchange. A particular strong point is the model for the 'choice of communication channel', which gives clear guidance to the staff in international police cooperation.
- (3) It is important to remedy each of the deficiencies identified within the shortest possible timeframe. Therefore no indication of priority for implementation of the recommendations should be given.
- (4) This Recommendation should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, the evaluated Members shall, pursuant to Article 16 of Regulation (EU) No 1053/2013, establish an action plan to remedy the deficiencies identified in the evaluation report and provide this to the Commission and the Council,

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<sup>5</sup> OJ L 295, 6.11.2013, p. 27.

HEREBY RECOMMENDS:

Belgium should:

1. continue its efforts regarding the connections of Police and Customs Cooperation Centres (PCCCs) to the Single Point of Contact (SPOC) via SIENA;
2. continue its efforts to giving wide access to international databases for searches on persons and objects to the local police on a need-to-know basis, and in the same line extending the use of mobile terminals and granting access through them to national police databases;
3. finalise full operational implementation of the Swedish Framework Decision<sup>6</sup>;
4. exploit, while following the example of the plans within the BENELUX Treaty, where from September 2015 a working group is going to work on a more practical and integrated framework for hot pursuits, the possibilities of an enhanced bilateral agreement with France to improve the effectiveness of hot pursuits with this country;
5. improve, while the revision of the entire Belgian IT system is an opportunity to create the basis for a more systematic approach to statistics, the collection of statistics on cross-border operations (in particular on hot pursuits) carried out at all borders.

Done at Brussels,

*For the Council  
The President*

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<sup>6</sup> Council Framework Decision 2006/960/JHA of 18 December 2006