The Schengen evaluation mechanism

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PURPOSE: to further develop, improve and render the already existing evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing Regulation (EU) No 1053/2013.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the Schengen area is one of the most significant achievements of the European Union. It has enhanced the freedom of movement by enabling more than 420 million people to move without being subject to internal border controls, as well as facilitating the cross-border delivery of goods and services.

The Schengen evaluation and monitoring mechanism is a peer-to-peer review mechanism aimed at verifying that Member States correctly implement the Schengen rules.

Today, the mechanism faces different challenges to when it was established. Instability in Europe's neighbourhood and beyond, the 2015 refugee crisis and its consequences, the persistent terrorist threat and the COVID-19 pandemic have put considerable strain on Schengen and even led to some Member States reintroducing internal border controls for a protracted period.

The Commission carried out a review of the operation of the Regulation in 2020. The review confirmed the need to have a **robust mechanism at EU level**. It found that the mechanism has already brought about tangible improvements in the implementation of the Schengen acquis by the Member States. It has, however, identified several shortcomings that should be addressed. These include the excessive length of the evaluation process, the slow follow up on recommendations and the lack of strategic approach on the evaluations and political discussions on the state of Schengen. The revision of the mechanism will help address these challenges.

CONTENT: the aim of this proposal is to further develop, improve and render the already existing mechanism more efficient.

The proposed changes concern:

Evaluation and monitoring activities should be:

- more targeted, taking into account the results of previous evaluations and the results of national quality control mechanisms. They should be supported by reinforced cooperation with Union bodies, offices and agencies, their systematic involvement in Schengen evaluations and by improved risk analyses and information sharing;

- carried out by teams consisting of Commission representatives and experts designated by Member States. To ensure the participation of sufficient number of experienced experts in a faster and less burdensome way, a **pool of experts** should be established and maintained by the Commission in close cooperation with the Member States;

- given more flexibility as regards the size of the evaluation and monitoring teams in order to increase the efficiency and to reduce administrative burden. Therefore, the Commission should define and **adapt the size of the teams** depending on the needs and challenges related to each evaluation and monitoring activity.

Multiannual evaluation programme

It is proposed that the Commission establish a multiannual evaluation programme covering a period of **seven years** (as opposed to five). A simplified procedure is also introduced to adjust the programme, according to which adjustments necessitated as a result of *force majeure* events and circumstances, may not require an amendment to the programme. Experience of the past years has clearly shown the need for such flexibility.

Accelerating the evaluation process

Strengthening and accelerating the provisions related to cases where evaluations identify a serious deficiency: a **fast-track procedure for a serious deficiency** is introduced to ensure that the deficiencies identified are addressed promptly. The Commission proposes shortening the evaluation process from **10-12 months to 4 months**, and in the case of serious deficiencies to **2.5 months**.

Follow up and monitoring

All evaluation reports will be followed up by an action plan. As a general rule, the frequency of the follow-up reporting will be reduced from **three to six months**. However, as a new element the follow-up reports should not only be submitted to the Commission, but to the Council as well. The role of the European Parliament and the Council will be reinforced in the monitoring phase: the Commission will inform them at least twice a year about the state of implementation of the action plans, the outcome of revisits and verification visits as well as if it observes considerable lack of progress in the implementation of an action plan.

Unannounced visits

Another main change has been made to the conduct of visits. Unannounced visits, being one of the most effective tools to verify Member States practices should, depending on their purpose, take place **without prior notification** to the Member State concerned or with only short prior notification. Unannounced visits without prior notification should take place for 'investigative' purposes in order to verify compliance with obligations under the Schengen acquis, including, in particular allegations of serious violations of fundamental rights at the external borders. Unannounced visits with a 24-hour advance notice should take place if the main purpose of the visit is to carry out a random check of the Member State's implementation of the Schengen acquis.

Regular Schengen Forums

The yearly reports on the results of the evaluations carried out and state of play regarding the remedial actions taken by Member States foreseen under this regulation should be part of the yearly '**State of Schengen Report**'. The Commission proposes to relaunch the adoption of the 'State of Schengen Report' to serve as a basis for discussions at the recently created Schengen Forum.

Transitional provisions

The proposal provides a transitional provision for the adoption of a new multiannual programme, which would be established by 1 November 2022 and it would commence on 1 January 2023. These dates can be adapted depending on the pace of negotiations on the proposal.

Budgetary implications

Annually it costs approximately EUR 2 million for the Commission to run the mechanism. This level of spending will be maintained. Costs incurred by the Member States' experts will continue to be reimbursed and no increase is expected in this regard either. Due to the proposed changes more will be done in a more efficient manner with the same resources.