The Schengen evaluation mechanism

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The Committee on Civil Liberties, Justice and Home Affairs adopted, following a special consultation procedure, the report by Sara SKYTTEDAL (EPP, SE) on the 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.

The revised evaluation and monitoring mechanism should aim at maintaining a high level of **mutual trust** among Member States by guaranteeing that Member States apply the Schengen acquis effectively following the agreed **common standards, fundamental principles and norms**, in order to ensure a well-functioning Schengen area, in full respect for fundamental rights and without internal border controls.

The evaluation and monitoring mechanism should achieve these goals through objective and **impartial evaluations** that are able to quickly identify deficiencies in the application of the Schengen acquis that could disrupt the correct functioning of the Schengen area, ensure that these deficiencies are swiftly addressed, and provide the basis for a **genuine political dialogue** among Member States on the functioning of the Schengen area as a whole.

The committee responsible approved the Commission's proposal subject to the following amendments:

Subject matter and scope

The amended Regulation establishes an evaluation and monitoring mechanism for the purpose of ensuring that Member States apply the Schengen acquis effectively to ensure a well-functioning area without internal border controls, and with **full respect for fundamental rights**.

Evaluations may cover all aspects of the Schengen acquis, including the effective and efficient application by the Member States of accompanying measures in the areas of external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation, as well as the absence of border control at internal borders. All evaluations should comprise an assessment of compliance with fundamental rights in the context of the aspects covered.

Responsibilities and duty to cooperate

Member States, the Commission and the Council should cooperate fully at all stages of the evaluations to ensure the effective implementation of the Regulation, while ensuring that the European Parliament is kept fully informed of all substantial developments.

The Commission could organise unannounced evaluations, in particular: (i) to evaluate practices at internal borders, in particular where internal border controls have been in place for more than 180 days and where there is evidence of fundamental rights violations; (ii) when it becomes aware of emerging problems which may have a significant negative impact on the functioning of the Schengen area, including circumstances which may constitute threats to internal security.

Short notice visits

In each multiannual evaluation cycle, each Member State shall undergo one periodic evaluation and at least one unannounced evaluation or short notice visit, as well as one or more thematic evaluations.

The amended test clarifies a maximum of **24 hours' notice** should be given to a Member State prior to a short notice visit, which is a complementary tool. A short-notice visit should take place only where the main purpose of the visit is to carry out a random check of the implementation of the Schengen acquis by a Member State.

Cooperation with the Fundamental Rights Agency

The European Union Agency for Fundamental Rights should submit annually to the Commission conclusions on its overall assessment of fundamental rights as regards the implementation of the Schengen acquis with a view to providing the Commission with its findings when drawing up the annual programme.

The Commission, in cooperation with the European Union Agency for Fundamental Rights, should include in the questionnaire specific benchmarks against which the evaluation teams assess compliance with fundamental rights.

Establishment of the teams

The Commission should also invite the European Parliament to send a representative to observe the reviews as a Union observer. The Commission should appoint an expert responsible for the fundamental rights elements of the visit or evaluation.

Evaluation reports, follow-up and monitoring

It is proposed that the Commission should transmit the evaluation report to the national Parliaments, the European Parliament and the Council no later than **14 days** after the report is adopted.

If, after 24 months from the adoption of the evaluation report, the Commission does not consider that all the recommendations have been sufficiently addressed and the action plan fully implemented, the European Parliament and the Council should express their position on the matter through a reasoned decision.

Serious deficiency

The amended Regulation stipulated that the Commission should immediately inform the Council and the European Parliament and the national parliaments of the identified **serious deficiency and the remedial actions**, if any, already taken by the evaluated Member State. The Council should adopt recommendations no later than **ten days** (as opposed to 2 weeks as proposed by the Commission) after the receipt of the proposal.

The evaluated Member State should submit to the Commission and the Council its action plan within three weeks of the adoption of the recommendations. The Commission should transmit that action plan to the European Parliament without any delay.

To verify the progress made in the implementation of the recommendations related to the serious deficiency, the Commission should organise a **revisit** that is to take place no later than **180 days** from the date of the evaluation activity.

Where, after a revisit, a Member State does not satisfactorily implement an action plan following an evaluation that identified a serious deficiency, the Commission should launch an **infringement procedure** against that Member State where it considers that that Member State failed to fulfil an obligation.