The Schengen evaluation mechanism

2021/0140(CNS) - 07/04/2022 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 427 votes to 102, with 24 abstentions, following a special legislative procedure (consultation), a legislative resolution 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 proposal aims to revise the Schengen evaluation and control mechanism with a view to making it more effective and maintaining a high level of mutual trust between the participating Member States.

Parliament approved the Commission proposal subject to the following amendments:

Scope

Members proposed that evaluations should 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 shall comprise an assessment of compliance with fundamental rights in the context of the aspects covered.

All evaluations should include an assessment of **respect for fundamental rights**.

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.

Form of evaluations

Evaluations may be conducted with short notice.

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.

Assessment and monitoring activities could be carried out through announced, short notice or unannounced inspections, questionnaires or other remote methods. The Commission could invite at least one member of the Union's bodies and agencies to participate in evaluation and monitoring teams, as appropriate.

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.

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 teams

All experts participating in a team carrying out an evaluation or monitoring activity should have undergone **appropriate training** to become Schengen evaluators. In addition, where the activities of a Union body or agency present in the Member State are evaluated as part of the evaluation of that Member State, no experts or observers from that Union body or agency should participate in the evaluation.

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.