Thursday 7 April 2022

P9_TA(2022)0122

The Schengen evaluation mechanism *

European Parliament legislative resolution of 7 April 2022 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 (COM(2021)0278 — C9-0349/2021 — 2021/0140(CNS))

(Special legislative procedure — consultation)

(2022/C 434/27)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2021)0278),

— having regard to Article 70 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0349/2021),

— having regard to the contributions submitted by the Czech Senate, the Spanish Parliament, the Portuguese Parliament and the Romanian Senate on the draft legislative act,

— having regard to Rule 82 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0054/2022),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;

3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission	*Amendment*
(1) The Schengen area without border control at internal borders relies on the effective and efficient application by the Member States of the Schengen acquis. That acquis comprises measures in the area of external borders, compensatory measures for the absence of controls at internal borders and a strong monitoring framework, which together ***facilitate*** free movement ***and ensures*** a high level of security, justice and protection of fundamental rights, including the protection of personal data.	(1) The Schengen area without border control at internal borders relies on the effective and efficient application by the Member States of the Schengen acquis. That acquis comprises measures in the area of external borders, compensatory measures for the absence of controls at internal borders and a strong monitoring framework, which together ***ensures*** free movement ***as well as*** a high level of security, justice and protection of fundamental rights, including the protection of personal data.

Thursday 7 April 2022

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission	*Amendment*
(4) In order to increase its effectiveness and efficiency, the Schengen evaluation and monitoring mechanism should be enhanced. 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, ***thereby contributing to a well-functioning*** Schengen area.	(4) In order to increase its effectiveness and efficiency, the Schengen evaluation and monitoring mechanism should be enhanced. 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***.

Amendment 3

Proposal for a regulation

Recital 5

Text proposed by the Commission	*Amendment*
(5) 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 dialogue on the functioning of the Schengen area as a whole. This requires close cooperation between the Member States and the Commission, a balanced distribution of shared responsibilities and maintaining the peer review nature of the system. It also requires a closer involvement of the European Parliament. Given the extent of the changes, Regulation (EU) No 1053/2013 should be repealed and replaced by a new Regulation.	(5) 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. This requires close cooperation between the Member States and the Commission, a balanced distribution of shared responsibilities and maintaining the peer review nature of the system. It also requires a closer involvement of the European Parliament. Given the extent of the changes, Regulation (EU) No 1053/2013 should be repealed and replaced by a new Regulation.

Thursday 7 April 2022

Amendment 4

Proposal for a regulation

Recital 6

Text proposed by the Commission	*Amendment*
(6) The evaluation and monitoring mechanism ***may*** cover all areas of the Schengen acquis — present and future — except those where a specific evaluation mechanism already exists under Union law. The evaluation and monitoring mechanism should encompass all relevant legislation and operational activities contributing to the functioning of ***Schengen area***.	(6) The evaluation and monitoring mechanism ***should*** cover all areas of the Schengen acquis — present and future — except those where a specific evaluation mechanism already exists under Union law. The evaluation and monitoring mechanism should ***cover both the efficiency of border controls at external borders and the absence of border controls at internal borders. The evaluation and monitoring mechanism should*** encompass all relevant legislation and operational activities contributing to the functioning of ***an area without border control at internal borders***.

Amendment 5

Proposal for a regulation

Recital 7

Text proposed by the Commission	*Amendment*
(7) The correct functioning of the authorities that apply the Schengen acquis should be taken into account in all the evaluations in line with the European Council conclusions of 1 and 2 March 2012. The evaluation should also cover the practices of private entities, such as airlines or external service providers, as far as they are involved in or affected by the implementation of the Schengen acquis while cooperating with the Member States. Equally, given the increasing role of Union bodies, offices and agencies in the implementation of the Schengen acquis, the evaluation and monitoring mechanism should support the verification of the activities of these Union bodies, offices and agencies in so far as they perform functions on behalf of the Member States to assist in the operational application of provisions of the Schengen acquis. Verification of these activities in this regard should be embedded into the evaluation of the Member States and carried out without prejudice to and in full respect of the responsibilities attributed to the Commission and to the relevant governing bodies of the agencies, offices and bodies concerned by their establishing regulations and their own evaluation and monitoring procedures therein. Should evaluations identify deficiencies in relation to functions fulfilled or supported by Union bodies, offices and agencies, the Commission should ***inform*** their relevant governing bodies.	(7) The correct functioning of the authorities that apply the Schengen acquis ***and their compliance with the Charter of Fundamental Rights of the European Union (the 'Charter')*** should be taken into account in all the evaluations in line with the European Council conclusions of 1 and 2 March 2012. The evaluation should also cover the practices of private entities, such as airlines or external service providers, as far as they are involved in or affected by the implementation of the Schengen acquis while cooperating with the Member States. Equally, given the increasing role of Union bodies, offices and agencies in the implementation of the Schengen acquis, the evaluation and monitoring mechanism should support the verification of the activities of these Union bodies, offices and agencies in so far as they perform functions on behalf of the Member States to assist in the operational application of provisions of the Schengen acquis. Verification of these activities in this regard should be embedded into the evaluation of the Member States and carried out without prejudice to and in full respect of the responsibilities attributed to the Commission and to the relevant governing bodies of the agencies, offices and bodies concerned by their establishing regulations and their own evaluation and monitoring procedures therein. Should evaluations identify deficiencies in relation to functions fulfilled or supported by Union bodies, offices and agencies, the Commission should ***include that in the evaluation report and involve*** their relevant governing bodies.

Thursday 7 April 2022

Amendment 6

Proposal for a regulation

Recital 9

Text proposed by the Commission	*Amendment*
(9) The vulnerability assessment carried out by Frontex is a complementary mechanism to the evaluation and monitoring mechanism established by this Regulation for guaranteeing quality control at Union level and ensuring constant preparedness at both Union and national levels to respond to any challenges at the external border. Both mechanisms constitute a component of the European Integrated Border Management. Synergies between the vulnerability assessment and the evaluation and monitoring mechanism should be maximised with a view to establishing an improved situational picture of the functioning of the Schengen area, avoiding, to the extent possible, duplication of efforts and conflicting recommendations. For that purpose, regular exchange of information between Frontex and the Commission on the results of both mechanisms should take place. Increasing the strategic focus and more targeted evaluation design also requires increasing synergies further with the relevant mechanisms and platforms operated by Union agencies and national administrations, such as the European Multidisciplinary Platform Against Criminal Threats ('EMPACT') or the oversight conducted by the Commission with the support of eu-LISA as regards the preparation of the Member States for the implementation of relevant IT systems as well as the findings of the national quality control mechanisms.	(9) The vulnerability assessment carried out by Frontex is a complementary mechanism to the evaluation and monitoring mechanism established by this Regulation for guaranteeing quality control at Union level and ensuring constant preparedness at both Union and national levels to respond to any challenges at the external border***. That vulnerability assessment should feed into the annual evaluation programme, thus ensuring an up-to-date situational awareness***. Both mechanisms constitute a component of the European Integrated Border Management. Synergies between the vulnerability assessment and the evaluation and monitoring mechanism should be maximised with a view to establishing an improved situational picture of the functioning of the Schengen area, avoiding, to the extent possible, duplication of efforts and conflicting recommendations. For that purpose, regular exchange of information between Frontex and the Commission on the results of both mechanisms should take place. Increasing the strategic focus and more targeted evaluation design also requires increasing synergies further with the relevant mechanisms and platforms operated by Union agencies and national administrations, such as the European Multidisciplinary Platform Against Criminal Threats ('EMPACT') or the oversight conducted by the Commission with the support of eu-LISA as regards the preparation of the Member States for the implementation of relevant IT systems as well as the findings of the national quality control mechanisms.

Thursday 7 April 2022

Amendment 7

Proposal for a regulation

Recital 10

Text proposed by the Commission	*Amendment*
(10) During the evaluation, particular attention should be paid to verifying respect for fundamental rights in the application of the Schengen acquis in addition to the evaluation of the correct implementation and application of the data protection requirements of the Schengen acquis carried out by separate evaluations. To increase the capacity of the evaluation and monitoring mechanism to identify violations of fundamental rights in relevant policy areas, additional measures should be implemented. Schengen evaluators should be properly trained in this regard, relevant information from the European Agency for Fundamental Rights should be better utilised and its experts better involved in the design and implementation of evaluations. Furthermore, evidence which is made public or provided through independent monitoring mechanisms or by relevant third parties at their own initiative such as ombudspersons, authorities monitoring the respect of fundamental rights, non-governmental and international organisations, should be taken into account in the programming, design and implementation of evaluations.	(10) During the evaluation, particular attention should be paid to verifying respect for fundamental rights in the application of the Schengen acquis in addition to the evaluation of the correct implementation and application of the data protection requirements of the Schengen acquis carried out by separate evaluations. To increase the capacity of the evaluation and monitoring mechanism to identify violations of fundamental rights in relevant policy areas, additional measures should be implemented. Schengen evaluators should be properly trained in this regard, relevant information from the European Agency for Fundamental Rights should be better utilised and its experts better involved in the design and implementation of evaluations. ***In particular, the Commission, in cooperation with the European Union Agency for Fundamental Rights, should develop specific benchmarks, to be included in the standard questionnaire, against which compliance with fundamental rights can be assessed.*** Furthermore, evidence which is made public or provided through independent monitoring mechanisms or by relevant third parties at their own initiative such as ombudspersons, authorities monitoring the respect of fundamental rights, non-governmental and international organisations, should be taken into account in the programming, design and implementation of evaluations.

Thursday 7 April 2022

Amendment 8

Proposal for a regulation

Recital 12

Text proposed by the Commission	*Amendment*
(12) The forms of evaluations and methods should be made more flexible to increase the efficiency of the evaluation and monitoring mechanism and its capacity to adapt to new circumstances and legislative developments and to streamline the use of the resources of the Member States, Commission and the Union bodies, offices and agencies. Periodic evaluations through visits should be the primary means of evaluation. The proportion of unannounced visits and thematic evaluations should be gradually increased to ensure a more balanced use of available tools. The forms of evaluation should be clearly defined. Depending on the policy area and the nature of the evaluation and monitoring activity, the evaluation and monitoring mechanism should allow the evaluation of several Member States at the same time and conduct entirely or partly remote evaluations as well as to combine the evaluation of policy fields. The evaluation and monitoring mechanism should strive towards drawing comprehensive Member State evaluation reports assessing the Member State's overall performance in the application of the Schengen acquis.	(12) The forms of evaluations and methods should be made more flexible to increase the efficiency of the evaluation and monitoring mechanism and its capacity to adapt to new circumstances and legislative developments and to streamline the use of the resources of the Member States, Commission and the Union bodies, offices and agencies. Periodic evaluations through visits should be the primary means of evaluation. The proportion of unannounced visits and thematic evaluations should be gradually increased to ensure a more balanced use of available tools. The forms of evaluation should be clearly defined. Depending on the policy area and the nature of the evaluation and monitoring activity, the evaluation and monitoring mechanism should allow the evaluation of several Member States at the same time and conduct entirely or partly remote evaluations as ***complementary evaluation methods to physical visits,*** as well as to combine the evaluation of policy fields. The evaluation and monitoring mechanism should strive towards drawing comprehensive Member State evaluation reports assessing the Member State's overall performance in the application of the Schengen acquis.

Amendment 9

Proposal for a regulation

Recital 13

Text proposed by the Commission	*Amendment*
(13) Thematic evaluations should be used more frequently to provide a comparative analysis of Member State practices. They should take place to assess the implementation of major legislative changes as they start to apply and of new initiatives, as well as to assess issues across policy areas or practices ***of*** Member States ***facing similar challenges***.	(13) Thematic evaluations should be used more frequently to provide a comparative analysis of Member State practices. They should take place to assess the implementation of major legislative changes as they start to apply and of new initiatives, as well as to assess issues across policy areas or ***similar policies and*** practices ***across the*** Member States.

Thursday 7 April 2022

Amendment 10

Proposal for a regulation

Recital 14

Text proposed by the Commission	*Amendment*
(14) 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 response to indications as regards the emergence of systemic problems that could potentially ***have a significant*** impact ***on*** the functioning of the Schengen area or to fundamental rights violations, in particular allegations of serious violations of fundamental rights at the external borders. ***In such cases, the provision of advance notice would defeat the objective of the visit. 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.***	(14) Unannounced visits, being one of the most effective tools to verify Member States practices, should take place without prior notification to the Member State concerned. Unannounced visits should take place for 'investigative' purposes in order to verify compliance with obligations under the Schengen acquis, including, in response to indications as regards the emergence of systemic problems that could potentially ***negatively*** impact the functioning of the Schengen area or ***lead*** to fundamental rights violations, in particular allegations of serious violations of fundamental rights at the external borders.

Amendment 11

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14a) 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.

Thursday 7 April 2022

Amendment 12

Proposal for a regulation

Recital 15

Text proposed by the Commission	*Amendment*
(15) Programming the activities carried out under this Regulation via multiannual and annual evaluation programmes has already proven its added value to ensure predictability and certainty. Therefore, the Commission, in cooperation with the Member States should adopt multiannual and annual evaluation programmes. These programmes should also provide the necessary flexibility to be able to adapt to the dynamic nature of the Schengen acquis over time. In the event of force majeure adjustments to the programmes should be made in agreement with the Member States concerned without the need for a formal amendment of the programmes. The multiannual evaluation programme, adopted for seven years, should identify the specific priority areas to be covered by the periodic evaluations. This approach should allow for more flexibility, better prioritisation ***and*** a more balanced and strategic use of all tools available. The extension of the multiannual evaluation programme from five to seven years should also lead to an increased, closer and more targeted monitoring of the Member States without reducing the level of scrutiny.	(15) Programming the activities carried out under this Regulation via multiannual and annual evaluation programmes has already proven its added value to ensure predictability and certainty. Therefore, the Commission, in cooperation with the Member States should adopt multiannual and annual evaluation programmes. These programmes should also provide the necessary flexibility to be able to adapt to the dynamic nature of the Schengen acquis over time. In the event of force majeure adjustments to the programmes should be made in agreement with the Member States concerned without the need for a formal amendment of the programmes. The multiannual evaluation programme, adopted for seven years, should identify the specific priority areas to be covered by the periodic evaluations. This approach should allow for more flexibility, ***adaptability based on the up-to-date information collected by the various analyses with a view to establishing an improved situational picture of the functioning of the Schengen area,*** better prioritisation ***as well as*** a more balanced and strategic use of all tools available. The extension of the multiannual evaluation programme from five to seven years should also lead to an increased, closer and more targeted monitoring of the Member States without reducing the level of scrutiny.

Thursday 7 April 2022

Amendment 13

Proposal for a regulation

Recital 16

Text proposed by the Commission	*Amendment*
(16) Evaluation and monitoring activities should be carried out by teams consisting of Commission representatives and experts designated by Member States. These representatives and experts should have appropriate qualifications, including a solid theoretical knowledge and practical experience. In order 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. The pool should be the primary source of experts for evaluation and monitoring activities.	(16) Evaluation and monitoring activities should be carried out by teams consisting of Commission representatives and experts designated by Member States ***and Union observers***. These representatives and experts should have appropriate qualifications, including a solid theoretical knowledge and practical experience***, and have undertaken the appropriate training***. ***In order to ensure the integrity of evaluation reports drawn up by teams following an evaluation, where the activities of a Union body, office or agency involved in the implementation of the Schengen acquis are evaluated together with the authorities of a Member State, Union observers should not have any conflict of interest.*** In order 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. The pool should be the primary source of experts for evaluation and monitoring activities.

Amendment 14

Proposal for a regulation

Recital 19

Text proposed by the Commission	*Amendment*
(19) Evaluation reports should be concise and ***succinct. They should focus on*** deficiencies ***with significant impact*** and highlight areas where ***important*** improvements ***could*** be made***. Minor findings should not form part of the reports***. The team should ***nevertheless*** communicate ***these*** findings to the evaluated Member State at the end of the evaluation activity, including to the authorities responsible for the relevant national quality control mechanism. The team should actively seek to identify best practices which should be added to the reports. In particular, new and innovative measures that significantly improve the implementation of the common rules and that could be put in practice by other Member States should be highlighted as a best practice for the purposes of the report.	(19) Evaluation reports should be concise and ***give an account of*** deficiencies ***identified*** and highlight areas where improvements ***should*** be made. The team should communicate ***the*** findings to the evaluated Member State at the end of the evaluation activity, including to the authorities responsible for the relevant national quality control mechanism. The team should actively seek to identify best practices which should be added to the reports. In particular, new and innovative measures that significantly improve the implementation of the common rules and that could be put in practice by other Member States should be highlighted as a best practice for the purposes of the report.

Thursday 7 April 2022

Amendment 15

Proposal for a regulation

Recital 20

Text proposed by the Commission	*Amendment*
(20) Evaluation reports should, as a rule, contain recommendations on how to remedy deficiencies identified (including fundamental rights violations) and be adopted in a single act by the Commission by means of implementing acts through the examination procedure in accordance with Article 5 of Regulation (EU) No 182/2011 ([36]) . The consolidation of the report and recommendations within a single document and subject to a single adoption procedure reinforces the intrinsic connection between the evaluation findings and recommendations. In addition, the accelerated publication of the recommendations should enable Member States to address the deficiencies faster and more efficiently. At the same time, the use of the examination procedure should ensure Member State's engagement in the decision-making process leading to the adoption of the recommendations.	(20) Evaluation reports should, as a rule, contain recommendations on how to remedy deficiencies identified (including fundamental rights violations) and be adopted in a single act by the Commission by means of implementing acts through the examination procedure in accordance with Article 5 of Regulation (EU) No 182/2011 ([36]) ***and without unnecessary delay. Attention should, in particular, be paid to identifying and remedying fundamental rights violations***. The consolidation of the report and recommendations within a single document and subject to a single adoption procedure reinforces the intrinsic connection between the evaluation findings and recommendations. In addition, the accelerated publication of the recommendations should enable Member States to address the deficiencies faster and more efficiently. At the same time, the use of the examination procedure should ensure Member State's engagement in the decision-making process leading to the adoption of the recommendations.

([36]) OJ L 55, 28.2.2011, p. 13.

([36]) OJ L 55, 28.2.2011, p. 13.

Thursday 7 April 2022

Amendment 16

Proposal for a regulation

Recital 22

Text proposed by the Commission	*Amendment*
(22) In addition, where evaluations identify a serious deficiency, specific provisions should apply to ensure the prompt adoption of remedial measures. Given the risk posed by such deficiency, as soon as the evaluated Member State is informed about a serious deficiency, the evaluated Member State should start immediately implementing actions to remedy the deficiency including, where necessary, mobilising all available operational and financial means. Remedial action should be subject to tighter deadlines and closer political scrutiny and monitoring throughout the process. In this regard, the Commission should immediately inform the Council and the European Parliament when an evaluation establishes the existence of a serious deficiency and organise a 'serious deficiency' revisit no later than ***one year*** from the date of the evaluation to verify whether the Member State has remedied the shortcomings concerned. The Commission should present a revisit report to the Council following the revisit.	(22) In addition, where evaluations identify a serious deficiency, specific provisions should apply to ensure the prompt adoption of remedial measures. Given the risk posed by such deficiency, as soon as the evaluated Member State is informed about a serious deficiency, the evaluated Member State should start immediately implementing actions to remedy the deficiency including, where necessary, mobilising all available operational and financial means. Remedial action should be subject to tighter deadlines and closer political scrutiny and monitoring throughout the process. In this regard, the Commission should immediately inform the Council and the European Parliament when an evaluation establishes the existence of a serious deficiency and ***report on any infringement proceedings that are ongoing or to be brought against the evaluated Member State. The Commission should also*** organise a 'serious deficiency' revisit no later than ***180 days*** from the date of the evaluation to verify whether the Member State has remedied the shortcomings concerned. The Commission should present a revisit report to the Council ***and to the European Parliament*** following the revisit. ***Considering the severe impact that a serious deficiency might have on the Schengen area, the Commission should launch without delay an infringement procedure in accordance with the Treaty on the Functioning of the European Union in order to address the identified shortcomings.***

Thursday 7 April 2022

Amendment 17

Proposal for a regulation

Recital 23

Text proposed by the Commission	*Amendment*
(23) The identification of a serious deficiency requires a thorough case-by-case assessment on the basis of clear criteria regarding the nature, scale and potential impact of the problems, which may be different for each policy area. Different key elements for the effective implementation of the Schengen acquis and different combination of factors could lead to the classification of a finding as a serious deficiency. However, if it is considered that a shortcoming identified is or in a short-term has the potential of putting the overall functioning of the area without internal border control at risk, or have a significant negative impact on the rights of individuals, such shortcoming is to be regarded as a serious deficiency. Where a serious deficiency in the carrying out of external border control is identified in an evaluation report, Articles 21 and 29 of Regulation (EU) 2016/399 of the European Parliament and of the Council ([37]) may apply.	(23) The identification of a serious deficiency requires a thorough case-by-case assessment on the basis of clear criteria regarding the nature, scale and potential impact of the problems, which may be different for each policy area. Different key elements for the effective implementation of the Schengen acquis and different combination of factors could lead to the classification of a finding as a serious deficiency. However, if it is considered that a shortcoming identified is or in a short-term has the potential of putting the overall functioning of the area without internal border control at risk, or ***of negatively impacting fundamental rights or*** have a significant negative impact on the rights of individuals, such shortcoming is to be regarded as a serious deficiency. Where a serious deficiency in the carrying out of external border control is identified in an evaluation report, Articles 21 and 29 of Regulation (EU) 2016/399 of the European Parliament and of the Council ([37]) may apply.
([37]) 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 (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).	([37]) 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 (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1).

Thursday 7 April 2022

Amendment 18

Proposal for a regulation

Recital 26

Text proposed by the Commission	*Amendment*
(26) It is essential and desirable that the European Parliament and the Council regularly hold discussions at political level in order to raise awareness of the importance of the implementation of the Schengen acquis, hold Member States who persistently breach the common rules accountable, and increase pressure on them to remedy the deficiencies identified. The Commission should provide adequate input to facilitate these discussions including through the adoption of a comprehensive annual report covering the evaluations carried out during the previous year and state of implementation of recommendations, which would be part of the 'State of Schengen' report. The European Parliament is encouraged to adopt resolutions and the Council should adopt conclusions to increase pressure on Member States making insufficient progress. The 'Schengen Forum', as a unique stage to discuss Schengen at high level with representatives of the European Parliament, Member States and the Commission should provide a platform for informal discussions aiming at better implementation of the Schengen acquis.	(26) It is essential and desirable that the European Parliament and the Council regularly hold discussions at political level in order to raise awareness of the importance of the implementation of the Schengen acquis, hold Member States who persistently breach the common rules accountable, and increase pressure on them to remedy the deficiencies identified. ***Both institutions should be fully and equally informed of all developments in the implementation of the Schengen acquis in the Member States.*** The Commission should provide adequate input to facilitate these discussions including through the adoption of a comprehensive annual report covering the evaluations carried out during the previous year and state of implementation of recommendations, which would be part of the 'State of Schengen' report. The European Parliament is encouraged to adopt resolutions and the Council should adopt conclusions to increase pressure on Member States making insufficient progress. The 'Schengen Forum', as a unique stage to discuss Schengen at high level with representatives of the European Parliament, Member States and the Commission should provide a platform for informal discussions aiming at better implementation of the Schengen acquis.

Amendment 19

Proposal for a regulation

Recital 28

Text proposed by the Commission	*Amendment*
(28) The classification status of the evaluation and revisit reports should be determined in accordance with the applicable security rules set out in Commission Decision (EU, Euratom) 2015/444 ([38]) . The evaluated Member State should nevertheless retain the possibility to request the classification of all or parts of the report in accordance with the applicable security rules.	(28) The classification status of the evaluation and revisit reports should be determined in accordance with the applicable security rules set out in Commission Decision (EU, Euratom) 2015/444 ([38]). The evaluated Member State should***, in exceptional cases,*** nevertheless retain the possibility to request the classification of all or parts of the report in accordance with the applicable security rules.
([38]) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).	([38]) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Thursday 7 April 2022

Amendment 20

Proposal for a regulation

Recital 29

Text proposed by the Commission	*Amendment*
(29) In view of the particular role entrusted to the European Parliament and to the national parliaments under the last sentence of Article 70 of the Treaty on the Functioning of the European Union (TFEU), as underlined in Article 12, point (c), of the Treaty on European Union (TEU) as regards the national parliaments, the Council and the Commission should fully inform the European Parliament and the national Parliaments of the content and results of the evaluations. In addition, should the Commission submit a proposal to amend this Regulation, the Council would, in accordance with Article 19(7), point (h), of its Rules of Procedure ([39]) , consult the European Parliament in order to take into consideration its opinion, to the fullest extent possible, before adopting a final text.	(29) In view of the particular role entrusted to the European Parliament and to the national parliaments under the last sentence of Article 70 of the Treaty on the Functioning of the European Union (TFEU), as underlined in Article 12, point (c), of the Treaty on European Union (TEU) as regards the national parliaments, the Council and the Commission should fully inform the European Parliament and the national Parliaments of the content and results of the evaluations ***no later than 14 days after the evaluation procedure has been concluded***. In addition, should the Commission submit a proposal to amend this Regulation, the Council would, in accordance with Article 19(7), point (h), of its Rules of Procedure ([39]) , consult the European Parliament in order to take into consideration its opinion, to the fullest extent possible, before adopting a final text.

([39]) Council Decision 2009/937/EU of 1 December 2009 adopting the Council's Rules of Procedure (OJ L 325, 11.12.2009, p. 35).

Amendment 21

Proposal for a regulation

Article 1 — paragraph 1

Text proposed by the Commission	*Amendment*
1. This Regulation establishes an evaluation and monitoring mechanism for the purpose of ensuring that Member States apply the Schengen acquis effectively***, thereby contributing to*** a well-functioning area without internal border controls.	1. This Regulation establishes an evaluation and monitoring mechanism for the purpose of ensuring that Member States apply the Schengen acquis effectively ***in order to ensure*** a well-functioning area without internal border controls***, and with full respect for fundamental rights***.

Amendment 22

Proposal for a regulation

Article 1 — paragraph 3

Text proposed by the Commission	*Amendment*
3. Evaluations may cover all aspects of the Schengen acquis ***and take into account the functioning of the authorities that apply*** the Schengen ***acquis***.	3. 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 shall comprise an assessment of compliance with fundamental rights in the context of the aspects covered.***

Thursday 7 April 2022

Amendment 23

Proposal for a regulation

Article 2 — paragraph 1 — point d

Text proposed by the Commission	*Amendment*
(d) 'unannounced evaluation' means an evaluation, which is not included in the multiannual and annual evaluation programmes, to verify the application of the Schengen *acquis* by one or more Member States in one or more policy fields;	(d) 'unannounced evaluation' means an evaluation, which ***is conducted without any prior notice and which*** is not included in the multiannual and annual evaluation programmes, to verify the application of the Schengen *acquis* by one or more Member States in one or more policy fields;

Amendment 24

Proposal for a regulation

Article 2 — paragraph 1 — point f a (new)

Text proposed by the Commission	*Amendment*
	(fa) 'short-notice visit' means a visit, which is conducted with a maximum 24-hour advance notice and with the purpose of carrying out a random check of the implementation of the Schengen acquis by a Member State;

Amendment 25

Proposal for a regulation

Article 2 — paragraph 1 — point i

Text proposed by the Commission	*Amendment*
(i) 'serious deficiency' means one or more deficiencies which concern the effective application ***of key elements*** of the Schengen acquis and which individually or in combination***, have,*** or risk ***to have over time, a significant negative impact on*** the rights of individuals or ***on*** the functioning of the Schengen area;	(i) 'serious deficiency' means one or more deficiencies which concern the effective application of the Schengen acquis***, or part of it, including upholding the Charter,*** and which individually or in combination ***negatively impact*** or risk ***negatively impacting freedom of movement,*** the rights of individuals or the functioning of the Schengen area;

Amendment 26

Proposal for a regulation

Article 2 — paragraph 1 — point k

Text proposed by the Commission	*Amendment*
(k) 'team' means a group comprising experts designated by Member States and Commission representatives who carry out evaluations and monitoring activities.	(k) 'team' means a group comprising experts designated by Member States and Commission representatives ***and observers designated by relevant Union institutions, bodies or agencies,*** who carry out evaluations and monitoring activities.

Amendment 27

Proposal for a regulation

Article 2 — paragraph 1 — point k a (new)

Text proposed by the Commission	*Amendment*
	(ka) 'Union observer' means an individual designated by a Union institution, body, office or agency as referred to in Article 7(1) participating in an evaluation or monitoring activity.

Amendment 28

Proposal for a regulation

Article 3 — paragraph 3

Text proposed by the Commission	*Amendment*
3. The Member States ***and*** the Commission shall cooperate fully at all stages of evaluations in order to ensure the effective implementation of this Regulation.	3. The Member States, the Commission ***and the Council*** shall cooperate fully at all stages of evaluations in order to ensure the effective implementation of this Regulation***, while ensuring that the European Parliament is kept fully informed of all substantive developments***.

Thursday 7 April 2022

Amendment 29

Proposal for a regulation

Article 3 — paragraph 4 — subparagraph 2

Text proposed by the Commission	*Amendment*
They shall ensure that the Commission and the teams carrying out evaluation and monitoring activities are able to perform their tasks effectively, in particular by granting the possibility to the Commission and the teams to address directly relevant persons and by providing full and unimpeded access to all areas, premises and documents to which access has been requested, including national and internal guidelines and instructions, also classified ones.	They shall ensure that the Commission and the teams carrying out evaluation and monitoring activities are able to perform their tasks effectively, in particular by granting the possibility to the Commission and the teams to address directly ***and individually*** relevant persons and by providing full and unimpeded access to all areas, premises and documents to which access has been requested, including national and internal guidelines and instructions, also classified ones.

Amendment 30

Proposal for a regulation

Article 3 — paragraph 5 — subparagraph 2

Text proposed by the Commission	*Amendment*
The Commission shall bear the travel and accommodation costs for experts ***and the observer*** referred to in Article 16(2) participating in the visits.	The Commission shall bear the travel and accommodation costs for experts ***as well as for the observers*** referred to in Article 16 (2) ***and Union observers*** participating in the visits.

Amendment 31

Proposal for a regulation

Article 4 — paragraph 1 — point c a (new)

Text proposed by the Commission	*Amendment*
	(c a) evaluations conducted with short-notice;

Amendment 32

Proposal for a regulation

Article 4 — paragraph 2 — point a

Text proposed by the Commission	*Amendment*
(a) to evaluate practices at internal borders;	(a) to evaluate practices at internal borders***, in particular where internal border controls have been in place for longer than 180 days and locations were there are evidence of fundamental rights violations.***

Thursday 7 April 2022

Amendment 33

Proposal for a regulation

Article 4 — paragraph 2 — point b

Text proposed by the Commission	*Amendment*
(b) when it becomes aware of emerging or ***systemic*** problems that could potentially have a significant negative impact on the functioning of the Schengen area;	(b) when it becomes aware of emerging or ***existing*** problems that could potentially have a significant negative impact on the functioning of the Schengen area***, including circumstances that could give rise to internal security threats.***

Amendment 34

Proposal for a regulation

Article 4 — paragraph 2 — point c

Text proposed by the Commission	*Amendment*
(c) when it has grounds to consider that a Member State is ***seriously*** neglecting its obligations under the Schengen acquis ***including*** allegations of serious fundamental rights violations at the external borders.	(c) when it has grounds to consider that a Member State is neglecting its obligations under the Schengen acquis***, in particular*** allegations of serious fundamental rights violations at the external borders.

Amendment 35

Proposal for a regulation

Article 4 — paragraph 3

Text proposed by the Commission	*Amendment*
3. The Commission may organise thematic evaluations in particular to assess the implementation of significant legislative changes, as they start to apply, and of new initiatives, or to assess issues across policy areas ***or*** practices ***of*** Member States ***facing similar challenges***.	3. The Commission may organise thematic evaluations in particular to assess the implementation of significant legislative changes, as they start to apply, and of new initiatives, or to assess issues across policy areas***, or similar policies and*** practices ***across*** Member States.

Amendment 36

Proposal for a regulation

Article 6 — subparagraph 1

Text proposed by the Commission	*Amendment*
Evaluations and monitoring activities referred to in Articles 4 and 5 may be carried out by means of announced or unannounced visits, and questionnaires or other remote methods.	Evaluations and monitoring activities referred to in Articles 4 and 5 may be carried out by means of announced***, short-notice*** or unannounced visits, and questionnaires or other remote methods. ***That should only be done when physical visits are not deemed necessary***.

Thursday 7 April 2022

Amendment 37

Proposal for a regulation

Article 7 — paragraph 1 — subparagraph 2

Text proposed by the Commission	*Amendment*
The Commission may enter into arrangements with the Union bodies, offices and agencies to facilitate the cooperation.	The Commission may enter into arrangements with the Union bodies, offices and agencies to facilitate the cooperation ***and invite a member of the Union bodies, offices or agencies to participate in the teams carrying out evaluation and monitoring activities, when relevant***.

Amendment 38

Proposal for a regulation

Article 8 — paragraph 1

Text proposed by the Commission	*Amendment*
1. By 31 August each year, Frontex shall submit to the Commission and the Member States ***a risk analysis*** in view to the annual evaluation programme referred to in Article 13 of this Regulation.	1. By 31 August each year, Frontex shall submit to the Commission and the Member States ***risk analyses*** in view to the annual evaluation programme referred to in Article 13 of this Regulation.

Amendment 39

Proposal for a regulation

Article 8 — paragraph 2 — subparagraph 1

Text proposed by the Commission	*Amendment*
The risk ***analysis*** referred to in paragraph 1 shall cover all relevant aspects ***related to*** integrated border management and it shall also contain recommendations for unannounced visits in the following year, irrespective of the order of Member States to be evaluated each year, as established in the multiannual evaluation programme in accordance with Article 12.	The risk ***analyses*** referred to in paragraph 1 shall cover all relevant aspects ***of European*** integrated border management***, as laid down in Article 3(1) of Regulation (EU) 2019/1896, and include a fundamental rights component,*** and it shall also contain recommendations for unannounced ***or short-notice*** visits in the following year, irrespective of the order of Member States to be evaluated each year, as established in the multiannual evaluation programme in accordance with Article 12.

Amendment 40

Proposal for a regulation

Article 8 — paragraph 2 — subparagraph 2

Text proposed by the Commission	*Amendment*
Those recommendations may concern any region or specific area and shall contain a list of at least ten specific sections of the external borders and at least ten specific border crossing-points, specific sites relevant for evaluating compliance with Directive 2008/115/EC ([47]) , and other relevant information.	Those recommendations may concern any region or specific area and shall contain a list of at least ten specific sections of the external borders and at least ten specific border crossing-points, specific sites relevant for evaluating compliance with Directive 2008/115/EC ([47]) , and other relevant information.
	The Commission shall transmit risk analyses without delay to the European Parliament and to the Council in accordance with Regulation (EU) 2019/1896.
([47]) 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).	([47]) 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).

Amendment 41

Proposal for a regulation

Article 9 a (new)

Text proposed by the Commission	*Amendment*
	Article 9 a
	Cooperation with the European Union Agency for Fundamental Rights
	In accordance with Article 4(1), points (a) and (d), of Council Regulation (EC) No 168/2007 ([1a]), by 31 August each year, the European Union Agency for Fundamental Rights shall submit conclusions on its overall fundamental rights assessment in relation to the implementation of the Schengen acquis to the Commission with a view to providing it with its conclusions when drawing up the annual evaluation programme referred to in Article 13.
	([1a]) Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

Thursday 7 April 2022

Amendment 42

Proposal for a regulation

Article 10 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall use the results of relevant mechanisms and instruments, including evaluation and monitoring activities of Union bodies, offices and agencies which are involved in the implementation of the Schengen acquis and of the European Union Agency for Fundamental Rights as well as of independent national monitoring mechanisms and bodies and other national quality control mechanisms in preparing the evaluation and monitoring activities, to improve awareness on the functioning of the Schengen area and to avoid the duplication of efforts and conflicting measures.	1. The Commission shall use the results of relevant mechanisms and instruments, including evaluation and monitoring activities of Union bodies, offices and agencies which are involved in the implementation of the Schengen acquis and of the European Union Agency for Fundamental Rights as well as of independent national monitoring mechanisms and bodies and other national quality control mechanisms in preparing the evaluation and monitoring activities***, in determining the need for unannounced evaluation or evaluations at short-notice and*** to improve awareness on the functioning of the Schengen area and to avoid the duplication of efforts and conflicting measures.

Amendment 43

Proposal for a regulation

Article 10 — paragraph 3 — subparagraph 2

Text proposed by the Commission	*Amendment*
The information sharing shall take place in accordance with the mandates of the Union bodies, offices and agencies concerned.	The information sharing shall take place in accordance with the mandates of the Union bodies, offices and agencies concerned. ***Such information sharing shall take place in order to ensure enhanced situational awareness on the part of, and an enhanced operational response by, the Union bodies, offices and agencies concerned.***

Amendment 44

Proposal for a regulation

Article 11 — paragraph 1

Text proposed by the Commission	*Amendment*
In the programming and implementation of the evaluations and monitoring activities, the Commission shall take into account information provided by third parties, including independent authorities, non-governmental organisations and international organisations.	In the programming and implementation of the evaluations and monitoring activities, ***in particular in determining the need for unannounced evaluations in accordance with Article 4(2) and (2a),*** the Commission shall take into account information ***and recommendations*** provided by ***relevant*** third parties, including independent authorities, non-governmental organisations and international organisations ***such as the institutions and bodies of United Nations and the Council of Europe. Where the evaluation confirms shortcomings highlighted by third parties in the information they provide, Member States shall have the opportunity to comment.***

Amendment 45

Proposal for a regulation

Article 12 — paragraph 1 — subparagraph 2

Text proposed by the Commission	*Amendment*
In each multiannual evaluation cycle, each Member State shall undergo one periodic evaluation and at least one unannounced evaluation or thematic ***evaluation***.	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***. ***Unannounced evaluations pursuant to Article 4 shall be organised by the Commission whenever the circumstances provided for in that Article arise.***

Amendment 46

Proposal for a regulation

Article 12 — paragraph 3 — subparagraph 1

Text proposed by the Commission	*Amendment*
The multiannual evaluation programme shall identify ***the specific priority areas*** to be covered by the periodic evaluations and shall include a provisional time-schedule of those evaluations.	The multiannual evaluation programme shall identify***, in accordance with Article 4, those aspects of the Schengen acquis*** to be covered by the periodic evaluations and shall include a provisional time-schedule of those evaluations.

Amendment 47

Proposal for a regulation

Article 12 — paragraph 3 — subparagraph 2

Text proposed by the Commission	*Amendment*
It shall set out a provisional list of Member States to be subject to periodic evaluations, without prejudice to adjustments made under paragraph 4, in a given year. The provisional order in which the Member States are to be subject to a periodic evaluation shall take into account the time which has elapsed since the previous periodic evaluation. It shall also take into account the outcome of previous evaluations, the pace of implementation of the action plans and other relevant information at the Commission's disposal as regards the practices of the Member States.	It shall set out a provisional list of Member States to be subject to periodic evaluations***, along with the relevant Union institutions, bodies, offices and agencies performing functions related to the implementation of the Schengen acquis in the relevant Member States***, without prejudice to adjustments made under paragraph 4, in a given year. The provisional order in which the Member States are to be subject to a periodic evaluation shall take into account the time which has elapsed since the previous periodic evaluation. It shall also take into account the outcome of previous evaluations, the pace of implementation of the action plans and other relevant information at the Commission's disposal as regards the practices of the Member States

Thursday 7 April 2022

Amendment 48

Proposal for a regulation

Article 14 — paragraph 1 — subparagraph 2

Text proposed by the Commission	*Amendment*
In drawing up the questionnaire, the Commission may consult relevant Union bodies, offices and agencies referred to in Article 7.	In drawing up the questionnaire, the Commission may consult relevant Union bodies, offices and agencies referred to in Article 7. ***The Commission, in cooperation with the European Union Agency for Fundamental Rights, shall include in the questionnaire specific benchmarks against which the evaluation teams assess compliance with fundamental rights.***

Amendment 49

Proposal for a regulation

Article 14 — paragraph 4 — subparagraph 3

Text proposed by the Commission	*Amendment*
The Commission shall make the replies available to the other Member States.	The Commission shall make the replies available to the other Member States ***and to the European Parliament and the Council***.

Amendment 50

Proposal for a regulation

Article 16 — paragraph 1 — subparagraph 1

Text proposed by the Commission	*Amendment*
The Member States and the Commission, in cooperation with relevant Union bodies, offices or agencies, shall ensure that Member State experts and Commission representatives receive adequate training to become Schengen evaluators.	The Member States and the Commission, in cooperation with relevant Union bodies, offices or agencies, shall ensure that Member State experts and Commission representatives receive adequate training to become Schengen evaluators. ***Completion of that training shall be mandatory for all experts participating in a team carrying out an evaluation or monitoring activity in accordance with Article 18.***

Amendment 51

Proposal for a regulation

Article 16 — paragraph 2

Text proposed by the Commission	*Amendment*
2. For training purposes, each team carrying out periodic evaluations may include an 'observer' ***either*** from a Member State ***or*** the Commission.	2. For training purposes, each team carrying out periodic evaluations may include an observer from a Member State***, from*** the Commission ***or from a Union body, office or agency involved in the implementation of the Schengen acquis.***

Thursday 7 April 2022

Amendment 52

Proposal for a regulation

Article 17 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission, in cooperation with the Member States, shall establish every year a pool of experts whose professional background ***cover the specific priority areas set out in*** the multiannual evaluation programme.	1. The Commission, in cooperation with the Member States, shall establish every year a pool of experts whose professional background ***include those aspects of the Schengen acquis to be covered in accordance with*** the multiannual evaluation programme.

Amendment 53

Proposal for a regulation

Article 17 — paragraph 2

Text proposed by the Commission	*Amendment*
2. In parallel to the establishment of the annual evaluation programme in accordance with Article 13(1), on the invitation of the Commission, Member States shall designate at least one qualified expert per each ***specific area determined*** in the multiannual evaluation programme for next year's pool of experts.	2. In parallel to the establishment of the annual evaluation programme in accordance with Article 13(1), on the invitation of the Commission, Member States shall designate at least one qualified expert per each ***aspect of the Schengen acquis to be evaluated as laid down*** in the multiannual evaluation programme for next year's pool of experts.

Amendment 54

Proposal for a regulation

Article 17 — paragraph 11

Text proposed by the Commission	*Amendment*
11. The Commission shall keep the list of experts of the pool up to date and inform Member States about the number of experts and their profiles designated per Member State.	11. The Commission shall keep the list of experts of the pool up to date and inform Member States***, the European Parliament and the Council*** about the number of experts and their profiles designated per Member State.

Amendment 55

Proposal for a regulation

Article 18 — paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall define the number of Member State experts and Commission representatives participating in a team based on the particularities and needs of the evaluation or monitoring activity. The Commission shall select experts from the pool of experts to become members of a team.	1. The Commission shall define the number of Member State experts and Commission representatives participating in a team based on the particularities and needs of the evaluation or monitoring activity. The Commission shall select experts from the pool of experts to become members of a team. ***All members of the team, with the exception of observers or Union observers, shall have undergone the adequate training referred to in Article 16(1).***

Thursday 7 April 2022

Amendment 56

Proposal for a regulation

Article 18 — paragraph 2 — subparagraph 2

Text proposed by the Commission	*Amendment*
Member State experts shall not participate in a team carrying out an evaluation or monitoring activity of the Member State where they are employed.	Member State experts shall not participate in a team carrying out an evaluation or monitoring activity of the Member State where they are employed. ***Moreover, where the activities of a Union body, office or agency present in the Member State are being evaluated as part of that Member State's evaluation, no expert or observer from that Union body, office or agency shall participate in the evaluation.***

Amendment 57

Proposal for a regulation

Article 18 — paragraph 4

Text proposed by the Commission	*Amendment*
4. In the case of unannounced visits, the Commission shall send the invitations no later than two weeks before the visit is scheduled to commence. Experts shall respond within 72 hours of receiving the invitation, in agreement with their designating authorities.	4. In the case of unannounced ***or short-notice*** visits, the Commission shall send the invitations no later than two weeks before the visit is scheduled to commence. Experts shall respond within 72 hours of receiving the invitation, in agreement with their designating authorities.

Amendment 58

Proposal for a regulation

Article 18 — paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. The Commission shall also invite the European Parliament to send a representative to observe revisits as a Union observer.

Thursday 7 April 2022

Amendment 59

Proposal for a regulation

Article 18 — paragraph 8

Text proposed by the Commission	*Amendment*
8. If the Commission fails to obtain confirmation of the participation of the required number of experts from the pool at least six weeks before the evaluation or monitoring activity is scheduled to commence, or at least ***one week*** in case of unannounced visits, the Commission shall without delay invite all Member States to nominate qualified experts outside from the pool for the missing places.	8. If the Commission fails to obtain confirmation of the participation of the required number of experts from the pool at least six weeks before the evaluation or monitoring activity is scheduled to commence, or at least ***7 days*** in case of unannounced ***or short-notice*** visits, the Commission shall without delay invite all Member States to nominate qualified experts outside from the pool for the missing places.

Amendment 60

Proposal for a regulation

Article 18 — paragraph 9 — subparagraph 2

Text proposed by the Commission	*Amendment*
The Commission shall designate a Commission lead expert and propose the Member State lead expert. The Member State lead expert shall be appointed by the members of the team as soon as possible after the team has been set up.	The Commission shall designate a Commission lead expert and propose the Member State lead expert. The Member State lead expert shall be appointed by the members of the team as soon as possible after the team has been set up. ***The Commission shall designate an expert responsible for the fundamental rights elements of the visit or evaluation.***

Amendment 61

Proposal for a regulation

Article 19 — paragraph 2 — subparagraph 1

Text proposed by the Commission	*Amendment*
The detailed programme for the visits in a Member State or in its consulates shall be established by the Commission in close cooperation with the lead experts and the Member State concerned.	The detailed programme for the visits in a Member State or in its consulates shall be established by the Commission in close cooperation with the lead experts and the Member State concerned. ***The Commission shall send the detailed programme to the relevant national Parliament.***

Thursday 7 April 2022

Amendment 62

Proposal for a regulation

Article 19 — paragraph 4 — subparagraph 1

Text proposed by the Commission	*Amendment*
Unannounced visits shall take place without prior notification to the Member State concerned. ***By way of exception, the Commission may notify the Member State concerned at least 24 hours before such visit is to take place when the main purpose of the*** unannounced ***visit is a random verification of the implementation of the Schengen acquis.***	Unannounced visits shall take place without prior notification to the Member State concerned. ***The Commission shall establish the detailed programme for*** unannounced ***visits***.

Amendment 63

Proposal for a regulation

Article 19 — paragraph 4 — subparagraph 2

Text proposed by the Commission	*Amendment*
The Commission shall establish the detailed programme for unannounced visits. Where Member States have been notified, the Commission may consult the timetable and detailed programme with the Member State concerned.	***deleted***

Amendment 64

Proposal for a regulation

Article 19 — paragraph 5

Text proposed by the Commission	*Amendment*
5. The Commission, in close cooperation with the Member States, may establish and update Guidelines for conducting unannounced visits.	5. The Commission, in close cooperation with the Member States, may establish and update Guidelines for conducting unannounced ***or short-notice*** visits ***and may consult with Member States***.

Amendment 65

Proposal for a regulation

Article 20 — paragraph 1

Text proposed by the Commission	*Amendment*
The Commission, in cooperation with the Member States, may establish guidelines for conducting evaluation and monitoring activities by questionnaire or other remote methods.	The Commission, in cooperation with the Member States, may establish guidelines for conducting evaluation and monitoring activities by questionnaire, or other remote methods***, as complementary methods***. ***Remote methods shall only be used where physical visits are not deemed necessary.***

Amendment 66

Proposal for a regulation

Article 21 — paragraph 1 — subparagraph 3

Text proposed by the Commission	*Amendment*
The Commission shall transmit the evaluation report to the national Parliaments, the European Parliament and the Council.	The Commission shall transmit the evaluation report to the national Parliaments, the European Parliament and the Council ***no later than 14 days after the report is adopted***.

Amendment 67

Proposal for a regulation

Article 21 — paragraph 5

Text proposed by the Commission	*Amendment*
5. The evaluation report shall contain recommendations for remedial actions aimed at addressing the deficiencies and areas for improvement identified during the evaluation and give an indication of the priorities for implementing them. The evaluation report ***may*** set deadlines for the implementation of recommendations. Where the evaluation identifies a serious deficiency, the specific provisions set out in Article 23 shall apply.	5. The evaluation report shall contain recommendations for remedial actions aimed at addressing the deficiencies and areas for improvement identified during the evaluation and give an indication of the priorities for implementing them. The evaluation report ***shall also*** set deadlines for the implementation of recommendations. Where the evaluation identifies a serious deficiency, the specific provisions set out in Article 23 shall apply.

Amendment 68

Proposal for a regulation

Article 21 — paragraph 6

Text proposed by the Commission	*Amendment*
6. The Commission shall transmit the draft evaluation report to the evaluated Member State within four weeks of the end of the evaluation activity. The evaluated Member State shall provide its comments on the draft evaluation report within two weeks of its receipt. A drafting meeting shall be held at the request of the evaluated Member State, no later than five working days from the receipt of the comments from the evaluated Member State. The comments of the evaluated Member State ***may be*** reflected in the ***draft*** evaluation report.	6. The Commission shall transmit the draft evaluation report to the evaluated Member State within four weeks of the end of the evaluation activity. The evaluated Member State shall provide its comments on the draft evaluation report within two weeks of its receipt. A drafting meeting shall be held at the request of the evaluated Member State, no later than five working days from the receipt of the comments from the evaluated Member State. The comments of the evaluated Member State ***shall be fully*** reflected in the evaluation report.

Thursday 7 April 2022

Amendment 69

Proposal for a regulation

Article 21 — paragraph 6 a (new)

Text proposed by the Commission	*Amendment*
	6a. Where the draft evaluation report includes findings related to the activities of a Union body, office or agency involved in the implementation of the Schengen acquis, the procedure set out in paragraph 6 shall apply mutatis mutandis.

Amendment 70

Proposal for a regulation

Article 21 — paragraph 6 b (new)

Text proposed by the Commission	*Amendment*
	6b. The evaluation reports referred to in this Article and Article 23 of this Regulation shall contribute to the assessment of the effective application and implementation of the Charter in accordance with Article 15(1) of Regulation (EU) 2021/1060 of the European Parliament and of the Council ([1a]) and Annex III thereto.
	([1a]) Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

Amendment 71

Proposal for a regulation

Article 22 — paragraph 2 — subparagraph 1

Text proposed by the Commission	*Amendment*
After consulting the team, which has carried out the evaluation activity, the Commission shall provide observations on the adequacy of the action plan and, within one month from its submission, shall inform the evaluated Member State about its observations. The Council ***may*** invite Member States ***to provide comments*** on the action plan.	After consulting the team, which has carried out the evaluation activity, the Commission shall provide observations on the adequacy of the action plan and, within one month from its submission, shall inform the evaluated Member State about its observations. The Council ***shall*** invite ***other*** Member States ***to comment*** on the action plan ***in the framework of enhanced political dialogue***.

Amendment 72

Proposal for a regulation

Article 22 — paragraph 3 — subparagraph 1

Text proposed by the Commission	*Amendment*
The evaluated Member State shall report to the Commission and the Council on the implementation of its action plan every six months from the adoption of the evaluation report until the Commission considers the action plan fully implemented. Depending on the nature of the deficiencies and the state of implementation of the recommendations, the Commission may require the evaluated Member State a different reporting frequency.	The evaluated Member State shall report to the Commission and the Council on the implementation of its action plan every six months from the adoption of the evaluation report until the Commission considers the action plan fully implemented. Depending on the nature of the deficiencies and the state of implementation of the recommendations, the Commission may require the evaluated Member State a different reporting frequency. ***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 shall express their position on the matter through a reasoned decision.***

Amendment 73

Proposal for a regulation

Article 22 — paragraph 3 — subparagraph 3

Text proposed by the Commission	*Amendment*
The Commission shall inform the European Parliament ***and*** the Council at least twice a year about the state of implementation of the action plans. The Commission shall in particular provide information about its observations on the adequacy of the action plans referred to in paragraph 2, the outcome of revisits and verification visits and whether it observes considerable lack of progress in the implementation of an action plan.	The Commission shall inform the European Parliament, the Council ***and the national parliaments concerned*** at least twice a year about the state of implementation of the action plans. The Commission shall in particular provide information about its observations on the adequacy of the action plans referred to in paragraph 2, the outcome of revisits and verification visits and whether it observes considerable lack of progress in the implementation of an action plan.

Thursday 7 April 2022

Amendment 74

Proposal for a regulation

Article 23 — paragraph 2 — subparagraph 2

Text proposed by the Commission	*Amendment*
The evaluated Member State shall take immediate remedial actions including, where necessary, mobilising all available operational and financial means. The evaluated Member State shall inform without delay the Commission and the Member States about the immediate remedial actions taken or planned. In parallel, the Commission shall inform the respective Union bodies, offices and agencies referred to in Article 7 of the serious deficiency in view of their possible support to the evaluated Member State. The Commission shall also inform the Council and the European Parliament.	The evaluated Member State shall take immediate remedial actions including, where necessary, mobilising all available operational and financial means. The evaluated Member State shall inform without delay the Commission and the Member States about the immediate remedial actions taken or planned. In parallel, the Commission shall inform the respective Union bodies, offices and agencies referred to in Article 7 of the serious deficiency in view of their possible support to the evaluated Member State. The Commission shall also ***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***.

Amendment 75

Proposal for a regulation

Article 23 — paragraph 5 — subparagraph 1

Text proposed by the Commission	*Amendment*
The Council shall adopt recommendations ***within two weeks of*** receipt of the proposal.	The Council shall adopt recommendations ***no later than ten days after the*** receipt of the proposal.

Amendment 76

Proposal for a regulation

Article 23 — paragraph 5 — subparagraph 3

Text proposed by the Commission	*Amendment*
The Council shall set time limits for the implementation of the recommendations related to a serious deficiency and specify the frequency of the reporting by the evaluated Member State to the Commission and the Council on the implementation of its action plan.	The Council shall ***urgently discuss the matter and*** set ***short*** time limits for the implementation of the recommendations related to a serious deficiency and specify the frequency of the reporting by the evaluated Member State to the Commission and the Council on the implementation of its action plan.

Amendment 77

Proposal for a regulation

Article 23 — paragraph 6 — subparagraph 1

Text proposed by the Commission	*Amendment*
The evaluated Member State shall submit to the Commission and the Council its action plan within ***one month*** of the adoption of the recommendations. The Commission shall transmit that action plan to the European Parliament.	The evaluated Member State shall submit to the Commission and the Council its action plan within ***three weeks*** of the adoption of the recommendations. The Commission shall transmit that action plan to the European Parliament ***without any delay***.

Amendment 78

Proposal for a regulation

Article 23 — paragraph 7 — subparagraph 1

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

Amendment 79

Proposal for a regulation

Article 23 — paragraph 8

Text proposed by the Commission	*Amendment*
8. The Council shall express its position on the report.	8. The Council shall express its position on the ***evaluation*** report ***and may invite the Commission to submit a proposal for recommendations for remedial actions aimed at addressing serious persisting deficiencies identified in the revisit report. Where the Commission submits such a proposal, paragraphs 6 and 7 shall apply.***

Amendment 80

Proposal for a regulation

Article 23 — paragraph 8 a (new)

Text proposed by the Commission	*Amendment*
	8a. Where, after a revisit, a Member State does not satisfactorily implement an action plan following an evaluation that identified a serious deficiency, the Commission shall launch an infringement procedure against that Member State in accordance with the TFEU where it considers that that Member State failed to fulfil an obligation.

Thursday 7 April 2022

Amendment 81

Proposal for a regulation

Article 23 — paragraph 10

Text proposed by the Commission	*Amendment*
10. If the serious deficiency is deemed to constitute a serious threat to public policy or internal security within the area without internal border controls, or a serious and systematic fundamental rights violation, the Commission, on its own initiative or at the request of the European Parliament or of a Member State, shall immediately inform ***thereof*** the European Parliament and the Council.	10. If the serious deficiency is deemed to constitute a serious threat to public policy or internal security within the area without internal border controls, or a serious and systematic fundamental rights violation, the Commission, on its own initiative or at the request of the European Parliament or of a Member State, shall immediately inform the European Parliament and the Council ***thereof and shall inform them of infringement proceedings that are underway or will be brought against the evaluated Member State***.

Amendment 82

Proposal for a regulation

Article 26 — paragraph 2

Text proposed by the Commission	*Amendment*
2. The classification status of the reports shall be determined in accordance with Decision (EU, Euratom) 2015/444. ***They*** may also be classified as 'EU RESTRICTED/RESTREINT UE' on a duly justified request of the evaluated Member State.	2. The classification status of the reports shall be determined in accordance with Decision (EU, Euratom) 2015/444. ***In exceptional cases, parts of the evaluation reports*** may also be classified as 'EU RESTRICTED/RESTREINT UE' on a duly justified request of the evaluated Member State.

Amendment 83

Proposal for a regulation

Article 26 — paragraph 3

Text proposed by the Commission	*Amendment*
3. The transmission and handling of classified information and documents for the purposes of this Regulation shall take place in compliance with the applicable security rules. Such rules shall not preclude information being made available to the European Parliament and to relevant Union bodies, offices and agencies referred to in Article 7.	3. The transmission and handling of classified information and documents for the purposes of this Regulation shall take place in compliance with the applicable security rules. Such rules shall not preclude information being made available to the European Parliament***, national parliaments*** and to relevant Union bodies, offices and agencies referred to in Article 7.

Thursday 7 April 2022

Amendment 84

Proposal for a regulation

Article 30 — paragraph 1

Text proposed by the Commission	*Amendment*
The Commission shall undertake a review of the application of this Regulation and submit a report to the Council within six months of the adoption of all evaluation reports regarding the evaluations covered by the first multiannual evaluation programme adopted in accordance with this Regulation. Such review shall cover all the elements of this Regulation, including the functioning of the procedures for adopting acts under the evaluation mechanism. The Commission shall submit that report to the European Parliament.	The Commission shall undertake a review of the application of this Regulation and submit a report to the Council within six months of the adoption of all evaluation reports regarding the evaluations covered by the first multiannual evaluation programme adopted in accordance with this Regulation. Such review shall cover all the elements of this Regulation, including the functioning of the procedures for adopting acts under the evaluation mechanism. The Commission shall submit that report to the European Parliament ***without any delay***.

Amendment 85

Proposal for a regulation

Article 30 a (new)

Text proposed by the Commission	*Amendment*
	Article 30a
	Revision
	Any future proposal from the Commission for amending the evaluation and monitoring mechanism to verify the application of the Schengen acquis shall be based on Article 77(2), point (b), TFEU.