



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 February 2012

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LIMITE

**JAI 79
SCHENGEN 10
COMIX 89**

NOTE

from: Presidency

to: Delegations

Subject: **Draft Council Conclusions regarding the establishment of a procedure for the strengthening of political governance in the Schengen cooperation**

Delegations will find in the annex a revised draft Council Conclusions, following the informal contacts with delegations, with a view to JHA Counsellors meeting to take place on 17 February 2012.

The Presidency aims to present the draft Council Conclusions to the Justice and Home Affairs Council on 8-9 March 2012 with a view to their adoption.

Changes to the previous version are marked in **bold**.

Draft Council Conclusions
regarding guidelines for the strengthening of
political governance in the Schengen cooperation

- a) *Underlining that free movement is a defining principle of the European Union;¹*
- b) ***Stressing that the absence of any controls on persons at the internal borders within the Schengen area is one of the most tangible European achievements;***
- c) *Basing itself on the European Council Conclusions from June 2011 stating that political guidance and cooperation in the Schengen area need to be further strengthened, enhancing mutual trust between Member States, which are equally responsible for guaranteeing that all Schengen rules are applied effectively in accordance with the agreed common standards and with fundamental principles and norms;*
- d) *Underlining the importance of ensuring that the strategic policy development in the Schengen cooperation is determined at the appropriate political level as well as the analysis of specific situations having a substantial impact on the whole Schengen area and the decisions to be taken in this regard;*
- e) *Taking note of the Commission Communication of 16 September 2011 on Schengen governance - strengthening the area without internal border control, where the Commission states its intention to present a biannual overview to the European Union institutions on the functioning of Schengen;*
- f) *Underlining that Europe's external borders must be effectively and consistently managed, on the basis of common responsibility, solidarity, mutual trust and increased practical cooperation;*
- g) ***Underlining that an early agreement within the Council on the legislative proposals concerning the establishment of an evaluation and monitoring mechanism to verify the application of the Schengen acquis and the amendment of Regulation (EC) No 562/2006 in order to provide for common rules on the temporary reintroduction of border control at internal borders in exceptional circumstances would contribute to the reinforcement of the Schengen governance;***

¹ Based on the former paragraph d).

- h) *Bearing in mind the informal discussions with input from Member States at the meeting of the Council (Justice and Home Affairs) on 13 December 2011, and the encouragement to the Danish Presidency to follow up and establish formal **guidelines** for increased political steering of developments in the Schengen area.*

THE COUNCIL ADOPTS THE FOLLOWING CONCLUSIONS:

1. **The Mixed Committee, made up of the EU Member States and the Schengen associated States, should provide the necessary political guidance for the Schengen area. The agenda and the organisation of its meetings should allow for political discussions focused on key topics related to the correct functioning of the Schengen area cooperation and with a view to the Council taking decisions to ensure the efficient functioning of the Schengen area.**
2. **The political discussions in the Mixed Committee at Ministerial level should also focus on situations where evaluation reports have shown serious deficiencies, including special measures to be implemented, without prejudice to the agreed procedures and the competencies of each Member State on its own borders. The fulfilment of agreed action plans aimed at tackling deficiencies and their implementation should also be discussed.**
3. The Council welcomes the Commission's intention to present a biannual report to the European Parliament and to the Council on the functioning of the Schengen cooperation, **including the required functioning of institutions involved in the application of the Schengen acquis.**
4. The Commission's biannual report should – together with specific suggestions from Member States or relevant EU agencies – form the basis for a biannual political and strategic discussion in the Mixed Committee at Ministerial level beginning in June 2012 and thereafter during each Presidency. In addition, identified weaknesses and/or threats that could affect the functioning of the Schengen area **in the short term** should be presented in order for the Council to **consider** preventive actions.

5. **The Commission is also invited, where relevant, to address in its biannual report how Schengen related shortcomings or difficulties could be remedied, and, where appropriate, to give an indication of possible solutions at the practical and operational level or submit new initiatives, including legislative proposals to address these shortcomings.**
6. The Council welcomes the intention of the Commission to present the first biannual report in May 2012. The report should provide an overview of the main trends and developments over the previous six months regarding Schengen cooperation, including analysis of causes. The overview should highlight matters which it considers most relevant for the biannual political and strategic discussion. The Commission report could *inter alia* focus on the following topics:
- a. Implementation of the relevant Schengen acquis and of key policy guidelines set out by the European Council or the Council as well as action plans adopted by the Council such as the Schengen related aspects of the 29 measures for reinforcing the protection of the external borders and combating illegal immigration, **and relevant operational action plan (OAP) of the EU Policy Cycle to combat serious and organised crime;**
 - b. Operational conclusions to be drawn and lessons learnt on the development and roll out of important ongoing IT projects (e.g. VIS, SIS II (...));
 - c. Selected evaluation reports and recommendations adopted in the context of the Schengen evaluation mechanism on selected issues such as controls at the external borders, visa processing at consular posts, data protection, in particular when the reports point at deficiencies;
 - d. Temporary introduction of controls at internal borders;
 - e. Report on challenges linked to current and possible foreseen migration flows and external borders particular prone to pressure from illegal migration;
 - f. Challenges in the Schengen relevant cooperation with key countries of origin and transit;
 - g. Visa facilitation and liberalisation and their consequences.
7. The Council **invites** the European Parliament also to make full use of the Commission biannual report **as it deems appropriate.**