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NOTE

From:	Presidency
To:	Council
Subject:	Overall state of the Schengen area

For the third meeting of the Schengen Council, under the Schengen Council cycle (12522/22), the intention of the Presidency is to focus on the management of external borders and related matters, especially against the backdrop of the current migration developments, which should be treated as a priority and require an immediate response (section II). In addition to that response, the Presidency deems it important to further improve overall situational awareness and foresight on the challenges for the Schengen area, as a basis for future decisions of the Schengen Council. This could be done on the basis of the Schengen barometer (section I). The Presidency would also like to provide ministers with the outcome of the debate on the future of European integrated border management (section III).

I. THE SCHENGEN BAROMETER

The first Schengen Barometer was provided by the Commission at the first meeting of the Schengen Council in March 2022. The Czech Presidency would like to follow this initiative and contribute to its further development. The Presidency notes that a vast array of information is available, mainly provided by the JHA agencies, but also resulting from the Schengen evaluations. Collating and analysing them in an integrated manner is essential if the Schengen Council is to take strategic decisions based on a common assessment of the situation. The current Schengen Barometer is prepared by the Commission on the basis of recent data provided by agencies on the following indicators: the situation at external borders, the migration situation in the EU, internal security, and the situation at internal borders. It aims to provide an overall picture of the Schengen area.

Complementing the future barometers with other available sources and making this tool fit for interpretation and political discussions was discussed and supported by Member states at the SCIFA meeting on 4 October 2022.

II. CURRENT MIGRATION SITUATION AND SPECIFIC ACTIONS

Regarding the current migration situation, the list of specific recommendations that should be addressed urgently has been established by the Presidency, as set out in the Annex, based on the thorough debates held at expert level and ultimately discussed and decided at SCIFA on 4 October 2022. The actions stem mainly from the Commission's May 2022 State of Schengen report (9478/22) and were expanded upon on the basis of Member States' views. The Schengen Council debate should **result in a commitment to undertake the listed priority actions urgently and within a set timeframe** with a view to addressing the identified shortcomings and thus helping to address the current challenging situation at the external borders. Full implementation of these recommendations should reduce the need for reintroduction/prolongation of internal border controls.

The Commission should monitor the implementation of these recommendations in close cooperation with the Council, amongst other bodies, through the Schengen evaluations. The new Council Regulation on Schengen evaluations¹, which applies from 1 October 2022, allows for a more targeted and strategic approach based on better prioritisation. This prioritisation is determined in the light of a risk and vulnerability assessment, looking at the challenges faced by the Schengen area as a whole and the Member States individually. This should allow for comprehensive Member State evaluation reports assessing overall performance in the application of the Schengen *acquis*. The Commission should also provide the Schengen Scoreboard, which gives a visual representation of the progress made in the implementation of the recommendations following Schengen evaluations. In line with the **Schengen Council cycle** objectives, these developments will be reflected in or alongside the 2023 State of Schengen report.

1. *Do Ministers agree with the list of priority actions set out in the Annex and proposed timeline?*

III. FUTURE OF EIBM

In July 2022, Frontex published its Strategic Risk Analysis 2022, which provides foresight to identify challenges in the field of border management and return over a ten-year horizon, having the potential to highly impact the European Integrated Border Management (EIBM) and its components. Together with simultaneous discussion on the future of the EIBM policy document developing a multiannual strategic policy for European integrated border management and the State of Schengen Report, the Presidency reached the following conclusions regarding the key areas for the future of EIBM:

¹ Council Regulation (EU) 2022/922 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) No 1053/2013.

The current situation and the possible upcoming scenarios and challenges require a close political focus on the Schengen area. There are many instruments already available and new ones that are about to be implemented. The accent should therefore be on full use of the existing instruments while fully respecting fundamental rights. At the same time, all stakeholders should be committed to the timely and rigorous implementation of forthcoming instruments. Lastly, it is essential to try to make progress on all relevant legislation where the legislative process has not been completed.

These horizontal aspects are relevant to the entire IBM and its implementation.

As regards more specific elements of EIBM, even though all components and their specific guidelines play a significant role, special emphasis should be placed on the following areas in order to be prepared for recently-emerged as well as future challenges:

- border control driven by risk analysis;
- cooperation with countries of origin and of transit in order to prevent irregular migration and cross-border crime on all migratory routes, especially the Western Balkans route;
- increasing and improving cooperation between the relevant IBM stakeholders at national and EU level;
- solid implementation and full use of state-of-the-art technology, including large-scale information systems;
- return of third-country nationals who are the subject of return decisions issued by a Member State, as well as supporting third countries along the migration routes with their return and readmission efforts;
- increasing and improving preparedness to face hybrid attacks at the external borders, notably in the event of instrumentalisation of migration.

2. *Do Ministers agree that the listed thematic components of the EIBM should be given priority?*

In the light of the challenges outlined above and shortcomings identified in the State of Schengen report, Council is invited to discuss and endorse the recommendations for priority actions set out in the Annex.

Recommendations for actions requiring immediate attention:**Border management**

- Increase the use of risk analysis in border control (immediately)
- Fully integrate vulnerability assessment results into the planning and operations of the European Border and Coast Guard (by the end of 2022)
- Member States should allocate the necessary human and financial resources and have continuous operational readiness to fulfil their obligation to provide the mandatory and voluntary contributions to the collective European capabilities coordinated by Frontex, in particular the European Border and Coast Guard standing corps and the technical equipment pool (immediately, continuous)
- Finalise Member States' programmes under the Integrated Border Management Fund (BMVI) (immediately)
- Finalise the recruitment procedure for the Executive Director of Frontex

Returns

- Increase efficiency of the national return systems (immediately, continuous) including through adequate resources, infrastructure and digitalisation
- Make full use of the operational and practical support Frontex can provide in the policy area of return (immediately)
- Promote and increase the use of voluntary return and reintegration as an integral part of a common EU system for return in line with the EU strategy on voluntary return and reintegration (immediately)

- Promote the use of measures to reduce absconding, including effective alternatives to detention (immediately)
- Make full use of the Return Coordinator and the High-Level Network for Return to foster and promote practical cooperation (immediately, continuous)

Swift implementation of enhanced and new IT systems

- Swift implementation of the renewed Schengen Information system (November 2022)
- Entry into operation of the Entry/Exit System (May 2023)

Adoption of new legislation

- Adoption of the amendment to the Schengen Borders Code (initiate negotiations with Parliament as soon as it has issued its opinion)
- Adoption of the screening proposal (initiate negotiations with the Parliament as soon as it has adopted its report)
- Adoption of the police cooperation proposals (initiate negotiations with the Parliament as soon as it has adopted its report)
- Adoption of other legislative proposals which have an impact on the good functioning of the Schengen area, including the EURODAC proposal, for which negotiations should be initiated with the Parliament as soon as it has adopted its report, and the proposal on instrumentalisation, for which the mandate/general approach of the Council should be concluded as soon as possible

- **External dimension**

- Continue developing Frontex’s external action by making full use of its mandate (status agreements, working arrangements), especially with the Western Balkan partners (immediately, depending on the willingness of the partner countries)
- Align visa policies of neighbouring countries with the EU visa regime (immediate, continuous)
- Promote the functioning of the readmission agreements in particular with the EU neighbouring countries (immediately, continuous)
- Continue developing anti-smuggling operational partnerships, in line with the Commission’s renewed EU action plan against migrant smuggling (2021-2025) (immediately, continuous)
- Ensure EU financial support is available to support returns from the EU neighbouring countries (immediately, continuous)
- Support third countries along the migration routes with their return and readmission efforts (immediately, continuous)
- Ensure EU financial support to the implementation of the action plans for strengthening comprehensive migration partnerships with priority countries of origin and transit

Secondary movements

- Strengthen national inter-agency cooperation (immediately)
- Make full use of the fingerprint search functionality in the Schengen Information System (immediately)
- Make full use of the registration of all persons crossing external borders in Eurodac (immediately)

- At both EU and national level there should be a comprehensive situational picture and risk analysis on irregular arrivals and secondary movements of third-country nationals within the EU to provide a basis for targeted and proportional measures to be taken (EIBM) (immediately)
- Reinforce the Agency's risk assessment and reporting capacity (immediately)

Internal Security

- Make full use of the available cross-border police cooperation tools (immediately)
- Ensure systematic checks of all travellers against relevant databases at the external borders (immediately)
- Ensure sufficient capacity at national level to intensify police checks related to illegal immigration across the entire territory and to carry out police checks and migration control on main transport roads, including border areas, based on risk analysis, so as to ensure that internal borders controls to prevent secondary movements are introduced only as a last resort (immediately, continuous)
