



Brussels, **XXX**  
[...] (2018) **XXX** draft

*LIMITED*

Proposal for a

**COUNCIL IMPLEMENTING DECISION**

**setting out a recommendation on addressing the deficiencies identified in the 2017  
evaluation of the Kingdom of Norway on the application of the Schengen acquis in the  
field of police cooperation**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

On 7 October 2013 the Council adopted Regulation (EU) No 1053/2013<sup>1</sup>, establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*. In line with the Regulation, the Commission has established a multiannual evaluation programme 2014 - 2019<sup>2</sup> and an annual evaluation programme for 2017<sup>3</sup> with detailed plans for on-site visits to the Member States to be evaluated, areas to be evaluated and sites to be visited.

The areas to be evaluated cover all aspects of the Schengen *acquis*; management of the external borders, visa policy, the Schengen Information System, data protection, police cooperation, judicial cooperation in criminal matters, as well as the absence of border control at internal borders. In addition, fundamental rights issues and the functioning of authorities that apply the relevant parts of the Schengen *acquis* are taken into account in all evaluations.

Based on the multiannual and annual programmes, a team of Member States and Commission experts carried out an evaluation of Norway's application of police cooperation between 12 and 16 June 2017. Their evaluation report<sup>4</sup> sets out their findings and assessments, including best practices and any deficiencies identified during the evaluation.

Alongside the report the team made recommendations for remedial action aimed at addressing the deficiencies.

This proposal reflects those recommendations, but not the recommendations included in the report that were aimed to achieve a 'best practice' and were not linked to a deficiency.

Against this background, the current proposal for a Council Implementing Decision setting out a recommendation seeks to ensure that Norway applies all Schengen rules related to police cooperation correctly and effectively.

- **Consistency with existing policy provisions in the policy area**

These recommendations serve to implement the existing provisions in the policy area.

- **Consistency with other Union policies**

These recommendations don't have links with other key Union policies.

### 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Council Regulation (EU) no 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

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<sup>1</sup> OJ L 295, 6.11.2013, p. 27.

<sup>2</sup> Commission Implementing Decision C(2014)3683 of 18 June 2014 establishing the multi-annual evaluation programme 2014 - 2019 in accordance with Article 5 of the Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

<sup>3</sup> Commission Implementing Decision C(2016) 7387 of 21 November 2016 establishing the first section of the annual evaluation programme for 2017 in accordance with Article 6 of Council Regulation (EU) No1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

<sup>4</sup> C(2018)125.

- **Subsidiarity (for non-exclusive competence)**

Article 15(2) of Council Regulation (EU) No 1053/2013 specifically requests the Commission to submit a proposal to the Council to adopt recommendations for remedial action aimed at addressing any deficiencies identified in the course of the evaluation. Action at Union level is required to strengthen mutual trust between the Member States and to ensure better coordination at Union level in order to guarantee that all Schengen rules are applied effectively by the Member States.

- **Proportionality**

Article 15(2) of Council Regulation (EU) No 1053/2013 mirrors the specific powers of the Council in the field of mutual evaluation of the implementation of Union policies within the area of freedom, security and justice.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

n.a.

- **Stakeholder consultations**

In line with Article 14(5) and Article 21(2) of Council Regulation (EU) no 1053/2013 Member States gave their positive opinion on the evaluation report in the Schengen Committee of 6 February 2018.

- **Collection and use of expertise**

n.a.

- **Impact assessment**

n.a.

- **Regulatory fitness and simplification**

n.a.

- **Fundamental rights**

The protection of fundamental rights when applying the Schengen acquis was taken into account during the evaluation process.

### **4. BUDGETARY IMPLICATIONS**

n.a.

### **5. OTHER ELEMENTS**

n.a.

Proposal for a

## **COUNCIL IMPLEMENTING DECISION**

**setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of the Kingdom of Norway on the application of the Schengen acquis in the field of police cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen<sup>5</sup>, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision is to recommend to Norway remedial actions to address deficiencies identified during the Schengen evaluation in the field of police cooperation carried out in 2017. Following the evaluation, a report covering the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2018)125.
- (2) Strong points of the Norway's police cooperation system are the Nordic Cooperation framework, in particular the liaison officers' network, and the well-established Single Point of Contact (SPOC) and its working routines for international information exchange. Norway has also developed good practice models developing a new IT architecture and workflow solutions.
- (3) In light of the importance to comply with the Schengen acquis, in particular the requirements for both swift information retrieval and exchange and a level playing field as regarding the cross-border operational framework, priority should be given to implement recommendations 1, 2 and 3 below,
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, the evaluated State should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

HEREBY RECOMMENDS:

*Norway should:*

1. swiftly implement Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated

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<sup>5</sup> OJ L 295, 6.11.2013, p. 27.

authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences;

2. provide more in-depth basic and continuous training to the police officers on international police cooperation and the use of international databases (including user-friendly e-learning platforms);
3. raise awareness about the potential of the Council Framework Decision 2006/960/JHA by for instance providing training to police officers;
4. consider interconnecting the new case management system (Palantir Gotham) of the Single Point of Contact (SPOC) with the existing SIRENE case management system;
5. consider extending access to the Secure Information Exchange Network Application (SIENA) throughout the law enforcement community;
6. in the context of enhancing information exchange provided for under Title III of the Convention Implementing the Schengen Agreement, make better use of the Europol Information System (EIS) and contribute information to the system with the assistance of Europol;
7. improve the tracking of deadlines for the replies to incoming international requests by the SPOC;
8. develop clear written guidelines for the SPOC staff regarding the choice of international communication channels;
9. develop specific training for SPOC staff and liaison officers;
10. establish a registration system for cross-border operations that allows for compiling a reliable national statistics for those operations;
11. continue the implementation of a cross-border radio communication solutions (ISI project) with Finland;
12. consider speeding up the implementation of the appropriate legal provisions to allow for joint cross-border operations with the neighbouring Schengen countries.

Done at Brussels,

*For the Council*  
*The President*