



## EUROPEAN COMMISSION

*Brussels, 10.01.2022  
C(2022) 162 final*

*Mr Florin-Vasile CÎȚU  
President of the Senat  
Calea 13 Septembrie nr. 1-3, sector 5  
RO –050711 BUCUREȘTI*

*Dear President,*

*The European Commission would like to thank the Senat for its Opinion 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) 278 final}.*

*The Commission appreciates the Senat's positive assessment of the proposal and would like to take this opportunity to answer to the comments and concerns expressed in its Opinion.*

*The 5-year report on the functioning of the Schengen evaluation and monitoring mechanism<sup>1</sup> confirmed that the mechanism contributes to the implementation of the Schengen acquis and that it is an important element to increase mutual trust between the Member States. The report, however, also identified a number of shortcomings, such as a limited strategic focus and significant fragmentation, preventing an overview of the functioning of Schengen as a whole that would facilitate political discussion; low capacity to identify and quickly adapt and react to new circumstances, legislative developments and trends; and, slow adoption and implementation of remedies with a peer-to-peer system that do not exert the expected pressure. One of the main objectives of the proposal is to address these identified shortcomings.*

*The proposal does not impose a deadline for the Member States to implement recommendations following the Schengen evaluation and monitoring process. The proposal aims to shorten the process both for regular cases and for cases where serious deficiencies are identified. For periodic evaluations, the timeline of adopting the report and recommendations in a single document as provided for by the proposal is four*

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<sup>1</sup> COM(2020) 779 final

*months as compared to current two steps approach where the Council adopts recommendations on a proposal by the Commission that takes approximately 10-12 months. In cases of serious deficiencies, the proposal provides for a fast-track procedure and tight deadlines to finalise the process of adopting the recommendations within 2.5 months following the on-site visit.*

*As regards the Commission's choice not to list the policy areas of evaluation, the mechanism covers the Schengen acquis as provided for in Article 1 of the proposal. As part of the Impact Assessment, the Commission considered a possible extension of the scope. The analysis, however, concluded that the extension is neither viable legally, nor politically. The focus of the Schengen evaluation needs to remain the implementation of the Schengen acquis. Not listing policy areas aims to provide for the required level of flexibility and ensure that any future developments of the Schengen acquis are taken into account. It is very clear that asylum is not part of the Schengen acquis. The monitoring of the asylum acquis is covered by a monitoring mechanism in the new Regulation on the European Union Agency for Asylum.*

*The evaluation and monitoring methods described in the proposal include on-site visits (announced or unannounced) and remote methods, such as questionnaires. The Commission will aim to use mainly on-site visits, while the remote methods may be used rather as an exception.*

*The Commission understands the Senat's position that the use of 'area without internal border controls' is preferred over the use of 'Schengen area', given the specific circumstances of Romania. This issue is currently being addressed in the negotiations of the proposal in the Council where Romania and other Member States concerned are being consulted on how their position can be best taken into account.*

*The Commission shares the concern of the Senat on the prolonged reintroduction of internal border controls by some Member States. On 14 December 2021, the Commission has therefore put forward a proposal for the amendment of the Schengen Borders Code. Amongst others, with this proposal the Commission aims to boost the Schengen area's resilience to serious threats by ensuring close coordination and introducing the necessary safeguards so that reintroducing internal border checks remains a measure of last resort. The Commission hopes that this proposal, together with the proposal on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis will lead to securing trust in a European wide area of freedom, security and justice where our citizens can move freely and safely.*

*In conclusion, the Commission would like to assure the Senat that it will continue to call on the Council to take the necessary steps for Romania to become part of the area without internal border controls.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Senat and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič*  
*Vice-President*

*Ylva Johansson*  
*Member of the Commission*