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**NOTE**

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From:	European Commission
To:	Working Party for Schengenb Matters / Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein)
No. prev. doc.:	11862/23
Subject:	Schengen evaluation of Norway - Review of the adequacy of the action plan of <b>Norway</b> to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen <i>acquis</i> in the field of <b>return</b>

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Delegations will find annexed the review of the adequacy of the action plan of Norway to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen *acquis* in the field of return, provided by the Commission in accordance with Article 21(2) of Council Regulation (EU) 2022/922.

The review of the action plans was provided to Norway by Commission letter of 3 November 2023 (Ref. Ares(2023)7462725), as set out in the annex.



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS

The Director-General

Brussels,  
HOME/B2/

*Ambassador Anders H. Eide*

*Permanent Representative of Norway to the European Union*

**Subject: Review of the adequacy of the action plan of Norway to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen *acquis* in the field of return**

Your Excellency,

We thank you for the action plan of Norway to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen *acquis* in the field of return, which was submitted to the Commission and the Council on 13 July 2023. Please find attached, pursuant to Article 21(2) first subparagraph of Council Regulation (EU) 2022/922, the review of the adequacy of the action plan.

Please note that in accordance with Article 21(3) first subparagraph of Council Regulation (EU) 2022/922, Norway is to report to the Commission and the Council on the implementation of the action plan every six months from the date of notice of receipt of the attached review until the Commission considers the action plan fully implemented.

The Commission services are at the disposal of the Norwegian authorities to facilitate the implementation of the action plan.

Yours faithfully,

Monique Pariat

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Annexes: *Review of the adequacy of the action plan of Norway to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen *acquis* in the field of return.*  
*Action plan submitted by Norway.*

# Review of the adequacy of the action plan of Norway to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen *acquis* in the field of return

(Article 21(2) of Council Regulation (EU) 2022/922)

## 1. 1. INTRODUCTION

Council Regulation (EU) No 1053/2013<sup>1</sup> established an evaluation and monitoring mechanism to verify Member States' application of the Schengen *acquis*.

In accordance with the multiannual<sup>2</sup> and annual<sup>3</sup> evaluation programmes implementing the Regulation, a team consisting of Commission and Member State experts and supported by an observer from the European Border and Coast Guard, carried out a visit between 19 to 23 June 2022 to verify Norway's application of the Schengen *acquis* in the field of return.

A report listing the findings and assessments identified during the evaluation was adopted by Commission Implementing Decision C(2023) 210 of 23 March 2023. Following this evaluation report and a proposal from the Commission, the Council adopted on 1 June 2023 an Implementing Decision<sup>4</sup> setting out a Recommendation on addressing the deficiencies identified in the evaluation report. Pursuant to the newly applicable rules<sup>5</sup> (Article 21(2) of Council Regulation (EU) 2022/922), Norway submitted to the Commission and the Council an action plan on 13 July 2023 to remedy the identified deficiencies.

After consulting the members of the team that has carried out the evaluation and in accordance with Article 21(2) first subparagraph of Regulation (EU) 2022/922, a review of the adequacy of the action plan is provided.

## 2. 2. GENERAL REMARKS AND ADEQUACY

The action plan covers all recommendations, providing general information on the actions that Norway has taken or will take to remedy the deficiencies identified. In general, the action plan provides **adequate actions** to be carried out by the Norwegian authorities to address the identified deficiencies. However, for several recommendations the actions and the deadlines should be additionally clarified, as indicated in the detailed review.

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

<sup>2</sup> Commission implementing Decision C(2019) 3692 of 17 May 2019 amended by Commission implementing Decision C(2019) 7278 of 15 October 2019 establishing the multi-annual evaluation programme 2020-2024 in accordance with Article 5 of Council Regulation (EU) No 1053/2013 of 7 October 2013.

<sup>3</sup> Commission Implementing Decision C(2021) 7727 of 4 November 2021 establishing the first section of the annual evaluation programme for 2022 in accordance with Article 6 of Council Regulation (EU) No 1053/2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*.

<sup>4</sup> Council Implementing Decision 9997/23 of 1 June 2023.

<sup>5</sup> Council Regulation (EU) No 1053/2013 was replaced by Council Regulation (EU) 2022/922, which entered into application on 1 October 2022. According to the transitional provisions set out in Article 31 of the new Regulation, for evaluations carried out before 1 February 2023 (like the evaluation of Norway), the follow-up and monitoring activities, starting with the submission of the action plans, shall be carried out in accordance with the new Regulation.

### 3. 3. DETAILED REVIEW

Following a review of the action plan by the Commission services, Norway is invited to take note of the specific comments and requests on the following items and respond to them in the first follow-up report to be submitted through the KOEL-SCHEVAL platform.

#### **Recommendation 1** (*forced-return monitoring*)

The Commission services take note of all the important actions as regards:

- Amendments to the Immigration Act to establish a legal framework for the forced-return monitoring.
- The implementation of such tasks by the Supervisory board for forced returns and the police immigration detention facility (Tilsynsrådet).
- The increase of the number of monitors and the efforts to enhance their training.
- The fact that now all phases of return operations can be monitored.
- The fact that a reporting mechanism will now be in place.
- The fact that the independence of the board is clearly stated in the Immigration Act section 107.

The Commission services would like to request the Norwegian authorities to submit the following additional information with the first follow-up report:

- The respective legislative changes, as regards forced-return monitoring, if possible in English.
- The number of monitors trained.
- The number of operations monitored, aggregated by type, with additional information on the stages of the operations that were monitored.
- The exact reporting mechanism in place (who submits the report, who receives the report, whether any results of monitoring are published, what are the actions that follow the report to ameliorate possible issues).

#### **Recommendation 2** (*return decisions*)

The Commission services take note of the legislative work and progress as regards the return decisions. At this point, the Commission services are not in the position to assess the adequacy of the described actions. This will be possible once the legal amendments will enter into force.

Taking into account the fact that the legislative procedure is expected to be lengthy, the Commission services would like to invite the Norwegian authorities to consider taking practical and operational measures and procedures to address the shortcomings mentioned such as amending the respective templates used.

The Commission services would like to request the Norwegian authorities to submit the following additional information with the first follow-up report:

- The respective proposed legal amendments.

- The status quo of the legislative process.
- Practical and operational measures and procedures taken to address the shortcomings mentioned, in view of the legislative amendments.
- Updated templates of return decisions in use.

### **Recommendation 3** (*entry bans*)

The Commission services take note of the legislative work and progress as regards return decisions accompanied by an entry ban, as well as the update of the respective decisions.

The Commission services would like to request the Norwegian authorities to submit the following additional information with the first follow-up report:

- The respective proposed legal amendments.
- The status quo of the legislative process.
- Practical and operational measures and procedures taken to address the shortcomings mentioned, in view of the legislative amendments.
- Updated templates of return decisions with entry bans.

It is noted that the Commission made a reference to Bulgaria, Romania and Cyprus in order to bring the attention and clarify the particular case of these Member States that are not part of Schengen and therefore the need for EU-wide and not only Schengen area coverage of the return decision and entry ban.

### **Recommendation 4** (*separation of families*)

The Commission services take note of the Norwegian authorities' efforts for the separation of families and unaccompanied minors from other returnees and common law criminals.

At this point the Commission services are not in the position to assess the adequacy of the action. This will be done once the refurbishment of the facility will be completed.

The Commission services would like to request the Norwegian authorities to submit with the first follow-up report an update as regards the establishment of stricter physical barriers. The Commission services would also like to request regular updates with the follow-up reports as regards the long-term perspective of establishing upgraded facilities.

## **4. 4. CONCLUSION**

The Commission services conclude that the action plan in the field of return provided by Norway is adequate, but additional information and specified deadlines are needed on a series of actions listed above to illustrate and/or confirm the implementation of particular actions.

In accordance with Article 21(3) first subparagraph of Council Regulation (EU) 2022/922, Norway is to report to the Commission and the Council every six months from the date of notice of the receipt of this review until the Commission considers the action plan fully implemented. The subsequent steps should take place through KOEL-SCHEVAL, the newly established IT platform supporting the monitoring process.

One of the three recommendations<sup>6</sup> and related actions of the previous evaluation of 2017 has not been implemented in full yet. This concerns recommendation 3 (forced-return monitoring). This recommendation and related actions are to be merged under the current action plan, to avoid reporting twice, and Norway is requested to report on the implementation of these actions in the first follow-up report. Follow-up consultations with Norway can take place to decide an efficient way forward with the mentioned recommendation.

Consequently, the Commission services express the intention of the Commission to technically close the action plan related to the 2017 Schengen evaluation of Norway. In line with Article 21(3), fourth subparagraph of Regulation (EU) 2022/922, the formal closure of the action plan is to be decided by the College and communicated to the Member States accordingly.

In accordance with Article 21(2), second subparagraph of Council Regulation (EU) 2022/922, the Commission will present the review of the action plan to the Council.

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<sup>6</sup> Council Implementing Decision 15811/18 of 20 December 2018.