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From:	European Commission
To:	Working Party for Schengen Matters / Mixed Committee (EU-Iceland/Norway/Switzerland/Liechtenstein)
No. prev. doc.:	6632/23
Subject:	Schengen evaluation of Sweden - Review of the adequacy of the action plan of Sweden to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen <i>acquis</i> in the field of return

Delegations will find annexed the review of the adequacy of the action plan of Sweden 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 plan was provided to Sweden by Commission letter of 16 May 2023 (Ref. Ares (2023)3419018), as set out in the annex.



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS

The Director-General

Brussels,
HOME/B2/

Ambassador Lars Danielsson

Permanent Representative of Sweden to the EU

Subject: Review of the adequacy of the action plan of Sweden 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 Sweden 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 17 February 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, Sweden is to report to the Commission and the Council on the implementation of the action plan every 6 months from the date of notice of receipt of the attached review.

The Commission Services are at the disposal of Sweden 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 Sweden to remedy the deficiencies identified in the 2022 evaluation on the application of the Schengen acquis in the field of Sweden

Action plan submitted by Sweden

Review of the adequacy of the action plan of Sweden to remedy the serious 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. Introduction

Council Regulation (EU) No 1053/2013¹ established an evaluation and monitoring mechanism to verify Member States' application of the Schengen *acquis*.

In accordance with the multiannual² and annual³ 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 Agency, carried out a visit between 3 and 9 of April 2022, to verify Sweden'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(2022) 4780 of 24 October 2022.

In the meantime, Council Regulation (EU) No 1053/2013 was replaced by Council Regulation (EU) 2022/922⁴, 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 Sweden), the adoption of evaluation reports and recommendations shall be carried out in accordance with Regulation (EU) No 1053/2013. The follow-up and monitoring activities, starting with the submission of the action plans, shall be carried out in accordance with the new Regulation (2022/922).

¹ OJ L 295, 6.11.2013, p. 27.

² Commission implementing Decision C(2019) 3692 of 17.5.2019 amended by Commission implementing Decision C(2019) 7278 of 15.10.2019 establishing the multi-annual evaluation programme 2020-2024 in accordance with Article 5 of Council Regulation (EU) No 1053/2013 of 7 October 2013.

³ Commission Implementing Decision C(2021) 7727 of 4.11.2021 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*.

⁴ OJ L 160, 15.6.2022, p. 1.

Accordingly, the Council adopted on 20 December 2022 an Implementing Decision⁵ setting out a Recommendation on addressing the deficiencies identified in the evaluation report (Article 15(3) of Council Regulation (EU) 1053/2013). Following and pursuant to Article 21(1) of Council Regulation (EU) 2022/922 Sweden submitted to the Commission and the Council an action plan⁶ to remedy the deficiencies on 17 February 2023.

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

2. General assessment

The Council Implementing Decision setting out a recommendation to address the deficiencies identified in the 2022 Schengen evaluation of Sweden in the field of return, contains 9 recommendations for Sweden aimed at aligning the legal framework and practice to the requirements of Directive 2008/115/EC.

The Commission services consider that overall the action plan presents **adequate remedial actions** to implement the Council recommendations. However, for some recommendations, the Commission services consider that additional and more detailed information, or more specific actions, are required, as indicated below. The subsequent follow-up report to be submitted by Sweden, will need to provide the requested information and contain the appropriate remedial actions. The Commission services underline that it is important that Sweden implements the recommendations within the timeframe proposed in the action plan.

3. Detailed assessment

For the following remedial actions, the Commission services consider that additional information is needed and consequently requests the following:

⁵ Council Document 15831/22.

⁶ Council Document 6632/23.

Actions implementing Recommendation 1 (principle of *non-refoulement*):

The remedial actions can be considered partially adequate. The Commission services would like to ask additional information as regards the validity of the decision issued in cases which the country of return is not included. In particular, the Commission services ask the Swedish authorities to clarify the measures taken to ensure that the principle of non-refoulement is respected.

Actions implementing Recommendations 2 (return decisions imposing the obligation to leave the EU/Schengen area) and 3 (EU/Schengen wide effect of entry bans):

The remedial actions are considered adequate. The Commission services would like to ask the Swedish authorities to proceed the soonest possible in updating the relevant templates, since these two recommendations were identified as priorities. The Commission services also ask the Swedish authorities to submit these templates for a final review.

Actions implementing Recommendations 4 (validity of return decisions) and 7 (individual assessment for the length of an entry ban):

The Commission services would like to ask the Swedish authorities to closely monitor and report on the progress of the legislative review process and eventually to provide draft legislative amendments when available.

Actions implementing Recommendation 6 (notification of return decisions even in the case of absconding):

The proposed action remains very general. The Commission services would like to ask the Swedish authorities to propose concrete actions that will be taken to ensure that all illegally staying third-country nationals are notified their return decisions, even in case of absconding. In addition, further clarification is needed for the specific part of the proposed action concerning the reference to the Asylum Procedure Directive and how this issue is linked with the provided recommendation.

Actions implementing Recommendation 9 (effectiveness of monitoring system):

The Commission services would like to ask the Swedish authorities to propose concrete actions that will allow the increase of monitoring in forced returns and provide information on the way the feedback mechanism will be overviewed to allow for systematic feedback.

4. Conclusion

The Commission services conclude that the action plan in the field of return, provided by Sweden, is considered adequate, but that additional information and clarification 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, Sweden is invited to submit the requested information in the next follow-up report.

At the same time, taking into account that some of the recommendations of the previous evaluation (6929/18) have not been implemented in full, it is suggested that when Sweden submits the first follow-up report, to have all actions merged under one report and avoid reporting twice. In this regard, the Commission services intent to propose the technical closure of the previous action plan. This will be formally announced when the Commission adopts the annual State of Schengen report.