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From:	General Secretariat of the Council
On:	30 May 2023
To:	Delegations
No. prev. doc.:	9214/23
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of **Norway** on the application of the Schengen acquis in the field of **return**

Delegations will find enclosed the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2022 evaluation of Norway on the application of the Schengen acquis in the field of return, adopted by the Council at its meeting held on 30 May 2023.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2022 evaluation of Norway on the application of the Schengen acquis in the field of return

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[1], and in particular Article 15(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) A Schengen evaluation in the field of return was carried out in respect of Norway in June 2022. 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(2023) 210].

(2) The Norwegian Authorities pay specific attention to promote the understanding and predictability of the return procedures for children. The developed protocols and training of the personnel, combined with the design and the regime applied in Haraldvangen Family Unit contributes to mitigating the stress and trauma for minors in the return process and is in line with the best interest of the child principle.

[1] OJ L 295, 6.11.2013, p. 27.

(3) Recommendations should be made on remedial actions to be taken by Norway in order to address deficiencies identified as part of evaluation. In light of the importance of complying with the Schengen *acquis*, in particular the setup of an effective forced-return monitoring system, priority should be given to implementing recommendation 1 below.

(4) In order to ensure a uniform application of the Return Directive, following the relevant ECJ case law, implementation of Recommendation 2 is to be supported by the dedicated discussions in the Contact Group – Return Directive. That clarification of the interpretation of the said recommendation should be without prejudice to the implementation of the other Council recommendations addressing deficiencies identified in the evaluations carried out pursuant to Council Regulation 2022/922.

(5) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.

(6) Council Regulation (EU) 2022/922[1] applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with Regulation (EU) 2022/922.

(7) Within two months of the adoption of this Decision, Norway should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan listing all recommendations to remedy the deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council.

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1 Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

RECOMMENDS:

that Norway should:

1. set up an effective forced-return monitoring system in line with the requirements of Article 8(6) of the Return Directive;

2. state in all return decisions issued to illegally staying third-country nationals the obligation to leave the territory of all states of the Schengen area in order to reach a specific third country, in accordance with Articles 3(3) and 3(4) of Directive 2008/115/EC; take measures to ensure that, when the third country of return has not been specified in the return decision due to the impossibility to identify one in accordance with national law or national legal practice, the principle of *non-refoulement* is respected;

3. ensure that return decisions are accompanied with an entry ban having the EU/Schengen wide effect, in accordance with the definition of entry ban set out in Article 3(6) of Directive 2008/115/EC;

4. ensure separation of families and unaccompanied minors from other returnees and common law criminals in the *Center for removals, returns and logistics holding facility prior to their removal;*

Done at Brussels,

For the Council
The President