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From: General Secretariat of the Council

On: 20 September 2016

To: Delegations

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Subject: Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation of Liechtenstein on the application of the Schengen acquis in the field of return

Delegations will find in the annex the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation of Liechtenstein on the application of the Schengen acquis in the field of return, adopted by the Council at its 3484th meeting held on 20 September 2016.

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 2015 evaluation of Liechtenstein on the application of the Schengen acquis in the field of return

THE COUNCIL 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 Schengen¹, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision setting out a recommendation is to recommend to Liechtenstein remedial actions to address deficiencies identified during the Schengen evaluation in the field of return carried out in 2015. 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(2016) 3252.
- (2) In the absence of an external border, the conclusion of an agreement between Liechtenstein and Switzerland allowing officers of the Liechtenstein National Police to accompany returnees to and escort returnees from Zurich airport in order to ensure their return can be considered a good practice.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) To ensure compliance with the Schengen *acquis* in the area of return, priority should be given to implementing the recommendation related to the establishment of an effective forced-return monitoring system.
- (4) All necessary measures should be taken to effectively return illegally staying third-country nationals in an effective and proportionate manner, in accordance with Article 8(1) of Directive 2008/115/EC².
- (5) This Decision setting out a recommendation should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, the evaluated Member State shall, pursuant to Article 16, paragraph 3 of Regulation (EU) No 1053/2013, establish an action plan to remedy the deficiencies identified in the evaluation report and provide this to the Commission and the Council,

HEREBY RECOMMENDS:

The Principality of Liechtenstein should:

1. take all necessary measures to ensure the enforcement of return decisions in an effective and proportionate manner, in accordance with Article 8(1) of Directive 2008/115/EC;
2. set up an effective forced-return monitoring system in compliance with Article 8(6) of Directive 2008/115/EC;
3. set objective criteria in national legislation enabling an assessment of whether a third-country national who is subject to return procedures is likely to abscond;
4. take the necessary measures to ensure that, pending removal, women in detention are kept physically separate from ordinary female prisoners in all circumstances;

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

5. increase the period of time during which male returnees in detention are not locked in cells and can therefore move freely within the detention facility, so as to better reflect the status of administrative detention.

Done at Brussels,

For the Council

The President
