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From:	General Secretariat of the Council
On:	16 July 2018
To:	Delegations
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Subject:	Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2017 evaluation of Hungary 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 addressing the deficiencies identified in the 2017 evaluation of Hungary on the application of the Schengen acquis in the field of return, adopted by the Council at its meeting held on 16 July 2018.

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 2017 evaluation of Hungary 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 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 Hungary remedial actions to address deficiencies identified during the Schengen evaluation in the field of return carried out in 2017. Following the evaluation, a report covering the findings and assessments, listing best practices and deficiencies was adopted by Commission implementing Decision C(2018) 1145.
- (2) To ensure compliance with the Schengen *acquis* on return, it is important to remedy each of the deficiencies identified within the shortest possible timeframe.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) All necessary measures should be taken to return illegally staying third-country nationals in an effective and proportionate manner.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within six months of its adoption, pursuant to Article 16(8) of Regulation (EU) No 1053/2013, Hungary shall provide the Commission with an assessment of the improvements and with a description of required actions,

HEREBY RECOMMENDS:

that Hungary should

1. launch the necessary procedures for the return of illegally staying third-country nationals who are in prison for having committed a criminal offence, in order to enable early preparation of return in each case, in a view of shortening the duration of the return process and reducing the length of their detention for the purpose of removal;
2. take urgent measures in all the specialised detention facilities in Hungary to reduce the features that account to a carceral environment, notably by reducing the restrictions of movements within such facilities, allowing access to phone communications and visits, amending the daily routine to allow a more lenient detention regime in particular insofar as families and minors are concerned; adjust the structure of the facilities to this end and ensure that staff in the facilities abstain as much as possible from regularly carrying batons, pepper-spray and metallic handcuffs;
3. increase the living space available to detainees in the dormitories of the specialised detention facility in Győr and provide appropriate furniture in dormitories, including individual lockers for each detainee;

4. ensure that the outdoor areas of the specialised detention facilities in Győr and Nyírbátor offer more space and proper equipment for outdoor activities, as well as that a shelter protecting from inclement weather is available in all detention facilities in Hungary;
5. ensure that detainees at the specialised detention facilities in Győr and at the Budapest airport are given the possibility to spend more than an hour per day in designated outdoor areas;
6. ensure better conditions for carrying out religious activities, by providing a designated room in the specialised detention facility at the Budapest airport where the religious beliefs or rituals can be carried out; in the same facility, provide an appropriate dining room where detainees can have their meals while seated at a table;
7. increase leisure equipment and recreational activities at the specialised detention facility in Nyírbátor, for instance by ensuring longer periods of access to the internet room and by organising activities, taking into account the number of third-country nationals detained and the duration of their stay;
8. ensure that an individual assessment of the need to use means of restraint during the transfer of a detainee is carried out; if means of restraints are necessary, replace the use of metallic handcuffs with plastics handcuffs or other means;
9. avoid to systematically handcuffing detainees for accessing the outdoor area of the specialised detention facility at the Budapest Airport;
10. take urgent additional measures to improve the language and communication skills of the staff working at the specialised detention facilities, including by organising additional regular and targeted training courses that also cover the special needs of working with families with minors;

11. take measures to ensure that relevant information is provided to detained third-country nationals in relation to the immigration procedures and on the follow up to their requests and complaints;
12. ensure that the specialised detention facility in Nyírbátor is adapted to the needs of families with children, including with regard to staffing, and that minors have freely available access to leisure and recreational activities, in particular outdoors, that are appropriate to their age;
13. ensure that families detained at the specialised detention facility in Nyírbátor to have the possibility to spend more than two hours per day in the outdoor areas;
14. ensure the availability of up-to-date data on families with children subject to detention.

Done at Brussels,

For the Council

The President
