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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	13453/18; 14889/18
Subject:	Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2017 evaluation of Norway on the application of the Schengen <i>acquis</i> 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 2017 evaluation of Norway on the application of the Schengen *acquis* in the field of return, adopted by the Council at its meeting held on 20 December 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 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 Schengen¹, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this decision is to recommend to Norway 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)1570.
- (2) The possibility to hold an illegally staying third-country national who does not return voluntarily liable for the costs of his/her forced removal and the practical application of this possibility can serve as an incentive for migrants to opt for voluntary return. Therefore, it should be considered as a good practice.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) To ensure compliance with the Schengen acquis on return, notably the standards and procedures set by Directive 2008/115/EC², priority should be given to implementing recommendation 3.
- (4) All necessary measures should be taken to return illegally staying third-country nationals in an effective and proportionate manner.
- (5) On 12 September 2018 the Commission adopted a proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast).
- (6) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Norway should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide at action plan to the Commission and the Council,

RECOMMENDS

that the Kingdom of Norway should:

1. Amend the relevant legislation so as to ensure that imprisonment is not imposed solely on the ground of illegal stay before or during carrying out an effective return procedure;
2. Ensure that the practice of issuing decisions imposing entry bans on a third-country nationals by Norwegian authorities is in line with the Return Directive;

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.

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

Done at Brussels,

For the Council

The President
