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From: General Secretariat of the Council

On: 8 July 2019

To: Delegations

No. prev. doc.: 10376/19

Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2018 evaluation of **Finland** 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 2018 evaluation of Finland on the application of the Schengen *acquis* in the field of return, adopted by the Council at its meeting held on 8 July 2019.

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 2018 evaluation of Finland 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 for Finland is to take remedial actions in order to address deficiencies identified during the Schengen evaluation in the field of return carried out in 2018. 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(2019) 100.
- (2) The design of the facilities for families and minors at the Joutseno detention centre can be considered a good example of premises guaranteeing adequate privacy while taking into account the best interests of the child, and thus should be regarded as a good practice.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) To ensure compliance with the Schengen *acquis* on return, notably with the standards and procedures set by Directive 2008/115/EC¹, priority should be given to implement recommendation 1.
- (4) 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 1 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:

that the Republic of Finland should:

1. amend national legislation in respect of the duration of entry bans in line with the provisions of the Directive 2008/115/EC;
2. ensure that the practice regarding issuing entry bans, where the obligation to return within the period of voluntary departure has not been complied with, is in line with national law;
3. ensure that the length of the period for voluntary departure takes into account the specific circumstances of each individual case in practice and is extended accordingly where necessary;
4. ensure that in the Helsinki detention unit (Metsälä) families with children are accommodated in separated accommodation areas, which guarantee adequate privacy in accordance with Article 17(2) of Directive 2008/115/EC, while keeping the best interests of the child as a primary consideration;

¹ 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. ensure sufficient detention capacity in specialised facilities to avoid having to resort to regular use of police detention, in line with Article 16(1) of the Directive 2008/115/EC;
6. ensure that the system in place is able to deal in a swift manner with subsequent asylum applications lodged for the sole purpose of delaying or hampering a return procedure;
7. establish an assisted voluntary return and reintegration programme available also to third-country nationals who have not applied for asylum;
8. ensure effectiveness of the forced return monitoring mechanism by notifying the Non-Discrimination Ombudsman systematically and well in advance of all forced return operations; and ensure its continuity by a predictable and timely allocation of funding.

Done at Brussels,

For the Council

The President
