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From: General Secretariat of the Council

On: 28 March 2023

To: Delegations

No. prev. doc.: 7237/23

Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of **Iceland** 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 Iceland on the application of the Schengen acquis in the field of return, adopted by the Council at its meeting held on 28 March 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 Iceland 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(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 Iceland in May 2022. Following the evaluation, a report containing the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2023) 130.
- (2) Recommendations should be made on remedial actions to be taken by Iceland in order to address deficiencies identified as part of evaluation. In light of the importance of complying with the Schengen *acquis*, in particular Directive 2008/115/EC, priority should be given to implementing recommendations 1, 2, 4 and 8 below.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.
- (4) Council Regulation (EU) 2022/922¹ 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.
- (5) Within two months of its adoption, Iceland should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Iceland should provide that action plan to the Commission and the Council.

RECOMMENDS:

that Iceland should

1. ensure that legal remedies are available as from the moment a return decision is issued and that this possibility is indicated in the decision, in accordance with Article 13(1) of Directive 2008/115/EC;
2. amend the national legislation to allow the issuance of entry bans in accordance with Article 11(1) of Directive 2008/115/EC and adjust the national practice accordingly;
3. widen the target group of assisted voluntary return and reintegration programmes in order to cover all illegally staying third-country nationals and give full effect to Recital 10 of Directive 2008/115/EC;
4. provide for an effective forced-return monitoring system in line with Article 8(6) of Directive 2008/115/EC;

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.

5. amend the national law with regard to the duration of entry bans to ensure that entry bans have a determined duration in line with the provisions of Directive 2008/115/EC;
6. amend national legislation in line with Article 3(7) of Directive 2008/115/EC to ensure that the assessment on whether a third-country national poses a risk of absconding is based only on the objective criteria established in national law;
7. ensure that the length of the period for voluntary departure is decided following a case-by-case assessment considering all relevant circumstances of the individuals' case;
8. take measures to ensure that a detention order for the purpose of removal is always provided in writing and assure that there is a possibility to appeal, in line with Article 15(2) of Directive 2008/115/EC;
9. ensure adequate privacy in the isolation room used in cases of serious risk of self-harm.

Done at Brussels,

For the Council

The President