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From: General Secretariat of the Council
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To: Delegations

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Subject: Council Implementing Decision setting out a Recommendation addressing the deficiencies identified in the 2015 evaluation on the application of the Schengen acquis in the field of the common visa policy by Germany

Delegations will find in the Annex the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of management of the common visa policy by Germany, adopted by the Council at its 3463rd meeting held on 13 May 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 on the application of the Schengen acquis in the field of the common visa policy by Germany

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 Schengen ¹, and in particular Article 15 thereof

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Recommendation is to recommend to Germany remedial actions to address deficiencies identified during the Schengen evaluation in the field of the common visa policy 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 ².
- (2) In light of the importance to comply with the Schengen acquis, in particular with regard to the correct implementation of the provisions linked to the Visa Information System (VIS), priority should be given to implement recommendations (1), (2), (13), (14), (17), (29), (30), (31) and (35) below,

¹ OJ L 295, 6.11.2013, p. 27.

² Commission Implementing Decision C(2016) 20 establishing the report of the 2015 evaluation of the implementation of the Schengen acquis in the field of the common visa policy by Germany.

- (3) This 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 should, pursuant to Article 16 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:

Germany should

1. upgrade the national IT system (RK-Visa) to prevent the possibility of a uniform visa being printed despite negative reply in prior consultation and/or ensure permanent monitoring by expatriate staff of all cases where a visa is issued after a negative reply in prior consultation;
2. ensure that data on issued visas are transferred from the national IT system to the central VIS without delay;
3. ensure that requested "ex-post" information on visas issued (Article 31 Visa Code) is sent systematically to all requesting Member States;
4. ensure that the 'period of grace' of 15 days is included systematically in the period of validity of the visa;
5. ensure that all visa sections use the standard application form correctly indicating the fields that should not be filled in by family members of EU/EEA citizens who exercise their right of free movement;
6. ensure that applicants are not required by consulates to fill out additional questionnaires (in addition to the standard application form);
7. change the sponsorship form to include information about the storage of the sponsor's personal data in the Visa Information System (VIS);

8. allow for the compilation of statistics on the extension of visas and the main reasons for such extensions;

Embassy/visa section in Cairo

9. organise regular meetings and/or training of relevant call centre staff and develop routines to monitor the activities of the call centre; check their services by means of test calls (e.g. to take appointments and to request information);

10. ensure that the visa section has remote access to the call centre's appointment system;

11. improve the structure of the visa section's website to make it more user-friendly, provide information in English and complement missing information;

12. – in the short term – ensure that the entrance area and the waiting room are visible to the security guards via CCTV; – in the long term (when constructing a new building for the Embassy) – provide appropriate premises for the visa section and take the appropriate security measures;

13. provide an appropriate and separate room for the staff member in charge of printing the visa stickers, in order to ensure that the daily supply of blank visa stickers is constantly under control (e.g. by locking the door when that staff member leaves the room for short periods);

14. apply the central authorities' general instructions on the daily use of visa stickers (mentioned in the German authorities' reply to question 284 of reply to the general questionnaire);

15. ensure adequate monitoring of the local staff in accordance with Article 38(4) of the Visa Code;

16. ensure that visa section staff is aware of facilitations granted to family members of EU/EEA citizens who are exercising their right to free movement;

17. instruct staff that linking application files in the IT system/VIS for persons travelling together is mandatory;

18. ensure full compliance with the Commission Implementing Decision on the list of supporting documents to be presented by visa applicants in Egypt;

19. clearly define the distribution of tasks between the Federal Police's document and visa advisers and the Ministry of Foreign Affairs' visa officers regarding the assessment of the visa applications;
20. establish a harmonised approach within the visa section on the length validity of MEVs for bonafide travellers; avoid issuing visas with a validity of 90 days with an authorised period of stay of 90 days (as no period of grace is given in that case);
21. provide a translation of the application form in Arabic ³;
22. ensure that all applications are accepted as soon as the admissibility criteria in Article 19(1) Visa Code are met (even if supporting documents or proof of travel medical insurance is missing) and that those applications are registered in the VIS (Article 19(2) Visa Code);

Consulate General/visa section in Istanbul

23. correct minor errors and complement missing information on the visa section's website, provide information in English and avoid unnecessary duplications;
24. instruct the external service provider (ESP) to provide all relevant information to the public and identically in all language versions, or – where appropriate – create links to the website of the visa section in order to ensure accurate and up-to-date information;
25. ensure full compliance with the Commission Implementing Decision establishing the list of supporting documents to be presented by visa applicants in Turkey;
26. in order to avoid reimbursement of the visa fee at the final stage of the procedure, instruct the ESP and the counter staff on the fee waivers which are systematically applied (Article 16(4) and (5) Visa Code); ensure that the visa section's and the ESP's websites contain those rules in order to ensure transparency towards applicants; instruct the ESP to only charge the visa fee in those cases where fee waivers or reductions are granted by the consulate on an individual basis (Article 16(6) Visa Code);

³ A common translation of the application form into Arabic was done in the context of Local Schengen Cooperation in Cairo.

27. avoid differentiating between Schengen visas issued by Germany and other Member States, so that equal "value" is always given to previous visas – irrespective of which Member State issued them – when assessing whether visa applicants are "bona fide" and deciding on the validity of the visa to be issued;
28. when returning the passport to the applicant, include an information leaflet informing the visa holder about his rights and the fact that the visa does not confer an automatic right of entry (such as the one used by the German Embassy in Cairo);
29. train visa section staff on the functionalities of the VIS, notably on how to search for previous visas issued and visa refusals (as well as the reasons for refusals) by other Member States; ensure that these functionalities are made use of during the examination of applications ⁴;
30. make visa section staff systematically sign for the visa stickers that are removed from and returned to the safe every day;
31. ensure that the visa section's stamps are securely stored outside office hours;
32. inform all staff on the use of the standard form for annulment or revocations in accordance with Art. 34(6) and Annex VI of the Visa Code;
33. ensure that the waiting room area of the visa section is monitored by camera; install a camera in order to cover the metal stairs area outside the building;
34. ensure correct use of the admissibility stamp (as long as it will still be used);
35. instruct staff that linking application files in the IT system/VIS for persons travelling together is mandatory;

⁴ Making good use of the VIS as the Member States' common database is particularly relevant in view of the fact that the admissibility stamp will not be used any more from the date when the VIS becomes fully operational in all regions.

36. when representing Slovenia for visa applications by truck drivers, the visa section should – when it intends to refuse a visa – transfer the application file and data to the Slovenian Embassy in Ankara, in compliance with the relevant provisions of the Visa Code and the representation agreement concluded with Slovenia.

Done at Brussels,

For the Council

The President
