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VISA 57
COMIX 124

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 17 February 2017

To: Delegations

No. prev. doc.: 5758/17

Subject: Council implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of the common visa policy

Delegations will find in the annex the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2016 evaluation of Greece on the application of the Schengen acquis in the field of the common visa policy, adopted by the Council at its 3518th meeting held on 17 February 2017.

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 2016 evaluation of Greece on the application of the Schengen *acquis* in the field of the common visa policy

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 decision setting out a recommendation is to recommend actions for Greece to address deficiencies identified during the Schengen evaluation in the field of the common visa policy carried out in 2016. 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

¹ OJ L 295, 6.11.2013, p. 27.

² Commission Implementing Decision C(2016) 6019 establishing the report of the 2016 evaluation of Greece on the application of the Schengen *acquis* in the field of the common visa policy.

- (2) In light of the importance of complying with the Schengen *acquis*, in particular with regard to correctly implementing the provisions linked to the decision on applying the Visa Information System (VIS), data protection and the use and supervision of external service providers (ESP), priority should be given to implementing recommendations (2), (4), (7), (9 (1) and (2)), (10) and (11) below.
- (3) This decision setting out a recommendation should be sent to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Greece 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 Greece should

1. consider improving EL-VIS ³ by showing details of all previous applications by the same person automatically, when a new application is examined;
2. ensure that applications from people travelling together are systematically linked in VIS;
3. consider integrating a comment box for free text in the examination section of the IT system to encourage visa officers to record findings of the examination, verifications, interviews and better explain the reasons leading to their decision;
4. consult the Greek data protection authority on whether ‘local warning lists’, in particular as regards data retention rules and purging mechanisms, comply with Directive 95/46/EC on data protection ⁴ as implemented by Greek data protection law, and follow its recommendations;

³ Greek national IT-system.

⁴ OJ L 268, L28 1, 23.11.1995.

5. amend the standard contracts with ESPs so that they are in line with all the requirements of Annex X to the Visa Code;
6. ensure that the provisions of Article 34 of the Visa Code on annulment and revocation are applied correctly;
7. ensure that alphanumeric data are also encrypted and the storage medium is protected when physically transferred from the ESPs to visa sections to prevent unauthorised use of the data;
8. make sure that all relevant information is easily available on its websites (including in English);

Consulate General/visa section in Moscow:

9. instruct the ESP to
 - (1) apply the appropriate period for retention of data (Visa Code, Annex X, A d)) in its IT systems and computers and systematically delete applicants' data when that period expires;
 - (2) ensure that, in its IT systems, each user's actions regarding the collection of biometric data can be traced;
 - (3) update its website to provide all relevant information correctly;
 - (4) consider adapting the call button of the entrance, to-facilitate the access of people with reduced mobility;
10. closely monitor the implementation of the instructions referred to in paragraph (9);
11. ensure that the ESP is aware that applicants' fingerprints are only to be collected every 59 months (Article 13(3) Visa Code);

12. ensure that the outcome of inspections of and visits to the ESP is properly recorded as well as the follow-up actions taken;
13. ensure that checks are recorded in a standardised manner, allowing staff to reconstruct the background of decisions taken on an application;
14. clarify to staff that the internal instruction to the Greek consular representations in Russia is a guideline rather than an instruction for decision making, and revise the current instructions so that the validity of the visas issued is more consistent with a case-by-case assessment of applicants' needs, in accordance with Article 21 of the Visa Code;

Consulate General/visa section in Istanbul

15. increase the security of the counter/interview room at the visa section so as to protect consular staff by creating a physical barrier between applicants and staff;
16. instruct the ESP to:
 - (1) install a suitable physical barrier between the waiting room and the counter area, preventing unauthorised access;
 - (2) provide all relevant information to the public correctly;
17. ensure that travel documents and notification of refusals are returned to the ESP in individual envelopes to prevent unauthorised access to personal data and decisions on visa applications;
18. ensure that applications are assessed on a case-by-case basis, paying particular attention to the applicant's socio-economic situation;

19. consider relaxing the relatively restrictive/rigid approach to issuing of visas with long validity for bona-fide travellers;
20. ensure that the refusal form is properly used and filled in, regardless of the grounds for refusal.

Done at Brussels,

For the Council

The President
