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NOTE

From:	General Secretariat of the Council
To:	National parliaments
Subject:	Schengen evaluation of Austria - Council Recommendation on addressing the deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of the common visa policy

In accordance with Article 15(3) of Council Regulation 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, the Council hereby transmits to national parliaments the Council Recommendation on addressing the deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of the common visa policy by Austria.

COUNCIL RECOMMENDATION

on addressing the deficiencies identified in the 2015 evaluation of the application of the Schengen acquis in the field of the common visa policy by Austria

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 Austria remedial actions to address deficiencies identified during the 2015 Schengen evaluation in the field of the common visa policy. 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(2015)6142.
- (2) It is important to remedy each of the deficiencies immediately. Therefore no indication of priority for implementation of the recommendations should be given.

¹ OJ L 295, 6.11.2013, p. 27.

- (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 shall, 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:

Austria should:

- (1) carry out systematic monitoring of external service providers (ESP), *inter alia* by:
- making regular unannounced visits to the visa application centres both in the locations where the Austrian diplomatic mission/consular post is situated and elsewhere in the country concerned (the latter possibly in cooperation/alternation with other Member States using the same centres); reports of these visits should be drawn up;
 - updating the ESP on a regular basis on changes of practice and ensuring that such changes of practices are implemented correctly;
 - supervising ESP staff continuously when they deliver applications to the consulate and collect passports and ensuring electronic tracking of all exchanges of applications, travel documents and other documents.
- (2) Change the workflow in consulates so that expatriate consular staff are always aware of the results of the SIS check, national consultations and prior consultation of other Member States, (where relevant) before they take the final decision on applications and authorise the printing of the visa sticker.

- (3) Ensure that the decision to issue a single-entry or multiple-entry visa (MEV) be based on applicants' real needs and his visa history, as an MEV is in most cases not relevant for very short stays of a few days; ensure that MEVs with a long validity are issued in accordance with Article 24(2) of the Visa Code ² to *bona fide* applicants with a solid visa history, in order to facilitate travel for frequent or regular travellers and lessen the administrative burden on the visa section; reconsider the need for the central authorities' prior approval of the issuing of MEVs with a validity of over a year so as not to obstruct proper implementation of the Visa Code.
- (4) Consider abolishing the practice of 'consulting' of the applicant before formal refusal of their application, as this is not provided for in the Visa Code and EU law has primacy over national law.
- (5) Upgrade the national IT system so as to prevent unauthorised staff printing a uniform visa where there has been a SIS 'hit' or a negative reply in prior consultation while maintaining the possibility of issuing visas with limited territorial validity.
- (6) Update all relevant websites (at consulate and central levels) to cover all information as required under Article 47(1) of the Visa Code.
- (7) Ensure that the application form to be used by applicants is that in Annex I to the Visa Code without any alterations.
- (8) Ensure that visa applicants are required to present only one photograph as provided by the Visa Code.

Embassy/visa section in Moscow

- (9) Ensure that applications are not declared admissible (and the admissibility stamp not affixed) until the visa fee has been paid (by bank transfer or otherwise).

² Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, OJ L 243, 15.9.2009, p. 1.

- (10) Ensure that the misprinted visa stickers are invalidated in accordance with the provisions of the Visa Code.
- (11) Ensure that the standard form for notifying the annulment of a visa is used systematically
- (12) Draw up protocols for the distribution of individual visa stickers to (EU) local staff during the day signed by these staff members, so that each visa sticker can be traced at any time.

Embassy/visa section in Delhi

- (13) Closely monitor the ESP to ensure that it takes appropriate technical and organisational measures to protect personal data and sensitive documents when handling files and data by the ESP.
- (14) Raise consular staff's awareness that they must respect fundamental rights and human dignity in their conduct *vis-à-vis* visa applicants.
- (15) Ensure that the form for notifying refusal is filled in correctly in all cases.

Done at Brussels,

For the Council

The President
