



Council of the
European Union

Brussels, 5 April 2016
(OR. en)

7536/16

Interinstitutional File:
2015/0280 (NLE)

PARLNAT 73

NOTE

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| From: | General Secretariat of the Council |
| To: | National Parliaments |
| Subject: | 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 the common visa policy by Belgium |

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 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 the common visa policy by Belgium.

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 the common visa policy by Belgium

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 Belgium 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 C(2015)7501.
- (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 recommendation(s) (1), (15), (16), (17), (29), (30) and (31) below,

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:

Belgium should:

1. take measures to ensure that the photos stored in VIS comply with the specifications set out in Article 8(4) of the Regulation (EC) No 767/2008 of the European Parliament and of the Council ² and the technical specifications, referred to in Article 13(4) Regulation (EC) No 810/2009 of the European Parliament and of the Council ³ of the Visa Code and set out in Annex 11 to Commission Decision C(2010)1620 final of 19.3.2010 establishing the Handbook for the processing of visa applications and the modification of issued visas;
2. implement a mechanism in Visa-Schengenhouse ⁴ and in VisaNet ⁵ which automatically deletes application files after a certain period of time, which has to be defined in relevant national legal provisions;

² Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

³ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

⁴ Database of Maison Schengen Kinshasa.

⁵ National visa database.

3. implement mechanism in Visa-Schengenhouse that automatically deletes biometric data when these have been transferred to the visa section and automatically deletes the application file when the final decision has been taken on the application and communicated to the applicant;
4. consider to grant consulates the competence to take final decisions and to limit the number of cases where consultation of central authorities is necessary to cases of doubt or where deviation from the general rules is possible (e.g. the issuing of visas with limited territorial validity) and not cover the obvious cases and cases where local knowledge is necessary;
5. improve the electronic visa sticker management as well as the distribution of blank visa stickers to relevant staff;
6. take measures to ensure the proper use of the stamps indicating revocation of the visa sticker and use of the standard form (referred to in Annex VI to Regulation (EC) No 810/2009; additionally, the correct information on the revocation should be properly entered in the VIS, i.e. that the visa was revoked at the request of the visa holder;
7. consult the Belgian Data Protection Authority on the compatibility of the local blacklists with Directive 95/46/EC of the European Parliament and of the Council ⁶ and the Belgian law implementing it and request that Authority to report on its findings;

Embassy/visa section in Algeria

8. improve the cooperation with and monitoring of the call centre, *inter alia* by:
 - (a) ensuring that the call centre answers phone calls in its proper name in order to avoid misleading the applicant,
 - (b) establishing formal routines for monitoring the service offered by the call centre and draw up procedures for exchange of information on complaints between the Embassy and the call centre;

⁶ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regards to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

9. improve the information to the public *inter alia* by:
 - (a) updating the websites and notice board outside the visa section with the missing information,
 - (b) making a clear distinction between information regarding short stay and long stay visas,
 - (c) structuring the information better and ensuring that the relevant information is provided on the appropriate website and that information on all websites is identical and adding a visible link to the general website of the Office des Etrangers (ODE) on the visa section's website;
10. consider means of adapting the access facilities to the Embassy and the visa section for persons with special needs;
11. install an alarm system, electronic access system, additional CCTV cameras and CCTV monitors be installed in the Embassy or on the Embassy compound to enhance security and allow for monitoring of the implementation of the different procedures, including procedures regarding security checks;
12. enhance the security of the part of the archives that is not stored in the main premises of the Embassy/visa section;
13. take measures to cover the cables of the fingerprint scanner and monitors at the counter to prevent accidental or deliberate disruption of work and electronic connections;
14. change the arrangements at the counters so that there is at least one unused counter between two counters in use to ensure privacy for applicants;
15. require applicants to clean their hands before fingerprints are collected to ensure the quality of the collected fingerprints to be recorded in VIS and instruct counter staff to carry out a visual check of fingers before the fingerprint collection to rule out the possibility of spoofed/forged fingerprints and a mismatch against VIS as result;

16. ensure a correct implementation of the provisions of Article 13(1) of Regulation (EC) No 810/2009 so that all visa applicants' fingerprints be collected every 59 months, unless they belong to one of the categories for whom this requirement is waived;
17. ensure that applications of individual members of any size of group, i.e. two or more persons travelling together, are linked in the VIS;
18. respect the provisions of Regulation (EC No 810/2009 regarding admissibility and develops a clear policy for the handling of cases where supporting documents are missing;
19. abolish the practice of having applicants sign an additional declaration regarding the fact that information on the collection of the travel document is only sent by e-mail and ensure that such be also transmitted by SMS or by a phone call given that many applicants do not have a direct access to email;
20. ensure that all applicants systematically present proof of adequate travel medical insurance when lodging the application so that the financial and geographical coverage can be properly examined before the final decision on the application has been taken and the visa sticker printed;
21. take measures to clarify the content of the Protocols between the Algerian Ministry of Defence and certain Belgian hospitals and ensures that these agreement are compatible with the provisions of Regulation (EC) No 810/2009, in general, and, in particular, whether the conditions for issuing uniform Schengen visas with a long validity are effectively fulfilled, particularly regarding sufficient means of subsistence;
22. encourage expatriate staff to develop essential contacts in the host state and make full use of exchanges within local Schengen cooperation to verify the authenticity of supporting documents and to make better use of the local staff to carry out such controls;
23. make consular staff aware of the list of travel documents and the frequent amendments, possibly by integrating it into 'VisaNet';

24. ensure adequate monitoring of the local staff at counters;
25. take measures to ensure that appropriate training be organised for local staff in accordance with Article 38 (3) of the Visa Code,

Embassy/visa section in the Democratic Republic of Congo;

26. use a metal detector gate, properly calibrated, for the main security check and only to use the handheld detector for additional check, if necessary.
27. revise the routine practices at the Maison Schengen Kinshasa (MSK) such as movement of staff and guests and conducting interviews to minimize the risk of unauthorized entry into the office area of the MSK;
28. improve the information to the public *inter alia* by:
 - (a) ensuring a clear distinction between information regarding short stay and long stay visas and that all relevant information, according to Visa Code, Article 47, be provided in a well-structured and user-friendly manner,
 - (b) updating and correcting checklists (for different travel purposes) and websites;
29. ensure a correct implementation of the provisions of Article 13(1) of Regulation (EC) No 810/2009 so that all visa applicants' fingerprints are collected only every 59 months;
30. take measures to prevent that because of the separation of registration of the application file and the collection of biometric data one person's biometric data could be linked to a different person's application file;
31. ensure that the status "closed application" be only entered in VIS in cases where the application is withdrawn or where it is not further pursued by the applicant before a decision has been taken on the application, in accordance with Article 10(2) of Regulation (EC) No 767/2008;

32. require applicants only present one application form in accordance with Article 11(1) of Regulation (EC) No 810/2009;
33. immediately to abolish the practice of systematically requiring applicants to fill in an additional form when applying for a visa and only ask such additional information in individual cases, where relevant;
34. take measures to ensure appropriate training of local staff at the MSK;
35. ensure adequate monitoring of the local staff at MSK and that more structured and regular meetings be organized with MSK staff to discuss latest instructions, complaints and challenging cases;
36. ensure compliance with the provisions of Regulation (EC) No 810/2009 regarding the admissibility stamp;
37. take measures to comply with the provisions of Directive 2004/38/EC of the European Union and of the Council ⁷ and the guidelines set out in Part III of Decision C(2010) 1620 final with regard to the supporting documents to be submitted by family members of EU citizens covered by the above Directive.

This Recommendation is addressed to the Kingdom of Belgium.

Done at Brussels,

*For the Council
The President*

⁷ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).