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NOTE

From: General Secretariat of the Council
To: National Parliaments

Subject: Council implementing decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Sweden on 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 implementing decision setting out a recommendation on addressing the deficiencies identified in the 2017 evaluation of Sweden on the application of the Schengen acquis in the field of the common visa policy¹.

¹ Available in all official languages of the European Union on the Council public register, doc.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2017 evaluation of Sweden on the application of the Schengen acquis in the field of the common visa policy

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 Schengen², and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision is to recommend to Sweden remedial actions to address deficiencies identified during the Schengen evaluation in the field of the common visa policy carried out in 2017. 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(2017) 5175.
- (2) In light of the importance to comply with the Schengen acquis, in particular the provisions linked to the decision-making process, the Visa Information System (VIS), and the information to the applicant, priority should be given to implement recommendations 2, 3, 15, 24, 25, 26, 27, and 29 below.

² OJ L 295, 6.11.2013, p. 27.

- (3) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption, Sweden should, pursuant to Article 16 (1) of Regulation (EU) No 1053/2013, establish an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and provide that action plan to the Commission and the Council,

RECOMMENDS:

that Sweden should:

General

1. ensure that evidence of the assessments carried out are recorded in a standardised manner, allowing staff to reconstruct the background of a decision taken on an application.
2. refrain from systematically requiring applicants to fill in forms/questionnaires in addition to the harmonised application form.
3. ensure that the ESP and consular staff are aware of the right of the applicant to not give fingerprints if they were submitted during the previous 59 months, and instruct them to properly inform applicants of their right, in order to avoid that they appear in person for every application.

Consulate/visa section in Dhaka

4. take measures so that the two doors of the sluice cannot be opened at the same time, in order to meet adequate security standards.
5. update and harmonize information in all sections of the Consulate webpage, add missing information, including on urgent cases, as well as comprehensive and detailed information for family members of EU/EEA citizens, and ensure the missing links are established.

6. instruct the ESP to update the information on the webpage as regards the required documents, to add missing information on requirements for participation in sport or cultural events and medical treatment, as well as information on the possibility of lodging directly at the Embassy, on the requirement to only provide one photograph, and on the third countries whose nationals are subject to prior consultation.
7. instruct the ESP to provide application forms translated into the official language of the host country (Bengali), in accordance with the Article 11(3) of the Visa Code.
8. reword ESP checklist so as to merely inform ("educate") the applicant that it is in his interest to submit a complete set of supporting documents as the examination should not only be based on documents but also the applicants' travel history and "incomplete file" is not a reason for refusal under the Visa Code.
9. ensure that the files scanned at the ESP are accessible to all case handling authorities for all purposes later on in the procedure, and hence ensure an efficient workflow.
10. ensure that (unannounced) inspections of the ESP are carried out regularly.

IT systems

11. instruct and properly train the consular staff and the ESP on how to encode exemption from fingerprinting in the system.
12. introduce an automatic 'flagging' in the system so that the case handler is alerted when there is a problem with the consultation request which should trigger the obligation to take measures to ensure compliance with the maximum 7 days deadline for consultation.
13. make full use of the VISMail functionality, i.e. for messages related to consular cooperation and requests for documents, in particular when exchanging information on individual applicants with other Member States' consulates.

14. urge the ESP to place the server in a separate and locked room.
15. upgrade the IT system to allow for issuing LTVs only valid for the Member State of destination under representation, when the reason for issuing the LTV is one of the grounds listed in Article 25(1).

Consulate/visa section in Tehran

16. ensure that applicants do not need to wait in an open area in the street before entering the consulate, and that the accessibility for persons with special needs is improved.
17. equip the security guards with a hand metal detector and to install a further surveillance camera monitoring the waiting area on the pavement in front of the consulate.
18. consider a differentiated approach to first and second time applicants and persons with a solid visa history, make better use of the fact that applicants lodge in person at the Embassy to further verify relevant aspects that are not covered by the information provided in the application form and improve the efficiency of the workflow.
19. ensure that applications are assessed on a case-by-case basis, paying particular attention to the applicant's socio-economic situation.
20. consider relaxing the relatively restrictive/rigid approach to issuing of visas with long(er) validity for bona-fide travellers. A coordinated approach with the other Member States could be discussed in local Schengen cooperation.
21. consider ensuring that the additional detailed information on the grounds for refusal in the notification is also transmitted in English.
22. ensure that detailed information on biometric identifiers and all waived categories, as well as information on data protection and information on third-country nationals subject to prior consultation is available on the Embassy's website and on the billboards at the premises.

23. add information on the Consulate webpage regarding third-country nationals subject to prior consultation.
24. amend the electronic application form so that it corresponds to the uniform application form.
25. amend the practice of requesting two photographs to bring it in line with the applicable provisions of the Visa Code.
26. inform applicants who have been refused because of the SIS alert of the Member State who entered the alert and about the rights of the person concerned to access to the information contained in SIS.
27. take measures to ensure that applicants can obtain appointments within a time period laid out in Article 9(2) of the Visa Code.

IT systems

28. implement the appropriate instructions in the national system to ensure that all data belonging to an application erroneously sent to the VIS is immediately deleted.
29. instruct/train staff to ensure that linking of new applications with previous ones of the same person is systematically done in the VIS.
30. establish a clear procedure for receiving, processing and deciding on a visa application and issuing a visa sticker in "worst-case" scenarios, including through a DRP (disaster recovery plan) and a BCP (business continuity plan) for the information systems, in order to avoid that such situations, in case they occur, would be handled on an ad-hoc manner.

Done at Brussels,

For the Council
The President
