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VISA 57
COMIX 284

DECLASSIFICATION

of document:	ST 8258/02 ADD 1 RESTREINT UE
dated:	3 May 2002
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Subject:	Compilation of the contributions to the questionnaire on notifications, grounds for and appeals against visa refusals

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 May 2002

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RESTREINT UE

**VISA 57
COMIX 284**

ADDENDUM TO NOTE

from : General Secretariat
to : Visa Working Party

Subject : Compilation of the contributions to the questionnaire on notifications, grounds for
and appeals against visa refusals

Delegations will find attached the contribution from Ireland on the above-mentioned subject.

RESTREINT UE

QUESTIONNAIRE

NOTIFICATION

1. Is there an obligation to notify visa refusals in all cases, or if notification is requested by the interested party? Within what time-limit?
2. Where there is NO obligation to notify ALL visa refusals:
 - 2.1 Which refusals have to be notified?
 - 2.2 Which refusals do NOT have to be notified?
 - 2.3 Where an obligation to notify exists, does this happen in practice, or is there a degree of flexibility?
3. Is there an obligation to notify in writing, or can decisions be notified verbally?
4. Where notifications have to be in writing, does this have to be an individual letter to the interested party, or can general lists be put up on notice boards?
5. Is there an obligation to provide information in the notification on the possibilities for appeal, the competent authority and the time-limit for lodging an appeal?

GROUND

6. Is there an obligation to give grounds for visa refusals upon refusal by the consular post, or only upon request by the interested party?
7. Where there is NO obligation to give grounds for all visa refusals:
 - 7.1 For which refusals do grounds have to be given?
 - 7.2 For which refusals do grounds NOT have to be given?
8. Where grounds are NOT required upon refusal of the visa by the consular post, are they required at a later stage?
 - 8.1 In the administrative check?
 - 8.2. In the judicial check?
9. Where grounds are required at the consular post stage:
 - 9.1 Does a general reference to the legal basis, stating the legal provision and/or specific article, suffice?
 - 9.2 Does a brief reference to the reasons of substance suffice, or do these have to be set out in detail in each individual case?
10. Where the applicant is included in the list of inadmissible persons pursuant to Article 96 of the Convention implementing the Schengen Agreement, is the country stated for which entry is refused? Or is there a general reference to the applicant's inclusion in the list of inadmissible persons?

RESTREINT UE

11. Where a visa application has met with an objection by a Member State in the context of the consultations laid down in Annex 5B of the Common Consular Instructions,
 - 11.1 What form does the statement of reasons take where national legislation provides that reasons must be given?
 - 11.2 Is a general reference made to the text of Article 5(1)(e)?
 - 11.3 To a specific indent of that subparagraph?
 - 11.4 Is the objecting State mentioned?

APPEALS

12. Is the refused visa applicant entitled to lodge an appeal?
 - 12.1 Can he/she appeal to the same consular authority that refused the visa? Within what time-limit?
 - 12.2 If so, does the consular post decide itself, or does it have to refer the decision to another central body?
 - 12.3 Can the applicant appeal to another administrative body? Competent authority and time-limit?
 - 12.4 Can the applicant appeal to judicial bodies? Judicial level and time-limit?
 - 12.5 In the event that the applicant can appeal to judicial bodies, does the administrative channel have to be exhausted first or is it possible to appeal to the courts and to the consular post or other administrative bodies at the same time?
13. Can a refused visa applicant submit a second application if an appeal has been lodged against the decision on the first application and the decision on that appeal is pending (with either the consular post itself, an administrative or judicial body)?

RESTREINT UE

IRELAND

NOTIFICATION:-

- 1. Is there an obligation to notify visa refusals in all cases, or if notification is requested by the interested party? Within what time-limit?**

Irish administrative practice provides for the notification in writing of all visa refusals to unsuccessful applicants as soon as practicable after the decision is taken.

- 2. Where there is NO obligation to notify ALL visa refusals:**

- 2.1 Which refusals have to be notified?**

- 2.2 Which refusals do NOT have to be notified?**

- 2.3 Where an obligation to notify exists, does this happen in practice, or is there a degree of flexibility?**

N/A

- 3. Is there an obligation to notify in writing, or can decisions be notified verbally?**

Decisions are issued in writing but a verbal decision can be provided if requested.

- 4. Where notifications have to be in writing, does this have to be an individual letter to the interested party, or can general lists be put up on notice boards?**

An individual letter is issued but a proposal is under examination to also post general daily lists (containing the confidential application reference number and the decision reached) on a website in order to facilitate more immediate communication of decisions.

- 5. Is there an obligation to provide information in the notification on the possibilities for appeal, the competent authority and the time-limit for lodging an appeal?**

Standard information is provided regarding the possibility of lodging an appeal and the mechanisms for doing so.

GROUND S

- 6. Is there an obligation to give grounds for visa refusals upon refusal by the consular post, or only upon request by the interested party?**

Upon written request, a statement in writing of the reasons for refusal will be provided.

- 7. Where there is NO obligation to give grounds for all visa refusals:**

- 7.1 For which refusals do grounds have to be given?**

- 7.2 For which refusals do grounds NOT have to be given?**

N/A

RESTREINT UE

8. Where grounds are NOT required upon refusal of the visa by the consular post, are they required at a later stage?
- 8.1 In the administrative check?
- 8.2. In the judicial check?

N/A

9. Where grounds are required at the consular post stage:
- 9.1 Does a general reference to the legal basis, stating the legal provision and/or specific article, suffice?

see 9.2

- 9.2 Does a brief reference to the reasons of substance suffice, or do these have to be set out in detail in each individual case?

In general the statement issued will set out the main reason(s) of substance for refusal.

10. Where the applicant is included in the list of inadmissible persons pursuant to Article 96 of the Convention implementing the Schengen Agreement, is the country stated for which entry is refused? Or is there a general reference to the applicant's inclusion in the list of inadmissible persons?

N/A (Ireland does not participate in these arrangements)

11. Where a visa application has met with an objection by a Member State in the context of the consultations laid down in Annex 5B of the Common Consular Instructions,

N/A (as for 10 above)

- 11.1 What form does the statement of reasons take where national legislation provides that reasons must be given?
- 11.2 Is a general reference made to the text of Article 5(1)(e)?
- 11.3 To a specific indent of that subparagraph?
- 11.4 Is the objecting State mentioned?

APPEALS

12. Is the refused visa applicant entitled to lodge an appeal?

Yes

RESTREINT UE

12.1 Can he/she appeal to the same consular authority that refused the visa? Within what time-limit?

At the present time appeals must be submitted to a Visa Appeals Officer in the Department of Justice, Equality and Law Reform, Dublin. Appeals must be made within 6 months of the negative decision.

12.2 If so, does the consular post decide itself, or does it have to refer the decision to another central body?

See above.

12.3 Can the applicant appeal to another administrative body? Competent authority and time-limit?

See above.

12.4 Can the applicant appeal to judicial bodies? Judicial level and time-limit?

Irish courts do not hear substantive appeals of administrative decisions taken by Government bodies. It is, however, open to a person to apply for judicial review by the Courts in respect of the law and the procedures followed in relation to an administrative decision and if the court is not satisfied that procedures have been followed correctly it may make orders sending the case back to the deciding authority for re-examination in the light of its instructions.

12.5 In the event that the applicant can appeal to judicial bodies, does the administrative channel have to be exhausted first or is it possible to appeal to the courts and to the consular post or other administrative bodies at the same time?

An individual can seek judicial review of a visa application decision at any time but in considering the matter, it would be open to the Court to take account of the fact that all of administrative means of redress had not been exhausted.

13 Can a refused visa applicant submit a second application if an appeal has been lodged against the decision on the first application and the decision on that appeal is pending (with either the consular post itself, an administrative or judicial body)?

There is no prohibition on an applicant making a second application but as the administrative appeal would in any event generally be heard shortly after receipt, very few applicants do so.
