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VISA 57
COMIX 284

DECLASSIFICATION

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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, 2 May 2002

8258/02

RESTREINT UE

**VISA 57
COMIX 284**

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 contributions from Belgium, Germany, Greece, France, Italy, Luxembourg, Austria, Portugal, Finland, Sweden, Iceland and Norway on the above-mentioned subject.

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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?

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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)?

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BELGIUM

I. 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?

Yes, they must be notified in all cases, by virtue of the law on access to the territory, residence, settlement and expulsion of aliens (Article 62 of the law of 15 December 1980). There is no time-limit for notification.

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?

Respect of the obligation: yes.

Application: Yes, there is a degree of flexibility in its application, insofar as notification depends on the infrastructure and the means of communication in certain countries (a lack of postal infrastructure making notification by post impossible, bad roads which sometimes prevent people from receiving or coming to collect their notification when invited to do so by means of a notice posted on the notice-boards at the post office).

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

Notification must be in writing: the law on access to the territory, residence, settlement and expulsion of aliens (Article 62 of the law of 15 December 1980) provides that interested parties must receive copies of administrative decisions.

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?

Yes, notification must be addressed individually to the interested party. This is a consequence of giving individual grounds; Article 62 of the law of 15 December 1980 provides for notification to an individual, with a signature and the provision of a copy.

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?

Yes. This is covered by the law on open government (Article 2 of the law of 11 April 1994), which stipulates that any notification to a person about a decision made by a federal administrative authority and applying to an individual should set out the appeal procedures available, the authorities to which appeals should be addressed and the deadlines to be observed, since otherwise the deadline for lodging an appeal does not apply.

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II. GROUNDS

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?

Yes, any decision to refuse a visa must give grounds. These grounds enable the Council of State to monitor over administrative acts. The provision on the obligation to state the grounds for administrative decisions is laid down in the law on access to the territory, residence, settlement and expulsion of aliens (Article 62 of the law of 15 December 1980) and in the law on the formal grounds for administrative acts (Article 2 of the law of 29 July 1991).

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?

Formal grounds have to be given, which must detail the legal and substantive considerations which served as a basis for the decision taken 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 general reference to the applicant's inclusion in the list of inadmissible persons?

No, the country which refuses entry is not stated. A reference is made to the fact that the applicant appears on the list of inadmissible persons.

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?

The wording used is "Decision: Refusal of the application: The applicant does not fulfil the conditions for entry stated in Article 5(1) of the Convention implementing the Schengen Agreement".

11.2. Is a general reference made to the text of Article 5(1)(e)?

Yes.

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11.3. To a specific indent of that subparagraph?

Yes

11.4. Is the objecting State mentioned?

No.

III. APPEALS

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

Yes, the applicant has the right to lodge an appeal with the Council of State for the annulment and suspension of the decision to refuse a visa. This is laid down in both the law on access to the territory, residence, settlement and expulsion of aliens (Article 69 and 70 of the law of 15 December 1980) and in the coordinated laws on the Council of State (Articles 14 and 17 of the laws of 12 January 1973).

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

No. Appeal is lodged with the Council of State against the Ministry of the Interior, which is responsible for access to and residence in national territory. Besides the appeal provided for by the law, there is nothing to prevent a refused asylum applicant from asking the authority which took the decision to reexamine the case, but this is a purely discretionary appeal.

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?

No, not in connection with a short stay.

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

Yes, the applicant may lodge an appeal with the Council of State which is the highest administrative court able to annul an administrative decision. The Council of State checks the legality of administrative decisions.

The deadline is:

- 30 days if the applicant is on Belgian territory;
- 60 days if he is in another Member State of the European Union;
- 120 days if he is in a third country.

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)?

Yes, the applicant may submit a new application. In that case, account would be taken of the purpose of the first application in considering the new application.

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GERMANY

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?

Reply:

Applicants must be notified within a reasonable time-limit that their visa applications have been refused.

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?

Reply:

Not applicable.

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

Reply:

Notification is in writing.

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 issued?

Reply:

Applicants are informed in individual letters that their visa application has been refused (decision in each individual case).

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?

Reply:

Notification of refusal of a visa application does not provide information on the possibilities for objecting or lodging an appeal.

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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?

Reply:

Pursuant to Article 66(2) of the Aliens Act, no grounds need to be given for refusing a visa application.

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?

Reply:

Family reunification: if the visa application is for the purpose of family reunification (residence of longer than three months is applied for) the notice that the application has been refused already gives the essential underlying grounds (but no information on the legal remedies). In this case, and in others, if the applicant protests against the refusal of the visa application the representation abroad reviews its decision. After checking, if the refusal is upheld, the applicant is informed thereof in a further notification, which gives the grounds and information on legal remedies.

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?

Reply:

See replies to questions 6 and 7.

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?

Reply:

A decision on a visa application presupposes verification of the individual case. The legal grounds that justify the decision to refuse the application are therefore set out briefly for the applicant, and the references to the relevant legal basis are quoted.

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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?

Reply:

The grounds given do not state which country expressed reservations about admission, but they only give a general reference to the fact that admission is refused.

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?

Reply:

See reply to question 10.

APPEALS

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

Reply:

A visa applicant can lodge an appeal with the administrative court in Berlin against a decision to refuse (the appeal can be against the first decision to refuse the application or against the decision, in which the grounds are given, rejecting that initial protest).

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

Reply:

Visa applicants can protest against the refusal to the consular authority. However, protest is not a formal legal remedy; the purpose of the protest is to have the representation abroad review the application. There is no time limit for such protest.

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

Reply:

The representation abroad reviews the case on its own responsibility.

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

Reply:

See reply to question 12.2.

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

Reply:

The applicant has one year within which to lodge an appeal with the administrative court in Berlin against the decision taken by the representation abroad to refuse a visa. If, after protest by the applicant, the representation abroad has already reviewed its original decision to reject the application and given notification that it has rejected the application again, the time-limit for lodging an appeal with the administrative court is shortened to one month.

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?

Reply:

The applicant can lodge an appeal with the administrative court in Berlin as of the first notification that the visa application has been refused.

13. Can a refused 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)?

Reply:

A visa application that is lodged while proceedings in the same case are under way before the administrative court is in principle refused, unless extraordinary circumstances or pressing humanitarian grounds justify a different decision (e.g. death of a close relative).

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GREECE

NOTIFICATION

1. There is an obligation to notify visa refusals. There is no time limit.
2. -----
3. Either in writing or verbally.
4. The notification is addressed personally to the interested party.
5. There is no obligation.

GROUNDS

6. There is no obligation to give grounds.
- 7.1. Grounds have to be given for refusals of visas for spouses, minor children or parents of citizens of EU Member States.
- 7.2. All others.
- 8.1. In the administrative check.
- 9.1. General reference to the legal basis.
- 9.2. A brief reference to the reasons of substance suffices.
10. There is a general reference to the applicant's inclusion in the list of inadmissible persons. However, in the future it is planned to set up technical infrastructure, and then the country for which entry is refused will be stated.
- 11.1. The wording is "we do not grant visas for reasons of public safety or public security of one of the Contracting Parties" (Article 5(1) of the Schengen Convention).
- 11.2. No general reference is made.
- 11.3. There is no reference to a specific indent.
- 11.4. The objecting State is not mentioned, but will be in future (see point 10).

APPEALS

12. He is entitled to lodge an appeal with the head of the consulate or at the embassy or at the central office.

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FRANCE

NOTIFICATION

- 1 - Les refus de visa sont en principe notifiés à l'exception des refus implicites. Les refus non motivés sont notifiés verbalement le jour même et les refus motivés sont notifiés par écrit dans un délai variable.
Il n'existe d'obligation de notification que pour les refus de visa soumis à une obligation de motivation.
- 2 - Il n'est pas obligatoire de notifier les refus de visa.
 - 2.1 - Seuls les refus de visas soumis à une obligation de motivation doivent être notifiés obligatoirement.
 - 2.2 - Les refus non soumis à une obligation de motivation n'ont pas à être obligatoirement notifiés.
 - 2.3 - L'obligation de notification est respectée en pratique.
- 3 - La notification peut être écrite ou orale. Elle est obligatoirement écrite dans les cas où le refus est soumis à une obligation de motivation.
- 4 - La notification écrite est toujours adressée à la personne concernée et ne peut être valablement faite par affichage.
- 5 - La notification doit donner les informations sur l'existence de voies de recours. Cependant, l'absence de ces informations n'a pas pour conséquence d'entacher la décision d'illégalité mais rend impossible l'opposition du délai de recours contentieux.

MOTIVATION

- 6 - Il est obligatoire de motiver certains refus de visa. La motivation est faite au moment du refus.
 - 7.1 - Doivent obligatoirement être motivés les refus de visa opposés aux catégories de demandeurs suivants (liste fixée par l'article 5 de l'ordonnance n° 45-2658 du 2 novembre 1945 relative aux conditions d'entrée et de séjour des étrangers en France modifiée par la loi n° 90-349 du 11 mai 1998 relative à l'entrée et au séjour des étrangers en France et au droit d'asile) :
 - les membres de la famille de ressortissants des Etats membres de la Communauté Européenne et des autres Etats parties à l'accord de l'Espace économique européen qui ne sont pas ressortissants de l'un de ces Etats ;
 - les conjoints, enfants de moins de 21 ans ou à charge, et ascendants de ressortissants français ;

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- les enfants mineurs ayant fait l'objet, à l'étranger, d'une décision d'adoption plénière au profit de personnes titulaires d'un agrément pour adoption délivré par les autorités françaises ;
- les bénéficiaires d'une autorisation de regroupement familial ;
- les travailleurs autorisés à exercer une activité salariée en France ;
- les personnes faisant l'objet d'un signalement aux fins de non admission au Système d'Information Schengen ;
- les étrangers titulaires de rente d'accident du travail ou de maladie professionnelle versée par un organisme français ..., ou ayant servi dans une unité combattante de l'armée française, d'une armée alliée, de la Légion Etrangère ... ou ayant le statut de réfugié (personnes mentionnées aux 4°, 6°, 7°, 8°, 9° et 10° de l'article 15 de l'ordonnance) ;
- les personnes venant en France pour y suivre des études supérieures, dans un établissement public ou privé reconnu par l'Etat.

7.2 - Tous les autres refus de visa n'ont pas à être motivés.

8 - La motivation n'est pas exigée ultérieurement au refus des autorités consulaires.

8.1 - La motivation n'est pas exigée au cours du contrôle administratif mais les motifs doivent être communiqués à l'autorité chargée du contrôle.

8.2 - La motivation n'est pas exigée au cours du contrôle juridictionnel mais les motifs doivent être communiqués à la juridiction administrative.

9.1 - Il ne suffit pas de mentionner d'une manière générale la base juridique. Cette indication serait insuffisante.

9.2 - La jurisprudence exige que la motivation comporte l'énoncé des circonstances de droit et de fait.

Énoncé des circonstances de droit :

Les dispositions législatives et /ou réglementaires applicables au cas d'espèce doivent être mentionnées. Il n'y a pas d'obligation de préciser le ou les articles applicables.

Énoncé des circonstances de fait :

La motivation de refus doit être explicite et précise pour permettre au demandeur de connaître les raisons justifiant le refus de visa qui lui est opposé.

10 – La jurisprudence exige que l'Etat auteur du signalement soit indiqué sur les fiches des personnes non admissibles visées par l'article 96 de la convention d'application de l'accord de Schengen.

11.1 - Il n'y a aucune obligation de motivation dans ce cas.

11.2 - Il n'y a aucune obligation à faire mention de l'alinéa e) de l'article 5.

11.3 - Il n'y a aucune obligation à mentionner les termes concrets de l'alinéa précité.

11- 4 : Il n'y a aucune obligation à citer l'Etat émettant l'objection.

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VOIES DE RECOURS :

- 12 - Le demandeur qui s'est vu refuser un visa a le droit de former un recours.
- 12.1 -Il peut former un recours devant le poste consulaire. Il n'existe aucune condition de délai.
- 12.2 -Le poste se saisit du recours. Seul le consul est compétent pour l'instruire.
- 12.3 -Le demandeur peut aussi former un recours devant la commission de recours contre les refus de visa (CRV) dans un délai de deux mois.
- 12.4 -Le demandeur ne peut pas former de recours direct devant les juridictions. Il doit au préalable saisir la CRV et il peut ensuite contester la décision de la CRV devant les juridictions administratives dans le délai du recours contentieux.
- 12.5- cf 12.4
- 13 - Le demandeur peut présenter une nouvelle demande à tout moment, même si un premier refus fait l'objet d'un recours.

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ITALY

NOTIFICATION

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

Grounds for visa refusals must always be notified, within the time-limits for issue of the visa.

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?

The obligation must always be fulfilled.

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

Decisions must be notified in writing.

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?

The interested party must be notified individually.

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?

Yes.

GROUNDINGS

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?

Grounds for visa refusals must always be given upon refusal by the consular post.

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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?

No.

- 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?

The reasons have to be set out briefly for 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?

A general reference suffices, with reference to the Data Protection Commissioner for further details.

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)?

Yes, a general reference is made to the text of Article 5(1)(e)

- 11.3 To a specific indent of that subparagraph?

No.

- 11.4 Is the objecting State mentioned?

No.

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APPEALS

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

Yes.

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

No.

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?

Refusals of visas for the purposes of family reunification can be appealed against, without time limit, to the ordinary courts. In all other cases, appeal may be made to the Regional Administrative Court within sixty days of notification of refusal.

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)?

Yes.

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LUXEMBOURG

Notification

1. Les refus de visa doivent être notifiés d'office.
- 2.3 Dans la pratique le principe de la notification est appliqué avec une certaine souplesse.
3. La notification doit se faire par écrit.
4. La notification doit être adressée individuellement à l'intéressé.
5. Oui

Motivation

6. La motivation doit être faite au moment où le poste consulaire oppose son refus.
- 7.2 L'obligation de motiver n'est pas imposée lorsque des raisons de sécurité extérieure ou intérieure de l'Etat s'y opposent ou lorsque l'indication des motifs risque de compromettre le respect de l'intimité de la vie privée d'autres personnes.
- 9.1 Non
- 9.2 La décision de refus doit formellement indiquer les motifs par l'énoncé au moins sommaire de la cause juridique et des circonstances de fait à sa base:
10. Il est seulement mentionné qu'il figure sur la liste des personnes non admissibles.
- 11.2 Il est fait mention en général de la teneur de l'alinéa e) de l'article 5.1
- 11.4 L'état concerné n'est pas mentionné:

Voies de recours

12. Oui
- 12.1 Oui, recours administratif selon la procédure non contentieuse dans un délai de trois mois.
- 12.3 Oui, recours administratif auprès du Ministère des Affaires Etrangères dans un délai de trois mois.
- 12.4 Le demandeur peut introduire un recours devant le tribunal administratif. Le recours doit être introduit dans un délai de trois mois par l'intermédiaire d'un avocat à la cour.
- 12.5 Le demandeur peut introduire un recours devant le tribunal administratif sans que les voies de recours administratives ne soient épuisées.

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AUSTRIA

Vorauszuschicken ist, dass Visa gemäß § 88 Abs. 2 des Fremdengesetzes 1997 in der derzeit geltenden Fassung (FrG) nur von

1. den diplomatischen und den von Berufskonsuln geleiteten österreichischen Vertretungsbehörden oder
2. den Vertretungsbehörden des Schengener Vertragsstaates, der nach dem SDÜ für die Erteilung von Visa zuständig ist, erteilt werden dürfen.

Im Inland dürfen gemäß § 88 Abs. 3 und 4 FrG lediglich Dienstvisa (vom Bundesministerium für Inneres) und Diplomatenvisa (vom Bundesministerium für auswärtige Angelegenheiten) sowie in den bekannten Ausnahmefällen Grenzvisa erteilt werden. Da der gegenständliche Fragebogen allerdings auf die Visumverfahren bei Vertretungsbehörden abzielt, wird in der Folge lediglich auf diese eingegangen.

Weiters wird darauf hingewiesen, dass einige praktische Modalitäten, insbesondere das System der Formblätter erst seit Kurzem im Rahmen eines Probelaufs stattfinden.

- Zu 1. (Ist der Antragsteller von Amts wegen über die Ablehnung seines Visumantrags zu unterrichten oder hat dies nur auf Antrag des Betreffenden zu geschehen ? Welche Frist ist hierbei einzuhalten ?)

Gemäß § 93 Abs. 1 FrG darf eine Entscheidung der österreichischen Vertretungsbehörde, die dem Standpunkt des Visum-Antragsstellers nicht vollinhaltlich Rechnung trägt, erst ergehen, wenn die Partei Gelegenheit zur Behebung von Formgebrechen und zu einer abschließenden Stellungnahme hatte. Das bedeutet:

1. Ist der Antrag mangelhaft, wobei die Mängel jedoch verbesserungsfähig sind, ist dem Antragsteller das „Verbesserungs-Formblatt“ (in Deutsch und der Landessprache) auszuhändigen, wobei ihm eine angemessene Frist einzuräumen ist. Nach Ablauf dieser Frist ist ohne „Verbesserung“ zu entscheiden.
2. Beabsichtigt die Vertretungsbehörde eine Visumantrag abzulehnen, ist dem Antragsteller jedenfalls Gelegenheit zu geben, vor der endgültigen Entscheidung zu den Erwägungen der Behörde Stellung zu nehmen. Dazu ist dem Antragsteller das „Stellungnahme-Formblatt“ (in Deutsch und der Landessprache) auszuhändigen, wobei ihm eine angemessene Frist einzuräumen ist. Nach Ablauf dieser Frist ist ohne „Stellungnahme“ zu entscheiden.

Im Fall der Ablehnung des Visumantrags ergeht die Ablehnungsentscheidung von der Vertretungsbehörde grundsätzlich mündlich. Gemäß § 93 Abs. 2 FrG ist die Ablehnungsentscheidung nur über schriftlichen oder niederschriftlichen Antrag der Partei auch schriftlich (mittels „Ablehnungs-Formblatt“) auszufertigen.

RESTREINT UE

Zu den Fristen:

§ 93 Abs. 4 normiert, dass

- die Entscheidung der Vertretungsbehörde über den Visumantrag längstens binnen sechs Monaten nach Einbringung des Antrags zu ergehen hat;
- die schriftliche Ausfertigung der Ablehnungsentscheidung längstens binnen zwei Monaten nach Einbringung des entsprechenden Antrags zu ergehen hat.

Im Fall, dass die Vertretungsbehörde diese Fristen nicht einhält, geht auf schriftlichen Antrag (Devolutionsantrag) die Zuständigkeit zur Entscheidung oder zur Ausfertigung auf das Bundesministerium für Inneres über.

Zu 2. (Wenn keine grundsätzliche Pflicht zur Unterrichtung bei allen abgelehnten Visumanträgen besteht:

2.1. In welchen Fällen muss eine Unterrichtung erfolgen?

2.2. In welchen Fällen besteht keine Unterrichtungspflicht?

2.3. Im Fall einer Unterrichtungspflicht: wird diese in der Praxis tatsächlich angewandt oder wird sie flexibel angewandt?)

Wie bereits unter Punkt 1 ausgeführt, besteht grundsätzlich keine Verpflichtung der Vertretungsbehörde, Ablehnungsentscheidungen schriftlich auszufertigen.

Zu 2.1. Die schriftliche Ausfertigung erfolgt jedenfalls auf schriftlichen oder niederschriftlichen Antrag der Partei.

Zu 2.2.

- - -

Zu 2.3. In Fällen des Punktes 2.1. ist die schriftliche Ausfertigung verpflichtend. Sie wird nicht flexibel gehandhabt. Zur Vermeidung von Unklarheiten, Missverständnissen und in der Folge allenfalls von Beschwerden sind die Vertretungsbehörden jedoch angewiesen, in jedem Fall einer Visumablehnung auch ohne schriftlichen Antrag das „Ablehnungs-Formblatt“ auszuhändigen.

Zu 3. (Ist der Antragsteller in jedem Fall schriftlich zu unterrichten oder kann dies mündlich erfolgen ?)

Siehe zu den Punkten 1 und 2.

Zu 4. (Wenn die Unterrichtung über die Ablehnung des Antrags schriftlich erfolgen muss, ist diese in einem individuellen Schreiben an den Betroffenen zu richten oder können zu diesem Zweck SammelListen ausgehängt werden ?)

Die schriftliche Ausfertigung der Ablehnungsentscheidung erfolgt in einem individuellen Schreiben (mittels „Ablehnungs-Formblatt“).

RESTREINT UE

Zu 5. (Muss die Unterrichtung über die Ablehnung des Antrags eine Belehrung über etwaige Rechtsmittel, zuständige Behörde und Fristen für die Einlegung des Rechtsmittels enthalten ?)

Gemäß § 94 Abs. 2 FrG ist gegen die Versagung von Visa eine Berufung nicht zulässig. Die schriftliche Ablehnungsentscheidung enthält daher keine Rechtsmittelbelehrung.

Zu 6. (Ist die Ablehnung eines Visumantrags zum Zeitpunkt der Beschlussfassung der konsularischen Vertretung zu begründen oder hat dies nur auf Antrag des Be-treffenden zu geschehen ?)

Gemäß § 92 Abs. 2 FrG sind in der schriftlichen Ablehnungsentscheidung außer der ge-troffenen Entscheidung die maßgeblichen Gesetzesbestimmungen anzuführen. Einer weiteren Begründung bedarf es nicht.

Zu 7. (Wenn keine grundsätzliche Pflicht besteht, die Ablehnung des Visumantrags zu begründen:

- 7.1. In welchen Fällen ist eine Begründung erforderlich?
- 7.2. In welchen Fällen ist keine Begründung erforderlich?

Siehe zu Punkt 6.

Zu 8. Wenn die Ablehnung nicht zum Zeitpunkt der Beschlussfassung der konsularischen Vertretung begründet werden muss: ist dies in einer späteren Phase erforderlich ?

- 8.1. Im Rahmen einer administrativen Kontrolle?
- 8.2. Im Rahmen einer gerichtlichen Überprüfung?)

Gegen die Ablehnung eines Visumantrags ist zwar eine Berufung nicht zulässig, doch kann dagegen das außerordentliche rechtsmittel der Beschwerde beim Verfassungs- oder Verwaltungsgerichtshofs eingebracht werden. Zur Entscheidungsfindung des Gerichtshofs dient unter anderem die Aktenlage der Vertretungsbehörde, aus der sich die Begründung ergibt.

Zu 9. (Wenn die Ablehnung zum Zeitpunkt der Beschlussfassung der konsularischen Vertretung zu begründen ist:

- 9.1. Ist ein allgemeiner Verweis auf die Rechtsgrundlage unter Angabe der Rechtsvorschrift und/oder des spezifischen Artikels ausreichend?
- 9.2. Genügt ein kurzer Hinweis auf die sachlichen Gründe oder müssen diese in jedem einzelnen Fall eingehend dargelegt werden?)

Wie zu Punkt 6 ausgeführt, sind außer der getroffenen Entscheidung nur die maßgeblichen Gesetzesbestimmungen anzuführen. Einer weiteren Begründung bedarf es nicht.

RESTREINT UE

Zu 10 (Wie wird vorgegangen, wenn der Antragsteller nach Artikel 96 SDÜ zur Einreiseverweigerung ausgeschrieben ist: wird vermerkt, welches Land den betreffenden zur Einreiseverweigerung ausgeschrieben hat? Oder wird allgemein vermerkt, dass die Person zur Einreiseverweigerung ausgeschrieben ist?)

Es wird allgemein vermerkt, dass das Visum gemäß § 11 Abs. 1 Z 1 FrG („ein Vertragsstaat hat einen Zurückweisungsgrund mitgeteilt“) versagt wird.

Zu 11 (Wie wird vorgegangen, wenn ein Mitgliedstaat im Rahmen der Konsultationen nach Anlage 5B der GKI Einwände gegen einen Visumantrag erhoben hat:

11.1. Wie lautet in diesem Fall die Begründung, wenn diese nach den einzelstaatlichen Rechtsvorschriften vorgeschrieben ist?

11.2. Wird allgemein auf Artikel 5 Absatz 1 Buchstabe e Bezug genommen?

11.3. Wird auf einen bestimmten Teil dieses Buchstabens Bezug genommen?

11.4. Wird der Staat aufgeführt, der Einwände erhoben hat?)

Es wird allgemein vermerkt, dass das Visum gemäß § 10 Abs. 2 Z 4 FrG („der Aufenthalt des Fremden würde die Beziehungen der Republik Österreich zu einem anderen Staat beeinträchtigen“) versagt wird.

Zu 12. (Kann eine Person, deren Visumantrag abgelehnt wurde, Rechtsmittel in Anspruch nehmen?)

Wie bereits zu den Punkten 5 und 8 ausgeführt, ist gemäß § 94 Abs. 2 FrG gegen die Versagung von Visa eine Berufung nicht zulässig (kein Instanzenzug). Gegen die Ablehnung eines Visumantrags kann allerdings das außerordentliche Rechtsmittel der Beschwerde beim Verfassungs- oder Verwaltungsgerichtshofs eingebracht werden. Die Beschwerde kann binnen sechs Wochen ab Zustellung der Ablehnungsentscheidung bei einem dieser Höchstgerichte eingebracht werden.

Zu 13. (Kann eine Person, deren Visumantrag abgelehnt wurde, einen neuen Antrag stellen, wenn gegen den ersten Antrag rechtsmittel eingelegt wurden und das betreffende Verfahren (bei einem Gericht) noch anhängig ist?)

Im gegenständlichen Fall kann jederzeit ein weiterer Visumantrag gestellt werden. Auf diesen Umstand wird auch im „Ablehnungsformular“ hingewiesen.

RESTREINT UE

PORTUGAL

NOTIFICATION

1. There is an obligation to notify visa refusals within eight days.
2. There is no obligation to notify all visa refusals.
 - 2.1. Visa refusals must be notified to applicants who were not present when the visa application was lodged (this happens only in exceptional, duly justified cases).
 - 2.2. Visa refusals do not have to be notified to applicants who were present on the occasion of the refusal.
 - 2.3. The obligation is fulfilled in practice.
3. Notification can be carried out orally, for example by telephone, but must be confirmed in writing.
4. In the case of notification in writing, the rule is to send notification by post to the person concerned. If the persons concerned are unknown or so numerous that it individual notification is inconvenient, notification may be made by public notice, announcement in the Diário da República (Portuguese official journal), the municipal gazette or in the two newspapers with the highest circulation in the place of residence.
5. There is an obligation to provide information on the possibilities for appeal, the competent authority and the time-limit for lodging an appeal.

GROUND

6. Grounds for the visa refusal must be given by the consular post at the time of the refusal.
 - 7.1. The rule is that grounds must be given for all visa refusals.
 - 7.2. Grounds do not have to be given in the following cases:
 - cases in which the applicant is included on a list of inadmissible persons as referred to in Article 96 of the Schengen Convention;
 - cases in which an objection to the visa application was made by a Member State in the context of the consultations laid down in Annex 5B;
 - cases in which Portugal is represented by another Member State (Annex 5C).
8. Not applicable.
9. The factual and legal grounds must be briefly indicated.
 - 9.1. A general reference to the legal basis, stating the legal provision and/or specific article is insufficient.
 - 9.2. In addition to the reference to the legal basis, a statement, however brief, of the factual and legal grounds justifying the act is required.

RESTREINT UE

10. The applicant is simply informed that he must apply to the Comissão Nacional de Protecção de Dados (National Data Protection Authority).
- 11.1. In this case, it is not obligatory to give grounds for the visa refusal.
- 11.2. No.
- 11.3. No.
- 11.4. The objecting State is not mentioned.

APPEALS

12. The refused visa applicant may lodge an appeal.
 - 12.1. He may appeal to the same consular authority that refused the visa within fifteen days of the notification of the act or the date on which the person concerned took cognisance of the act.
 - 12.2. The decision concerning the appeal is always taken by the author of the act.
 - 12.3. The applicant may appeal at a higher level to the Minister for Foreign Affairs within thirty days.
 - 12.4. The applicant may appeal to the district administrative court after the period of grace, i.e. when he has already been informed of the outcome of the appeal at a higher level.
 - 12.5. The applicant may not appeal simultaneously at a higher level and to a court as a direct appeal against the act cannot be made to the district administrative court unless the act is final and enforceable (it may still be modified by the hierarchical superior's decision).
13. The applicant must wait for the decision concerning the complaint, appeal at a higher level or appeal to a court before submitting a new visa application.

DECLASSIFIED

RESTREINT UE

FINLAND

NOTIFICATION

- 1.-2.3 A written notification on visa refusal is communicated to the applicant together with the returned travel document. All visa refusals are notified irrespective of any request to that effect.
3. The notification is always in writing.
4. The notification is addressed to the interested party.
5. It is indicated in the refusal that there is no possibility for appeal.

GROUND

6. In the refusals, the Finnish embassies and consulates refer to the applicable provisions of the Finnish Aliens Act and of the Schengen Convention.
7. The Finnish embassies abroad have no obligation to give substantial grounds for visa refusals.
- 8.1-8.2 The Finnish embassies and consulates must be able to give grounds for their decisions to the Ministry.
- 9.1. See paragraph 6 above and paragraph 11.2 below.
10. The applicant is informed of the inclusion of his or her name in the list of inadmissible persons and, if specifically requested, the country for which entry is refused is stated.
- 11.1 No statement of reason is necessary.
- 11.2 A reference to Articles 15 and 5 of the Convention is made. See the models of visa refusals below.

RESTREINT UE

Swedish

AVSLAG PÅ VISUMANSÖKAN

Finlands ambassad/generalkonsulat i _____ har granskat er visumansökan av den xx.yy.2001. Ansökan har inte bifallits eftersom den inte uppfyller de krav som artiklarna 15 och 5 i konventionen den 19 juni 1990 om tillämpningen av Schengenavtalet och 13a § finska utlänningslagen ställer. Enligt 60 § utlänningslagen får detta beslut inte överklagas.

Tid och plats

Underskrift och stämpel

English

REFUSAL OF VISA

The Finnish Embassy/Consulate in _____ has considered your visa application made on _____ (date, month) 2001. The visa is refused by virtue of Articles 15 and 5 of the Convention applying the Schengen Agreement, done on 19 June 1990, and section 13a of the Finnish Aliens' Act because your application does not fulfil the conditions concerning the issue of visas, as laid down in these provisions. This decision may not be appealed (section 60 of the Aliens' Act).

Date and place

Signature and stamp of the Embassy/Consulate

RESTREINT UE

French

REFUS DE VISA

L'ambassade/le consulat de Finlande à _____ vient d'examiner votre demande de visa du _____ (date, mois) 2001. Le visa est refusé en vertu des articles 15 et 5 de la Convention de l'application de l'Accord de Schengen, faite le 19 juin 1990, et de l'article 13a de la loi sur les étrangers, du fait que votre demande ne satisfait pas aux conditions requises pour la délivrance d'un visa fixées par ces dispositions. Cette décision est insusceptible de voie de recours (article 60 de la loi sur les étrangers).

Lieu et date

Signature et cachet de l'ambassade/du consulat

Spanish

DENEGACION DE SOLICITUD DE VISADO

La Embajada de Finlandia/Consulado General en _____ ha examinado su solicitud de visado de la fecha _____.

Su solicitud ha sido denegada de conformidad con el artículo 15 y en relación con el artículo 5 del Convenio de Aplicación del Acuerdo de Schengen de 19 de Junio 1990, y en virtud del artículo 13 a de la Ley de Extranjería de Finlandia, por no reunir las condiciones para la expedición de un visado. Tal y como establece el artículo número 60 de la Ley de Extranjería no se podrá interponer recurso contra esta resolución.

Lugar y fecha

Firma y sello de la Representación

RESTREINT UE

German

ABLEHNUNG DES VISUMANTRAGS

Die Botschaft/Das Generalkonsulat von Finnland in _____ hat Ihren
Visumantrag vom _____ 2001 bearbeitet.

Ihr Antrag ist auf Grund von Artikel 15 und 5 des Ubereinkommens vom 19. Juni 1990 zur
Durchführung des Ubereinkommens von Schengen und auf Grund von § 13 a des finnischen
Ausländergesetzes abgelehnt worden, weil die in diesen Vorschriften vorgesehenen Bedingungen
für die Erteilung eines Visums nicht erfüllt sind.

Nach § 60 des Ausländergesetzes ist gegen diese Entscheidung kein Rechtsmittel gegeben.

Ort und Datum

Vertretung: Unterschrift und Stempel

11.4 The objecting State is not mentioned.

APPEALS

12. The refused visa applicant may not appeal against the decision.
- 12.3 There is no possibility for appeal to another administrative body.
- 12.4 There is no possibility for appeal to a judicial body.
13. A refused visa applicant may submit a second application at any time after the refusal of
his or her first application. See paragraphs 12.3 and 12.4 above.
- _____

RESTREINT UE

SWEDEN

INTRODUCTION

Decisions on visas are primarily made by consular posts abroad. The Migration Board and in exceptional cases the police (at the border) may also take visa decisions, as may the Ministry of Foreign Affairs to a limited extent.

NOTIFICATION

1. The consular post must inform the applicant as soon as possible about a refusal decision taken by the post or by the Migration Board.
- 2.1. –
- 2.2. –
- 2.3. Refusal is notified as far as possible, i.e. the post must get in contact with the applicant.
3. and 4. The applicant may be notified verbally or in writing.
5. (See below)

GROUND S

6. According to Section 3 of Chapter 11 of the Aliens Act, grounds do not have to be given for a decision to refuse a visa application. However, the Migration Board recommends that grounds are given to the greatest possible extent. Reference has for example been made to the grounds mentioned in the Common Consular Instructions.
7. Decisions on visas for those who are not nationals of an EEA country but are covered by the EEA agreement constitute an exception to the lack of obligation to give grounds. Such people are always entitled to know the grounds for a decision to refuse them a visa.
8. – 9. Do not apply to Sweden.
10. A general reference is made to the fact that the person is on the list of inadmissible persons. On request the country is stated.
- 11.1-4. A general reference is made to the text of Article 5(1)(e). The name of the actual country is not stated.

APPEALS

12. and 13. An alien may not appeal against an authority's decision to refuse a visa application. However – if new circumstances have arisen – the authority may re-examine its decision. The alien may also apply for a visa again without any restrictions.

RESTREINT UE

ICELAND

It should be noted that the Icelandic embassies do not issue any Schengen Visas. All Icelandic Schengen Visas are issued by embassies of other Schengen countries, representing Iceland in accordance with the CCI. The Icelandic Directorate of Immigration, however, decides upon all Visa refusals. While some of the representing embassies forward a letter of refusal from the Directorate, others simply imply that they are not in the position to issue visa and advise the individual to seek further information with the Icelandic authorities.

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?

There is a general obligation to notify visa refusals in all cases. There is not a specific timeframe but the decision is to be taken and the party in person notified without unnecessary delay.

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

There is an obligation to notify in writing.

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?

General lists on notice boards may suffice if information about such notification is given when the application is submitted. Furthermore, information on the possibilities for appeal, the competent authority and the time-limit for lodging an appeal would have to be given to the applicant.

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?

Yes

GROUNDINGS:

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

There is an obligation to give grounds for all visa refusals, but only upon request by the interested party.

9. Where grounds are required at the consular post stage:

It should be noted that the central authority, The Directorate of Immigration, decides upon all Visa refusals.

9.1 Does a general reference to the legal basis, stating the legal provision and or specific article suffice?

Yes

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?

A brief reference does suffice at this stage.

RESTREINT UE

10. Where the applicant is included in the list of inadmissible persons pursuant to Article 96 of the Schengen Convention, 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?

There is a general reference to the applicant's inclusion in the list of inadmissible persons. Should there be a claim for further information, it is dealt with in accordance with Art. 109 of the Schengen Convention.

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 CCI,

It should be noted that in practice, this has not happened during the year Iceland has taken part in the Schengen Cooperation.

11.1 What form does the statement of reasons take where national legislation provides that reasons must be given?

No answer available.

11.2 Is a general reference made to the text of Article 5(1)(e)?

No answer available.

11.3. To a Specific indent in that subparagraph?

No answer available.

11.4. Is the objecting state mentioned?

No.

APPEALS:

It should again be noted, that the Directorate of Immigration decides upon the original refusal.

12. Is the refused Visa applicant entitled to lodge an appeal

Yes.

12.1. Can he/she appeal to the same consular authority that refused the Visa?

No.

12.3. Can the applicant appeal to another administrative body?

Yes, to the Ministry of Justice within three months.

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

The applicant can challenge the refusal by taking his case against the state to the general courts and demanding that the refusal be rebuffed.

12.5. Does the administrative channel have to be exhausted first?

No.

RESTREINT UE

NORWAY

Notifications

1 – Yes, all applicants for a visa shall be notified about the outcome of their application as soon as possible.

2 – Not applicable.

3 – The notification is given in writing.

4 – The (written) notification shall be an individual letter to the applicant or to his legal representative.

5 – The notification shall contain information about the right to appeal, to which administrative body an appeal may be lodged, the time-limit for this, practical guidelines for appealing and information about the right to look into the documents.

Grounds

6 - Yes, the grounds for the refusal shall be given.

7 - Not applicable.

8 – Not applicable.

9.1 and 9.2 – The grounds shall give reference to the legal provision and specific article combined with an explanation of the individual case and its facts in relation to the applicable legislation.

10 –When a visa-application is rejected due to inclusion in the list of inadmissible persons, the refusing country is not mentioned. The following text is used:

“We regret to inform you that your application for a visa has been rejected by the Foreign Service mission.

According to § 27 first paragraph letter i) of the Norwegian Immigration Act, cf § 106 last paragraph of the Immigration Regulations a visa may only be issued if the applicant is not registered in the Schengen Information System (SIS) for the purpose of refusing entry. This condition is not satisfied.

According to Norwegian Public Administration Act cf. § 27 you may however appeal this decision to the Directorate of Immigration within 3 weeks. You may also demand to see the information registered in SIS on your person and appeal the registration with the aim of correcting or erasing false information, cf. §§ 15, 16, 17, 19 of the Norwegian SIS Act.

The appeal has to be sent to the Embassy by registered mail.”

RESTREINT UE

11.1 – Where a visa application has met with an objection by a Member State the following text is used:

“We regret to inform you that your application for a visa has been rejected by the Foreign Service mission.

The visa application has been sent to one or more Schengen states for consultation according to § 110 sixth paragraph of the Norwegian Immigration Regulations.

According to § 27 first paragraph letter j) of the Norwegian Immigration Act, cf § 106 last paragraph of the Immigration Regulations a visa may only be issued if it is in accordance with the Schengen states public policy, national security or international relations. This condition is not satisfied.

According to Norwegian Public Administration Act cf. § 27 you may however appeal this decision to the Directorate of Immigration within 3 weeks.

The appeal has to be sent to the Embassy by registered mail.”

11.2 – A general reference to the content of art 5 (1) (e) is made. See text above.

11.3 – No, see text above.

11.4 – The objecting state is not mentioned.

Appeals

12 –Yes, the applicant has the right to appeal.

12.1 - The appeal shall be sent through the same body that refused the application. The normal time-limit is 3 weeks.

12.2 – The consular post has to pass the appeal on to the appeal body, i.e. central authorities.

12.3 – According to the Norwegian Administrative Law the appeal body is the nearest superior administrative body. The time-limit is 3 weeks. Administrative decisions may also be brought to the Ombudsman.

12.4 – The applicant may appeal the decision to the ordinary court of law according to the ordinary procedures.

12.5 – It is possible, within certain time limits, to lodge a complaint to the ordinary court parallel with lodging an appeal to the administrative bodies. However, the normal procedure is to benefit from the administrative channels first.

13 – A visa-applicant is free to lodge a new application at what time he wants. However, the practical situation is that if a new application is lodged while an appeal is pending, the new application is normally connected with the appeal and the appeal instance, so it will be dealt with together.