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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 Portugal 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 Portugal 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 Portugal 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 setting out a recommendation is to recommend to Portugal 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(2018) 107.

² OJ L 295, 6.11.2013, p. 27.

- (2) In light of the importance of the correct implementation of the provisions linked to the decision-making process, the use of the Visa Information System (VIS), the handling of blank visa stickers, the monitoring of external service providers (ESP) and data protection, priority should be given to implementing recommendations 5 to 13, 18, 19, 24, 27, 28, 30, 31, 32 and 39 to 46.
- (3) This decision setting out a 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, paragraph 1 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:

that Portugal should:

1. Consider providing – at central level – an appropriate internet infrastructure to consulates for their webpages and a template with relevant information on visas;
2. Update the central authorities' website to ensure that the information is complete, correct and up-to-date;
3. Issue national long-stay visas to applicants intending to renew their expired residence permit in Portugal;
4. Modify the sponsorship form ("Termo de responsabilidade") to include information about the storage of the sponsor's personal data in the VIS;

IT system

5. Consider developing a new national visa IT system or perform a comprehensive overhaul of the current system to align it with the workflow provided for by the Visa Code and the VIS Regulation and to make it more user-friendly;
6. Include a function in the IT system (with sufficient space) allowing consulates to document the examination and the reasons leading to the decision (e.g. extended comment field) and improved search and statistical tools;
7. Ensure that consulates enter all required data into the IT system and the VIS (in accordance with Article 9 of the VIS Regulation), in particular the country and street of residence, the parental authority for minors, and the host organisation;
8. Modify the national IT system to ensure that application data are sent to the VIS immediately after the creation of the application file in the national system;
9. Modify the national IT system to allow correcting data already transmitted to the VIS, instead of having to create a new application file and deleting the old one;
10. Ensure in the IT system that all existing VIS data on the applicant is visible during the entire examination procedure to the visa officers deciding on applications;
11. Ensure that visa stickers issued manually are encoded as such in the VIS;
12. Ensure that decisions on annulment and revocation are correctly introduced in the VIS and that previous decisions to issue the visa are not deleted;
13. Upgrade the IT system to 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 (Article 16(3) of the VIS Regulation), amendment of data (Article 24(2) of the VIS Regulation) and advance data deletion (Article 25(2) of the VIS Regulation), and train staff to use it;

14. Ensure that the national IT system is properly configured to transmit the reasons for exemptions from fingerprinting to the VIS with the correct codes ("N/A" and "N/R");

Consulate in Luanda

15. Update the consulate's website to ensure that the information is complete, correct, up-to-date and can be easily found in the relevant section;
16. Instruct the ESP to improve its website to make it more user-friendly, to better structure the information and to correct or improve the information where necessary;
17. Ensure that the ESP is aware of all Visa Facilitation Agreements and systematically applies the reduced visa fees to nationals of countries covered by such agreements;
18. Ensure that the ESP's and the consulate's staff is aware of the requirement not to take fingerprints from applicants if they have given fingerprints during the 59 months preceding the application (and if they state so in field 27 of the application form); inform applicants that fingerprints have to be given only once every 59 months;
19. Instruct the ESP to immediately delete all application data (except data needed to contact the applicant) once it receives confirmation that the data has been correctly imported by the consulate;
20. Provide the possibility for applicants to obtain an appointment directly at the consulate, if they wish to do so;
21. Bring the consulate's checklists for supporting documents in line with the harmonised list of supporting documents (or consider revising the harmonised list within Local Schengen Cooperation);
22. Ensure that the applicant's signature is only required in the relevant spaces of the application form (both in field 37 and under the statement at the end) and that the applicant is not required to replicate information already included in the application form;

23. Ensure that all applications which fulfil the admissibility criteria are accepted by the ESP or the consulate (even if supporting documents or the travel medical insurance are missing), while informing applicants about the possible consequences of incomplete documentation, including a possible refusal;
24. Ensure that application files of persons travelling together are (and remain) linked as groups in the national system, so that this information is correctly transmitted to the VIS;
25. Ensure that the coverage of the travel medical insurance is systematically verified by the consulate and not only the ESP;
26. Verify more systematically the actual purpose of the journey through the interviews and document analysis conducted (in particular where medical treatment could be involved) and confirm/correct the purpose of the journey accordingly in the IT system;
27. Ensure that the visa officers make more consistent use of the records in the IT system when examining files; ensure that visa officers use the IT system (after its upgrading – see recommendation 6) to document verifications conducted (e.g. interviews, phone calls, emails to other Member States) and the reasons leading to the decision;
28. Ensure that the visa officer taking the decision on an application enters the decision into the IT system or ascertains that this decision is correctly entered and that the visa is issued / refused accordingly; ensure that no full access rights to the IT system (including the possibility to issue a visa) are given to local staff members who are not authorised to take decisions on applications;
29. Abolish the practice of not issuing long-validity multiple-entry visas following stays of the applicant within the preceding 90-day period;
30. Increase the number of expatriate visa officers deciding on applications at the consulate, ideally so that one visa officer on average does not have to examine more than 70-80 applications per day;

31. Consult the Portuguese data protection authority on the compatibility of the local warning list with Directive 95/46/EC on data protection, as implemented by Portuguese data protection law, and follow its recommendations;
32. Ensure that the receipt of blank visa stickers by local staff in charge of printing is confirmed on a protocol, including through signatures of both parties involved;
33. Ensure that correct procedures are used for revocation and annulment of visas (including the use of the standard form) and that a clear distinction is made between revocation of visas and invalidation of visa stickers.
34. Assess the adequacy of current security measures at the consulate and improve the access control (including through the embassy) and the video surveillance; ensure the repair of the ticketing system at the consulate and improve the protection of applicants' privacy at the counters; consider taking measures to improve the accessibility to the premises of the visa section for people with reduced mobility;
35. Ensure that privacy of applicants is guaranteed during the whole process at the ESP;

Consulate in Maputo

36. Update the consulate's website (and the information board) to ensure that the information is complete, correct and can be easily found in the relevant section;
37. Closely monitor the waiting time for an appointment and adapt the number of slots available / applications collected to the demand should the waiting time significantly exceed the general rule of 15 days;
38. Bring the consulate's checklists for supporting documents in line with the harmonised list of supporting documents (or consider revising the harmonised list within Local Schengen Cooperation).

39. Ensure that staff is aware of the requirement not to take fingerprints from applicants if they have given fingerprints during the 59 months preceding the application (and if they state so in field 27 of the application form). Inform applicants that fingerprints have to be given only once every 59 months.
40. Abolish the practice of adapting in the IT system the intended date of arrival and departure in/from the Schengen area to the starting and end date of validity of the visa to be issued; instead ensure that the real dates of intended travel are entered in those fields and thus in the VIS;
41. Establish checks in the workflow to verify that the application data entered into the IT system (and thus the VIS) are complete and correct;
42. Ensure that the IT system (RPV) and its functionalities (notably the VIS search) are properly used by the visa officers during the examination process; ensure that all staff members are sufficiently trained to use all full functionalities of the IT system and thus of the VIS;
43. Maintain a high level of scrutiny of applications to detect possible cases of irregular migration or fraud and to ascertain the main purpose of travel, for instance by conducting additional checks (e.g. with the employer) and interviews on a random basis, apart from the few interviews already conducted in cases of doubts;
44. Ensure that the analysis of entry/exit stamps is a regular part of the examination of application files;
45. In case of previous refusals by other Member States, systematically contact the consulate which refused the visa to ask for the reason and leave a trace of the reply in the file;
46. Consider conducting interviews in a more efficient way, asking more in-depth questions and documenting the overall assessment obtained during the interview;

47. Ensure that visa officers use the IT system (after its upgrading – see recommendation 6) to document verifications conducted (e.g. interviews, phone calls, emails to other Member States) and the reasons leading to the decision;
48. Ensure that all visa officers with decision-making rights can issue multiple-entry visas with a long validity to bona fide applicants when the conditions are met; establish clear criteria to which bona fide applicants such visas can be issued; consider issuing visas with a validity of more than two years where appropriate.
49. Ensure proper invalidation of incorrect and misprinted stickers and keep copies of misprinted or incorrect visa stickers affixed to the passports;
50. Abolish the practice of stapling the travel document to the application file, in order to avoid possible damage to the travel document;
51. Ensure that all applicants sign both in field 37 and under the statement at the end of the application form;
52. Ensure that the correct procedures are used for the revocation of visas, including the standard form, and that the revocation procedure can be performed without delay;
53. Step up security measures inside the consulate by improving the safety of front desk staff as well as providing a secure room for interviews; engage in talks with the relevant Mozambican authorities to ensure that no cars are parked on the pavement in front of the consulate.

Done at Brussels,

For the Council
The President
