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SCH-EVAL 2
VISA 5
COMIX 5

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 8 January 2019

To: Delegations

No. prev. doc.: 15563/18

Subject: Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2018 evaluation of **Belgium** on the application of the Schengen *acquis* in the field of the **common visa policy**

Delegations will find in the annex the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2018 evaluation of Belgium on the application of the Schengen *acquis* in the field of the common visa policy, adopted by the Council at its meeting held on 8 January 2019.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2018 evaluation of Belgium 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 Schengen¹, 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 Belgium remedial actions to address the deficiencies identified during the Schengen evaluation in the field of the common visa policy carried out in 2018. 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) 5620.

¹ OJ L 295, 6.11.2013, p. 27.

- (2) Regulation (EC) No 810/2009 of the European Parliament and of the Council (the Visa Code)² defines that consulates are the competent authority for examining and deciding on visa applications and that other authorities may be involved in the examination and decision making. The Visa Code also establishes a general maximum deadline for processing visa applications. Therefore, priority should be given to recommendations (1) to (3).
- (3) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption Belgium 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 Belgium should

1. Grant its consulates the authorisation to refuse visas, in accordance with Article 4(1) of the Visa Code, and limit the categories of applications which consulates are required to refer to the Immigration Office to those cases where further investigations conducted by the central authorities in Belgium can have a real added value.
2. Reduce excessive delays in deciding on visa applications and ensure full respect of the mandatory decision-making deadlines of the Visa Code, notably by avoiding the duplication of work in consulates and at the Immigration Office and by better using the human resources that would be freed as a result of referring fewer cases to the Immigration Office.

² Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (OJ L 243, 15.9.2009, p. 1).

3. Ensure that the Immigration Office requests additional information from the relevant consulate, if details are lacking in the provided summary, so that decisions are taken on a solid basis rather than based on assumptions.
4. Instruct and train visa agents and decision makers at the Immigration Office to assess the bona fide status of the applicant in a holistic manner and avoid refusals based on insignificant inaccuracies in the formal presentation of the application.
5. Consider shared training activities between the Ministry of Foreign Affairs (MFA) and the Immigration Office, e.g. as part of pre-posting training, to achieve better understanding of each institution's working methods and roles.
6. Consider IT solutions to allow consulates to efficiently check the authenticity of sponsorship forms legalised by municipalities and to enable the Immigration Office to detect abusive/repeated sponsorships.
7. Ensure that consulates improve data quality sent to VIS by introducing additional or stronger rules in VisaNet.
8. Consider translating the standard formulations of the grounds for refusals into English, in accordance with the recommended best practice of the Visa Code Handbook, Part II, point 12.3, in locations where the persons concerned cannot be expected to understand Dutch or French.
9. Maintain the reference documents containing useful information on civil status documents available in each third country to prove family relations and other relevant information on e.g. standard of living, average income and particular migration risk by regularly updating them.

10. Ensure that applicants indicate the correct arrival and departure dates of the first/next intended stay in the Schengen area in fields 29 and 30 of the application form.
11. Ensure that VISMail is used by consulates and central authorities (MFA and Immigration Office) for exchanges on concrete applications, as provided by Article 16 of the VIS Regulation.
12. Ensure that if a visa is revoked, the relevant data are entered into the VIS as soon as possible.

Done at Brussels,

For the Council

The President
