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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
On:	8 July 2019
To:	Delegations
No. prev. doc.:	10383/19
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2018 evaluation of Lithuania on the application of the Schengen <i>acquis</i> 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 Lithuania 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 July 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.

RECOMMENDATION

on addressing the deficiencies identified in the 2018 evaluation of Lithuania 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 Lithuania remedial actions to address the deficiencies identified during the Schengen evaluation in the field of visa policy carried out in 2018. Following the evaluation, a report covering the findings and assessments, and listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2019) 4200.
- (2) Lithuania's procedures requires the decision-maker to draft a justification for each refusal, which is then stored in the national visa system. This is good practice, since it ensures a clear record of the grounds for refusal in the event of an appeal.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) In light of the importance of complying with the Schengen *acquis*, in particular the procedures for checking people on entry, priority should be given to implementing recommendation(s) 1, 3, 5, 11, 19, 20 and 24, 25, 26, 35 and 36 in this Decision.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within 3 months of its adoption, Lithuania should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, draw up an action plan listing all recommendations to remedy any deficiencies identified in the evaluation report and submit that action plan to the Commission and the Council,

RECOMMENDS:

that Lithuania should

General recommendations

1. ensure that visa officers with decision-making rights issue *bona fide* applicants with multiple-entry visas with a validity of up to five years if the conditions are met; establish clear criteria for issuing such visas;
2. inform applicants of the need to fill in the intended date of arrival in and departure from the Schengen area correctly;
3. enhance the criteria for searching for previous applications in the Visa Information System (VIS) or Schengen Information System (SIS) alerts by using a more reliable combination of alpha-numeric factors and, where possible, fingerprints;
4. consider a back-up solution in terms of processing and infrastructure in order to ensure the orderly continuation of the visa processing procedure in worst-case scenarios;
5. register fingerprints in most situations and resort to the exemption from fingerprinting for physical reasons only in restricted situations;

6. consider eliminating the additional step of confirmation by the central authority in cases of prior consultation and allow the responsible consulate to continue processing the visa application upon response from the consulted Member State(s);
7. ensure that data on the authority that issued the applicant's travel document is correctly and systematically introduced in the VIS;
8. consult the national data protection authority and update the data protection statement as necessary;
9. ensure that all fields of the online application system are consistent with the application form set out in Annex I to the Visa Code¹;

Embassy in Baku

10. consider providing applicants with a check-list or written information on documents that are missing from their application;
11. consider reinstating the practice of not requiring personal presence when the bona fide criteria are met and fingerprints are already in the VIS, especially for applicants from Turkmenistan;
12. ensure that applicants are asked to provide missing supporting documents rather than immediately refusing their application;
13. require the external service provider (ESP) to inform all applicants more effectively of the correct timeframe for the provision of fingerprints;
14. ensure that the ESP provides applicants with consistent information on the appointment procedure;
15. align its practices in relation to the ESP with the legal instrument governing its obligations, or adapt the legal instrument to the local conditions;

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

16. ensure adequate signposting of its visa section;
17. ensure adequate access facilities for people with mobility impairments;
18. consider more frequent distribution of smaller quantities of visa stickers;
19. update the embassy's website to ensure that relevant information is complete and correct;
20. ensure that applicants submit the documents required under the Visa Facilitation Agreement and the harmonised list of supporting documents¹;
21. ensure that the applicant's signature appears in the relevant parts of the application form (field 37 and under the statement at the end);
22. ensure that travel documents with refusals are returned to the ESP in a way that does not reveal to ESP staff the consulate's decision on the visa application;
23. reinstate the practice of delivering documents in zip-locked bags, as provided for in the legal instrument;
24. give clear instructions to the ESP on the compulsory deletion of applicants' data immediately after transmission to the consulate and closely monitor the implementation; revise the terms of the legal instrument in order to ensure compliance with Annex X to the Visa Code;
25. ensure that monitoring and audit visits to the ESP cover technical and organisational security measures, in order to ensure that it complies with data protection provisions;

Consulate-General in Kaliningrad

26. consider introducing clear rules on verifying the conditions for annulling or revoking a visa;
27. instruct consular officers with regard to the correct use of Annex VI to the Visa Code;

¹ Commission Implementing Decision C(2015) 1585 of 16.3.2015.

28. consider abolishing the practice of placing an admissibility stamp in the passport for the facilitated transit document (FTD);
29. adapt the refusal form for FTDs to indicate the country on which the SIS hit is based;
30. consider issuing a receipt when applicants lodge an FTD application;
31. adapt the form for the written description of the planned journey so that it does not duplicate information that is already provided in the application form;
32. ensure that all expatriate and local staff are familiar with, and correctly apply, the procedure for revoking visas (Article 34(2) and (3) of the Visa Code) and that appropriate action is taken depending on the situation of the applicant and on the supporting documents, in order to avoid further administrative burden;
33. ensure that applicants submit the requisite documents in accordance with the harmonised list of supporting documents¹;
34. consider secure storage of all stamps after working hours;
35. modernise and render more efficient the electronic system for storing FTD/FRTD (facilitated rail transit document) data, in order to ensure smooth, fast and reliable communication between the authorities issuing the documents and those verifying them at the border or, as the case may be, the authorities of other Member States;
36. ensure that the procedure for issuing FTDs is fully in line with the provisions of the Schengen acquis, in particular with the obligation to carry out the prior consultation procedure under Article 22 of the Visa Code in respect of Russian nationals for whom the central authorities of another Member State require consultation.

Done at Brussels,

For the Council
The President

¹ Commission Implementing Decision C(2016) 3347 of 6.6.2016.