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COMIX 742

#### OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	14856/18; 14887/18
Subject:	Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2018 evaluation of <b>Latvia</b> on the application of the Schengen <i>acquis</i> in the field of the <b>common visa policy</b>

Delegations will find in the annex the Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2018 evaluation of Latvia on the application of the Schengen *acquis* in the field of the common visa policy, adopted by the Council at its meeting held on 20 December 2018.

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.

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Council Implementing Decision setting out a

**RECOMMENDATION**

**on addressing the deficiencies identified in the 2018 evaluation of Latvia 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 Schengen<sup>1</sup>, 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 Latvia 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) 5100.
- (2) The staff at the Latvian Embassy in Tashkent have good knowledge of local circumstances in Uzbekistan and the region and long-standing experience in processing visa applications, so that files and supporting documents are examined thoroughly and in an exemplary way, which is adapted to the migratory risk in the location.

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<sup>1</sup> OJ L 295, 6.11.2013, p. 27.

- (3) In light of the importance of compliance with the Schengen acquis, in particular the provisions linked to the monitoring of external service providers, the decision-making process and the Visa Information System (VIS), priority should be given to implementing recommendations (5), (8), (9), (13), (15) through (17), (19), (22), (24) through (27), (29), (31), (36), (37), (39), (44) and (46) in this Decision.
- (4) This Decision should be transmitted to the European Parliament and to the parliaments of the Member States. Within three months of its adoption Latvia 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 Latvia should

##### *General*

1. ensure that all information on websites of the Ministry of Foreign Affairs and embassies is complete and correct;
2. inform applicants that they should 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;
3. draw the attention of all staff to the regulations and best practices concerning the invalidation of affixed visa stickers;
4. improve the regular training programme for locally employed staff;
5. revise the legal instrument for cooperation with the external service providers to ensure that all minimum requirements are included;

6. ensure that only visas with limited territorial validity are issued whenever a travel document is not recognised by all Member States;
7. ensure that all embassies and consulates accept travel medical insurance that covers the period of the first/next intended stay only (and not also the period of grace);
8. ensure that the correct information on the procedures for appeal against visa refusal is given to applicants both on the refusal form and on the websites of the embassies and external service providers.

#### *IT systems*

9. restrict the ability for local administrative/technical staff to search the VIS, ensuring that they can do so only when processing an actual application;
10. improve the interface for searching and consulting VISMail messages and encourage its consular staff to increase the active use of VISMail;
11. consider generating the refusal form within the visa system, or take other measures to ensure that the refusal grounds in VIS always correspond to the refusal grounds notified to the applicant;
12. consider adjusting the visa system so that only the pre-selection is used when launching the prior consultation of other Member States, and that it is only possible to issue a visa with limited territorial validity when the required prior consultations have not been completed;
13. modify the way of printing visa stickers for visas with limited territorial validity to ensure that the correct territorial validity is visible on the sticker (e.g. by printing the positive list of Member States for which the visa is valid or by reducing the font);

14. ensure appropriate font size, position and spacing in the machine-readable zone of the visa sticker;
15. ensure that the data retention rules are applied to all applications in the visa system;
16. ensure that the personal data entered into the online application form is only accessible once an application has been lodged;
17. ensure that the visa system provides all fields required by the VIS Regulation and that they are all systematically filled in for each application when applicable;
18. consider improving the integration of the information on the recognition of travel documents in its visa system;

*Embassy/visa section in Moscow*

19. establish a regular mechanism for announced and unannounced monitoring visits to the external service provider and draft reports of such visits;
20. ensure that the website of the external service provider includes complete and correct information;
21. ensure that the information on the noticeboard at the external service provider is clear, complete, correct and easily identifiable as relating to Latvia;
22. instruct the external service provider to:
  - use a less restrictive approach in cases where proof of accommodation is presented for applicants travelling together and applying together;
  - provide a checklist of supporting documents submitted with the application to the applicant and the embassy;

23. consider either upgrading its IT system in order to make it possible to track visa stickers between their arrival at the embassy and their issuance, or instructing local staff to return unused visa stickers at the end of the day;
24. ensure that applicants submit all documents required by the harmonised list of supporting documents;
25. ensure that the same level of scrutiny is applied by all visa officers and that a particular focus is put on examining supporting documents presented by first-time applicants, in particular regarding the person's employment and socio-economic situation;
26. ensure that all application data is immediately deleted from the external service provider's systems after transmission to the embassy;
27. return the travel documents and the refusal forms to the external service provider in sealed envelopes and ensure that the external service provider's staff cannot obtain access to the decision on the applications;
28. provide the possibility to applicants to obtain an appointment at the embassy within a reasonable timeframe, taking into consideration the general rule of two weeks;
29. ensure that all admissible applications are accepted by the embassy, even if supporting documents or the travel medical insurance are missing;
30. ensure that the visa fee waivers under the EU-Russia Visa Facilitation Agreement are systematically granted;
31. ensure that visa officers check the entry and exit stamps in the passport to detect possible overstay, in particular for frequent travellers;
32. modify the leaflet given to visa holders to ensure that visa holders are not led to believe that the medical travel insurance is an entry condition when travelling to the Schengen Area;

33. ensure that the website of the external service provider includes complete and correct information and that communication with the applicants is carried out efficiently;
34. ensure that the information on visa fee waivers provided by the external service provider is complete;
35. ensure that all visa holders have adequate access to comprehensive information on the rights of visa holders, the conditions of entry to the Schengen area and how to read the visa sticker;
36. ensure that regular monitoring of the external service provider will be carried out and continuous training provided to its staff as necessary;
37. instruct the external service provider to:
  - use one checklist for Latvia and the represented Member States in line with the Visa Code and the harmonised list of supporting documents for Uzbekistan, differentiating between the four countries only where national rules differ (information on national forms providing proof of sponsorship and/or private accommodation, national reference amounts required for the crossing of the external border);
  - inform applicants about missing documents by means of a printed checklist;
  - improve its premises and organisation of work, in coordination with the other Member State that cooperates with the same external service provider;
  - accept applications for minors without their presence when the application is presented by the parents/legal guardians and when fingerprints are not required;

- transfer applications and travel documents in a more secure way, ensuring that actual practice of transferring applications and travel documents is in line with the legal instrument;
  - receive all admissible applications for which Latvia is competent; the external service provider may inform applicants about missing supporting documents, but it must never refuse to accept admissible applications because of its assessment of the content of supporting documents;
  - end the practice of keeping a copy of the checklist of submitted documents; such checklists may only be provided to the applicant and the embassy;
  - immediately erase all personal data of the applicant/payer from the online banking interface as soon as the visa and service fee has been paid;
  - issue receipts for the fees actually paid in Russian Roubles;
38. consider waiving the requirement for appearing in person at the external service provider for other categories of applicants who do not have to give fingerprints;
39. correct the legal instrument to reflect the actual practice regarding the currency used for the collection of the visa and service fee;
40. review its representation arrangements to shorten the consultation deadline for the represented Member States (normally to maximum seven days) and to allow the embassy to carry out the prior consultation itself or to make the results of the prior consultations visible to the visa officer;
41. clarify with Germany the implementation of the bilateral representation agreement concerning Schengen visas, especially as regards applications from Pakistani citizens who are family members of EU/EEA citizens covered by Directive 2004/38/EC;



42. ensure that the remodelling of the embassy takes into account adequate security measures, appropriate privacy of applicants and barrier-free access;
43. limit the information about applicants given to the local police to the absolute minimum required by local law and always in full compliance with the applicable data protection rules;
44. return the travel documents and the refusal forms to the external service provider in sealed envelopes and ensure that the external service provider's staff cannot obtain access to the decision on the applications;
45. provide the possibility to applicants to obtain an appointment at the embassy within a reasonable timeframe, taking into consideration the general rule of two weeks;
46. ensure that the harmonised list of supporting documents for Uzbekistan is applied in practice.

Done at Brussels,

*For the Council*  
*The President*

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