Council of the European Union

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of **Belgium** 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 2022 evaluation of Belgium on the application of the Schengen *acquis* in the field of the common visa policy[1].

[1] Available in all official languages of the European Union on the Council public register, doc. 9975/23.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2022 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 Schengen[2], and in particular Article 15(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) A Schengen evaluation in the field of the common visa policy was carried out in respect of Belgium in September 2022. Following the evaluation, a report containing the findings and assessments, listing best practices and deficiencies identified during the evaluation was adopted by Commission Implementing Decision C(2023) 170.

[2] OJ L 295, 6.11.2013, p. 27.

(2) Recommendations should be made on remedial actions to be taken by Belgium in order to address deficiencies identified as part of the evaluation. In light of the importance of the correct implementation of the provisions related, among other things, to the lodging of visa applications within two weeks from the date when the appointment was requested; to the compliance with the provisions related to the processing time of applications; to data protection in the context of the online visa application portal and the submission of visa applications; to the proper verification of supporting documents; as well as to the accelerated processing of visa applications lodged by family members of mobile EU citizens, priority should be given to implementing recommendations 3, 4, 6, 11, 15, 16 and 20 in this Decision.

(3) This Decision should be transmitted to the European Parliament and to the national Parliaments of the Member States.

(4) Council Regulation (EU) 2022/922[3] applies as of 1 October 2022. In accordance with Article 31(3) of that Regulation, the follow-up and monitoring activities of evaluation reports and recommendations, starting with the submission of the action plans, should be carried out in accordance with Regulation (EU) 2022/922.

(5) Within two months of its adoption, Belgium should, pursuant to Article 21(1) of Council Regulation (EU) 2022/922, establish an action plan to implement all recommendations and to remedy the deficiencies identified in the evaluation report. Belgium should provide that action plan to the Commission and the Council.

RECOMMENDS:

that Belgium should:

[3] Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen *acquis*, and repealing Regulation (EU) N° 1053/2013, OJ L160 of 15.6.2022, p. 1.

General

(1) issue long-stay visas, irrespective of the travel purpose, for applicants who intend to stay longer than 90 days (with the exception of beneficiaries of Directive 2004/38/EC[4] who are eligible for 'entry visas' in form of a short-stay visa);

(2) ensure that all relevant information is provided and kept up-to-date to the public by the consulate and the external service provider in accordance with Article 47 of Regulation (EC) No 810/2009[5] (the Visa Code);

(3) ensure that visa applicants can lodge their application within two weeks from the date when the appointment was requested as required by the Visa Code, for instance by stepping up the efforts to reinforce the staff involved in Schengen visa processing and also by engaging with the external service provider(s) on how to reduce the waiting time for appointments if the delays are (primarily) due to the staff shortages at external service providers;

(4) as regards the 'Visa On Web' portal, ensure

(a) that the content of the electronic/online version of the application form corresponds to the latest version of the uniform application form set out in Annex 9 of Visa Code Handbook I;

(b) that the electronic/online application form is available in several language versions, including the official language of the host country of consulates (e.g. in Arabic for applications lodged in Lebanon);

(c) ensure that until the physical submission of an application, there is no possibility to access the data entered into the portal, including for external service providers and the Belgian authorities;

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4 *OJ L 158, 30.4.2004, p. 77–123.*

5 OJ L 243, 15.9.2009, p. 1.

(d) modify the portal to preclude the possibility for the external service provider to modify application data without the knowledge and consent of the applicant;

(e) ensure that the consulate is always made aware that modifications have been made by the external service provider in the application data and that the original information entered by the applicant can be retrieved easily by the consulate if necessary;

(f) pending the modification of the system, immediately instruct the external service provider to cease modifying data entered by the applicant without his/her explicit consent;

(g) ensure that the external service provider no longer has access to data entered into the portal at the latest seven days after the application has been transferred to the consulate;

(5) review the automated consistency checks in relation to the validity period of the visa embedded in the national IT system (VisaNet) in order to avoid incentives for the unnecessary manipulation of data by the visa officers;

(6) ensure without delay that, as required by the Visa Code, the processing time of visa applications never goes beyond 45 calendar days and it is only extended beyond 15 calendar days in individual cases, notably when further scrutiny of the application is needed, by either granting consulates the authorisation to refuse visas and further limiting the categories of applications that must be referred to the Immigration Office, or by considerably increasing human resources to comply with the deadlines;

(7) establish time limits for storing data in national IT system and ensure (automated) purging of old files from the system;

(8) until the entry into application of the reformed VIS Regulation**6**, suspend consulting the Visa Information System when examining long-stay visa (or residence permit) applications;

Beirut

(9) ensure that fingerprints are not collected again if they have been collected as part of an earlier application lodged less than 59 months before the new application;

(10) monitor closely the quality of fingerprints to be entered into the Visa Information System and adapt the quality requirements in the biometric capturing software if necessary;

(11) review without delay the amount of the visa fee charged in USD and ensure that it corresponds with the euro foreign exchange reference rate set by the European Central Bank or request the payment of the visa fee in euro;

(12) ensure that applicants can submit at least the 'standard' civil registry documents in Arabic without translation;

(13) refrain from systematically asking applicants to provide copies of other pages of the travel document than the biodata page; if the consulate considers it relevant to keep copies of other pages of the travel document, e.g. pages that include previously issued visas, such copies or scans may be taken while examining the application in the consulate or at the external service provider free of charge;

(14) ensure that all admissibility criteria are checked in a single step when the consulate starts the examination of the application;

(15) ensure that the creation of visa applications in the EU Visa Information System only happens once the application has been deemed admissible by the consulate;

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6 Regulation (EU) 2021/1134 of 7 July 2021 *(OJ L 248, 13.7.2021, p. 11–87).*

(16) ensure that a more in-depth verification of supporting documents and the information provided by the applicant is carried out by the consulate;

(17) ensure that the authenticity of the travel documents is verified in-depth whenever there are doubts, including by using the technical means at the disposal of the consulate;

(18) reconsider the use of the return control procedure, which should not be regarded as a safeguard to mitigate migratory risk;

(19) ensure that the staff of the consulate becomes familiar with the 'List of *travel documents* which entitle the holder to cross the external borders and which may be endorsed with a visa' as well as on the rules to issue visas with limited territorial validity;

(20) ensure that visa applications of family members of mobile EU citizens are decided as soon as possible and on the basis of an accelerated procedure in accordance with Directive 2004/38/EC;

(21) without compromising the current client-friendly approach, ensure that the languages of the visa refusal form complies with the requirement set out in **Article 32(2) of the Visa Code.**

Done at Brussels,

For the Council
The President