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 **Luxembourg** 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 Luxembourg 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. 9994/23.

Council Implementing Decision setting out a

RECOMMENDATION

setting out a recommendation on addressing the deficiencies identified in the 2022 evaluation of Luxembourg 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 Luxembourg in November 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) 850.

2 OJ L 295, 6.11.2013, p. 27.

(2) Recommendations should be made on remedial actions to be taken by Luxembourg 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 creation of application files in the Visa Information System; the access rights to the Visa Information System as well as the national IT-system; and to data protection, priority should be given to implementing recommendations 4, 6, 8(d) and 9 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, Luxembourg 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. Luxembourg should provide that action plan to the Commission and the Council.

RECOMMENDS:

that Luxembourg should:

General

(1) ensure the use of the latest version of the uniform application form set out in Annex 9 of Visa Code Handbook I ;

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.

(2) adapt the long-stay visa application form and ensure that it does not contain inaccurate information as regards the storage of long-stay visas in the Visa Information System;

(3) ensure that visa applicants can lodge their application within two weeks from the date when the appointment was requested, for instance by stepping up the efforts to reinforce the staff involved in Schengen visa processing and by engaging with the external service provider(s) on how to reduce the waiting time for appointments;

(4) ensure without delay that all data set out in Article 9 of the VIS Regulation is entered in the Central Visa information System;

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

(6) adapt without delay the user profiles and access rights in the national IT-system and ensure that locally employed staff is prevented from accessing VIS Mail messages that could contain sensitive information and from being able to take decision on visa applications;

(7) find a sustainable and general solution for (long-term) backing up of consuls especially in small consulates and in peak seasons, e.g. by providing support from the central visa authority in the form of 'flying consuls' / 'floaters';

New Delhi

(8) in relation to the external service provider,

(a) ensure adequate privacy for applicants in the waiting area of the visa application centre in New Delhi, for instance by engaging with the external service provider to extend, especially in peak periods, the opening hours to receive visa applications or by adaption of its premises;

(b) ensure that the staff of the external service provider receives training about the visa application procedure and detailed written instructions about the application procedure, possibly in the form of a work instructions manual;

(c) amend the contract with the external service provider in order to entrust it to facilitate data entry into the national visa processing IT-system and engage with it on how best to establish the technical means of doing so;

(d) ensure that the electronic data transfer between the external service provider and the consulate is encrypted;

(9) ensure that the compact disks containing personal and biometric data are frequently shredded following the data import into the national IT-system;

(10) refrain from processing visa applications when Luxembourg is not the competent Member State in accordance with Article 5 of the Visa Code;

(11) ensure that the cascade mechanism of issuing multiple-entry visas with long validity is correctly used;

(12) ensure that the authenticity of travel documents is verified systematically, including by establishing regular contact with Immigration Liaison Officers posted in India;

(13) ensure that the authorised stay under short-stay visa does not go beyond the coverage of the travel medical insurance;

(14) streamline the workflow to avoid overlapping tasks; delegate more tasks to the local staff (e.g. pre-checking admissibility, pre-check of supporting documents);

(15) ensure that visa applications are, as a rule, processed within 15 calendar days and the processing time is only extended beyond 15 days in individual cases in which further scrutiny of the application is needed;

(16) provide support for the consul (e.g. ‘buddy’ system with another experienced consul or flying consul) to assess the current workflow and task division to help decide which tasks can be delegated to local staff and to come to an increase of efficiency;

(17) ensure that the locally employed staff receive visa stickers against signature;

(18) establish a transparent complaint handling process: ensure that all complaints are registered and provide relevant information to the public about the complaint procedure.

Done at Brussels,

For the Council
The President