

COMMISSION

COMMISSION RECOMMENDATION

of 16 September 2004

on the implementation by the consular offices of the Member States of the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS)

(notified under document number C(2004) 2886)

(2004/645/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211, second indent, thereof,

Whereas:

(1) The Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China⁽¹⁾ (PRC) provides a specific application process, derogating from the common rules on visas as established in the Common Consular Instructions (CCI), to facilitate issuing of short term visas to groups of Chinese citizens who wish to travel to the territory of the Community. The Memorandum of Understanding (ADS MoU) has entered into force on 1 May 2004.

(2) With a view to ensure a high level of security, particularly as regards the prevention of clandestine immigration and avoid any risk of visa shopping between the Member States Consular offices in the PRC, a harmonised implementation by all Member States of the ADS MoU is appropriate and thus it is necessary to set up common implementing procedures for the consular offices of the Member States in the PRC.

(3) The common procedures are based on the provisions included in the ADS MoU, setting up a harmonised approach covering the different issues from the visa application procedure to the withdrawal of accreditation in case of breach of EU and/or Chinese regulations.

(4) The basic rules for visa applications described in the CCI and in particular the rules related to the local consular offices have been used, where appropriate, as a reference for the definition of the common procedures.

(5) Within this framework, Member States should follow a common approach for the accreditation of the travel agencies designated by the PRC and the establishment of the list of couriers appointed by the Chinese travel agencies.

(6) Member States should apply common harmonised sanctions in case of violation by the Chinese accredited travel agency of the Community rules, in compliance with the rules of the CCI on visa applications processed by private administrative agencies, travel agencies and package tour operators.

(7) Member States should apply a common list of supporting documents and information needed for lodging a visa application, clarifying where necessary the content of the required documentation. Additional information may be requested, based on a case-by-case verification of each individual visa application.

(8) Member States involved with the implementation of the ADS MoU should reinforce their cooperation in the PRC and develop exchange of information mechanisms for irregularities and other detected suspect behaviour committed by appointed couriers or accredited travel agencies and facilitate the processing of information.

(9) The Commission represents the Community in the ADS Committee set up by the ADS MoU, and transmits relevant information on the implementation of the ADS MoU to the Chinese authorities (CNTA). Member States should therefore associate the Commission, as the European Community representative on the ADS Committee, with the local cooperation mechanism ensuring regular and fluid information on the implementation of the ADS MoU.

⁽¹⁾ OJ L 83, 20.3.2004, p. 14.

(10) Member States which do not participate in the ADS MoU, but have concluded similar bilateral agreements with the PRC should also be able to participate in the local cooperation mechanism. Norway and Iceland should also be invited to take part in the local consular cooperation mechanism as soon as they sign similar bilateral Agreements with the PRC,

HEREBY RECOMMENDS:

In order to facilitate the effective implementation of the ADS MoU, the following common implementation procedures should be applied by the Member States:

1. Consular offices of Member States in the PRC should issue an accreditation certificate for each designated travel agency. Such accreditation certificates should have an identical format, indicating *inter alia* the serial number, business licence number, name and other relevant data of the travel agency. The validity of the certificate should not exceed one year.

Accreditation certificates issued by a Member State should be recognised by the other Member States.

When the designated travel agency presents itself for the first time to the consular office of a Member State, the consular office should register the date and time of the representative's visit and transmit to the Commission all relevant information. This consular office should issue the accreditation certificate if the Commission confirms that it is the first consular office approached by the designated travel agency.

2. Each courier appointed by the accredited travel agencies should receive an identity badge with his/her photo and indicating, *inter alia*, his/her name, date of birth, identity card number as well as the name, address and telephone number of the accredited travel agency.

The badge should have general validity of a maximum of one year, should be issued by the Member States consular offices in the PRC and should be identical in format.

The Commission, on the basis of the information submitted by the PRC and after verification by the Member States, shall

establish a common list of couriers and notifies it to all Member States. The Commission shall update the common list of couriers each time it receives communication of a change and notifies changes to the consular offices of all Member States in the PRC.

3. In case of a breach of EU and/or Chinese regulations, in particular in case of facilitation of illegal immigration, a consular office of a Member State in the PRC should withdraw the accreditation of a Chinese travel agency. The withdrawal imposed by a consular office of a Member State has immediate effect for all Member States. In order to ensure the uniform application by all Member States of the sanction imposed, the consular office should notify the withdrawal to the Commission and the other Member States consular offices in the PRC. In appropriate circumstances, the withdrawal of accreditation can be reviewed, if for instance the accredited travel agency proves that the violation of EU and/or Chinese regulations was limited to one of its employees, who no longer works for the Agency.

Consular offices of Member States in the PRC can address warnings to the accredited travel agencies in case they suspect the agency is involved in minor violations. The Commission and other local consular offices of Member States should be informed immediately.

The Commission shall inform the CNTA of any withdrawals and warnings addressed to accredited travel agencies.

4. Member States should request that an ADS visa application be supported by the documents listed in the Annex to this recommendation. If necessary, Member States should request additional information. In particular they may require the applicant to undergo an interview in person or by telephone, to provide proof of financial means (bank statement), supply a document confirmation of working relationship or the written consent of both parents in case of minors.

5. In order to facilitate the smooth implementation of the ADS MoU, Member States should provide specific training sessions in the PRC to the staff of accredited travel agencies involved in the implementation of the ADS MoU.

6. Member States and the Commission should cooperate closely in the PRC and meet periodically to ensure regular and fluid transmission and treatment of information, exchange of experiences concerning the detection of irregularities or other suspect behaviour of accredited travel agencies and the development of best practices on the practical application of the ADS MoU.

7. The recommendation is addressed to the Member States which participate in the ADS MoU between the EC and the PRC.

Done at Brussels, 16 September 2004.

For the Commission
António VITORINO
Member of the Commission

ANNEX

General information concerning the group

1. A name list of all group members, with passport numbers, a copy of the identity page of the passport and copies of ID cards.
2. A communication signed by the representative of the accredited travel agency in which is included a detailed itinerary including flight details for the round trip from the PRC, names, addresses, telephone numbers and fax numbers of the hotels to be used by the group during the tour with the dates of stay in each hotel and details of how the group is to travel between locations during the tour; in addition, any change in the travel itinerary which intervenes at any stage of the examination of the visa application.
3. Flight reservation with confirmation for the PRC-Europe-PRC round trip from the airlines (with list of the tourists' names).
4. Payment of the travel costs.
5. Travel group (or individual for each member of the group) insurance policy valid throughout the territory of the Member States visited on the basis of the established itinerary. The insurance must cover the entire period of the journey. The insurance policy must have a value of at least EUR 30 000 and must cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment.
6. Name of the tour leader.
7. Name and contact details of the designated partner tour operator in Europe.
8. Confirmation from the designated partner tour operator in Europe that accommodation and transport within Europe as specified in the group's itinerary will be provided to all members of the group.

For each member of the group

9. A duly completed visa application form signed by each applicant, together with a recent photo.
 10. Passport valid at least 90 days after the expiration of the visa.
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