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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 27 November 2008

amending Parts 1 and 2 of the Schengen consultation network (technical specifications)

(2008/910/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications ⁽¹⁾, and in particular Article 1(2) thereof,

Having regard to the initiative by the Republic of Slovenia,

Whereas:

- (1) The Vision network has been established to allow consultation between the central authorities of the partner States for visa applications made by nationals from sensitive countries.
- (2) In order to achieve a pragmatic approach and to avoid overburdening the Schengen consultation network by sending a high number of error messages when a Member State's message transfer agent (MTA) seems to be temporarily unavailable, the resend procedure should be modified.
- (3) In order to avoid inconsistent use of different visa type codes which could lead to misinterpretations in the Schengen consultation procedure, a common approach is needed when visas D + C are subject to the consultation procedure.

(4) Taking into account the inputs from different Member States and in order to simplify the Schengen consultation procedure, a single code for each visa type should be used.

(5) It is necessary to update the technical specifications of the Schengen consultation network to ensure that they reflect these changes.

(6) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark is to decide, in accordance with Article 5 of the said Protocol, within a period of six months after the adoption of this Decision whether it will implement it in its national law.

(7) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽²⁾, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC ⁽³⁾ on certain arrangements for the application of that Agreement.

⁽¹⁾ OJ L 116, 26.4.2001, p. 2.

⁽²⁾ OJ L 176, 10.7.1999, p. 36.

⁽³⁾ OJ L 176, 10.7.1999, p. 31.

- (8) As regards Switzerland, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis* ⁽¹⁾, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽²⁾ on the conclusion, on behalf of the European Community, of that Agreement.
- (9) As regards Liechtenstein, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/261/EC ⁽³⁾ on the signature, on behalf of the European Community, and on the provisional application of certain provisions of that Protocol.
- (10) This Decision constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽⁴⁾; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (11) This Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of

28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁵⁾; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

- (12) As regards Cyprus, this Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.
- (13) This Decision constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,

HAS ADOPTED THIS DECISION:

Article 1

Part 1 of the Schengen consultation network (technical specifications) is amended as shown in Annex I.

Article 2

Part 2 of the Schengen consultation network (technical specifications) is amended as shown in Annex II.

Article 3

This Decision shall apply from 1 February 2009.

Article 4

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 27 November 2008.

For the Council

The President

M. ALLIOT-MARIE

⁽¹⁾ OJ L 53, 27.2.2008, p. 52.

⁽²⁾ OJ L 53, 27.2.2008, p. 1.

⁽³⁾ OJ L 83, 26.3.2008, p. 3.

⁽⁴⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁵⁾ OJ L 64, 7.3.2002, p. 20.

ANNEX I

Part 1 of the Schengen consultation network (technical specifications) is hereby amended as follows:

1. point 1.2 shall be replaced by the following:

1.2. AVAILABILITY OF THE TOTAL SYSTEM

As a matter of principle Vision is designed as a system running 24 hours a day, seven days a week. In the event of one of the connections breaking down, the MTA, the user agent, and if necessary, the national application, should have the capacity to store the data to be sent or received via the network for several days. Consequently, bearing in mind the estimated daily traffic and the potential increases in traffic due to political decisions on visa matters, the MTA, the user agent, and where necessary, the national application, must meet the following minimum requirements.

In addition, the MTA, the user agent and the national application must be able to cope with possible breakdowns of other partner systems. They must resend messages which have not been delivered, but not overload other partner systems by, for example, unnecessary repetition of messages which are thought to have been lost.;

2. point 1.2.1 shall be replaced by the following:

1.2.1. *Strategy to avoid and reduce breakdown-related disruption*

If the system breaks down, operation must be resumed within 24 hours. To ensure that operations are resumed, the following minimum undertakings apply:

- the Schengen States are required to have a service contract guaranteeing repairs to, and/or replacement of, hardware and software,
- the Schengen States are required to have a backup system,
- the Schengen States are required to equip their MTA with a preventative peripheral device to compensate any power malfunctions,
- the Schengen States are required to guarantee that MTA and applications hardware and software are not cut off for any reason other than breakdown or maintenance. In case of regular maintenance, such as database backups, the maintenance slot shall not exceed a maximum of two hours,
- the Schengen States are to guarantee the availability of sufficient personnel during working hours to ensure operation of the MTA at the best possible rate,
- the Schengen States are required to distinguish clearly between the test environment and the operational environment; adapting the test environment should not affect the operational equipment and vice versa,
- adaptations to the Schengen Consultation Network should always be tested in the test environment before being used in the operational environment.

In addition the system must be able to cope with the following amounts of data:

- store the equivalent of two days operations, i.e. a maximum of 100 Megabytes,
- send up to 30 000 messages and 30 000 delivery reports per day,
- receive up to 30 000 messages and 30 000 delivery reports per day.

In addition, each Schengen State must distinguish between “retransmitting” and “resending as a new message”. The term “re-send” in the next chapters (especially 1.2.2) covers both cases, but the following distinction must be made:

- “retransmitting” means sending again the same message, usually subject to retransmission parameters of the MTA (e.g. sendmail, MS-Exchange, Lotus Notes). After each retransmission there are no more messages in the system, the first message is just transmitted again;
- “resending as a new message” means that a new message with the same content is prepared. The destination point might receive two different messages, but with the same content, if the first one was held in a queue somewhere.

Schengen States are invited to use the first possibility (retransmitting) wherever possible, to avoid the unnecessary multiplying of messages in the system.’

ANNEX II

Part 2 of the Schengen consultation network (technical specifications) is hereby amended as follows:

1. in point 2.1.4, Heading No 026 shall be replaced by the following:

‘Heading No 026: Type of visa format: code (2)

Codification of the various types of visas defined in the Common Visa Instructions. The entire heading, or part of it, can be used for the visa sticker.

“B” transit visas

“C” short -stay visas

“DC” long-stay visas valid concurrently as short-stay visas’;

2. in points 2.1.4 (Form A), 2.1.6 (Form C), 2.1.7 (Form F), the content of row 026 in the fifth column of the table (‘Examples/Comments’) shall be replaced by the following:

‘C {B|‘C|‘DC}’.
