



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

Directorate B: Migration and Mobility
Unit B.1: Legal Migration and integration
Head of Unit

Brussels,
HOME/B1/HC/dg

04 AOUT 2015

Subject: Your application for access to documents – Ref GestDem No 2015/3383

Dear Mr. Soha,

We refer to your e-mail dated 22/06/2015 in which you make a request for access to documents, registered on 23/06/2015 under the above mentioned reference number.

You asked for *"all document(s) provided to Schengen Member States to assess residence permit / entry clearance application against public policy, public health and public security, documents can be guidelines, handbook, good practices or any other "*.

We would like to inform you that there is no specific documents provided to Member States to assess applications for residence or stay against public policy, public health and public security. However, depending on the situation of the person, some information can be found in a number of documents, as explained below.

As regards EU citizens and their family members, Directive 2004/38/EC¹ applies, including its Chapter VI on restrictions on the right to entry and the right of residence on grounds of public policy, public security or public health. The Commission published a report on the application of the Directive in 2008², and two Communications, in 2009³ and 2013⁴, where further information can be found.

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 158, 30.4.2004, p. 77–123, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0038&qid=1438606171246&from=EN>

² Report from the Commission to the European parliament and the Council on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, COM(2008)840, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438608346086&uri=CELEX:52008DC0840>

³ Communication from the Commission to the European Parliament and the Council on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, COM(2009)313, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438608529624&uri=CELEX:52009DC0313>

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Free movement of EU citizens and their families: Five actions to make a difference, COM(2013)837, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438608675348&uri=CELEX:52013DC0837>

As regards third-country nationals, the Schengen Borders Code⁵ applies, notably its Articles 3(19) and 5(1)(e), as well as the Visa Code⁶, notably its Article 21, for those third-country nationals who must be in possession of a visa pursuant to Council Regulation (EC) No 539/2001. More information can be found in the Practical Handbook for Border Guards (Schengen Handbook)⁷, notably as regards public health in Part Two Section I point 1.6, and in the Handbook for the processing of visa applications and the modification of issued visas⁸, notably in Part II, points 7, 9 and 12.

As regards third-country nationals who apply for entry and residence on the basis of family reunification, Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification⁹ applies, notably its Article 6. The Commission adopted in April 2014 a Communication on guidance for application of Directive 2003/86/EC on the right to family reunification¹⁰, point 4.1 thereof is dedicated to the issue of public policy, public security and public health.

As regards third-country nationals who apply to be long-term residents, Council Directive 2003/109/EC of 25 November concerning the status of third-country nationals who are long-term residents¹¹ applies, notably its Article 6. The Commission published in 2011 a report on the application of Directive 2003/109/EC, which includes a point on the public order and public security.

⁵ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 105, 13.4.2006, p. 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438612867826&uri=CELEX:32006R0562>

⁶ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ L 243, 15.09.2009, p. 1, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438612987553&uri=CELEX:32009R0810>

⁷ Commission Recommendation establishing a common "Practical Handbook for Border Guards (Schengen Handbook)" to be used by Member States' competent authorities when carrying out the border control of persons, C(2006)5186, amended by C(2008)2976, C(2009)7376, C(2010)5559, C(2011)3918, C(2012)9330 and C(2015)3894, http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/borders-and-visas/schengen/index_en.htm

⁸ Commission Decision C(2010)1620 of 19.3.2010 establishing the Handbook for the processing of visa applications and the modification of issued visas, amended by C(2011)5501 and C(2014)2727, http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/docs/20140709_visa_code_handbook_consolidated_en.pdf

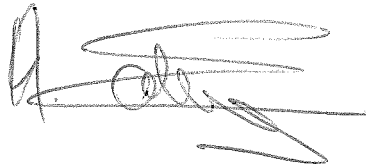
⁹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251, 03.10.2003 p. 12, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438615413596&uri=CELEX:32003L0086>

¹⁰ Communication from the Commission to the European Parliament and the Council on guidance for application of Directive 2003/86/EC on the right to family reunification, COM(2014)210, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52014DC0210>

¹¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16, 23.1.2004, p. 44, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438675841147&uri=CELEX:32003L0109>

Other legal migration Directives¹² also include a clause allowing Member States to refuse an application or withdraw a permit if the third-country concerned is considered to pose a threat to public policy, public security or public health. No further documents were prepared by the Commission in the framework of these Directives on the issue of public policy, public security or public health.

Yours faithfully,

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Laura CORRADO

¹² Article 6(1)(d) of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service; Article 7(1)(d) of Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research; Article 5(1)(f) of Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment; Article 6(4) of Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers; Article 5(8) of Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer

