Ulkoasiainministeriö E-KIRJE UM2014-00712

KPA-20 Kuivalainen Kim(UM) 28.05.2014
JULKINEN

VASTAANOTTAJA:
Suuri valiokunta / Ulkoasiainvaliokunta

Asia
Euroopan komission ehdotukset Euroopan parlamentille ja neuvostolle uudeksi viisumisäännöstöksi sekä kiertomatkaviisumin luomisesta ja Schengenin sopimuksen soveltamisesta tehdyn yleissopimuksen sekä asetuksen (EY) N:o 562/2006 ja (EY) N:o 767/2008 muuttamisesta

U/E/UTP-tunnus

EUTORI-tunnus

Ohessa lähetetään perustuslain 97§:n mukaisesti selvitys Euroopan komission ehdotuksista Euroopan parlamentille ja neuvostolle EU:n viisumisäännöstön uudistamiseksi sekä kieromatkaviisumin luomiseksi ja Schengenin sopimuksen soveltamisesta tehdyn yleissopimuksen sekä asetuksen (EY) N:o 562/2006 ja (EY) N:o 767/2008 muuttamisesta

Yksikönpäällikkö Päivi Blinnikka

Ulkoasiainsihteeri Kim Kuivalainen

LIITTEET ehdotuksia käsittelevä perusmuistio UM2014-00685

Viite

Asiasanat	Schengen viisumi
Hoitaa	**UM**
Tiedoksi	

KPA-20 Kuivalainen Kim(UM)

26.05.2014
JULKINEN

Asia

Euroopan komission ehdotukset Euroopan parlamentille ja neuvostolle uudeksi viisumisäännöstöksi sekä kiertomatkaviisumin luomisesta ja Schengenin sopimuksen soveltamisesta tehdyn yleissopimuksen sekä asetuksen (EY) N:o 562/2006 ja (EY) N:o 767/2008 muuttamisesta

Kokous

U/E/UTP-tunnus

Perusmuistiota käytetään muun muassa ministerineuvostopaketin osana ja eduskuntakirjeiden lähetesivun liitteenä (E/UTP-kirje sekä U/E/UTP-jatkokirjeet).

Käsittelyvaihe ja jatkokäsittelyn aikataulu

Euroopan komission antoi 1.4.2014 ehdotuksen viisumisäännöstön uudistamisesta sekä ehdotuksen kiertomatkaviisumista. Ehdotusten ensimmäinen yleiskäsittely käytiin EU:n viisumityöryhmässä 16.4.2014. Käsittely jatkuu ao. työryhmässä kesäkuussa ja asetuspaketin kokonaiskäsittely kestää arviolta 1-2 vuotta.

Suomen kanta

Viisumisäännöstön uudistaminen

Suomi voi tukea periaatteessa komission ehdotuksia hakemusmenettelyn yksinkertaistamisesta, ulkoistamisen täysimääräisestä hyödyntämisestä sekä pidempien toistuvaisviisumeiden myöntämisestä kuitenkin siten, että edustusto voisi harkintansa mukaan perustellussa tapauksessa myöntää myös kertaviisumin hakijalle, jonka sormenjäljet on jo tallennettu VIS:iin. Edustustolla tulee kuitenkin perustelluissa tapauksissa olla mahdollisuus pyytää liiteasiakirjoja nähtäväkseen myös ns. kolmanteen kategoriaan kuuluvilta matkustajilta. Komission ehdotuksen yksityiskohdat täsmentyvät jatkokeskusteluissa ja vaativat vielä hiomista.

Suomi tukee periaatteessa myös tavoitetta, jossa viisuminhakija voisi jättää hakemuksen aina asuinmaassaan. Mahdollisuuksia on kuitenkin mietittävä edelleen. Komission esittämä "pakkoedustaminen" on osittain ongelmallinen. Jäsenmailla tulisi olla viime kädessä mahdollisuus itse päättää, ottavatko käsittelyyn jollekin toiselle jäsenmaalle kohdennetun hakemuksen. On myös huomattava, että vastuunmäärittämisasetuksen (neuvoston asetus 604/2013) 12 artiklan 2 kohdan mukaan edustettu jäsenvaltio on vastuussa kansainvälistä suojelua koskevan hakemuksen käsittelystä, jos viisumi on myönnetty toisen jäsenvaltion puolesta.

Suomi pitää hyvänä, että EU-kansalaisten perheenjäsenten ja viisumihelpotussopimusten piiriin kuuluvien maiden kansalaisten matkustamista koskevista perusperiaatteista säädellään viisumisäännöstössä. Samalla tulisi kuitenkin varmistaa, että em. matkustajien oikeuksiin liittyviä mahdollisia väärinkäytöksiä voidaan torjua riittävän tehokkaasti.

Suomi suhtautuu varauksellisesti viisumin käsittely- ja lausuntoaikojen lyhentämiseen. Vaikka pääosa viisumeista kyetään käsittelemään nykyisten käsittely- ja lausuntoaikojen puitteissa, tulisi käsittelylle varata riittävästi aikaa, mikäli ilmenee tarve yksityiskohtaisemmille selvityksille.

Suomi suhtautuu lähtökohtaisesti kielteisesti komission ehdotukseen pakollisesta matkasairasvakuutuksesta luopumisesta, koska se todennäköisesti lisäisi niiden tapausten määrää joista maksuja ei saada perittyä, ja valtio joutuisi viime kädessä vastaamaan näistä kustannuksista. Mikäli vaatimuksesta luovuttaisiin, tulisi jäsenmailla olla mahdollisuus olla myöntämättä viisumia hakijoille, jotka ovat jättäneet maksamatta käyttämiään terveyspalveluita Schengen –alueella.

Suomi suhtautuu lähtökohtaisesti kielteisesti komission ehdotukseen viisumin myöntämistä matkustusasiakirjan viimeistä voimassaolopäivää pidemmäksi ajaksi. Asiaa tulee tarkastella yhdessä älykkäisiin rajoihin kuuluvan maahantulotietojärjestelmän (EES) kanssa. Suomi suhtautuu lähtökohtaisesti kielteisesti viisumin myöntämisen lisäämiseen rajalla tarviten käsittelyn edetessä lisätietoja järjestelyn vaikutuksista sisäiseen turvallisuuteen, rajatarkastusresursseihin ja ottaen huomioon rajavalvonnan päätarkoituksen. Mikäli päädyttäisiin lisäämään viisuminmyöntöä rajalla, tulisi viisumisäännöstössä olla määriteltynä riittävän tarkasti sellaiset kategoriat, joita viisumin hakeminen koskee.

Rajalla myönnettävät viisumit tulisi myös rajata koskemaan vain turismin kannalta tärkeitä ja maantieteellisesti rajattuja alueita, joissa yleensä vain käydään jatkamatta matkaa toisiin jäsenvaltioihin. Mikäli henkilöllä on mahdollisuus matkustaa myös muihin jäsenvaltioihin, tulisi viisumin myöntöön saada ainakin naapurijäsenvaltioiden suostumus. Kokonaisuutta tulisi käsitellä myös älykkäiden rajoja koskevien asetusehdotusten (RTP ja EES) näkökulmasta.

Komission ehdotuksesta seuraavat mahdolliset muutokset tulee huomioida myös kansallisen viisumitietojärjestelmän SUVI:n kehittämisessä.

<u>Kiertomatkaviisumi</u>

Suomi kannattaa periaatteessa järjestelyä, jolla helpotetaan tiettyjen erityisryhmien liikkumista Schengen –alueella. Komission ehdotuksessa jää avoimeksi, kuinka oleskelua valvottaisiin, kun Schengen –alueen sisällä ei ole rajatarkastuksia. Tämän osalta tarvitaan lisäkeskusteluja. Komission ehdotuksen osalta tulee varmistua, ettei se ole ristiriidassa vallitsevan EU- ja kansallisen lainsäädännön kanssa. Esimerkiksi suhde oleskelulupasäännöksiin on selvitettävä. Samoin tulee varmistua, ettei komission ehdotus kannusta esitetyn järjestelyn väärinkäyttöön.

Suomi korostaa, että valmistelun edetessä tulee huolehtia synergiasta suhteessa viisumi- ja rajasäännöstöihin sekä myöhemmin perustettavaan EU:n rajanylitystietojärjestelmään (EES) ja rekisteröityjen matkustajien ohjelmaan (RTP).

Komission ehdotusta seuraavat mahdolliset muutokset tulee huomioida myös kansallisen viisumitietojärjestelmän SUVI:n kehittämisessä.

Pääasiallinen sisältö

Viisumisäännöstö

Komissio ehdottaa muutoksia nykyiseen EU:n viisumisäännöstöön (EY N:o 810/2009). Komission velvollisuudesta antaa arvio viisumisäännöstön toimeenpanosta on säädetty viisumisäännöstön artiklassa 57(1) sekä artiklassa 57(2), jossa todetaan, että arvioinnin perusteella komissio tekee tarvittaessa asianmukaisia ehdotuksia viisumisäännöstön muuttamiseksi. Komission ehdotuksessa punnitaan viisumipolitiikkaa talouskasvun elvyttämisen näkökulmasta, mutta myös ulkosuhteiden kaupan, koulutuksen, turismin ja kulttuurin näkökulmasta. Keskeisenä tavoitteena on taata koherenssi Eurooppa 2020 –strategian kasvutavoitteiden sekä komission 2012 marraskuussa antaman tiedonannon kanssa (Yhteisen viisumipolitiikan soveltamisesta ja kehittämisestä taloudellisen kasvun lisäämiseksi EU:ssa). Lisäksi asetusehdotuksessa huomioidaan komission tekemä arvio viisumipolitiikan toimeenpanosta (Järkevä viisumipolitiikka talouskasvun tueksi) sekä erillinen yksityiskohtainen vaikutusarvio. Ehdotuksessa ei käsitellä EU:n viisumitietojärjestelmää (VIS) ja sen käyttämiseen liittyviä kokemuksia. VIS-järjestelmään tallentuvat kaikkien Schengen-viisumien hakijoiden keskeiset tiedot ml. sormenjäljet sitä mukaan, kun VIS otetaan alueittain käyttöön. Mikäli aikataulu pitää, olisi VIS käytössä koko maailmassa vuoden 2015 puoliväliin mennessä. Komissio antaa myöhemmin erillisen arvion VIS:istä.

• Yksinkertaisempi viisumimenettely ja pidemmät viisumit paljon matkustaville

Viisumisäännöstöä koskevassa ehdotuksessa ennakoidaan VIS:in maailmanlaajuista kattavuutta siten, että viisuminhakijat jaetaan kolmeen ryhmään:

1) hakijat, jotka hakevat viisumia ensimmäistä kertaa, ja joita ei ole vielä rekisteröity eivätkä ole vielä rekisteröityneet VIS:iin (ei otettu biotunnisteita);

2) hakijat, jotka on rekisteröity VIS:iin, mutta jotka eivät matkusta säännöllisesti ja;

3) VIS:iin rekisteröidyt hakijat, jotka matkustavat säännöllisesti.

Ajatuksena eri tavoin kohdeltavissa ryhmissä on se, että tunnetut (eli VIS-rekisteröidyt ja aiemmat viisumit oikein käyttäneet) ja säännöllisesti matkustavat hakijat saisivat viisuminsa yksinkertaisemmin ja pidemmäksi aikaa kuin muut, eikä heidän tarvitsisi tulla henkilökohtaisesti hakemaan viisumia niin kauan kuin annetut sormenjäljet ovat voimassa.

Ensimmäiseen ryhmään kuuluvat eli ensikertalaiset jättäisivät ensimmäisen hakemuksensa henkilökohtaisesti konsulaattiin tai ulkoiselle palveluntarjoajalle. Heiltä otettaisiin hakemuksen jättämisen yhteydessä sormenjäljet ja pyydettäisiin vaadittavat liiteasiakirjat. Lähtökohtaisesti henkilölle myönnettäisiin kertaviisumi, mutta konsulaatti voisi harkinnan mukaan myöntää hakijalle myös toistuvaisviisumin. Toiseen ja kolmanteen ryhmään kuuluvien ei tarvitsisi jättää hakemusta henkilökohtaisesti tai antaa sormenjälkiä hakiessaan viisumia, ellei sormenjälkien ottamisesta olisi kulunut yli 59 kuukautta. Toiseen ryhmään kuuluvien osalta sovellettaisiin samoja liiteasiakirjavaatimuksia kuin ensimmäiseen ryhmään kuuluvien. Heille voitaisiin myöntää joko kerta- tai toistuvaisviisumi. Kolmanteen ryhmään kuuluvien tarvitsisi

osoittaa vain riittävä todiste matkan tarkoituksesta. Heille voitaisiin myöntää harkinnan mukaan toistuvaisviisumi kolmeksi vuodeksi, ja tämän jälkeen toistuvaisviisumi viideksi vuodeksi. Komissio arvioi, että nykyistä laajempi toistuvaisviisumien myöntäminen toisi Eurooppaan lisätuloja ja lisäisi työpaikkoja, vaikka viisumitulojen määrä pienenisi nykyisestään.

• Helpotuksia perheenjäsenten ja lähisukulaisten viisuminhakuun

Ehdotuksessa esitetään helpotuksia EU-kansalaisten perheenjäsenille ja lähisukulaisille, jotka eivät kuulu vapaan liikkuvuuden direktiivin 2004/38/EY soveltamisalaan. Viisumihakemusten käsitteleminen ja ratkaiseminen perustuu viisumisäännöstöön. Osaan viisuminhakijoista sovelletaan vapaan liikkuvuuden direktiiviä (2004/38/EY), jossa on säädetty tiettyjä helpotuksia viisuminhakijoille, jotka kuuluvat direktiivin piiriin. Viisuminhakija kuuluu vapaan liikkuvuuden direktiivin piiriin, jos hänen perheenjäsenensä on EU-kansalainen, joka on käyttänyt tai käyttää omaa oikeuttaan vapaaseen liikkuvuuteen unionin kansalaisena. Tämä tarkoittaa sitä, että unionin kansalainen siirtyy tai muuttaa johonkin muuhun jäsenvaltioon kuin siihen, jonka kansalainen hän on. Lisäksi edellytetään, että EU-kansalainen ja hänen perheenjäsenensä, joka on kolmannen maan kansalainen, matkustavat yhdessä tai että tämä perheenjäsen matkustaa EU-kansalaisen luo. Direktiivin soveltamisalaan kuuluvissa tilanteissa jäsenvaltioiden on kaikin tavoin helpotettava perheenjäsenten viisumien saantia. Tällaiset viisumit on myönnettävä maksutta mahdollisimman pian nopeutettua menettelyä käyttäen.

Ehdotuksessa esitetään direktiivin vähimmäistasoa vastaavia helpotuksia myös niille EU-kansalaisten perheenjäsenille ja lähisukulaisille, jotka eivät kuulu vapaan liikkuvuuden direktiivin piiriin eivätkä siten nykyisen viisumisäännöstön puitteissa saa helpotuksia viisuminhakuunsa. Lähisukulaisella tarkoitettaisiin puolisoa, lasta, vanhempia, huoltajia, isovanhempia ja lapsenlapsia. Ehdotuksessa esitetään seuraavien henkilöryhmien lisäämistä viisumihelpotusten piiriin:

a) Ne kolmannen maan kansalaiset, jotka haluavat vierailla sellaisen lähisukulaisensa luona, joka on Euroopan unionin kansalainen ja asuu siinä jäsenvaltiossa, jonka kansalainen hän on.
b) Ne kolmannen maan kansalaiset, jotka haluavat matkustaa yhdessä kolmannessa maassa asuvan unionin kansalaisen lähisukulaisensa kanssa unionin kansalaisen kansalaisuusvaltioon.

EU:n useiden kolmansien maiden kanssa solmimiin viisumihelpotussopimuksiin sisältyy ehdotetun kaltaisia säännöksiä. EU-kansalaisen perheenjäsenille ja lähisukulaisille myönnettävät helpotukset koskisivat muun muassa mahdollisuutta jättää viisumihakemus ilman ajanvarausta, viisumihakemusta tukevia liiteasiakirjoja, viisumimaksua sekä viisumihakemuksen käsittelyaikaa. Myös viisumimaksusta vapautettujen hakijoiden ryhmää laajennettaisiin.

• Viisumihakuprosessin helpottaminen

Komissio ehdottaa matkan pääkohdemaasäännön yksinkertaistamista siten, että viisumia voisi hakea minkä tahansa matkan kohdemaan konsulaatista tai sen maan konsulaatista, josta matka alkaa. Jos matkan kohdemaalla ei ole konsulaattia hakijan asuinmaassa, saisi tämä hakea viisumia asuinmaansa minkä tahansa Schengen-maan edustustosta (toisen maan "pakkoedustaminen"). Viisumihakemuslomakkeen ulkoasua yksinkertaistettaisiin ja pakollisesta matkasairasvakuutuksesta luovuttaisiin. Viisumihakemuksen jättämisen

määräaikaa pidennettäisiin kuuteen kuukauteen ennen matkaa (nyt aikaisintaan 3 kk), käsittely- ja lausuntoaikoja lyhennettäisiin, vaatimuksesta jättää viisumihakemus henkilökohtaisesti konsulaattiin tai ulkoiselle palveluntarjoajalle luovuttaisiin (pl. sormenjälkien antaminen, ryhmitys kolmeen hakijaryhmään edellä) ja viisumihakemuksen liitteeksi vaadittavien pakollisten liiteasiakirjojen määrää pienennettäisiin

Komissio katsoo, että yhtenäisviisumi tulisi myöntää, ellei viisumin epäämisen osalta täyty jokin niistä epäämisperusteista, jotka on määritelty viisumisäännöstössä. Henkilön, joka ei ole aikaisemmin hakenut viisumia tulee osoittaa, että hän täyttää viisuminmyöntöehdot. VIS:iin rekisteröityneen matkustajan osalta hänen oletetaan ne täyttävän, mutta yksittäistapauksissa oletusta voidaan kuitenkin harkita uudelleen. Komissio ehdottaa että viisumi voitaisiin myöntää matkustusasiakirjan voimassaoloaikaa pidemmäksi ajaksi.

• Lentokentän kauttakulkuviisumi ja viisumi rajalla

Komissio ehdottaa, että myös Schengenin ulkorajalla voitaisiin myöntää turismia varten viisumeita väliaikaisesti ja suunnitelmallisesti. Viisumin epäämispäätöksessä tulisi lentokentän kauttakulkuviisumeiden osalta perustella nykyistä tarkemmin viisumin epäämisen syy ja valittamista koskeva menettely tuoda selvästi esille.

• Ulkoiset palveluntarjoajat

Ulkoisen palveluntarjoajan käyttäminen viisumihakemusten vastaanottamisessa ei olisi enää viimeinen vaihtoehto, kuten nyt, eivätkä jäsenmaiden edustustot olisi enää velvoitettuja ottamaan hakemuksia vastaan suoraan hakijoilta niissä paikoissa, joissa toimii ulkoinen palveluntarjoaja. EU-kansalaisten perheenjäsenillä olisi kuitenkin edelleen mahdollisuus jättää hakemus suoraan konsulaattiin. Jäsenmaat olisivat velvoitettuja raportoimaan komissiolle vuosittain yhteistyöstään ulkoiselle palveluntarjoajan kanssa.

• Hakijoiden informointi

Komissio luo Schengen-viisumisivuston internetiin

Kiertomatkaviisumi

KOM perustelee ehdotustaan ajatellen tiettyjä turistiryhmiä, erityisryhmiä ja erityisesti kiertäviä esiintyviä taiteilijaryhmiä, jotka oleskelevat usein yli kolme kuukautta matkoillaan tai kiertueella Schengen –alueella, mutta vain harvoin yli kolmea kuukautta yhtäjaksoisesti yhdessä maassa. Nykymenettelyn puitteissa Schengen –viisumin umpeuduttua ainoa ratkaisu on myöntää poikkeuksellisesti alueellisesti rajattu viisumi, jotta oleskelu voisi jatkua Schengen –viisumin umpeutumisen jälkeen. Menettely ei ole komission mukaan viisumisäännöstön hengen mukainen, ja sen vuoksi tulisi luoda uusi viisumikategoria. Menettely koskee myös viisumivapaiden maiden kansalaisia, sillä hekään eivät voi oleskella Schengen-alueella yhtäjaksoisesti yli kolmea kuukautta hakematta oleskelulupaa.

Komissio ehdotti jo 2001, että otettaisiin käyttöön erityinen matkustuslupa sellaisia kolmansien maiden varten, jotka aikovat matkustaa jäsenvaltioiden alueella enintään kuusi kuukautta 12 kuukauden ajanjaksoa kohti. Komissio perui ehdotuksensa 2006 jäsenmaiden esittämien huolien vuoksi, jotka koskivat mm. oikeusperustaa. Nyt komissio

ehdottaa, että otetaan käyttöön uudentyyppinen viisumi, joka voitaisiin myöntää sekä viisumivelvollisten että viisumivapaiden maiden kansalaisille silloin kuin hakija aikoo oleskella vähintään kahdessa jäsenvaltiossa yli 90 päivää mutta enintään vuoden edellyttäen, että hakija ei aio viipyä yhdessä jäsenvaltiossa pidempään kuin 90 päivää minkä tahansa kuuden kuukauden jakson aikana. Viisumin voimassaoloa voitaisiin jatkaa enintään kahteen vuoteen.

Komissio arvioi, että tällaisen järjestelyn piiriin voisi kuulua n. 125 000 ihmistä. Järjestelyllä voitaisiin myös korjata Schengenin sopimuksen art. 20(2) lainsäädännöllinen porsaanreikä, johon vedoten eräiden kolmansien maiden kansalaiset, jotka ovat olleet kahdenvälisten viisumivapaussopimusten piirissä, ovat ketjuttaneet yhtäjaksoista oleskeluaan Schengen –alueella. Vanhojen kahdenvälisten sopimusten soveltamisen lakkauttamiselle annettaisiin 5 vuoden siirtymäaika. Kiertomatkaviisumeilla matkustavilta viisumivapautetuilta ei tallennettaisi sormenjälkiä VIS-järjestelmään.

Mikäli neuvottelut kiertomatkaviisumista etenevät suotuisasti, komissio aikoo yhdistää ehdotuksen viisumisäännöstöön tehtäviin muutoksiin.

EU:n oikeuden mukainen oikeusperusta/päätöksentekomenettely

SEUT, art. 77, 2 kohta, a ja c alakohta

Käsittely Euroopan parlamentissa

Käsittelyn ajankohta Euroopan parlamentissa ei ole vielä tiedossa.

Kansallinen valmistelu

Jaosto 6, kirjallinen menettely.

Eduskuntakäsittely

Ehdotuksia ei ole käsitelty aikaisemmin Eduskunnassa.

Kansallinen lainsäädäntö, ml. Ahvenanmaan asema

Mahdolliset muutokset ulkomaalaislakiin, mikäli kiertomatkaviisumi toteutuu.

Taloudelliset vaikutukset

Ko. ehdotuksilla ei ole välittömiä budjettivaikutuksia. Tietojärjestelmien osalta viisumisäännöstön toimeenpano nojautuu VIS:iin, josta on annettu erillinen asetus sekä kansalliseen viisumitietojärjestelmään (SUVI), jonka osalta päivittämis- ja kehittämistyö on huomioitu UM:n taloussuunnittelussa.

Komission karkean arvion mukaan viisumisäännöstöön tehtävillä muutoksilla voitaisiin saavuttaa 500 000 - 2 000 000 lisämatkaa ja 500 000 000 – 3 miljardin euron lisätulot vuodessa. Suomen osalta tilanne on se, että jo nykyisellään yli 90 % Suomen myöntämistä Schengen -viisumeista on monikertaviisumeita. Valtaosa Suomeen viisumilla tulijoista on venäläisiä. Venäläisten matkustushalukkuuteen vaikuttavat tutkimusten mukaan monet seikat kuten yleinen taloudellinen tilanne, matkailupalvelut ja matkustuskokemukset.

Muut asian käsittelyyn vaikuttavat tekijät

Ehdotusten sisältöön voi vaikuttaa komission antama ehdotus älykkäät rajat asetuspaketista (EES ja RTP).

Asiakirjat

COM(2014) 163 final, kiertomatkaviisumi sekä sopimusten (EY) N:o 562/2006 ja (EY) N:o 767/2008 muuttamisesta

COM(2014) 164 final, viisumisäännöstöä koskeva ehdotus + Annexes 1-13

Laatijan ja muiden käsittelijöiden yhteystiedot

Päivi Blinnikka, UM, KPA-20, p. 0295 351 066, paivi.blinnikka@formin.fi
Kim Kuivalainen, UM, KPA-20, p. 0295 351 793, kim.kuivalainen@formin.fi
Elina Hirttiö, SM, MMO, p. 295 488 611, elina.hirttio@intermin.fi
Vesa Blomqvist, SM, RO, p. 0295 421 132, vesa.blomqvist@raja.fi
Marja-Terttu Mäkiranta, STM, koordinaatioryhmä, p. 0295 163 170, marja-terttu.makiranta@stm.fi

EUTORI-tunnus

Liitteet COM(2014) 163 final
COM(2014) 164 final
COM(2014) 164 final, annexes 1-13
COM(2014) 165 final
SWD(2014) 67 final
SWD(2014) 101 final
Schengen Visas Infographic

Viite

Asiasanat	Schengen viisumi, viisumit
Hoitaa	**UM**
Tiedoksi	EUE, SM, VNK

EUROOPAN
KOMISSIO

Bryssel 1.4.2014
COM(2014) 164 final

ANNEXES 1 to 13

LIITTEET

asiakirjaan

Ehdotus
Euroopan parlamentin ja neuvoston asetus

unionin viisumisäännöstön laatimisesta (viisumisäännöstö)
(uudelleenlaadittu)

{SWD(2014) 67 final}
{SWD(2014) 68 final}

LIITTEET

asiakirjaan

Ehdotus
Euroopan parlamentin ja neuvoston asetus

unionin viisumisäännöstön laatimisesta (viisumisäännöstö)
(uudelleenlaadittu)

🡻 810/2009

LIITE I

⇩ uusi

Yhdenmukainen hakemuslomake

Hakemus Schengen-viisumia varten

Tämä hakemuslomake on maksuton


[1]

EU-kansalaisten perheenjäsenet eivät täytä kenttiä 19, 20, 31 ja 32.

Kentät 1–3 on täytettävä matkustusasiakirjan tietojen mukaisesti.

<table>
<tr><td colspan="3">1. Sukunimi tai -nimet (x)</td><td rowspan="7">VIRANOMAINEN TÄYTTÄÄ
Hakemuksen jättöpäivä:

Viisumihakemuksen numero:

Hakemuksen jättöpaikka:
□ Suurlähetystö/konsulaatti
□ Palveluntarjoaja
□ Kaupallinen organisaatio
□ Raja (nimi):
…….
□ Muu

Hakemuksen käsittelijä:

Liiteasiakirjat:
□ Matkustusasiakirja
□ Toimeentuloon tarvittavat varat
□ Kutsu
□ Matkustusväline
□ Muu:</td></tr>
<tr><td colspan="3">2. Sukunimi tai –nimet syntymähetkellä (aiemmat sukunimet) (x)</td></tr>
<tr><td colspan="3">3. Etunimi tai -nimet (x)</td></tr>
<tr><td>4. Syntymäaika (päivä-kuukausi-vuosi)</td><td>5. Syntymäpaikka

6. Syntymämaa</td><td>7. Nykyinen kansalaisuus

Kansalaisuus syntymähetkellä (jos eri)</td></tr>
<tr><td>8. Sukupuoli
□ Mies □ Nainen</td><td colspan="2">9. Siviilisääty
□ Naimaton □ Naimisissa □ Asumuserossa □ Eronnut
□ Leski □ Muu (täsmennettävä)</td></tr>
<tr><td colspan="3">10. Alaikäisten osalta: Huoltajan / laillisen holhoojan sukunimi, etunimi, osoite (jos eri kuin hakijalla) ja kansalaisuus</td></tr>
<tr><td colspan="3">11. Kansallinen henkilötunnus (tarvittaessa)</td></tr>
</table>

[1] Islannin, Liechtensteinin, Norjan ja Sveitsin ei tarvitse käyttää logoa.

12. Matkustusasiakirjan laji □ Tavallinen passi □ Diplomaattipassi □ Virkapassi □ Virkamatkapassi □ Erityispassi □ Muu matkustusasiakirja (täsmennettävä)				
13. Matkustusasiakirjan numero	14. Myöntämispäivä	15. Viimeinen voimassaolopäivä	16. Asiakirjan myöntänyt viranomainen	
17. Hakijan kotiosoite ja sähköpostiosoite		Puhelinnumero(t)		Viisumia koskeva päätös: □ Evätään □ Myönnetään: □ A □ C □ LTV □ Voimassaoloaika alkaa: päättyy: Maahantulokertojen määrä: □ 1 □ Useita
18. Asuinpaikka eri kuin nykyinen kansalaisuusmaa □ Ei □ Kyllä. Oleskelulupa tai vastaava …… Numero …….. Viimeinen voimassaolopäivä:				
* 19. Nykyinen työ				
* 20. Työnantajan nimi, osoite ja puhelinnumero. Opiskelijat ilmoittavat oppilaitoksen nimen ja osoitteen.				
21. Matkan päätarkoitus (tai tarkoitukset): □ matkailu…….□ liikeasia…….□ sukulaisten tai ystävien tapaaminen ….□ kulttuuri ……□ urheilu …….. □ virkamatka □ lääketieteelliset syyt □ opiskelu □ lentokentän kauttakulku **……**□ muu (tarkennettava):				
22. Määräjäsenvaltio(t)		23. Jäsenvaltio, johon hakija saapuu ensimmäisenä		
24. Pyydettyjen maahantulokertojen lukumäärä □ yksi….□ useita		25. Oleskelun suunniteltu kesto Päivien lukumäärä		
26.Sormenjäljet otettu aiemmin Schengen-viisumin tai kiertomatkaviisumin hakemista varten □ ei □ kyllä Päivämäärä, jos tiedossa ……..				
27. Lopullisen määrämaan maahantulolupa (tarvittaessa) Myöntänyt viranomainen …….. Voimassa …….. alkaen ……asti.				
28. Suunniteltu saapumispäivä Schengen-alueelle		29. Suunniteltu poistumispäivä Schengen-alueelta		
* 30. Jäsenvaltioon (tai jäsenvaltioihin) kutsuvan henkilön (henkilöiden) suku- ja etunimi. Jos sellaista ei ole, ilmoittakaa hotellin (hotellien) nimi (nimet) tai tilapäinen osoite (tilapäiset osoitteet) jäsenvaltiossa (tai jäsenvaltioissa)				
Kutsuvan henkilön (henkilöiden) / hotellin (hotellien) / tilapäisen majoituspaikan (tilapäisten majoituspaikkojen) osoite ja sähköpostiosoite		Puhelinnumero ja faksinumero		
*31. Kutsun esittäneen yrityksen/organisaation nimi ja osoite		Yrityksen/organisaation puhelinnumero ja faksinumero		
Yrityksen/organisaation yhteyshenkilön sukunimi, etunimi, osoite, puhelinnumero, faksinumero ja sähköpostiosoite				
*32. Matkustus- ja asumiskuluista oleskelun aikana vastaa				
□ hakija itse Toimeentuloon tarvittavat varat □ Käteisvarat □ Matkasekit □ Luottokortti		□ ylläpitäjä (isäntä, yritys, organisaatio), täsmennettävä …….□ mainittu kentässä 31 tai 32 …….□ muu (täsmennettävä) Toimeentuloon tarvittavat varat □ Käteisvarat □ Majoitus järjestetty		

□ Majoitus maksettu ennakkoon □ Kuljetus maksettu ennakkoon □ Muu (täsmennettävä)	□ Kaikki kustannukset katettu oleskelun aikana □ Kuljetus maksettu ennakkoon □ Muu (täsmennettävä)	
33. Henkilötiedot perheenjäsenestä, joka on EU:n kansalainen		
Sukunimi	Etunimi (-nimet)	
Syntymäaika	Kansalaisuus	Matkustusasiakirjan tai henkilötodistuksen numero
34. Perheside EU:n, ETA:n tai Sveitsin kansalaiseen □ puoliso ……..□ lapsi ……□ lapsenlapsi ……□ huollettavana oleva vanhempi sukulainen		

Olen tietoinen siitä, että viisumimaksua ei palauteta, vaikka viisumia ei myönnettäisi.

Tiedossani on ja suostun siihen, että tässä hakemuksessa edellytettyjen tietojen kerääminen sekä valokuvan ja tarvittaessa sormenjälkien ottaminen on pakollista viisumihakemukseni käsittelyä varten ja että tähän viisumihakemuslomakkeeseen merkityt henkilötietoni sekä sormenjälkeni ja valokuvani toimitetaan jäsenvaltioiden toimivaltaisten viranomaisten käsiteltäväksi, jos viisumihakemustani koskevan päätöksen tekeminen sitä edellyttää.

Nämä tiedot sekä tiedot hakemustani koskevasta päätöksestä tai päätös myönnetyn viisumin mitätöimisestä, kumoamisesta tai jatkamisesta syötetään ja tallennetaan viisumitietojärjestelmään (VIS) enintään viideksi vuodeksi, jona aikana niitä voivat tutkia viisumiviranomaiset ja viranomaiset, joilla on toimivalta suorittaa viisumeja koskevia tarkastuksia ulkorajoilla ja jäsenvaltioiden alueella, ja jäsenvaltioiden maahanmuutto- ja turvapaikkaviranomaiset sen tarkistamiseksi, täyttyvätkö laillista maahantuloa, oleskelua ja jäsenvaltioiden alueella asumista koskevat edellytykset, ja niiden henkilöiden tunnistamiseksi, jotka eivät (enää) täytä näitä edellytyksiä, sekä turvapaikkahakemusten tutkimista ja niiden käsittelystä vastuussa olevan valtion määrittämistä varten. Tietyin edellytyksin tiedot ovat myös jäsenvaltioiden nimeämien viranomaisten ja Europolin käytettävissä terrorismirikosten ja muiden vakavien rikosten torjumiseksi, havaitsemiseksi ja tutkimiseksi. Tietojen käsittelystä vastaava jäsenvaltion viranomainen on [(……..…)].

Olen tietoinen siitä, että minulla on oikeus missä tahansa jäsenvaltiossa saada ilmoitus siitä, mitä itseäni koskevia tietoja on tallennettu viisumitietojärjestelmään ja mikä jäsenvaltio tiedot on toimittanut, sekä vaatia, että minua koskevat virheelliset tiedot korjataan ja laittomasti käsitellyt tiedot poistetaan. Nimenomaisesta pyynnöstäni viisumihakemustani tutkiva viranomainen antaa minulle ohjeet siitä, miten voin käyttää oikeuttani tarkastaa itseäni koskevat henkilötiedot ja pyytää niiden oikaisemista tai poistamista, sekä tätä koskevista kyseisen valtion kansalliseen lainsäädäntöön perustuvista muutoksenhakukeinoista. Kyseisen jäsenvaltion kansallinen valvontaviranomainen [yhteystiedot: …….] käsittelee henkilötietojen suojaa koskevat vaateet.

Vakuutan, että kaikki ilmoittamani tiedot ovat parhaan tietoni mukaan oikein ja täydelliset. Olen tietoinen siitä, että virheelliset ilmoitukset johtavat hakemukseni hylkäämiseen tai minulle jo myönnetyn viisumin mitätöimiseen ja minut voidaan myös asettaa syytteeseen hakemusta käsittelevän jäsenvaltion lainsäädännön nojalla.

Jos minulle myönnetään viisumi, sitoudun poistumaan jäsenvaltioiden alueelta ennen viisumin voimassaolon päättymistä. Minulle on kerrottu, että viisumin saaminen on vain yksi jäsenvaltioiden Euroopassa sijaitsevalle alueelle saapumisen edellytyksistä. Se, että minulle on myönnetty viisumi, ei tarkoita, että voisin saada korvausta siinä tapauksessa, että maahantuloni estettäisiin, jos hakemukseni ei ole asetuksen (EY) N:o 562/2006 (Schengenin rajasäännöstö) 5 artiklan 1 kohdan tätä asiaa koskevien säännösten mukainen. Maahantulon edellytykset tarkistetaan uudelleen saapuessani jäsenvaltioiden Euroopassa sijaitsevalle alueelle.

Paikka ja päiväys	Allekirjoitus (alaikäisten hakemuksen allekirjoittaa huoltaja / laillinen holhooja)

↓ 810/2009

LIITE II

~~ESIMERKKEJÄ~~ *LUETTELO HAKEMUKSEN LIITEASIAKIRJOISTA*

~~Viisuminhakijoilta voidaan vaatia 14 artiklan nojalla esimerkiksi seuraavia selvityksiä:~~

⇩ uusi

Jäljempänä olevaa liiteasiakirjojen yleistä luetteloa on arvioitava paikallisen Schengen-yhteistyön yhteydessä 13 artiklan 9 kohdan ja 46 artiklan 1 kohdan a alakohdan mukaisesti.

↓ 810/2009 (mukautettu)

A. MATKAN TARKOITUKSEEN LIITTYVÄT ASIAKIRJAT

1) Työmatkat:

a) yrityksen tai viranomaisen esittämä kutsu osallistua kauppaa, teollisuutta tai palveluja koskeviin neuvotteluihin, konferensseihin tai tilaisuuksiin;

b) muut asiakirjat, joista ilmenevät kauppaan tai palveluihin liittyvät suhteet;

c) ~~mahdollisten~~ messujen ja kongressien pääsyliput;

d) asiakirjat, joista käy ilmi yrityksen liiketoiminnan luonne;

e) asiakirjat, joista käy ilmi hakijan asema yrityksessä.

2) Opiskelu- tai koulutustarkoituksessa tehdyt matkat:

a) todistus kirjoittautumisesta oppilaitokseen perus- tai jatkokoulutukseen liittyvää teoreettista tai käytännön koulutusta varten;

b) opiskelijakortti tai todistukset kursseista, joille on tarkoitus osallistua.

3) Turisti~~- tai yksityis~~matkat:

a) majoitusta koskevat asiakirjat~~:~~;

~~– yksityishenkilön esittämä kutsu, jos sellainen on esitetty,~~

~~– majoituslaitoksen antama vahvistus tai muu asiakirja majoituksen järjestämisestä;~~

b) matkareittiä koskevat asiakirjat: valmismatkavarauksen vahvistus tai muu asiakirja, josta suunniteltu matkareitti käy ilmi~~:~~.

~~– kauttakulun tapauksessa: matkan kohteena olevan kolmannen maan viisumi tai muu maahantulolupa; matkaliput matkan jatkoa varten.~~

⇩ uusi

– 4) Ystävien tai sukulaisten luona vierailua varten tehtävät matkat:

– a) majoituksen järjestämistä koskevat asiakirjat, tai

– b) yksityishenkilön luokse majoituttaessa tämän esittämä kutsu.

– 5) Kauttakulkumatkat:

– a) matkan kohteena olevan kolmannen maan viisumi tai muu maahantulolupa; ja

– b) matkaliput matkan jatkoa varten.

🡻 810/2009 (mukautettu)

~~4~~6) Poliittisia, tieteellisiä, uskonnollisia tai kulttuuri- tai urheilutilaisuuksia yms. varten tehtävät matkat:

– kutsuun liittyvät pääsyliput, ilmoittautumistodistukset tai ohjelmat, joissa mainitaan (mahdollisuuksien mukaan) kutsun esittäneen järjestäjän nimi ja oleskelun kesto, tai muu asiakirja, josta matkan tarkoitus käy ilmi.

~~5~~7) Virallisten valtuuskuntien jäsenet, jotka osallistuvat asianomaisen kolmannen maan hallitukselle esitetyn virallisen kutsun perusteella kokouksiin, kuulemisiin, neuvotteluihin tai vaihto-ohjelmiin tai tapahtumiin, joita hallitustenväliset organisaatiot järjestävät jäsenvaltioiden alueella:

– asianomaisen kolmannen maan viranomaisen kirje, jossa vahvistetaan, että hakija on virallisen valtuuskunnan jäsen, joka matkustaa jäsenvaltioon osallistuakseen edellä mainittuihin tapahtumiin, ja virallisen kutsun jäljennös.

~~6~~8) Lääketieteellisistä syistä tehtävät matkat:

– hoitolaitoksen virallinen asiakirja, jossa vahvistetaan hoidon tarve kyseisessä laitoksessa, ja todistus riittävistä varoista hoidon maksamiseksi.

B. ASIAKIRJAT, JOIDEN PERUSTEELLA ARVIOIDAAN HAKIJAN AIKOMUSTA POISTUA JÄSENVALTIOIDEN ALUEELTA

~~1) paluulippu tai edestakainen lippu tai niitä koskeva varaus;~~

~~2)~~1) selvitys riittävistä varoista asuinmaassa; ⌦ pankkitiliotteet; todistus kiinteästä omaisuudesta; ⌫

~~3)~~2) todistus työpaikasta~~: pankkitiliotteet~~;

~~4) todistus kiinteästä omaisuudesta;~~

~~5)~~3) selvitys kotoutumisesta asuinmaahan: perhesiteet; ammattiasema.

C. ASIAKIRJAT, JOIDEN PERUSTEELLA ARVIOIDAAN, ONKO HAKIJALLA RIITTÄVÄT VARAT OLESKELUN AJAKSI SEKÄ PALAAMISEEN LÄHTÖMAAHAN/ASUINMAAHAN

Tarvittaessa pankkitiliotteet, luottokortti- ja tiliotteet, palkkakuitit tai ylläpitositoumus.

D. HAKIJAN PERHETILANNETTA KOSKEVAT ASIAKIRJAT

1) huoltajan tai laillisen ~~edunvalvojan~~holhoojan suostumus (kun alaikäinen matkustaa ilman heitä);

2) selvitys perhesiteistä isäntänä toimivaan tai kutsun esittäneeseen henkilöön.

⇩ uusi

Asetuksen 13 artiklan 2 kohdan mukaan VIS-rekisteröityjen säännöllisesti matkustavien henkilöiden on esitettävä ainoastaan A ja D alakohdassa tarkoitetut asiakirjat.

↓ 810/2009

~~LIITE III~~

~~YHDENMUKAINEN LEIMA JA SEN KÄYTTÖ SEN OSOITTAMISEKSI, ETTÄ VIISUMIHAKEMUS VOIDAAN OTTAA KÄSITELTÄVÄKSI~~

~~… Viisumi …~~[2]	
~~xx/xx/xxxx~~[3]	~~…~~[4]
~~Esimerkki:~~	
~~C visa FR~~	
~~22.4.2009~~	~~Consulat de France~~
~~Djibouti~~	

~~Leima on sijoitettava matkustusasiakirjan ensimmäiselle käytettävissä olevalle sivulle, jossa ei ole muita merkintöjä tai leimoja.~~

~~2 Hakemuksen tutkimisesta vastaavan jäsenvaltion tunnus. Käytössä ovat liitteessä VII olevassa 1.1 kohdassa esitetyt tunnukset.~~

~~3 Hakemuksen päiväys (kahdeksan numeroa: xx päivä, xx kuukausi, xxxx vuosi).~~

~~4 Hakemuksen tutkimisesta vastaava viranomainen.~~

↓ 810/2009

LIITE ~~IV~~ III

YHTEINEN LUETTELO ASETUKSEN (EY) N:O 539/2001 LIITTEESSÄ I LUETELLUISTA KOLMANSISTA MAISTA, JOIDEN KANSALAISILTA VAADITAAN LENTOKENTÄN KAUTTAKULKUVIISUMI HEIDÄN KULKIESSAAN JÄSENVALTIOIDEN ALUEELLA SIJAITSEVIEN LENTOKENTTIEN KANSAINVÄLISEN ALUEEN KAUTTA

AFGANISTAN

BANGLADESH

ERITREA

ETIOPIA

GHANA

IRAK

IRAN

KONGON DEMOKRAATTINEN TASAVALTA

NIGERIA

PAKISTAN

SOMALIA

SRI LANKA

↓ 810/2009

LIITE ~~V~~ IV

LUETTELO OLESKELULUVISTA, JOIDEN HALTIJOILTA EI VAADITA LENTOKENTÄN KAUTTAKULKUVIISUMIA JÄSENVALTIOIDEN LENTOKENTTIEN KAUTTAKULKUA VARTEN

~~ANDORRA:~~

~~– Tarjeta provisional de estancia y de trabajo (väliaikainen oleskelu- ja työlupa) (valkoinen); myönnetään kausityöläisille. Voimassaoloaika riippuu työsuhteen pituudesta, mutta on periaatteessa alle kuusi kuukautta. Ei uusittavissa,~~

~~– Tarjeta de estancia y de trabajo (oleskelu- ja työlupa) (valkoinen); myönnetään kuudeksi kuukaudeksi ja voidaan pidentää yhdellä vuodella,~~

~~– Tarjeta de estancia (oleskelulupa) (valkoinen); myönnetään kuudeksi kuukaudeksi ja voidaan pidentää yhdellä vuodella,~~

~~– Tarjeta temporal de residencia (määräaikainen sijoittautumislupa) (vaaleanpunainen); myönnetään yhdeksi vuodeksi ja voidaan pidentää kahdesti samanpituisella ajanjaksolla,~~

~~– Tarjeta ordinaria de residencia (tavanomainen sijoittautumislupa) (keltainen); myönnetään kolmeksi vuodeksi ja voidaan pidentää kolmella vuodella,~~

~~– Tarjeta privilegiada de residencia (etuoikeutettu sijoittautumislupa) (vihreä); myönnetään viideksi vuodeksi ja voidaan pidentää kulloinkin yhtä pitkällä ajanjaksolla,~~

~~– Autorización de residencia (sijoittautumislupa) (vihreä); myönnetään vuodeksi ja voidaan pidentää kulloinkin kolmella vuodella,~~

~~– Autorización temporal de residencia y de trabajo (määräaikainen sijoittautumis- ja työlupa) (vaaleanpunainen); myönnetään kahdeksi vuodeksi ja voidaan pidentää kahdella vuodella,~~

~~– Autorización ordinaria de residencia y de trabajo (tavanomainen sijoittautumis- ja työlupa) (keltainen); myönnetään viideksi vuodeksi,~~

~~– Autorización privilegiada de residencia y de trabajo (etuoikeutettu sijoittautumis- ja työlupa) (vihreä); myönnetään kymmeneksi vuodeksi ja voidaan pidentää kulloinkin yhtä pitkällä ajanjaksolla.~~

~~KANADA:~~

~~– maksukortin muotoinen oleskelulupa.~~

~~JAPANI:~~

~~– lupa palata Japaniin.~~

~~SAN MARINO:~~

~~– Permesso di soggiorno ordinario (validità illimitata) (tavanomainen oleskelulupa (voimassaoloaika rajoittamaton)),~~

~~– Permesso di soggiorno continuativo speciale (validità illimitata) (jatkuvasti voimassa oleva erityisoleskelulupa (voimassa toistaiseksi)),~~

~~– Carta d'identità di San Marino (validità illimitata) (San Marinon henkilötodistus (voimassa toistaiseksi)).~~

~~AMERIKAN YHDYSVALLAT:~~

~~– Form I-551 permanent resident card (voimassa kaksi–kymmenen vuotta),~~

~~– Form I-551 Alien registration receipt card (voimassa kaksi–kymmenen vuotta),~~

~~– Form I-551 Alien registration receipt card (voimassa toistaiseksi),~~

~~– Form I-327 Re-entry document (voimassa kaksi vuotta – myönnetään I-551-luvan haltijalle),~~

~~– Resident alien card (maassa vakinaisesti asuvan ulkomaalaisen henkilötodistus, joka on voimassa kaksi tai kymmenen vuotta taikka toistaiseksi. Tämä asiakirja kelpaa vain, jos oleskelu Yhdysvaltojen ulkopuolella on kestänyt enintään yhden vuoden),~~

~~– Permit to re-enter (maahanpaluulupa, joka on voimassa kaksi vuotta. Tämä asiakirja kelpaa vain, jos oleskelu Yhdysvaltojen ulkopuolella on kestänyt enintään kaksi vuotta),~~

~~– Valid temporary residence stamp voimassa olevassa passissa (voimassaoloaika yksi vuosi myöntämispäivästä lukien).~~

⇩ uusi

ANDORRA:
Autorització temporal (väliaikainen maahanmuuttolupa – vihreä).
Autorització temporal per a treballadors d'empreses estrangeres (ulkomaisten yritysten työntekijöiden väliaikainen maahanmuuttolupa – vihreä).
Autorització residència i treball (oleskelu- ja työlupa – vihreä).
Autorització residència i treball del personal d'ensenyament (opetushenkilöstön oleskelu- ja työlupa – vihreä).
Autorització temporal per estudis o per recerca (väliaikainen maahanmuuttolupa opiskelua tai tutkimustoimintaa varten – vihreä).
Autorització temporal en pràctiques formatives (väliaikainen maahanmuuttolupa harjoittelua ja koulutusta varten – vihreä).
Autorització residència (oleskelulupa – vihreä).
KANADA:
Permanent resident (PR) card (pysyvä oleskelukortti)
Permanent Resident Travel Document (PRTD) (pysyvän oleskeluoikeuden haltijan matkustusasiakirja).

JAPANI:
Residence card (oleskelukortti).

SAN MARINO:
Permesso di soggiorno ordinario (tavanomainen oleskelulupa, voimassaoloaika yksi vuosi, uusittavissa voimassaolon päättyessä).
Erityisoleskeluluvat (voimassaoloaika yksi vuosi, uusittavissa voimassaolon päättyessä), jotka on myönnetty seuraavista syistä: yliopisto-opiskelu, urheilu, terveydenhuolto, uskonnolliset syyt, julkisissa sairaaloissa sairaanhoitajana työskentely, diplomaattiset tehtävät, avoliitto, alaikäisten lupa, humanitaariset syyt, vanhemmalle myönnetty lupa.
Kausityöluvat ja väliaikaiset työluvat (voimassaoloaika 11 kuukautta, uusittavissa voimassaolon päättyessä).

Henkilökortti, joka on myönnetty henkilöille, joilla on virallinen asuinpaikka (”residenza”) San Marinossa (voimassaoloaika 5 vuotta).

AMERIKAN YHDYSVALLAT:
Pätevä, voimassa oleva maahanmuuttoviisumi.

Voidaan vahvistaa maahantulopaikassa yhden vuoden ajaksi väliaikaiseksi todisteeksi asuinpaikasta I-551 -kortin myöntämiseen saakka.
Voimassa oleva, ei umpeutunut lomake I-551 (Permanent Resident Card – pysyvä oleskelukortti).

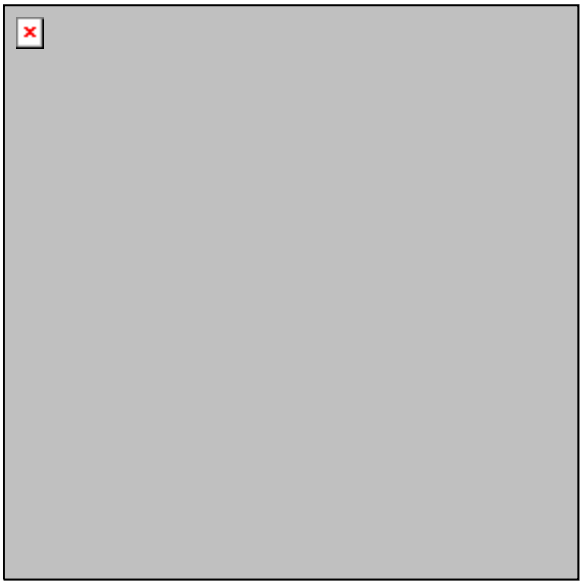
Voi olla voimassa enintään 2–10 vuotta – riippuen maahantulon luokittelusta.

Jos korttiin ei ole merkitty voimassaolon päättymispäivää, se on pätevä matkustusasiakirja.

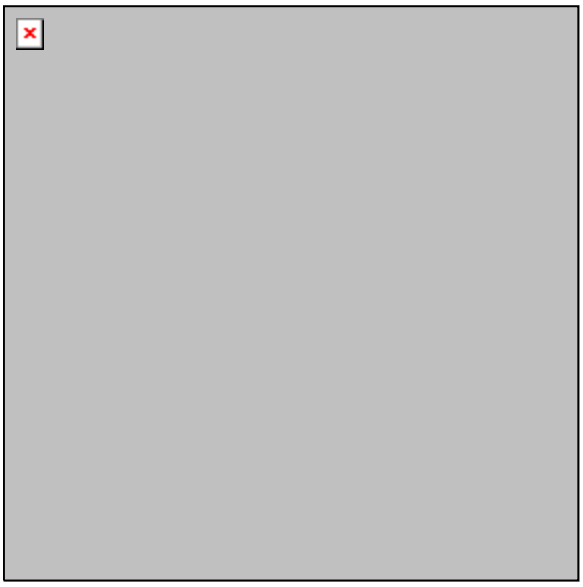
Voimassa oleva, ei umpeutunut lomake I-327 (Re-entry Permit – lupa palata maahan).
Voimassa oleva, ei umpeutunut lomake I-571 (Refugee Travel Document – pakolaisen matkustusasiakirja, jossa on vahvistettu ”Permanent Resident Alien” -merkintä (ulkomaalainen, jolla on pysyvä oleskeluoikeus)).

↓ 810/2009
→1 610/2013 6 artiklan 5 kohta ja liitteessä II oleva 1 kohta

LIITE ~~VI~~ V



→1 ←



⇩ uusi

VAKIOLOMAKE VIISUMIN EPÄÄMISEN, MITÄTÖIMISEN TAI KUMOAMISEN PERUSTELUISTA ILMOITTAMISTA VARTEN

[5]

VIISUMIN EPÄÄMINEN/MITÄTÖIMINEN/KUMOAMINEN

Arvoisa _____

☐ _____:n suurlähetystö/pääkonsulaatti/konsulaatti/[muu toimivaltainen viranomainen] _____ _____:ssa;

☐ _____:n [muu toimivaltainen viranomainen];

☐ Henkilötarkastuksista vastaavat viranomaiset _____:ssa/:lla on/ovat

☐ tutkinut/tutkineet viisumihakemuksenne;

☐ tutkinut/tutkineet viisuminne numero _____, myönnetty _____ [päivä/kuukausi/vuosi].

☐ Viisumi on evätty ☐ Viisumi on mitätöity ☐ Viisumi on kumottu

Päätös perustuu seuraaviin syihin:

1. ☐ Hakija on esittänyt virheellisen / väärän / väärennetyn asiakirjan.

2. ☐ Hakija ei ole esittänyt todisteita suunnitellun oleskelun tarkoituksesta ja edellytyksistä.

3. ☐ Hakija ei ole esittänyt todisteita riittävistä varoista oleskelukustannusten kattamiseen ottaen huomioon sekä suunnitellun oleskelun kesto että lähtö- tai asuinmaahan paluu tai kauttakulkumatka sellaiseen kolmanteen maahan, jonne hänen pääsynsä on taattu, tai hakija ei kykene hankkimaan näitä varoja laillisin keinoin.

[5] Islannin, Liechtensteinin, Norjan ja Sveitsin ei tarvitse käyttää logoa.

4. ☐ Hakija on jo oleskellut jäsenvaltioiden alueella 90 päivän ajan kuluvan 180 päivän jakson aikana yhtenäisen viisumin tai alueellisesti rajoitetun viisumin perusteella.

5. ☐ …… (jäsenvaltio) on määrännyt hakijan maahantulokieltoon Schengenin tietojärjestelmässä (SIS).

6. ☐ Yksi tai useampi jäsenvaltio katsoo, että hakija muodostaa uhkan yhden tai useamman jäsenvaltion yleiselle järjestykselle, sisäiselle turvallisuudelle, kansanterveydelle asetuksen (EY) N:o 562/2006 (Schengenin rajasäännöstö) 2 artiklan 19 kohdassa määritellyllä tavalla tai kansainvälisille suhteille.

7. ☐ Todisteet suunnitellun oleskelun tarkoituksesta ja edellytyksistä eivät olleet luotettavia.

8. ☐ Hakijan aikomusta poistua jäsenvaltioiden alueelta ennen viisumin voimassaoloajan umpeutumista ei voitu varmistaa.

9. ☐ Hakija ei ole esittänyt riittäviä perusteita sille, että hän ei ole pystynyt hakemaan viisumia ennakkoon, minkä vuoksi hänen on haettava viisumia rajalla.

10. ☐ Todisteita lentokentän suunnitellun kauttakulun tarkoituksesta ja edellytyksistä ei esitetty.

11. ☐ Viisuminhaltija on pyytänyt viisumin kumoamista[6].

Lisähuomautuksia:

Viisumin epäämistä / mitätöimistä / kumoamista koskevaan päätökseen voi hakea muutosta.

Säännöt, jotka koskevat muutoksenhakua viisumin epäämistä, mitätöimistä tai kumoamista koskevaan päätökseen, vahvistetaan *(viittaus kansalliseen lainsäädäntöön)*:

Toimivaltainen viranomainen, jolle muutoksenhaku voidaan osoittaa *(yhteystiedot)*:
……
….

Tietoja noudatettavasta menettelystä on saatavissa *(yhteystiedot):*
……
….

Muutoksenhakumenettely on käynnistettävä *(määräaaika):*……..

Päivämäärä sekä suurlähetystön / pääkonsulaatin / konsulaatin / henkilötarkastuksista vastaavien viranomaisten / muiden toimivaltaisten viranomaisten leima

Hakijan allekirjoitus[7]

---

[6] Muutoksenhakuoikeutta ei sovelleta, jos viisumi on kumottu tästä syystä.

[7] Jos kansallinen lainsäädäntö tätä edellyttää.

↓ 810/2009

~~LIITE VII~~

~~VIISUMITARRAN TÄYTTÄMINEN~~

~~1. Pakolliset merkinnät~~

~~*1.1. Kenttä "VOIMASSA":*~~

~~Tähän kenttään merkitään alue, jolla viisumi on voimassa.~~

~~Tämä kenttä voidaan täyttää vain yhdellä seuraavista tavoista:~~

~~a) Schengen-valtiot,~~

~~b) Schengen-valtio tai Schengen-valtiot, joiden alueelle viisumin voimassaolo rajoittuu (tällöin käytetään seuraavia maatunnuksia):~~

~~BE~~		~~BELGIA~~
~~CZ~~		~~TŠEKIN TASAVALTA~~
~~DK~~		~~TANSKA~~
~~DE~~		~~SAKSA~~
~~EE~~		~~VIRO~~
~~GR~~		~~KREIKKA~~
~~ES~~		~~ESPANJA~~
~~FR~~		~~RANSKA~~
~~IT~~		~~ITALIA~~
~~LV~~		~~LATVIA~~
~~LT~~		~~LIETTUA~~
~~LU~~		~~LUXEMBURG~~
~~HU~~		~~UNKARI~~
~~MT~~		~~MALTA~~
~~NL~~		~~ALANKOMAAT~~
~~AT~~		~~ITÄVALTA~~
~~PL~~		~~PUOLA~~
~~PT~~		~~PORTUGALI~~

~~SI~~		~~SLOVENIA~~
~~SK~~		~~SLOVAKIA~~
~~FI~~		~~SUOMI~~
~~SE~~		~~RUOTSI~~
~~IS~~		~~ISLANTI~~
~~NO~~		~~NORJA~~
~~CH~~		~~SVEITSI~~

~~1.2. Kun viisumitarraa käytetään yhtenäisen viisumin myöntämiseen, tähän kenttään merkitään ”Schengen-valtiot” viisumin myöntävän jäsenvaltion kielellä.~~

~~1.3 Kun viisumitarraa käytetään tämän asetuksen 25 artiklan 1 kohdassa tarkoitetun alueellisesti rajoitetun viisumin myöntämiseen, tähän kenttään merkitään sen yhden tai useamman jäsenvaltion nimi, jonka alueelle viisuminhaltijan oleskelu on rajoitettu, viisumin myöntäneen jäsenvaltion kielellä.~~

~~1.4 Kun viisumitarraa käytetään tämän asetuksen 25 artiklan 3 kohdassa tarkoitetun alueellisesti rajoitetun viisumin myöntämiseen, maatunnusten merkitsemisessä voidaan käyttää seuraavia vaihtoehtoja:~~

~~a) kenttään merkitään asianomaisten jäsenvaltioiden tunnukset;~~

~~b) merkitään maininta ”Schengen-valtiot”, sen jälkeen suluissa miinusmerkki ja niiden jäsenvaltioiden tunnukset, joissa viisumi ei ole voimassa.~~

~~c) jos kenttä ”voimassa” ei ole riittävä niiden jäsenvaltioiden tunnusten merkitsemiseen, jotka tunnustavat asianomaisen matkustusasiakirjan (eivät tunnusta asianomaista matkustusasiakirjaa), käytettävää kirjasinkokoa pienennetään.~~

~~2. Kenttä ”ALKAEN ... ASTI”:~~

~~Tähän kenttään merkitään ajanjakso, jonka viisumi on voimassa.~~

~~"ALKAEN" sanan jälkeen merkitään päivämäärä, josta lähtien viisuminhaltija voi saapua alueelle, jota viisumin voimassaolo koskee.~~

~~– Päiväys merkitään kahdella numerolla, joista ensimmäinen on nolla päivien 1-9 osalta.~~

~~– väliviiva~~

~~– kuukausi kahdella numerolla, joista ensinmäinen on nolla kuukausien 1-9 osalta~~

~~– väliviiva~~

~~– vuosi kahdella numerolla, jotka vastaavat vuosiluvun kahta viimeistä numeroa~~

~~Esimerkki: 05-12-07 = 5. joulukuuta 2007.~~

~~”ASTI” sanan jälkeen merkitään viisumin viimeinen voimassaolopäivä samalla tavalla kuin ensimmäinen päivämäärä. Viisuminhaltijan on poistuttava viisumin kelpoisuusalueelta kyseisenä päivänä klo 24.00 mennessä.~~

3. Kenttä ”SAAPUMISTEN LUKUMÄÄRÄ”:

Tähän kenttään merkitään, kuinka monta kertaa viisuminhaltija voi saapua alueelle, jolla viisumi on voimassa, eli niiden oleskelujaksojen lukumäärä, joille viisuminhaltija voi jakaa kentässä 4 ilmoitetun viisumin voimassaoloajan.

Maahantulokertoja voi olla yksi, kaksi tai useampi. Nämä tiedot merkitään valmiiksi painetun tekstin oikealle puolelle numeroiden ”01” tai ”02” avulla, tai lyhenteen ”MULT” avulla silloin, kun viisumi oikeuttaa useampaan kuin kahteen maahantuloon.

Myönnettäessä tämän asetuksen 26 artiklan 3 kohdassa tarkoitettu useaan kauttakulkuun oikeuttava lentokentän kauttakulkuviisumi, viisumin voimassaoloaika lasketaan seuraavasti: ensimmäinen lähtöpäivä plus kuusi kuukautta.

Jos viisuminhaltijan alueelta poistumisten yhteenlaskettu määrä on sama kuin sallittujen maahantulokertojen lukumäärä, viisumin voimassaolo päättyy, vaikka viisuminhaltija ei olisikaan käyttänyt kaikkia viisumin oikeuttamia päiviä.

4. Kenttä ”OLESKELUN KESTO ... PÄIVÄÄ”

Tähän kenttään merkitään niiden päivien lukumäärä, joiden aikana viisuminhaltija saa oleskella alueella, jolla viisumi on voimassa. Tämä oleskelu voi olla yhtäjaksoinen tai sallittujen päivien lukumäärän voi jakaa osiin useammalle ajanjaksolle, jotka sisältyvät kentässä 2 mainittujen päivämäärien väliseen ajanjaksoon ottamalla huomioon kentän 3 mukaiset sallitut maahantulokerrat.

Sanojen ”OLESKELUN KESTO” ja ”PÄIVÄÄ” väliseen tyhjään tilaan merkitään sallittujen oleskelupäivien lukumäärä kahden numeron avulla, joista ensimmäinen on nolla, jos kyseisten päivien lukumäärä on alle kymmenen.

Tähän kenttään merkittävä päivien lukumäärä voi olla korkeintaan 90 päivää.

Kun viisumi on voimassa yli kuusi kuukautta, oleskelujen kesto on 90 päivää kutakin 180 päivän jaksoa kohden.

5. Kenttä ”MYÖNNETTY ... PVM”:

Tähän kohtaan merkitään sen paikan nimi, jossa viisumin myöntävä viranomainen sijaitsee. Myöntämispäivä merkitään lyhenteen ”PVM” jälkeen.

Myöntämispäivä merkitään samalla tavalla kuin kohdassa 2 tarkoitettu päivämäärä.

6. Kenttä ”PASSIN NUMERO”:

Tähän kenttään merkitään sen matkustusasiakirjan numero, johon viisumitarra kiinnitetään.

Jos henkilö, jolle viisumi myönnetään, on merkitty puolison tai huoltajan taikka laillisen edunvalvojan passiin, merkitään kyseisen henkilön matkustusasiakirjan numero.

Kun viisumin myöntävä jäsenvaltio ei tunnusta hakijan matkustusasiakirjaa, viisumin kiinnittämiseen käytetään viisumin kiinnittämiseen tarkoitetun lomakkeen yhtenäistä kaavaa.

Kun viisumi kiinnitetään erilliseen lomakkeeseen, tälle alueelle ei merkitä passin numeroa vaan lomakkeessa oleva numero, jossa on kuusi numeroa.

7. Kenttä ”VIISUMILAJI”:

Jotta valvontaviranomaiset voisivat nopeasti tunnistaa viisumilajin, tässä kentässä täsmennetään käyttämällä merkintöjä A, C ja D, mistä viisumilajista on kyse.

A	:	lentokentän kauttakulkuviisumi (määritelty tämän asetuksen 2

		artiklan 5 kohdassa)
C	:	viisumi (määritelty tämän asetuksen 2 artiklan 2 kohdassa)
D	:	pitkäaikaista oleskelua varten myönnetty viisumi

8. Kenttä ”ETU- JA SUKUNIMET”:

Merkitään viisuminhaltijan matkustusasiakirjassa otsakkeen ”Etunimi (-nimet)” alla oleva ensimmäinen sana ja sen jälkeen otsakkeen ”Sukunimi (-nimet)” alla oleva ensimmäinen sana tässä järjestyksessä. Viisumin myöntävän viranomaisen on tarkistettava, että matkustusasiakirjassa ja viisumihakemuksessa olevat etu- ja sukunimet vastaavat toisiaan, samoin kuin nimet, jotka merkitään viisumitarran tähän kenttään ja koneellisesti luettavaan vyöhykkeeseen. Jos suku- ja etunimessä on enemmän kirjaimia kuin kentässä on kohtia, ylimääräiset kirjaimet korvataan pisteellä (.).

9. a)”HUOMAUTUKSIA”-kenttään tehtävät pakolliset merkinnät:

– jos viisumi myönnetään toisen jäsenvaltion puolesta 8 artiklan mukaisesti, lisätään seuraava merkintä: ”R/[edustetun jäsenvaltion tunnus]”.

– jos viisumi myönnetään kauttakulkua varten, lisätään seuraava merkintä: ”KAUTTAKULKU”.

– jos kaikki VIS-asetuksen 5 artiklan 1 kohdassa tarkoitetut tiedot on rekisteröity viisumitietojärjestelmään, lisätään seuraava merkintä: ”VIS”.

– jos ainoastaan VIS-asetuksen 5 artiklan 1 kohdan a ja b alakohdassa tarkoitetut tiedot on rekisteröity viisumitietojärjestelmään, mutta saman kohdan c alakohdassa tarkoitettuja tietoja ei ole kerätty, koska sormenjälkien kerääminen ei ollut pakollista asianomaisella alueella, lisätään seuraava merkintä: ”VIS 0”.

b)”HUOMAUTUKSIA”-kenttään tehtävät kansalliset merkinnät:

Tähän kenttään tehdään myös kansallisia määräyksiä koskevat merkinnät viisumin myöntävän jäsenvaltion kielellä. Nämä merkinnät eivät kuitenkaan saa olla samoja kuin 1 kohdassa tarkoitetut pakolliset merkinnät.

c) Alue valokuvan liittämistä varten

Viisuminhaltijan värivalokuva on kiinnitettävä valokuvalle varattuun tilaan.

Viisumitarraan kiinnitettävän valokuvan osalta on noudatettava seuraavia sääntöjä.

Pään koon leuasta päälakeen on oltava 70–80 prosenttia valokuvan alasta pystysuunnassa.

Resoluution vähimmäisvaatimukset:

– skannaus 300 ppi (pixels per inch) pakkaamatta,

– väripainatus 720 dpi (dots per inch) painetussa valokuvassa.

10. Koneellisesti luettava kenttä

Kenttä muodostuu kahdesta 36 merkin rivistä (OCR-B-10 cpi).

1. rivi: 36 merkkiä (pakolliset)

Paikka	Merkkien	Kohdassa	Ominaisuudet

rivillä	lukumäärä	ilmoitetaan	
1–2	2	Viisumilaji	1. merkki: V 2. merkki: viisumilajin koodi (A, C tai D)
3–5	3	Myöntävä valtio	Kolmikirjaiminen ICAO-tunnus: BEL, CHE, CZE, DNK, D<<, EST, GRC, ESP, FRA, ITA, LVA, LTU, LUX, HUN, MLT, NLD, AUT, POL, PRT, SVN, SVK, FIN, SWE, ISL, NOR.
6–36	31	Suku- ja etunimet	Sukunimi on erotettava etunimistä << -merkillä; nimen osat on erotettava < -merkillä; tyhjät merkkikohdat on täytettävä < -merkillä.

2. rivi: 36 merkkiä (pakolliset)

Paikka rivillä	Merkkien lukumäärä	Kohdassa ilmoitetaan	Ominaisuudet
1	9	Viisumin numero	Tämä numero on viisumitarran oikeassa yläkulmassa.
10	1	Tarkistusnumero	Tämä luku lasketaan edellä olevasta kentästä ICAOn määrittelemän algoritmin perusteella.
11	3	Hakijan kansalaisuus	Kolmikirjaiminen ICAO-tunnus.
14	6	Syntymäaika	Järjestys: VVKKPP YY = vuosi (pakollinen) MM = kuukausi tai ”<<” jos ei tiedossa DD = päivä tai ”<<” jos ei tiedossa
20	1	Tarkistusnumero	Tämä luku lasketaan edellä olevasta kentästä ICAOn määrittelemän algoritmin perusteella.
21	1	Sukupuoli	F = nainen, M = mies, < = ei ilmoitettu
22	6	Viisumin viimeinen voimassaolopäivä	Järjestys: VVKKPP ilman täytemerkkejä

~~28~~	~~1~~	~~Tarkistusnumero~~	~~Tämä luku lasketaan edellä olevasta kentästä ICAOn määrittelemän algoritmin perusteella.~~
~~29~~	~~1~~	~~Kelpoisuusalue~~	~~a) Kelpoisuusalueen rajoitus: T-kirjain~~ ~~b) Yhtenäinen viisumi: <- -merkki~~
~~30~~	~~1~~	~~Maahantulokertojen lukumäärä~~	~~1, 2 tai M~~
~~31~~	~~2~~	~~Oleskelun pituus~~	~~a) päivien lukumäärä merkitään kuten silmämääräisesti luettavassa kentässä.~~ ~~b) Pitkäaikainen oleskelu: <<~~
~~33~~	~~4~~	~~Voimassaolon alkamispäivä~~	~~Järjestys: KKPP ilman täytemerkkejä.~~

↓ 810/2009

~~LIITE VIII~~

~~VIISUMITARRAN KIINNITTÄMINEN~~

~~1. Viisumitarra kiinnitetään matkustusasiakirjan ensimmäiselle sivulle, jolla ei ole merkintöjä tai leimoja – lukuun ottamatta leimaa, joka osoittaa, että hakemus otetaan tutkittavaksi.~~

~~2. Viisumitarra on kiinnitettävä matkustusasiakirjaan sivun reunan suuntaisesti. Tarran koneellisesti luettava kenttä on sijoitettava sivun reunan suuntaisesti.~~

~~3. Viisumin myöntävän viranomaisen leima merkitään ”HUOMAUTUKSIA” -kenttään siten, että se ulottuu tarran ulkopuolelle matkustusasiakirjan sivulle.~~

~~4. Jos koneellisesti luettavaa aluetta ei voida täyttää, leima voidaan lisätä tälle alueelle sen mitätöimiseksi. Kukin jäsenvaltio päättää kansallisten sääntöjensä mukaisesti käytettävän leiman koon ja tekstin.~~

~~5. Sen välttämiseksi, että erilliseen viisumilomakkeeseen kiinnitettyä viisumitarraa käytettäisiin toistamiseen, lomakkeen oikealle puolelle lyödään sekä tarraan että erilliseen lomakkeeseen ulottuva viisumin myöntävän viranomaisen leima, joka ei saa vaikeuttaa otsakkeiden ja huomautusten lukemista eikä ulottua koneellisesti luettavalle alueelle.~~

~~6. Tämän asetuksen 33 artiklassa tarkoitettu viisumin jatkaminen merkitään viisumitarralla. Viisumitarraan merkitään viisumin myöntävän viranomaisen leima.~~

↓ 810/2009

~~LIITE IX~~

~~1 OSA~~

~~Säännöt viisumin myöntämisestä rajalla viisumipakon alaisille kauttakulkumatkalla oleville merimiehille~~

~~Nämä säännöt koskevat jäsenvaltioiden toimivaltaisten viranomaisten tiedonvaihtoa viisumipakon alaisista kauttakulkumatkalla olevista merimiehistä. Jos viisumi myönnetään vaihdettujen tietojen perusteella rajalla, vastuu tästä on viisumin myöntävällä jäsenvaltiolla.~~

~~Näissä säännöissä tarkoitetaan~~

~~”jäsenvaltion satamalla” satamaa, joka toimii jäsenvaltion ulkorajana;~~

~~”jäsenvaltion lentoasemalla” lentoasemaa, joka toimii jäsenvaltion ulkorajana.~~

~~I. Pestautuminen palvelukseen jäsenvaltion satamassa olevaan tai sinne saapuvaksi odotettuun alukseen (maahantulo jäsenvaltioiden alueelle)~~

- ~~varustamon tai sen laivamieklarin on ilmoitettava toimivaltaisille viranomaisille siinä jäsenvaltion satamassa, jossa alus on tai johon sitä odotetaan saapuvaksi, jäsenvaltion lentoaseman, maa- tai merirajan kautta maahan tulevista viisumipakon alaisista merimiehistä. Varustamon tai sen laivamieklarin on allekirjoitettava näitä merimiehiä koskeva takuuilmoitus, että varustamo kattaa kaikki merimiesten oleskelukustannukset ja tarvittaessa kotimaahan palauttamisesta aiheutuvat kustannukset.~~

- ~~edellä mainittujen toimivaltaisten viranomaisten on tarkastettava mahdollisimman pikaisesti varustamon tai laivamieklarin antamien tietojen paikkansapitävyys ja tutkittava, täyttyvätkö muut jäsenvaltion alueelle tuloa koskevat edellytykset. Lisäksi on tarkastettava matkustusreitti jäsenvaltioiden alueella esimerkiksi (lento)lipun perusteella;~~

- ~~kun merimiesten on tarkoitus tulla maahan jäsenvaltion lentoaseman kautta, jäsenvaltion sataman toimivaltaisten viranomaisten on ilmoitettava tutkimuksen tulokset maahantulossa käytetyn jäsenvaltion lentoaseman toimivaltaisille viranomaisille asianmukaisesti täytetyllä, kauttakulkumatkalla olevia viisumipakon alaisia merimiehiä koskevalla lomakkeella (tämän liitteen 2 osa), joka lähetetään telekopiona, sähköpostitse tai muilla keinoin, ja ilmoitettava, onko viisumin myöntäminen rajalla periaatteessa mahdollista. Kun merimiesten on tarkoitus tulla maahan maa- tai merirajan kautta, sovelletaan samaa menettelyä niin, että asiasta on ilmoitettava toimivaltaisille viranomaisille siinä rajanylityspaikassa, jonka kautta kyseinen merimies tulee jäsenvaltion alueelle;~~

- ~~jos käytettävissä olevia tietoja tutkittaessa päädytään myönteiseen tulokseen ja käy ilmi, että tulos on selvästi yhtäpitävä merimiehen ilmoitusten tai asiakirjojen kanssa, maahantuloon tai maastalähtöön käytetyn jäsenvaltion lentoaseman toimivaltaiset viranomaiset voivat myöntää viisumin, jonka mukainen sallittu oleskelun kesto vastaa kauttakulkua varten tarvittavaa aikaa. Tässä tapauksessa on merimiehen matkustusasiakirja varustettava lisäksi erityisellä jäsenvaltion maahantulo- tai maastalähtöleimalla ja luovutettava kyseiselle merimiehelle.~~

II. Poistuminen jäsenvaltion satamaan saapuneen aluksen miehistöstä (poistuminen jäsenvaltioiden alueelta)

- varustamon tai sen laivamieklarin on ilmoitettava kyseisen jäsenvaltion sataman toimivaltaisille viranomaisille sellaisten aluksen miehistöstä poistuvien, viisumipakon alaisten merimiesten saapumisesta, joiden on määrä lähteä jäsenvaltioiden alueelta jäsenvaltion lentoaseman, maa- tai merirajan kautta. Varustamon tai sen laivamieklarin on allekirjoitettava näitä merimiehiä koskeva takuuilmoitus, että varustamo kattaa kaikki merimiesten oleskelukustannukset ja tarvittaessa kotimaahan palauttamisesta aiheutuvat kustannukset.

- edellä mainittujen toimivaltaisten viranomaisten on tarkastettava mahdollisimman pikaisesti varustamon tai laivamieklarin antamien tietojen paikkansapitävyys ja tutkittava, täyttyvätkö muut jäsenvaltioiden alueelle tuloa koskevat edellytykset. Lisäksi on tarkastettava matkustusreitti jäsenvaltioiden alueella esimerkiksi lentolipun perusteella;

- jos käytettävissä olevia tietoja tutkittaessa päädytään myönteiseen tulokseen, toimivaltaiset viranomaiset voivat myöntää viisumin, jonka mukainen sallittu oleskelun kesto vastaa kauttakulkua varten tarvittavaa aikaa.

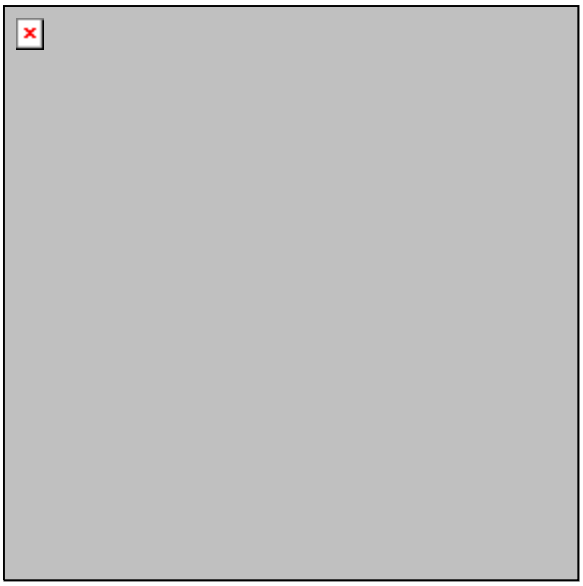
III. Siirtyminen jäsenvaltion satamaan saapuneesta aluksesta toiseen alukseen

- varustamon tai sen laivamieklarin on ilmoitettava kyseisen jäsenvaltion sataman toimivaltaisille viranomaisille sellaisten aluksen miehistöstä poistuvien, viisumipakon alaisten merimiesten saapumisesta, joiden on määrä lähteä jäsenvaltioiden alueelta toisen jäsenvaltion sataman kautta. Varustamon tai sen laivamieklarin on allekirjoitettava näitä merimiehiä koskeva takuuilmoitus, että varustamo kattaa kaikki merimiesten oleskelukustannukset ja tarvittaessa kotimaahan palauttamisesta aiheutuvat kustannukset.

- edellä mainittujen toimivaltaisten viranomaisten on tarkastettava mahdollisimman pikaisesti varustamon tai laivamieklarin antamien tietojen paikkansapitävyys ja tutkittava, täyttyvätkö muut jäsenvaltioiden alueelle tuloa koskevat edellytykset. Tätä tutkintaa varten on otettava yhteys sen jäsenvaltion sataman toimivaltaisiin viranomaisiin, josta lähtevällä aluksella merimiehet lähtevät jäsenvaltioiden alueelta. Tässä yhteydessä on tutkittava, joko alus, johon merimiehet pestautuvat, on satamassa vai odotetaanko sitä saapuvaksi. Lisäksi on tarkastettava matkustusreitti jäsenvaltioiden alueella;

- jos käytettävissä olevia tietoja tutkittaessa päädytään myönteiseen tulokseen, toimivaltaiset viranomaiset voivat myöntää viisumin, jonka mukainen sallittu oleskelun kesto vastaa kauttakulkua varten tarvittavaa aikaa.

~~**II OSA**~~



~~**LOMAKKEEN YKSITYISKOHTAINEN KUVAUS**~~

~~Kohdat 1–4: merimiehen henkilöllisyys~~

~~1)~~	~~A. Sukunimi (sukunimet)~~
	~~B. Etunimi (etunimet)~~
	~~C. Kansalaisuus~~
	~~D. Asema/arvo~~
~~2)~~	~~A. Syntymäpaikka~~
	~~B. Syntymäaika~~
~~3)~~	~~A. Passin numero~~
	~~B. Myöntämispäivä~~
	~~C. Voimassaoloaika~~
~~4)~~	~~A. Merimieskirjan numero~~
	~~B. Myöntämispäivä~~
	~~C. Voimassaoloaika~~

~~Kohtien 3 ja 4 osalta: henkilöllisyysasiakirjana voi merimiehen kansalaisuudesta ja saapumisjäsenvaltiosta riippuen olla matkustusasiakirja tai merimieskirja.~~

~~Kohdat 5–8: laivamieklari ja kyseinen alus~~

~~5)~~	~~Laivamieklarin nimi (henkilö tai yhteisö, joka edustaa varustamoa paikan päällä~~

	~~kaikissa varustamon tehtäviin kuuluvissa aluksen varustamiseen liittyvissä asioissa) merkitään kohtaan 5 A ja puhelinnumero (ja muut yhteystiedot kuten faksinumero, sähköpostiosoite) merkitään kohtaan 5 B.~~
~~6)~~	~~A. Aluksen nimi~~
	~~B. IMO-tunnistenumero (seitsemännumeroinen tunniste, joka tunnetaan myös nimellä "Lloyds-numero")~~
	~~C. Lippu (jonka alla kauppa-alus purjehtii)~~
~~7)~~	~~A. Aluksen tulopäivä~~
	~~B. Aluksen lähtöpaikka (satama)~~
	~~Kohta A koskee aluksen tulopäivää satamaan, jossa merimiehen on määrä pestautua miehistöön.~~
~~8)~~	~~A. Aluksen lähtöpäivä~~
	~~B. Aluksen määräpaikka (seuraava satama)~~

~~Kohtien 7 A ja 8 A osalta: tiedot siitä, kuinka kauan merimiehen matka voi kestää, jotta hän voi pestautua alukseen.~~

~~Olisi otettava huomioon se, että alusten aikataulut ovat huomattavan alttiita ulkoisille ja ennalta arvaamattomille häiriötekijöille kuten myrskyille, havereille jne.~~

~~Kohdat 9–12: merimiehen matkan tarkoitus ja hänen määränpäänsä~~

~~9) "Lopullinen määräpaikka" on merimiehen matkan lopullinen kohde. Se voi olla joko satama, jossa hänen on määrä pestautua alukseen, tai maa, johon aluksen miehistöstä poistuva merimies on menossa.~~

~~10) Hakemuksen perusteet~~

~~a) Aluksen palvelukseen pestauduttaessa lopullinen määräpaikka on satama, jossa merimiehen on määrä pestautua alukseen.~~

~~b) Jos kyseessä on siirtyminen aluksesta toiseen jäsenvaltioiden alueen sisällä, se on myös satama, jossa merimiehen on määrä pestautua alukseen. Siirtyminen toiseen alukseen, joka on jäsenvaltioiden alueen ulkopuolella, vastaa aluksen miehistöstä poistumista.~~

~~c) Aluksen miehistöstä poistumiselle voi olla erilaisia perusteita: työsuhteen päättyminen, työtapaturma, pakottavat perhesyyt jne.~~

~~11) Kulkuväline~~

~~Tieto kulkuvälineestä, jolla kauttakulkumatkalla oleva viisumipakon alainen merimies matkustaa jäsenvaltioiden alueella päästäkseen lopulliseen määräpaikkaansa. Lomakkeessa on kolme vaihtoehtoa:~~

~~a) Henkilöauto (tai linja-auto)~~

~~b) Juna~~

~~c) Lentokone~~

~~12) Saapumispäivä (jäsenvaltioiden alueelle)~~

~~Tämä koskee lähinnä ensimmäisellä jäsenvaltion lentoasemalla tai ensimmäisellä rajanylityspaikalla olevaa merimiestä, joka aikoo tulla jäsenvaltioiden alueelle ulkorajan kautta (paikka ei ole aina lentoasema).~~

~~Kauttakulkupäivä~~

~~Tämä on päivä, jona merimies poistuu aluksesta jäsenvaltioiden alueella sijaitsevassa satamassa ja lähtee toiseen satamaan, joka myös sijaitsee jäsenvaltioiden alueella.~~

~~Poistumispäivä~~

~~Tämä on joko päivä, jona merimies poistuu aluksesta jäsenvaltioiden alueella sijaitsevassa satamassa siirtyäkseen toiseen alukseen, joka on jäsenvaltioiden alueen ulkopuolella sijaitsevassa satamassa, tai päivä, jona merimies poistuu aluksesta jäsenvaltioiden alueella sijaitsevassa satamassa matkustaakseen (jäsenvaltioiden alueen ulkopuolella sijaitsevaan) asuinpaikkaansa.~~

~~Kun on valittu kulkuvälineet kolmen vaihtoehdon joukosta, olisi niistä myös annettava käytettävissä olevat tarkemmat tiedot:~~

~~a) henkilöauto, linja-auto: rekisteröintinumero;~~

~~b) juna: nimi, numero jne.~~

~~c) lentotiedot: päivä, kellonaika, lennon numero.~~

~~13) Laivameklarin tai laivanomistajan nimenomainen ilmoitus, jossa vahvistetaan hänen vastaavan merimiehen oleskelusta ja tarvittaessa hänen kotimaahan palautuksestaan aiheutuvista kustannuksista.~~

↓ 810/2009 (mukautettu)

LIITE ~~X~~VI

LUETTELO VÄHIMMÄISVAATIMUKSISTA, JOTKA ON SISÄLLYTETTÄVÄ OIKEUDELLISEEN VÄLINEESEEN, KUN KYSEESSÄ ON ULKOISTEN PALVELUNTARJOAJIEN KANSSA TEHTÄVÄ YHTEISTYÖ

A. Ulkoisen palveluntarjoajan on toimiaan suorittaessaan tietosuojan osalta

a) estettävä kaikkina aikoina tietojen lukeminen, jäljentäminen, muuttaminen tai poistaminen luvatta, varsinkin siirrettäessä niitä hakemuksen käsittelyssä toimivaltaisten jäsenvaltioiden diplomaatti- tai konsuliedustustolle;

b) siirrettävä tiedot asianomaisten jäsenvaltioiden antamien ohjeiden mukaisesti

– salatussa muodossa sähköisesti tai

– suojattuina fyysisesti;

c) siirrettävä tiedot mahdollisimman pian eli

– fyysisesti siirrettävien tietojen tapauksessa vähintään kerran viikossa

– sähköisesti siirrettävien salattujen tietojen tapauksessa viimeistään niiden keruupäivän päättyessä;

d) hävitettävä tiedot viipymättä niiden siirtämisen jälkeen ja huolehdittava siitä, että ainoat mahdollisesti säilytettävät tiedot ovat hakijan nimi ja yhteystiedot tapaamisjärjestelyjä varten sekä tarvittaessa passin numero siihen saakka, kunnes passi on palautettu hakijalle;

e) huolehdittava kaikista tarpeellisista teknisistä ja organisatorisista turvatoimista henkilötietojen suojaamiseksi vahingossa tapahtuvalta tai laittomalta tuhoamiselta, vahingossa tapahtuvalta häviämiseltä, muuttamiselta ja luvattomalta luovuttamiselta tai käytöltä, erityisesti jos yhteistyöhön kuuluu hakemusten ja tietojen siirtäminen asianomaisten jäsenvaltioiden diplomaatti- tai konsuliedustustoon;

f) käsiteltävä tietoja ainoastaan siinä tarkoituksessa, mitä hakemuksia koskevien henkilötietojen käsittely kyseisten jäsenvaltioiden puolesta edellyttää;

g) sovellettava vähintään direktiivissä 95/46/EY edellytettäviä tietosuojavaatimuksia vastaavia vaatimuksia;

h) annettava hakijoille ~~VIS-~~asetuksen ⌦ (EY) N:o767/2008 ⌫ 37 artiklan edellyttämät tiedot.

B. Ulkoisen palveluntarjoajan on toimiaan suorittaessaan henkilöstön käyttäytymisen osalta

a) varmistettava, että sen henkilöstö on asianmukaisesti koulutettu;

b) varmistettava, että tehtäviään suorittaessaan sen henkilöstö

– ottaa hakijat vastaan kohteliaasti;

– kunnioittaa hakijoiden ihmisarvoa ja koskemattomuutta;

– ei syrji henkilöitä näiden sukupuolen, rodun tai etnisen alkuperän, uskonnon tai vakaumuksen, vammaisuuden, iän eikä sukupuolisen suuntautumisen perusteella, ja

– noudattaa luottamuksellisuutta koskevia sääntöjä, myös erottuaan tai kun oikeudellisen välineen voimassaolo on keskeytynyt tai päättynyt;

c) tunnistettava ulkoiselle palveluntarjoajalle työskentelevä henkilöstö milloin tahansa;

d) todistettava, että sen henkilöstöllä ei ole rikosrekisterimerkintöjä ja että sillä on tarvittava asiantuntemus.

C. Ulkoisen palveluntarjoajan on toimien suorittamisen tarkastuksen osalta

a) sallittava asianomaisten jäsenvaltioiden valtuuttaman henkilöstön pääsy tiloihinsa aina ilman ennakkoilmoitusta, erityisesti tarkastuksia varten;

b) varmistettava etäpääsymahdollisuus tapaamisia koskevaan järjestelmäänsä tarkastuksia varten;

c) varmistettava valvontamenetelmien käyttö (esim. testihakijat; Webcam);

d) varmistettava tietosuojan noudattamisen tarkastaminen, johon kuuluvat raportointivelvoitteet, ulkoiset tarkastukset ja säännölliset satunnaistarkastukset;

e) ilmoitettava asianomaisille jäsenvaltioille viipymättä mahdollisista turvallisuusrikkomuksista tai tietojen väärinkäyttöä tai luvatonta käyttöä koskevista hakijoiden valituksista ja sovitettava toimensa yhteen asianomaisten jäsenvaltioiden kanssa ratkaisuun pääsemiseksi ja nopeiden selitysten antamiseksi valituksen tehneille hakijoille.

D. Ulkoisen palveluntarjoajan on yleisten vaatimusten osalta

a) toimittava hakemuksen käsittelyssä toimivaltaisten jäsenvaltioiden ohjeiden mukaisesti;

b) toteutettava asianmukaisia lahjonnan vastaisia toimenpiteitä (esimerkiksi henkilöstön palkkausta koskevat määräykset, yhteistyö valittaessa henkilöstön jäseniä tehtävään, kahden miehen sääntö, vuorotteluperiaate);

c) noudatettava täysin oikeudellisen välineen säännöksiä, joihin on sisällyttävä soveltamisen keskeyttämistä tai päättymistä koskeva lauseke erityisesti, jos sääntöjä rikotaan, ja uudelleentarkastelua koskeva lauseke sen varmistamiseksi, että oikeudellinen väline vastaa parhaita käytäntöjä.

↓ 810/2009 (mukautettu)

LIITE ~~XI~~VII

ERITYISET MENETTELYT JA EDELLYTYKSET, JOILLA HELPOTETAAN VIISUMIEN MYÖNTÄMISTÄ OLYMPIA- JA PARALYMPIAKISOJEN OSANOTTAJILLE

~~*I LUKU*~~

I. TAVOITE JA MÄÄRITELMÄT

~~*1 artikla*~~

1. Tarkoitus

Seuraavien erityismenettelyjen ja -edellytysten tarkoituksena on helpottaa viisumien hakemista ja myöntämistä jäsenvaltion järjestämien olympia- ja paralympiakisojen osanottajille.

Lisäksi sovelletaan yhtenäisen viisumin hakemista ja myöntämistä koskevan ~~yhteisön~~ ⌦ unionin ⌫ säännöstön asianmukaisia säännöksiä.

~~*2 artikla*~~

2. Määritelmät

Tässä ~~asetuksessa~~ ⌦ liitteessä ⌫ tarkoitetaan:

a) ~~1)~~’vastuuorganisaatioilla’ olympia- ja/tai paralympiakisojen osanottajien viisumien hakemis- ja myöntämismenettelyjen helpottamiseksi toteutettavien toimenpiteiden osalta niitä virallisia organisaatioita, joilla on olympialaisen peruskirjan mukaisesti oikeus esittää jäsenvaltion isännöimien olympiakisojen järjestelytoimikunnalle luettelo kisoihin valituista osanottajista olympia- ja paralympiakisojen akkreditointikortin myöntämistä varten;

b) ~~2)~~’kisojen osanottajilla’ kaikkia Kansainvälisen olympiakomitean, Kansainvälisen paralympiakomitean, kansainvälisten liittojen, kansallisten olympia- ja paralympiakomiteoiden, olympiakisojen järjestelytoimikuntien sekä kansallisten yhdistysten jäseniä, kuten urheilijoita, arvostelutuomareita ja erotuomareita, valmentajia sekä muita urheilualan toimitsijoita, joukkueiden tai yksittäisten urheilijoiden lääkintähenkilöstöä, akkreditoituja tiedotusvälineiden edustajia, johtohenkilöitä, tuenantajia, sponsoreita ja muita kutsuvieraita, jotka sopivat noudattavansa olympialaista peruskirjaa ja toimivansa Kansainvälisen olympiakomitean valvonnassa ja johdolla ja jotka ovat vastuuorganisaatioiden osanottajaluetteloissa ja jotka jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunta on akkreditoinut osallistumaan vuoden [vuosiluku] olympia- ja/tai paralympiakisoihin;

c) ~~3)~~’akkreditointikorteilla’, jotka jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunta on myöntänyt kansallisen lainsäädännön nojalla, kahta erilaista turvaominaisuuksin varustettua valokuvallista henkilökorttia, joista toinen myönnetään olympiakisojen ja toinen paralympiakisojen osanottajille ja

joiden haltijoilla on pääsy kisapaikoille sekä muihin olympia- ja paralympiakisojen aikana järjestettäviin tapahtumiin;

d) ~~4)~~'olympia- ja paralympiakisojen kestolla' ajanjaksoa, jolloin olympialaiset järjestetään, sekä ajanjaksoa, jolloin paralympialaiset järjestetään;

e) ~~5)~~'jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunnalla' toimikuntaa, jonka isäntänä toimiva jäsenvaltio on perustanut kansallisen lainsäädännön mukaisesti olympia- ja paralympiakisojen järjestämiseksi ja joka päättää näiden kisojen osanottajien akkreditoinnista;

f) ~~6)~~'viisumien myöntämisestä vastaavilla viranomaisilla' olympia- ja paralympiakisojen järjestämisestä vastaavan jäsenvaltion nimeämiä viranomaisia, jotka käsittelevät viisumihakemukset ja myöntävät viisumit kisojen osanottajille.

~~II LUKU~~

II. VIISUMIEN MYÖNTÄMINEN

~~3 artikla~~

3. Edellytykset

Jotta viisumi voidaan myöntää tämän asetuksen nojalla, hakijan on täytettävä seuraavat edellytykset:

a) jokin vastuuorganisaatio on nimennyt hänet ja jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunta on akkreditoinut hänet osallistumaan olympia- ja/tai paralympiakisoihin;

b) hänellä on voimassa oleva matkustusasiakirja, joka oikeuttaa ylittämään ~~Schengenin rajasäännöstön~~ ⌦ asetuksen (EY) N:o 562/2006 ⌫ 5 artiklassa tarkoitetut ulkorajat;

c) häntä ei ole määrätty maahantulokieltoon;

d) hänen ei katsota vaarantavan minkään jäsenvaltion yleistä järjestystä, kansallista turvallisuutta tai kansainvälisiä suhteita.

~~4 artikla~~

4. Viisumihakemuksen tekeminen

1. Laatiessaan luetteloa vuoden [vuosiluku] olympia- ja/tai paralympiakisoihin valituista osanottajista vastuuorganisaatio voi tehdä näille myönnettäviä akkreditointikortteja koskevan hakemuksen yhteydessä yhteisen viisumihakemuksen, joka koskee niitä osanottajia, joilla on asetuksen (EY) N:o 539/2001 mukaisesti oltava viisumi, paitsi jos heillä on jonkin jäsenvaltion myöntämä oleskelulupa tai Yhdistyneen kuningaskunnan tai Irlannin Euroopan unionin kansalaisten ja heidän perheenjäsentensä oikeudesta liikkua ja oleskella vapaasti jäsenvaltioiden alueella 29 päivänä huhtikuuta 2004 annetun Euroopan parlamentin ja neuvoston direktiivin 2004/38/EY[8] mukaisesti myöntämä oleskelulupa.

[8] EUVL L 158, 30.4.2004, s. 77.

2. Yhteinen viisumihakemus on toimitettava yhdessä olympiakisojen akkreditointikorttia koskevien hakemusten kanssa jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunnalle sen määräämän menettelyn mukaisesti.

3. Jokaisen olympia- ja/tai paralympiakisojen osanottajan on esitettävä erillinen viisumihakemus.

4. Jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunnan on toimitettava viisumien myöntämisestä vastaaville viranomaisille mahdollisimman nopeasti yhteinen viisumihakemus ja jäljennökset olympiakisojen akkreditointikorttia koskevista hakemuksista, joista ilmenevät asianomaisten perushenkilötiedot eli koko nimi, kansalaisuus, sukupuoli, syntymäaika ja -paikka sekä matkustusasiakirjan numero, laji ja voimassaolon päättymispäivä.

~~5 artikla~~

5. Yhteisen viisumihakemuksen käsittely ja myönnettävä viisumityyppi

1. Viisumin myöntävät viisumien myöntämisestä vastaavat viranomaiset tarkistettuaan, että kaikki 3 artiklassa luetellut edellytykset täyttyvät.

↓ 610/2013 6 artiklan 5 kohta ja liitteessä II oleva 3 kohta

2. Viisumi myönnetään yhtenäisenä viisumina useita maahantulokertoja varten, ja se oikeuttaa haltijansa enintään 90 päivän oleskeluun olympia- ja/tai paralympiakisojen keston aikana.

↓ 810/2009 (mukautettu)

3. Jos olympiakisojen osanottaja ei täytä 3 artiklan c tai d kohdassa säädettyjä edellytyksiä, viisumien myöntämisestä vastaavat viranomaiset voivat myöntää hänelle kelpoisuusalueeltaan rajoitetun viisumin tämän asetuksen ~~25~~ 22 artiklan mukaisesti.

~~6 artikla~~

6. Viisumin muoto

1. Viisumi myönnetään merkitsemällä olympiakisojen akkreditointikorttiin kaksi numeroa. Ensimmäinen näistä on viisumin numero. Yhtenäisen viisumin numerossa on seitsemän (7) merkkiä siten, että se alkaa C-kirjaimella, jota seuraa kuusi (6) numeromerkkiä. Alueellisesti rajoitetussa viisumissa on kahdeksan (8) merkkiä siten, että se alkaa kirjaimilla ”XX”, joita seuraa kuusi (6) numeromerkkiä[9]. Toinen akkreditointikorttiin merkittävä numero on kortinhaltijan matkustusasiakirjan numero.

2. Viisumien myöntämisestä vastaavat viranomaiset toimittavat viisumien numerot jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunnalle akkreditointikorttien myöntämistä varten.

~~7 artikla~~

7. Viisumin maksuttomuus

---

[9] Järjestävän jäsenvaltion ISO-koodi.

Viisumien myöntämisestä vastaavat viranomaiset eivät peri maksua viisumihakemusten käsittelystä tai viisumien myöntämisestä.

~~III LUKU~~

III. YLEISET JA LOPPUSÄÄNNÖKSET

~~8 artikla~~

8. Viisumin peruuttaminen

Jos olympia- ja/tai paralympiakisojen osanottajiksi valittujen henkilöiden luetteloa muutetaan ennen kisojen alkua, vastuuorganisaatioiden on ilmoitettava asiasta viipymättä jäsenvaltion isännöimien olympia- ja paralympiakisojen järjestelytoimikunnalle, jotta luettelosta poistettujen henkilöiden akkreditointikortit voidaan peruuttaa. Järjestelytoimikunta ilmoittaa asianomaisten viisumien numerot viisumien myöntämisestä vastaaville viranomaisille.

Viisumien myöntämisestä vastaavat viranomaiset peruuttavat asianomaisten henkilöiden viisumit ja tiedottavat asiasta rajalla tehtävistä tarkastuksista vastaaville viranomaisille, jotka puolestaan välittävät tiedon edelleen muiden jäsenvaltioiden toimivaltaisille viranomaisille.

~~9 artikla~~

9. Ulkorajoilla tehtävät tarkastukset

1. Kisojen osanottajille, joille on myönnetty viisumit tämän asetuksen mukaisesti, jäsenvaltioiden ulkorajojen ylittämisen yhteydessä tehtävissä tarkastuksissa rajoitutaan tarkastamaan, että 3 artiklassa luetellut edellytykset täyttyvät.

2. Olympia- ja/tai paralympiakisojen keston ajaksi:

a) tulo- ja lähtöleimat merkitään niiden olympia- ja paralympiakisojen osanottajien matkustusasiakirjan ensimmäiselle tyhjälle sivulle, jotka tarvitsevat tällaiset leimat ~~Schengenin rajasäännöstön~~ ⌦ asetuksen (EY) N:o 562/2006 ⌫ 10 artiklan 1 kohdan mukaisesti. Ensimmäisen maahantulon yhteydessä viisuminumero on merkittävä samalle sivulle;

b) ~~Schengenin rajasäännöstön~~ ⌦ Asetuksen (EY) N:o 562/2006 ⌫ 5 artiklan 1 kohdan c alakohdassa määrätyt maahantulolle asetetut edellytykset katsotaan täytetyiksi, kun kisojen osanottaja on asianmukaisesti akkreditoitu.

3. Edellä olevan 2 kohdan säännöksiä sovelletaan niihin olympia- ja paralympiakisojen osanottajiin, jotka ovat kolmansien maiden kansalaisia, riippumatta siitä, onko heillä asetuksen (EY) N:o 539/2001 mukaisesti oltava viisumi.

↓ 810/2009

LIITE ~~XII~~ VIII

~~**VUOSITTAISET TILASTOTIEDOT YHTENÄISISTÄ VIISUMEISTA, ALUEELLISESTI RAJOITETUISTA VIISUMEISTA JA LENTOKENTÄN KAUTTAKULKUVIISUMEISTA**~~

~~Tiedot, jotka on toimitettava komissiolle 46 artiklassa asetetun määräajan puitteissa kaikista sijaintipaikoista, joissa yksittäiset jäsenvaltiot myöntävät viisumeja:~~

~~– A-viisumeja koskevien hakemusten kokonaismäärä (A-toistuvaisviisumit mukaan lukien),~~

~~– Myönnettyjen A-viisumien kokonaismäärä (A-toistuvaisviisumit mukaan lukien),~~

~~– Myönnettyjen A-toistuvaisviisumien kokonaismäärä,~~

~~– Evättyjen A-viisumien kokonaismäärä (A-toistuvaisviisumit mukaan lukien),~~

~~– C-viisumeja koskevien hakemusten kokonaismäärä (C-toistuvaisviisumit mukaan lukien),~~

~~– Myönnettyjen C-viisumien kokonaismäärä (C-toistuvaisviisumit mukaan lukien),~~

~~– Myönnettyjen C-toistuvaisviisumien kokonaismäärä,~~

~~– Evättyjen C-viisumien kokonaismäärä (C-toistuvaisviisumit mukaan lukien),~~

~~– Myönnettyjen alueellisesti rajoitettujen viisumien kokonaismäärä.~~

~~Tietojen toimittamista koskevat yleiset säännöt:~~

~~– Koko edeltävän vuoden tiedot on koottava yhteen asiakirjakansioon,~~

~~– Tiedot toimitetaan yhteisellä lomakkeella (saatavilla komissiosta),~~

~~– Tietojen on katettava yksittäiset sijaintipaikat, joissa kyseinen jäsenvaltio myöntää viisumeita, ja ne on ryhmiteltävä kolmannen maan mukaan,~~

~~– ”Evätty” kattaa tiedot evätyistä viisumeista ja hakemuksista, joiden käsittely on keskeytetty 8 artiklan 2 kohdan mukaisesti.~~

~~Jos tietoja ei ole saatavilla tai ne eivät ole olennaisia jonkin tietyn luokan ja kolmannen maan kannalta, jäsenvaltioiden on jätettävä kenttä tyhjäksi (kenttään ei saa tehdä merkintää ”0” (nolla), ”N.A.” (non applicable) eikä mitään muuta merkintää).~~

⇩ uusi

Viisumeja koskevat vuotuiset tilastotiedot

1. Tiedot on toimitettava kaikista paikoista, joissa jäsenvaltiot myöntävät viisumeja; tämä kattaa sekä konsulaatit että rajanylityspaikat (vrt. asetuksen (EY) N:o 562/2006 5 artiklan 4 kohdan b alakohta).

2. Komissiolle on toimitettava seuraavat tiedot 44 artiklassa asetetun määräajan puitteissa käyttäen komission vahvistamaa yhteistä kaavaa ja eriteltyinä tarvittaessa hakijan kansalaisuuden mukaan, kuten kaavassa esitetään:

A-viisumeja koskevien hakemusten lukumäärä (yhteen ja useaan kauttakulkuun oikeuttavat lentokentän kauttakulkuviisumit)

Myönnettyjen A-viisumien lukumäärä, eriteltynä seuraavasti:

Myönnettyjen yhteen lentokentän kauttakulkuun oikeuttavien A-viisumien lukumäärä

Myönnettyjen useaan lentokentän kauttakulkuun oikeuttavien A-viisumien lukumäärä

Evättyjen A-viisumien lukumäärä

C-viisumeja koskevien hakemusten lukumäärä (C-kerta- ja toistuvaisviisumit)

– eriteltyinä matkan tarkoituksen mukaan (vrt. liitteessä I olevan hakemuslomakkeen kenttä 21

Myönnettyjen C-viisumien lukumäärä, eriteltynä seuraavasti:

Myönnettyjen yhteen maahantuloon oikeuttavien C-viisumien lukumäärä

Myönnettyjen useaan maahantuloon oikeuttavien sellaisten C-viisumien lukumäärä, joiden voimassaoloaika on alle yksi vuosi

Myönnettyjen useaan maahantuloon oikeuttavien sellaisten C-viisumien lukumäärä, joiden voimassaoloaika on vähintään yksi vuosi mutta alle kaksi vuotta

Myönnettyjen useaan maahantuloon oikeuttavien sellaisten C-viisumien lukumäärä, joiden voimassaoloaika on vähintään kaksi vuotta mutta alle kolme vuotta

Myönnettyjen useaan maahantuloon oikeuttavien sellaisten C-viisumien lukumäärä, joiden voimassaoloaika on vähintään kolme vuotta mutta alle neljä vuotta

Myönnettyjen useaan maahantuloon oikeuttavien sellaisten C-viisumien lukumäärä, joiden voimassaoloaika on yli neljä vuotta

Myönnettyjen alueellisesti rajoitettujen viisumien lukumäärä, eriteltynä niiden myöntämisperusteen mukaan (vrt. 22 artiklan 1 ja 3 kohta sekä 33 artiklan 3 kohta)

Evättyjen C-viisumien lukumäärä eriteltynä epäämisperusteen mukaan

– evättyjen hakemusten perusteella käynnistettyjen muutoksenhakujen lukumäärä

– muutoksenhaun jälkeen ennalleen jääneiden päätösten lukumäärä

– kumottujen päätösten lukumäärä

– maksutta haettujen viisumien lukumäärä

Edustusjärjestelyjen nojalla myönnettyjen viisumien lukumäärä

Jos tietoja ei ole saatavilla tai ne eivät ole olennaisia jonkin ryhmän ja kolmannen maan kannalta, kenttä jätetään tyhjäksi eikä siihen saa tehdä mitään muuta merkintää.

↓ 810/2009 (mukautettu)

~~LIITE XIII~~

~~*VASTAAVUUSTAULUKKO*~~	
~~Tämän asetuksen säännös~~	~~Schengenin yleissopimuksen (SchY), yhteisen konsuliohjeiston (YKO) tai Schengenin toimeenpanevan komitean (Com-ex) määräys, joka on korvattu~~
~~I OSASTO~~	
~~*YLEISET MÄÄRÄYKSET*~~	
~~1 artikla~~ ~~Kohde ja soveltamisala~~	~~YKO: I osa: 1. Soveltamisala (SchY 9 ja 10 artikla)~~
~~2 artikla~~ ~~Määritelmät~~ ~~1) –4)~~	~~YKO: I osa, 2. Määritelmät ja viisumilajit~~ ~~YKO: IV osa Oikeusperusta~~ ~~SchY: 11 artiklan 2 kohta, 14 artiklan 1 kohta, 15 ja 16 artikla~~
~~II OSASTO~~	
~~*Lentokentän kauttakulkuviisumi*~~	
~~3 artikla~~ ~~Kolmannen maan kansalaiset, joilla on oltava lentokentän kauttakulkuviisumi~~	~~Yhteinen toiminta 96/197/YOS, YKO: I osa 2.1.1~~
~~III OSASTO~~	
~~*MENETTELYT JA EDELLYTYKSET VIISUMIEN MYÖNTÄMISEKSI*~~	
~~*I LUKU*~~	
~~*Hakemuksiin liittyviin menettelyihin osallistuvat viranomaiset*~~	
~~4 artikla~~ ~~Viranomaiset, jotka ovat toimivaltaisia osallistumaan hakemuksiin liittyviin menettelyihin~~	~~YKO: II osa, 4, SchY: 12 artiklan 1 kohta, asetus (EY) N:o 415/2003~~
~~5 artikla~~ ~~Jäsenvaltio, joka on toimivaltainen käsittelemään hakemuksen ja tekemään~~	~~YKO: II osa, 1(a) (b), SchY: 12 artiklan 2 kohta~~

~~siitä päätöksen~~	
~~6 artikla~~ ~~Konsulaatin alueellinen toimivalta~~	~~YKO: II osa, 1.1 ja 3~~
~~7 artikla~~ ~~Toimivalta myöntää viisumi jäsenvaltion alueella laillisesti oleskeleville kolmansien maiden kansalaisille~~	—
~~8 artikla~~ ~~Edustusjärjestelyt~~	~~YKO: II osa, 1.2~~
~~*II LUKU*~~	
~~*Hakemus*~~	
~~9 artikla~~ ~~Hakemuksen jättämistä koskevat käytännön ohjeet~~	~~YKO: liite 13, huomautus (10 artiklan 1 kohta)~~
~~10 artikla~~ ~~Hakemuksen jättämistä koskevat yleiset säännöt~~	—
~~11 artikla~~ ~~Hakulomake~~	~~YKO: II osa, 1.1.~~
~~12 artikla~~ ~~Matkustusasiakirja~~	~~YKO: II osa, 2. (a), SchY: 13 artiklan 1 ja 2 kohta~~
~~13 artikla~~ ~~Biometriset tunnisteet~~	~~YKO: III osa, 1.2 (a) ja (b)~~
~~14 artikla~~ ~~Hakemuksen liitteet~~	~~YKO: III osa, 2(b) ja IV osa, 1.4, Com-ex (98) 57~~
~~15 artikla~~ ~~Matkasairausvakuutus~~	~~YKO: V osa, 1.4~~
~~16 artikla~~ ~~Viisumimaksu~~	~~YKO: VII osa, 4. ja liite 12~~
~~17 artikla~~ ~~Palvelumaksu~~	~~YKO: VII osa, 1.7~~
~~*III LUKU*~~	

Hakemuksen tutkiminen ja siitä päättäminen	
18 artikla Konsulaatin toimivallan tutkiminen	—
19 artikla Tutkittavaksi ottaminen	—
20 artikla Leima, joka osoittaa, että hakemus otetaan tutkittavaksi	YKO, VIII osa, 2
21 artikla Maahantulon edellytysten tarkastaminen ja riskinarviointi	YKO: II osa, 4 ja V osa, 1
22 artikla Muiden jäsenvaltioiden keskusviranomaisten kuuleminen ennalta	YKO: II osa, 2.3 ja V osa, 2.3(a)-(d)
23 artikla Hakemusta koskeva päätös	YKO: V osa, 2.1 (toinen luetelmakohta), 2.2, YKO
IV LUKU	
Viisumin myöntäminen	
24 artikla Yhtenäisen viisumin myöntäminen	YKO: V osa, 2.1
25 artikla Alueellisesti rajoitetun viisumin myöntäminen	YKO: V osa, 3, liite 14, SchY: 11 artiklan 2 kohta, 14 artiklan 1 kohta ja 16 artikla
26 artikla Lentokentän kauttakulkuviisumin myöntäminen	YKO: I osa, 2.1.1 – Yhteinen toiminta 96/197/YOS
27 artikla Viisumitarran täyttöohjeet	YKO: VI osa, 1–2–3–4
28 artikla Täytetyn viisumitarran mitätöinti	YKO: VI osa, 5.2
29 artikla	YKO: VI osa, 5.3

~~Viisumitarran kiinnittäminen~~	
~~30 artikla~~ ~~Myönnetystä viisumista johtuvat oikeudet~~	~~YKO: I osa, 2.1, viimeinen virke~~
~~31 artikla~~ ~~Muiden jäsenvaltioiden keskusviranomaisille ilmoittaminen~~	—
~~32 artikla~~ ~~Viisumin epääminen~~	—
~~*V LUKU*~~	
~~*Myönnetyn viisumin muuttaminen*~~	
~~33 artikla~~ ~~Jatkaminen~~	~~Com-ex (93) 21~~
~~34 artikla~~ ~~Peruuttaminen ja kumoaminen~~	~~Com-ex (93) 24 ja YKO liite 14~~
~~*VI LUKU*~~	
~~*Ulkorajalla myönnettävä viisumi*~~	
~~35 artikla~~ ~~Ulkorajalla haettavat viisumit~~	~~Asetus (EY) N:o 415/2003~~
~~36 artikla~~ ~~Viisumin myöntäminen rajalla kauttakulkumatkalla oleville merimiehille~~	
~~IV OSASTO~~	
~~*HALLINNOLLISTEN ASIOIDEN HOITO JA JÄRJESTÄMINEN*~~	
~~37 artikla~~ ~~Viisumipalveluiden järjestäminen~~	~~YKO: VII, 1–2-3~~
~~38 artikla~~ ~~Hakemusten käsittelyä ja edustustojen valvontaa varten tarvittavat resurssit~~	—
	~~YKO: VII osa, 1A~~
~~39 artikla~~	~~YKO: III osa, 5~~

~~Henkilöstön käyttäytyminen~~	
~~40 artikla~~ ~~Jäsenvaltioiden yhteistyömuodot~~	~~YKO: VII osa, 1AA~~
~~41 artikla~~ ~~Jäsenvaltioiden yhteistyö~~	
~~42 artikla~~ ~~Kunniakonsulien käyttö~~	~~YKO: VII osa, AB~~
~~43 artikla~~ ~~Yhteistyö ulkoisten palveluntarjoajien kanssa~~	~~YKO: VII osa, 1B~~
~~44 artikla~~ ~~Tietojen salaaminen ja suojattu siirtäminen~~	~~YKO: II osa, 1.2; VII osa, 1.6, kuudes, seitsemäs, kahdeksas ja yhdeksäs alakohta~~
~~45 artikla~~ ~~Jäsenvaltioiden konsuliedustustojen yhteistyö kaupallisten organisaatioiden kanssa~~	~~YKO: VIII, 5.2~~
~~46 artikla~~ ~~Tilastojen laatiminen~~	~~SCH Com-ex (94) 25 ja (98) 12~~
~~47 artikla~~ ~~Yleisölle suunnattu tiedotus~~	—
~~V OSASTO~~	
~~*PAIKALLINEN SCHENGEN-YHTEISTYÖ*~~	
~~48 artikla~~ ~~Jäsenvaltioiden konsulaattien välinen paikallinen Schengen-yhteistyö~~	~~YKO: VIII, 1–3-4~~
~~VI OSASTO~~	
~~*LOPPUSÄÄNNÖKSET*~~	
~~49 artikla~~ ~~Olympia- tai paralympiakisoihin liittyvät järjestelyt~~	—

~~50 artikla~~ ~~Liitteisiin tehtävät tarkistukset~~	—
~~51 artikla~~ ~~Viisumisäännöstön käytännön soveltamista koskevat ohjeet~~	—
~~52 artikla~~ ~~Komitologiamenettely~~	—
~~53 artikla~~ ~~Ilmoittaminen~~	—
~~54 artikla~~ ~~Asetuksen (EY) N:o 767/2008 muutokset~~	—
~~55 artikla~~ ~~Asetuksen (EY) N:o 562/2006 muutokset~~	—
~~56 artikla~~ ~~Kumoaminen~~	—
~~57 artikla~~ ~~Seuranta ja arviointi~~	—
~~58 artikla~~ ~~Voimaantulo~~	—

↓ 810/2009 (mukautettu)

~~LIITTEET~~

~~Liite I~~ ~~Yhdenmukainen hakemuslomake~~	~~YKO: liite 16~~
~~Liite II~~ ~~Esimerkkejä hakemuksen liiteasiakirjoista~~	~~YKO: V, 1.4 osittain~~
~~Liite III~~ ~~Yhdenmukainen leima ja sen käyttö sen osoittamiseksi, että viisumihakemus voidaan ottaa käsiteltäväksi~~	~~YKO: VIII, 2~~
~~Liite IV~~ ~~Yhteinen luettelo asetuksen (EY) N:o 539/2001 liitteessä I luetelluista kolmansista maista, joiden kansalaisilta vaaditaan lentokentän kauttakulkuviisumi heidän kulkiessaan jäsenvaltioiden alueella sijaitsevien lentokenttien kansainvälisen alueen kautta~~	~~YKO: liite 3, I osa~~
~~Liite V~~ ~~Luettelo oleskeluluvista, joiden haltijoilta ei vaadita lentokentän kauttakulkuviisumia jäsenvaltioiden lentokentillä~~	~~YKO: liite 3, III osa~~
~~Liite VI~~ ~~Yhdenmukainen lomake viisumin epäämisestä, peruuttamisesta tai kumoamisesta ilmoittamisesta ja perustelemista varten~~	~~YKO: VIII, 2~~
~~Liite VII~~ ~~Viisumitarran täyttöohjeet~~	~~YKO: VI osa, 1–4, liite 10~~
~~Liite VIII~~ ~~Viisumitarran kiinnittäminen~~	~~YKO: VI osa, 5.3~~
~~Liite IX~~ ~~Viisumin myöntämistä rajalla viisumipakon alaisille kauttakulkumatkalla oleville merimiehille koskevat säännöt~~	~~Asetuksen (EY) N:o 415/2003 liitteet I ja II~~
~~Liite X~~ ~~Luettelo oikeudelliseen välineeseen sisällytettävistä yhteistyötä ulkoisten palveluntarjoajien kanssa koskevista vähimmäisvaatimuksista~~	~~YKO: liite 19~~
~~Liite XI~~ ~~Erityiset menettelyt ja edellytykset, joilla helpotetaan viisumien myöntämistä olympia- ja paralympiakisojen osanottajille~~	~~—~~

~~Liite XII~~ ~~Vuosittaiset tilastotiedot yhtenäisistä viisumeista, alueellisesti rajoitetuista viisumeista ja lentokentän kauttakulkuviisumeista~~	—

↑

LIITE IX

Kumottu asetus ja sen muutokset

Euroopan parlamentin ja neuvoston asetus (EY) N:o 810/2009	(EUVL L 243, 15.9.2009, s. 1)
Komission asetus (EU) N:o 977/2011	(EUVL L 258, 4.10.2011, s. 9)
Euroopan parlamentin ja neuvoston asetus (EU) N:o 154/2012	(EUVL L 58, 29.2.2012, s. 3)
Euroopan parlamentin ja neuvoston asetus (EU) N:o 610/2013	(EUVL L 182, 29.6.2013, s. 1)

LIITE X

VASTAAVUUSTAULUKKO

Asetus (EY) N:o 810/2009	Tämä asetus
1 artiklan 1 kohta	1 artiklan 1 kohta
1 artiklan 2 kohta	1 artiklan 2 kohta
1 artiklan 3 kohta	1 artiklan 3 kohta
2 artikla, johdantolause	2 artikla, johdantolause
2 artiklan 1–5 kohta	2 artiklan 1–5 kohta
-	2 artiklan 6 kohta
	2 artiklan 7–10 kohta
2 artiklan 6 kohta	2 artiklan 11 kohta
2 artiklan 7 kohta	2 artiklan 12 kohta
-	2 artiklan 13 kohta
2 artiklan 8 kohta	2 artiklan 14 kohta
2 artiklan 9 kohta	2 artiklan 15 kohta
2 artiklan 10 kohta	2 artiklan 16 kohta
-	2 artiklan 17 kohta
3 artiklan 1 ja 2 kohta	3 artiklan 1 ja 2 kohta
-	3 artiklan 3–6 kohta
3 artiklan 5 kohta	3 artiklan 7 kohta
-	3 artiklan 8 kohta
4 artikla	4 artikla
5 artiklan 1 kohta	5 artiklan 1 kohta
-	5 artiklan 2 ja 3 kohta
5 artiklan 3 kohta	5 artiklan 4 kohta
6 artikla	6 artikla
7 artikla	7 artiklan 1 kohta

-	7 artiklan 2 ja 3 kohta
9 artiklan 1 ja 2 kohta	8 artiklan 1 ja 2 kohta
-	8 artiklan 3 kohta
9 artiklan 3 kohta	8 artiklan 4 kohta
9 artiklan 4 kohta	8 artiklan 5 kohta
40 artiklan 4 kohta	8 artiklan 6 kohta
10 artiklan 1 kohta	9 artiklan 1 kohta
-	9 artiklan 2 kohta
10 artiklan 3 kohta	9 artiklan 3 kohta
11 artiklan 1 kohta	10 artiklan 1 kohta
-	10 artiklan 2 kohta
11 artiklan 2 kohta	11 artiklan 3 kohta
11 artiklan 3 kohta	11 artiklan 4 kohta
11 artiklan 4 kohta	11 artiklan 5 kohta
11 artiklan 5 kohta	11 artiklan 6 kohta
11 artiklan 6 kohta	11 artiklan 7 kohta
12 artikla	11 artikla
13 artikla	12 artikla
14 artiklan 1 kohta	13 artiklan 1 kohta
-	13 artiklan 2 kohta
14 artiklan 3 kohta	13 artiklan 3 kohta
14 artiklan 6 kohta	13 artiklan 4 kohta
-	13 artiklan 5 kohta
14 artiklan 4 kohta	13 artiklan 6 kohta
14 artiklan 2 kohta	13 artiklan 7 kohta
14 artiklan 5 kohta	13 artiklan 8 kohta
-	13 artiklan 9 kohta

15 artikla	-
16 artiklan 1 kohta	14 artiklan 1 kohta
16 artiklan 3 kohta	14 artiklan 2 kohta
16 artiklan 4 kohta ja 5 kohdan b ja c alakohta	14 artiklan 3 kohdan a–d alakohta
-	14 artiklan 3 kohdan f ja g alakohta
16 artiklan 6 kohta	14 artiklan 4 kohta
16 artiklan 7 kohta	14 artiklan 5 kohta
16 artiklan 8 kohta	14 artiklan 6 kohta
17 artiklan 1 ja 2 kohta	15 artiklan 1 ja 2 kohta
17 artiklan 4 kohta	15 artiklan 3 kohta
18 artikla	16 artikla
19 artikla	17 artikla
20 artikla	-
21 artiklan 1 kohta	18 artiklan 1 kohta
-	18 artiklan 2 ja 3 kohta
21 artiklan 2 kohta	18 artiklan 4 kohta
21 artiklan 3 kohta	18 artiklan 5 kohta
21 artiklan 4 kohta	18 artiklan 6 kohta
21 artiklan 5 kohta	18 artiklan 7 kohta
21 artiklan 6 kohta	18 artiklan 8 kohta
21 artiklan 7 kohta	18 artiklan 9 kohta
21 artiklan 8 kohta	18 artiklan 10 kohta
21 artiklan 9 kohta	18 artiklan 11 kohta
22 artikla	19 artikla
23 artikla	20 artikla
24 artiklan 1 ja 2 kohta	21 artiklan 1 ja 2 kohta

-	21 artiklan 3 ja 4 kohta
24 artiklan 2 kohta	21 artiklan 5 kohta
24 artiklan 3 kohta	21 artiklan 6 kohta
25 artikla	22 artikla
26 artikla	23 artikla
27 artikla	24 artikla
28 artikla	25 artikla
29 artikla	26 artikla
30 artikla	27 artikla
31 artikla	28 artikla
32 artikla	29 artikla
33 artikla	30 artikla
34 artikla	31 artikla
35 artikla	32 artikla
-	33 artikla
36 artikla	34 artikla
37 artikla	35 artikla
38 artikla	36 artikla
39 artikla	37 artikla
40 artikla	38 artikla
8 artikla	39 artikla
42 artikla	40 artikla
43 artikla	41 artikla
44 artikla	42 artikla
45 artikla	43 artikla
46 artikla	44 artikla
47 artikla	45 artikla

48 artikla	46 artikla
49 artikla	47 artikla
50 artikla	-
-	48 artikla
-	49 artikla
51 artikla	50 artikla
52 artikla	51 artikla
53 artikla	52 artikla
54 artikla	-
55 artikla	-
56 artikla	53 artikla
57 artikla	54 artikla
58 artikla	55 artikla
Liite I	Liite I
Liite II	Liite II
Liite III	-
Liite IV	Liite III
Liite V	Liite IV
Liite VI	Liite V
Liite VII	-
Liite VIII	-
Liite IX	-
Liite X	Liite VI
Liite XI	Liite VII
Liite XII	Liite VIII
-	Liite IX
Liite XIII	Liite X

EUROPEAN
COMMISSION

Brussels, 1.4.2014
COM(2014) 163 final

2014/0095 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In the framework of Schengen intergovernmental cooperation, detailed rules were established concerning the entry and stay of third-country nationals for up to three months in a six-month period (so-called short stays)[1]. This was done with the aim of ensuring the security of the Schengen area[2] and providing a right to move freely within it, including for third-country nationals. These rules were then further developed and consolidated in the framework of the European Union, following the entry into force of the Treaty of Amsterdam. For the purpose of this proposal, the core elements of the legislation in force are the following:

– Regulation (EC) No 562/2006 (Schengen Borders Code) and its subsequent amendments[3], among others, lay down the entry conditions for third-country nationals for short stays;

– Regulation (EC) No 539/2001 (Visa Regulation) and its subsequent amendments[4] list the third countries whose nationals must be in possession of a visa when crossing the external borders for short stays, and list countries whose nationals are exempt from that requirement;

– Regulation (EC) No 810/2009 (Visa Code) and its subsequent amendments[5] establish harmonised procedures and conditions for processing short-stay visa applications and issuing visas;

– The Convention implementing the Schengen Agreement[6] (CISA), and its amendments lay down the principle of 'mutual recognition' of short-stay visas. They also provide the right of free movement for up to 90 days in any 180-day period for third-country nationals who hold a valid residence permit or valid national long-stay visa issued by one of the Member States[7].

It is of course also possible for third-country nationals to stay longer than three months or 90 days in the Schengen area, but this should not be done on the basis of the existing provisions on short stays. It would require taking up residence in one of the Member States, so third-country nationals should apply for a residence permit or long-stay visa from the Member State concerned. Such permits are purpose-bound, issued for the purpose of work, business, study, family reunification, etc., but in principle, not for tourism. There are no general, horizontal EU-level rules establishing the conditions for issuing residence permits or long-stay visas, but there are sectorial directives covering specific categories of third-country nationals, e.g.

---

1 It is to be noted that until 18 October 2013, the relevant provisions of the Schengen *acquis* referred to '3 months in 6 months from the date of first entry'. Regulation (EU) No 610/2013 (OJ L, 182, 29.6.2013, p. 1) re-defined the notion of 'short-stay' (i.e. the temporal scope of the Schengen *acquis*) and refers to '90 days in any 180-day period.'

2 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm.

3 The consolidated version is available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2006R0562:20100405:EN:PDF.

4 The consolidated version is available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0539:20110111:EN:PDF.

5 The consolidated version is available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2009R0810:20120320:EN:PDF.

6 OJ L 239, 22.9.2000, p. 19.

7 Unless otherwise specified 'Member States' refers to EU Member States applying the common visa policy in full (all EU Member States with the exception of Bulgaria, Croatia, Cyprus, Ireland, Romania and the United Kingdom), as well as the Schengen associated members (Iceland, Liechtenstein, Norway and Switzerland).

workers or students. However, these Directives do not provide for full harmonisation and leave Member States room for manoeuvre to provide for exceptions and derogations and to specify certain details in their national laws.

The 90 day/180 day 'limitation' in the Schengen *acquis* is not unique in aliens' law. National legislation on foreigners traditionally distinguishes between entries for short stays (one, three, six months) – 'visitors' – particularly for tourism and with less stringent conditions attached, and the admission of third-country nationals who wish to reside longer for work, studies, etc. where stricter conditions apply. In any case, irrespective of the dividing line between short visits and residence and the conditions imposed on foreigners, national legislation provides appropriate authorisations for entry, stays and residence, whatever the length of the envisaged stay on a Member State's territory (visas with different lengths of validity, extension of visas, temporary residence permits, permanent residence permits, etc.).

The current Schengen and the EU migration *acquis*, however, do not provide a system covering all kinds of envisaged stay comparable to such national legislation. For legal and political reasons, as described above, the Schengen *acquis* covers short stays in the territory of all Member States, while EU legal instruments developed in the area of immigration/admission policy set up the framework for national legislation in view of admitting third-country nationals for stays of more than three months on their *own* territory.

The Schengen area has expanded to 26 countries and many third-country nationals, such as tourists, live performance artists, researchers, students, etc., have legitimate reasons for travelling within this area for more than 90 days in a given 180-day period without being considered as 'immigrants'. They do not want and/or do not need to reside in a particular Member State for longer than three months. However, *there is no 'Schengen' visa or other authorisation allowing for a stay of more than three months or 90 days in the Schengen area.*

Over the years, the Commission has received many complaints and requests for solutions regarding this problem from third-country nationals, both those who require visas and those who are visa exempt. The 90 day/180 day 'limitation' may have been appropriate for the size of the five founding members of the Schengen cooperation. However, when the Schengen area comprises 26 Member States, it poses a considerable barrier for many third-country nationals with legitimate interests in travelling in the Member States. It also leads to missed economic opportunities for Member States.

The main characteristic of the travellers reporting problems is that they intend to 'tour around' Europe/the Member States. They wish to stay longer than 90 days (in any 180 days) in the Schengen area. So, if they are nationals of third countries who require visas, they cannot apply for a short-stay, 'Schengen' visa, since these are only issued for trips of a maximum of 90 consecutive days. Visa-free third-country nationals, as a rule, are not entitled to do so either. But neither category of third-country nationals intends to stay for more than 90 days in any Member State, so they cannot obtain a 'national' long-stay visa[8], or residence permit.

This legislative gap between the Schengen *acquis* and the EU and national immigration rules means that such travellers should, in principle, leave the Schengen area on the last day of their consecutive 90-day stay and 'wait' for 90 days outside the Member States before they can return for another legal stay. This situation cannot be justified by Member States' security concerns and does not serve their economic, cultural and educational interests.

In particular, associations and interest groups of live performing artists emphasise that they often have difficulties in organising tours in Europe due to the 90 day/180 day 'limitation' of

[8] Cf. Article 19 of the CISA, reference in footnote 6.

stay. Touring companies generally do not meet the residency requirements enabling artists, staff and their family members to obtain long-stay visas or residence permits. As the staff of such companies are often highly specialised and trained, it is not usually possible to replace them, or it would be costly or highly disruptive to do so. According to examples provided by the European Circus Association (ECA) the loss of revenue per engagement (i.e. per city where a well-known group performs) was about EUR 380 000 in one example and EUR 920 000 in another (local employment for ushers, concession, cleaning teams, site rental, taxes and fees, local suppliers, printers, marketing, services, hotels and restaurants, local transport services, wages and salaries paid in each city). The ECA also reported cases in which a company had to substitute/rotate cast and crew to comply with the 'limitation' of stay. In one case, replacing 36 staff members cost the company about EUR 110 000. According to the Performing Arts Employers Associations League Europe (Pearle*), the lack of an 'alternative' authorisation costs the EU between EUR 500 million and 1 billion per annum which is significant in the current financial and economic context.

Travel agencies, as well as numerous queries addressed to the Commission, suggest that more and more 'individual' travellers (students, researchers, artists and culture professionals, pensioners, business people, service providers, etc.) also have a strong interest in being allowed to circulate for longer than 90 days in any 180-day period within the Schengen area.

In addition, there are many third-country nationals already residing in the Schengen area with a long-stay visa or residence permit issued by a Member State who need or want to travel to other Member States during or after their stay. For instance, third-country national students may like to travel within the Schengen area after finishing their studies for, say, six months before returning home. According to Article 21 of the CISA, such persons, in principle, have the right to move freely in the Member States on the basis of their valid long-stay visa or residence permit, but the 90 day/180 day 'limitation' also applies to them.

The general rule does not pose any problem for the vast majority of travellers and should be kept. But as long ago as 2001, the Commission recognised the need to complement it by introducing an authorisation for stays of longer than three months in the Schengen area. It proposed a Council Directive on conditions under which third-country nationals would have the freedom to travel within the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months[9].

The Commission proposed to introduce a *specific travel authorisation* for third-country nationals planning to travel in the territory of the Member States for a period of *no more than six months in any given period of 12 months*. The authorisation would have allowed a consecutive 6-month stay within the Schengen area, but recipients would not have stayed for more than three months in any single Member State. This proposal — which covered several other issues, e.g. expulsion — was formally withdrawn by the Commission in March 2006. The main concerns of Member States at that time were the legal basis and the anticipated bureaucracy related to the envisaged permit. Some of them disagreed with the plan to introduce the permit for third-country nationals requiring a visa for a short stay as they considered that it might affect the integrity of the short-stay visa regime.

The legislative gap discussed above forces Member States to bend the rules and make use of legal instruments not designed for 'extending' an authorised stay in the Schengen area:

[9] COM(2001) 388 final. OJ C 270, 25.9.2001, p. 244.

application of Article 20(2)[10] of the CISA or issuing limited territorial validity visas (LTV visas) under Article 25(1)(b) of the Visa Code[11]. These practices are described in detail in Annex 7 of the Impact Assessment[12] accompanying the simultaneously presented Proposal for a Regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code)(recast)[13].

It is therefore desirable to introduce a new type of visa both for visa-exempt and visa-requiring third-country nationals with a legitimate interest in travelling around the Schengen area for more than 90 days in any 180-day period.

The objective of the proposal is to fill the legislative gap between the Schengen *acquis* on short stays and the EU/national law on residence in a particular Member State by:

– establishing a new type of visa ('touring visa') for an intended stay in two or more Member States lasting more than 90 days but no more than 1 year (with the possibility of extension up to 2 years), provided that the applicant does not intend to stay for more than 90 days in any 180-day period in the same Member State, and

– determining the application procedures and the issuing conditions for touring visas.

The proposal regulates neither the conditions and procedures on admitting third-country nationals for stays longer than three months in a Member State, nor the conditions and procedures for issuing work permits or equivalent authorisations (i.e. access to the labour market).

Though the proposal provides that many provisions of the Visa Code should apply to processing the new type of visa, a separate proposal is justified, rather than integrating the provisions into the proposal for amending the Visa Code, as the scope of the latter are the rules and procedures for issuing visas to third-country nationals who require visas (cf. Annex I to Regulation (EC) No 539/2001).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **Consultation of interested parties**

This is described in the Impact Assessment (IA) referred to in section 1. In general, interest groups — in particular artists' associations — confirm that the gap in the current legal framework is a serious impediment to mobility, be it professional or leisure and welcome the introduction of a new type of visa. The majority of the Member States, however, seems to be sceptical as to the need to act in view of the limited group of applicants it would concern. Some of the Member States raised concerns regarding the legal basis (cf. section 3).

- **Impact assessment**

---

10 'Aliens not subject to a visa requirement may move freely within the territories of the Contracting Parties for a maximum period of 90 days in any 180-day period, […]. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days an alien's stay in its territory in exceptional circumstances or in accordance with a bilateral agreement concluded before the entry into force of this Convention.'

11 'A visa with limited territorial validity shall be issued exceptionally, in the following cases: […] (b) when for reasons deemed justified by the consulate, a new visa is issued for a stay during the same 180-day period to an applicant who, over this 180-day period, has already used a uniform visa or a visa with limited territorial validity allowing for a stay of 90 days.'

12 SWD(2014) 68.

13 COM(2014) 164.

The assessment of the impact of introducing an authorisation allowing third-country nationals to stay more than 90 days in any 180-day period in the Schengen area is included in the IA accompanying the proposal amending the Visa Code.

The IA considered two regulatory options.

One of the options, *a new type of authorisation* with a view to an intended stay in the Schengen area lasting more than 90 days but no more than 360 days was envisaged 'only' *for a limited group of third-country nationals*: artists (or sportsmen), culture professionals and their crew members employed by reliable and acknowledged live performing companies or organisations and core family members travelling with them. Limiting the beneficiaries to this group was based on the fact that they seem to be the main group of third-country nationals affected by the current legislative gap.

Another policy option envisaged a similar authorisation not just for that specific category of third-country nationals, but *for all third-country nationals* (i.e. 'individual' travellers, e.g. tourists, researchers, students, business people). Since the problem is due to a legislative gap between the Schengen *acquis* on short stays in the Schengen area and the legislation on admission of third-country nationals for stays longer than 90 days on the territory of a Member State, a *non-regulatory policy option was not developed.*

The IA showed[14] that the *lack of an authorisation* allowing travellers to stay more than 90 days in any 180-day period in the Schengen area *results in a considerable economic loss to the EU*. According to the study supporting the IA, the number of potential beneficiaries of the new authorisation is rather limited. Implementation of the first option might concern approximately 60000 applicants, while the second option might double the number of potential applicants. These are rather small numbers, bearing in mind that there were more than 15 million 'Schengen' visa applications in 2012 and the number of applications is rising steadily.

However, these travellers are considered to be 'big spenders' and therefore likely to generate considerable revenue and to boost economic activity in the EU, not least because they stay longer in the Schengen area. The first option could lead to an estimated EUR 500 million in additional income to the Schengen area per year. The economic impact of the other option is estimated at around EUR 1 billion. In both options, the economic gain would be due to the spending of 'new' travellers attracted by a new opportunity to stay longer in the Schengen area without using cumbersome 'alternatives' on the borderlines of legality, such as obtaining LTV visas.

The IA also showed that the administrative cost of processing the new type of authorisation would not be significant, given the limited number of applications expected and the fee to be charged. For third-country nationals today, making applications for new visas or for extensions already implies costs. Regarding the second option, the IA pointed out a specific risk: some holders of the new authorisation might seek employment on the black market.

3. LEGAL ELEMENTS OF THE PROPOSAL

• Detailed explanation of the proposal

The objective of the proposal is to fill a legislative gap. Therefore, Article 1 of the proposal establishes a new type of visa, called 'touring visa' (T-type visa). This Article also makes

[14] The IA also notes that it is very difficult to assess economic and financial impacts in this area due to the lack of data and solid methodology for estimations, so the numbers referred to in this paragraph shall be dealt with with caution.

clear that the Regulation does not affect the admission/immigration *acquis.* This implies, for instance, that the Regulation does not affect Member States' legislation on the impact of 'absence' of residing third-country nationals on their residence permits while they travel in other Member States on the basis of a touring visa. Third-country nationals who exercise (intra-EU) mobility under EU rules are not covered by the Regulation either.

Article 2 sets a fundamental principle by making a cross reference to the provisions of the Visa Code and Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)[15]. The touring visa is quite distinct in many ways from the short-stay visa as defined in Article 2 of the Visa Code. However, it is very similar to a uniform visa as in principle, it is valid for the territory of all Member States. The new type of visa is established on the legal basis of short-stay visas and permits, namely Article 77 of the TFEU. Therefore it is justified in principle to apply the relevant provisions of the Visa Code to the touring visa. The subsequent provisions (Articles 4 to 9) specify in detail which provisions of the Visa Code will be applicable as regards the conditions and procedures for issuing touring visas, and lay down the derogations from and additions to these rules, taking into account the specificities of the new type of visa. For that purpose, the subsequent articles follow the structure of the Visa Code, taking chapter by chapter and confirming for every single provision whether it applies and whether there are any additions or derogations. Since the Commission is simultaneously proposing a recast of the Visa Code[16], this proposal will refer to the provisions of the proposed recast regulation rather than the existing regulation[17]. The VIS Regulation, as amended by this proposal, will fully apply to the touring visa without any need for additions or derogations.

Article 3 provides that certain definitions contained in the Visa Code (e.g. 'third-country national', 'visa sticker', 'application', 'consulate') are also applicable to this proposal. In addition it defines the 'touring visa' as an authorisation issued by a Member State with a view to an intended stay in two or more Member States for a total of more than 90 days in any 180-day period, provided that the applicant does not intend to stay for more than 90 days in any 180-day period[18] in the same Member State. With this latter 'limitation', admissions for stays longer than three months in *one* Member State are excluded.

Article 4 sets out the provisions in the Visa Code on the authorities taking part in the procedures relating to applications which should apply to the touring visa. It excludes the possibility of applications for touring visas to be lodged at the external borders, as authorising a stay of possibly up to two years in the Schengen area requires thorough scrutiny that can

---

15 OJ L 218, 13.8.2008, p. 60.

16 COM(2014) 164.

17 Amendments to the Visa Code recast proposal during the legislative process will therefore also have to be reflected in this proposal.

18 As mentioned earlier, third-country nationals, being visa required or not, under the short-stay regime can stay up to 90 days in any 180-day period in the Schengen area, which can also mean a stay solely in one Member State. Depending on the entries and exits, it means that in a 1-year period the maximum length of legal stay is 180 days (2 x 90 days). Due to the fact that touring visas could be issued for up to 1 year (360 days), the reference to the '180-day period' is necessary to ensure that holders of touring visas would not get less in terms of length of authorised stays in a same Member State than visa-free third-country nationals or holders of a multiple entry short-stay visa issued with a validity of 2 years or more. Absence of reference to the '180-day period', for example, would mean that while a Russian citizen with a multiple entry short-stay visa valid for 1 year, can, in principle stay for (a non-consecutive) 180 days in the same Member State within the 1 year validity of the visa, a holder of a 1 year valid touring visa could only stay for 90 days in the same Member State within the validity of his touring visa.

never be carried out at external borders. This Article also derogates from Article 5 of the Visa Code by stating that the Member State competent to examine and decide on an application for a touring visa should be the Member State whose external border the applicant intends to cross to enter the territory of the Member States. This is justified by the fact that for many third-country nationals who wish to tour the Schengen area for longer than 90 days, the provisions of the current Visa Code (main destination in terms of purpose or length of stay) would hardly be applicable. The purpose of the visit is, in principle, the same in all Member States (e.g. live performance or tourism), while in many cases, applicants may not know in advance the length of their stays in different Member States. Finally, Article 4 entitles certain categories of third-country nationals to lodge the touring visa application in the territory of the Member State where they are legally present. This is justified, as many third-country nationals residing in the territory of the Member States, as well as third-country nationals exempt from the obligation to be in a possession of a visa for stays of up to 90 days (short stays), have sufficient financial means and a legitimate interest in circulating in other Member States for longer than 90 days in a given 180-day period while residing/staying in a specific Member State (or immediately after such residence). It is neither in the security interests nor in the economic interests of the Union to require these persons to leave the Schengen area to apply for a touring visa in their country of origin.

Article 5 specifies the provisions in the Visa Code that are applicable to the application process for a touring visa and lays down additional provisions and exceptions. It requires the applicant to present a valid travel document recognised by the Member State competent to examine and decide on an application and at least one other Member State to be visited. An additional condition for applicants is to present appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in total without staying for more than 90 days in any 180-day period in the territory of any one of these Member States. The Article does not provide derogations from the Visa Code regarding the visa fee which will therefore be EUR 60, (i.e. the standard visa fee for an application for a short-stay visa). This is justified as the tasks of the consulates, irrespective of whether they process short-stay or touring visa applications, are basically the same. The provisions of the Visa Code regarding the reduction and waiver of the visa fee should also apply. Similarly, the provisions of the Visa Code shall apply regarding the service fee that can be charged by external service providers and which must not exceed half the EUR 60 visa fee.

Another important criterion set out in this Article is that applicants will have to demonstrate their sufficient means of subsistence and stable economic situation by means of salary slips or bank statements covering a period of 12 months prior to the date of the application, and/or supporting documents that demonstrate they will acquire sufficient financial means lawfully during their stay (e.g. proof of entitlement to a pension). According to this Article, applicants in possession of a touring visa shall be allowed to apply in the Member State where they are legally present for work permit(s) required in the subsequent Member States. This provision does not interfere with provisions related to access to the labour market, and does not regulate whether a work permit is required; nor does it affect issuing conditions. It solely regulates the place of application, insofar as a third-country national should be allowed to apply for a work permit without leaving the Schengen area. The Article envisages certain procedural facilitations (i.e. possible waiver of submitting certain supporting documents) for specific categories of applicants who work for or are invited by a reliable and acknowledged company, organisation or institution, in particular, at managerial level or as researcher, artist, culture professionals, etc. Stakeholders rightly claim that for these categories of persons, the procedure should focus not only on the 'individual' applicant, but also on the reliable status of the sending/hosting/inviting company/organisation/institution.

Apart from the reference to the general provisions of the Visa Code on the examination of and decision on an application that shall be applicable to touring visas, the core provision in Article 6 is that particular attention should be paid to the applicant's financial status: sufficient financial means of subsistence for the overall duration of the intended stay, including sufficient means to cover accommodation. This Article also lays down a general 20 calendar day deadline for deciding on an application. This is more than the current processing time for applications for a short-stay visa and justified by the need for thorough scrutiny of the applicant's financial situation.

As it is necessary to clarify the interaction between stays on the basis of existing short-stay visas, long-stay visas and residence permits versus stays on the basis of touring visas to incorporate the new type of visa into the 'system', Article 6 allows for the combination of stays on the basis of touring visas with previous/future visa-free stays, stays on the basis of short-stay visas, long-stay visas or residence permits. Similar provisions will be introduced in the Visa Code and the Schengen Borders Code.

Article 7 deals with the issuing of the touring visa, where specified provisions of the Visa Code should also apply. The Article stipulates that the touring visa must always allow for multiple entries. As regards the length of the authorised stay — in conjunction with Article 8 — the Proposal provides the possibility of a stay of up to two consecutive years in the Schengen area for all third country nationals who can prove they fulfil the conditions for such a long period. When assessing an application, and in particular when defining the length of an authorised stay, consulates should take into account all relevant factors, e.g. the fact that citizens of third countries whose nationals are exempt from the visa requirement for short stays traditionally do not pose problems of irregular migration or security risks. The period of validity of the visa should correspond to the length of authorised stay. Due to the nature of the new visa, the Article excludes the possibility of issuing a touring visa with a validity limited to the territory of one Member State. A touring visa, by definition, is supposed to allow applicants to circulate in several Member States.

The touring visa is to be issued in the uniform format (visa sticker) laid down in Regulation (EC) No 1683/95, and shall bear the letter 'T' as an indication of its type. Article 77(2)(a) of the TFEU refers to both 'visas' and 'short-stay residence permits'. Given that residence permits are issued in a (plastic) card format in accordance with Regulation (EC) No 1030/2002 of 13 June 2002[19], and bearing in mind that most Member State consulates are not equipped to issue permits in card format, it would create an excessive burden for Member States to be required to issue the new authorisation in card format.

Article 8 concerns the modification of an issued visa, i.e. its extension, annulment and revocation. It provides the possibility of extending the length of authorised stay for a period of up to 2 years. Contrary to the provisions for extending a short-stay visa, applicants will not be required to justify 'exceptional' circumstances. In fact, many potential applicants for this type of visa (especially live performance artists) often need to stay for long periods in the Schengen area without setting up residence in any of the Member States. To apply for the extension of a touring visa, the applicant will have to prove they continue to fulfil the entry and visa issuing conditions and that the ongoing stay will comply with the requirement of not staying for more than 90 days in any 180-day period in one Member State.

Article 9 specifies the provisions in the Visa Code's chapter on 'Administrative management and organisation' that should also apply for the purpose of issuing touring visas. In the

[19] OJ L, 157, 15.6.2002, p. 1.

framework of local Schengen cooperation, consulates should exchange statistics and other information on touring visas.

Articles 10 to 16 are so-called final and/or operational articles, among others, dealing with the operational instructions on the processing of touring visas (in which further clarification will be provided as regards the relationship between the Visa Code provisions and the provisions set out in this Proposal), monitoring, entry into force, etc. The main objective of the amendments of the Schengen Borders Code and the VIS Regulation is to 'integrate' the touring visa into the Schengen *acquis*.

First and foremost, it means that the entry conditions set out in Article 5 of the Schengen Borders Code also apply as conditions for the issuing of a touring visa and, in addition, it must be ensured that touring visa applications/visas are registered in the VIS. It must be noted, however, that the proposal also concerns third-country nationals who are exempt from the short-stay visa requirement (cf. Annex II of the Visa Regulation and whose data are thus not registered in the VIS) since, in principle, travellers from these countries do not pose security and migratory risks for the Member States. Therefore, bearing in mind the principle of proportionality, collecting the fingerprints of nationals of such third countries (e.g. Australia, Canada, United States) is not justified. This exemption is provided in Article 5 and opens the way for Member States to accept the submission of touring visa applications electronically or by post from citizens of these third countries.

Article 12 requires further explanation. It partially repeals Article 20(2) of the CISA, according to which, if a Member State concluded a bilateral visa waiver agreement with a third country on the list in Annex II of the Visa Regulation ('visa-free list') before the entry into force of the CISA (or the date of the Member State's later accession to the Schengen Agreement), the provisions of that bilateral agreement may serve as a basis for that Member State to 'extend' a visa-free stay for longer than three months in its territory for nationals of the third country concerned.

Thus, for example, citizens of Canada, New Zealand or the United States can stay in such Member States for the period provided by the bilateral visa waiver agreement in force between the Member States and these three countries (usually three months), in addition to the general 90-day stay in the Schengen area. For these countries, the Commission is aware of several bilateral agreements, meaning their citizens can legally stay for a virtually unlimited period in the Schengen area on the basis of short-stay visa waivers. New Zealand, for instance, has 16 bilateral visa waiver agreements, so on top of the 90-day visa-free stay based on the Visa Regulation, its citizens can in practice remain in the territory of the Schengen area for 51 months (three months plus 48 months).

Already in 1998, Member States considered that such an unlimited stay was not compatible with the spirit of an area without frontiers. The Executive Committee adopted a Decision concerning the harmonisation of agreements on the removal of the visa requirement[20]. According to this Decision, Member States were to introduce standard clauses in their bilateral agreements limiting the duration of visa-free stays to three months per six months in the Schengen area (rather than in the territory of the Member State concerned).

After the incorporation of the Schengen *acquis* into the Community framework by the entry into force of the Treaty of Amsterdam, Article 20(2) of the CISA ran counter not only to the spirit of the frontier-free area, but also became incompatible with the Treaty: Article 62(3) of the Treaty establishing the European Community (TEC) referred to 'measures setting out the

[20] SCH/Com-ex (98) 24 of 23.6.1998.

conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of *no more than three months*'. Therefore, the Commission in its 2001 'right to travel' initiative proposed to repeal Article 20(2).

The Treaty on the Functioning of the European Union (TFEU) no longer limits the 'short stay' in the Schengen area to three months; it does not specify its duration. However, Article 20(2) and the existence of bilateral 'extensions of stays' is still incompatible with 77(2)(a) and (c) of the Treaty, because the common policy on visas cannot be based on the existence of bilateral agreements from the past. The scope of third-country nationals' freedom to travel should not depend on the number and content of bilateral agreements concluded in the past. The same rules should apply to all visa-free third-country nationals. The implementation of Article 20(2) raises practical problems and creates legal uncertainty both for authorities and travellers, especially when the latter are to depart from the Schengen area. In addition, the future Entry/Exit System requires clear-cut rules and for technical reasons, account cannot be taken of the possible continued application of bilateral visa waiver agreements when the period of authorised stay is to be verified. Finally, one of the ideas behind introducing the touring visa is to provide a legal framework and appropriate authorisation enabling visa-free third-country nationals to stay in the Schengen area for longer than 90 days.

The proposal provides for a five-year transitional period for Member States to 'phase out' the impact of their bilateral agreements as far as the overall length of stay of third-country nationals is concerned in the Schengen area. This takes time and it must be also acknowledged that certain third countries attach high importance to keeping the *status quo*.

From a political point of view, this is understandable. A visa waiver agreement is among those legal instruments which bring concrete and direct benefit for citizens on both sides. It must be made clear that partially deleting Article 20(2) does not imply that these agreements are immediately and fully becoming inapplicable. In addition, replacing the existing regime of extending short stays on the basis of old bilateral visa waiver agreements with a new type of visa for up to one year — with the possibility of extension up to two years — would not have a negative impact on many Americans, Canadians, New Zealanders, etc. in practice. Many of those who want to stay a year or more, are likely to work during that period and will therefore need to take up residence in one of the Member States and consequently apply for a long-stay visa or residence permit.

- **Link with the simultaneously tabled proposal for a Regulation recasting the Visa Code and other proposals**

Negotiations on the simultaneously tabled proposal for a Regulation recasting the Visa Code will have an impact on this proposal, so particular attention should be paid to ensuring the necessary synergies between these two proposals during the negotiation process. If in the course of these negotiations an adoption within a similar timeframe appears within reach, the Commission intends to merge the two proposals into one single recast proposal.

Similarly, at a later stage, synergies will have to be ensured with the Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data of third-country nationals crossing the external borders of the Member States of the European Union[21]. Its subject matter and scope might require changes if

[21] COM(2013) 95 final, 28.2.2013.

it is decided to make use of the EES to control the entries and exits of touring visa holders at the external borders[22].

- **Legal basis**

Article 77 of the TFEU confers the power on the Union to act on 'short-stays' in the Schengen area. According to Article 77(2) of the TFEU:

'[…] the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:

(a) the common policy on visas and other short-stay residence permits;

(b) the checks to which persons crossing external borders are subject;

(c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;'

This proposal contains measures concerning each of these three elements. Article 77(2)(a), (b) and (c) TFEU therefore appears to be the appropriate legal basis for the proposal.

Article 79 TFEU confers the power on the Union, in the framework of a common *immigration* policy, to legislate on long-stay visas and residence permits which both relate to legal *residence* in Member States, i.e. to *long-term* stays in a *single* Member State. The introductory paragraph (1) of Article 79 as well as paragraph (2)(b) explicitly refer to third-country nationals *residing* legally in Member States. The target group of this proposal neither want nor need to *reside* in any of the Member States; they rather wish to *travel around* Europe, i.e. to *circulate* within the Schengen area, before leaving it again. Article 79 TFEU is therefore not an appropriate legal basis for the proposal.

Article 62 TEC, which preceded Article 77 TFEU, in its third paragraph referred to *'measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months*'. Article 77(2)(c) TFEU no longer limits the *'short period'* to three months. This clear change in the Treaty took away an obstacle which there might have been under the previous treaties to adopting a similar proposal.

In conclusion, Article 77(2)(a), (b) and (c) of the TFEU is the appropriate legal basis for this proposal, which intends to regulate the circulation by third-country nationals in the Schengen area and from which situations falling under Article 79 TFEU (admission for long-term stays in the territory of a single Member State) are excluded. The latter element is ensured by the proposed definition according to which holders of the touring visa should not be allowed to stay for more than 90 days in any 180-day period in the territory of the same Member State.

- **Subsidiarity and proportionality principle**

[22] The proposal for a Decision of the European Parliament and of the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Croatia and Cyprus of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decision No 895/2006/EC and Decision No 582/2008/EC of the European Parliament and the Council (COM(2013) 441 final, 21.6.2013) will surely be adopted well before the adoption of this Proposal. Once this new 'Transit Decision' is adopted, a new Article is to be added to this proposal with a view to integrating the touring visa into Article 2 of the future Decision. In the expectation that the new Decision will repeal Decision No 895/2006/EC and Decision No 582/2008/EC, this Proposal does not contain a provision amending the latter decisions.

Article 5(3) of the Treaty on European Union (TEU) states that, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objective of the proposed action cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. With regard to this proposal, the need for intervention at Union level is very clear. Any authorisation which would be valid in all Member States can only be introduced at EU level; the 'mutual recognition' of each other's touring visas cannot be set up at national level. The issuing conditions and procedures should be uniform for all Member States. This can only be attained through action at Union level.

Article 5(4) of the TEU states that action by the Union shall not go beyond what is necessary to achieve the objectives of the Treaty. The form chosen for this EU action must enable the proposal to achieve its objective and be implemented as effectively as possible. This proposal does not contain any elements which would not be directly related to the objectives. It is also proportional in terms of costs. The proposal therefore complies with the proportionality principle.

- **Choice of instrument**

This Proposal will establish a new type of visa which in principle shall be valid in all Member States and determine the conditions and procedures for issuing this visa. Therefore only a Regulation can be chosen as a legal instrument.

4. ADDITIONAL ELEMENTS

- **Participation**

This proposal builds on the Schengen *acquis* in that it concerns the further development of common policy on visas. Therefore, the following consequences in relation to the various protocols annexed to the treaties and agreements with associated countries have to be considered:

Denmark: In accordance with Articles 1 and 2 of the Protocol (no 22) on the position of Denmark, annexed to the TEU and TFEU, Denmark does not take part in the adoption by the Council of measures pursuant to Title V of part Three of the TFEU. Given that this Regulation builds upon the Schengen *acquis*, Denmark should, in accordance with Article 4 of that Protocol, decide within a period of 6 months after the Council has decided on this Regulation whether it will implement it in its national law.

United Kingdom and Ireland: In accordance with Articles 4 and 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union and Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland, and 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*, the United Kingdom and Ireland do not take part in implementation of the common visa policy and in particular, Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code). Therefore, the United Kingdom and Ireland do not take part in the adoption of this Regulation and are not bound by it or subject to its application.

Iceland and Norway: The procedures laid down in the Association Agreement concluded by the Council 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* are

applicable, since the present proposal builds on the Schengen *acquis* as defined in Annex A of this Agreement[23].

Switzerland: This Regulation constitutes a development of the provisions of the Schengen *acquis,* as provided for by the Agreement between the European Union, the European Community and the Swiss Confederation on the Confederation's association with the implementation, application and development of the Schengen *acquis*[24].

Liechtenstein: This Regulation constitutes a development of the provisions of the Schengen *acquis*, as provided for by 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*[25].

Cyprus: This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it, as provided for by Article 3(2) of the 2003 Act of Accession.

Bulgaria and Romania: This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it, as provided for by Article 4(2) of the 2005 Act of Accession.

Croatia: This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it, as provided for by Article 4(2) of the 2011 Act of Accession.

[23] OJ L, 176, 10.7.1999, p. 36.
[24] OJ L, 53, 27.2.2008, p. 52.
[25] OJ L 160, 18.6.2011, p. 19.

2014/0095 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(a), (b) and (c) thereof,

Having regard to the proposal from the European Commission[26],

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[27],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Union legislation established harmonised rules concerning the entry and stay of third-country nationals in the Member States for up to 90 days in any 180-day period.

(2) Several sectorial Directives have been adopted regarding the conditions for admission of third-country nationals to the territory of the Member States for a period exceeding three months. Article 21 of the Convention Implementing the Schengen Agreement[28] grants third-country nationals who hold valid residence permits or national long-stay visas issued by one of the Member States the right of free movement within the territory of the other Member States for up to 90 days in any 180-day period.

(3) Visa-requiring and visa-exempt third-country nationals may have a legitimate interest in travelling within the Schengen area for more than 90 days in a given 180-day period without staying in any single Member State for more than 90 days. Rules should therefore be adopted to allow for this possibility.

(4) Live performance artists, in particular, often experience difficulties in organising tours in the Union. Students, researchers, culture professionals, pensioners, business people, service providers as well as tourists may also wish to stay longer than 90 days in any 180-day period in the Schengen area. The lack of appropriate authorisation leads to a loss of potential visitors and consequently to an economic loss.

(5) The Treaty distinguishes between, on the one hand, the conditions of entry to the Member States and the development of a common policy on short-stay visas, and on

[26] OJ C , , p. .

[27] OJ C , , p. .

[28] Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, OJ L 239, 22.9.2000, p. 19.

the other hand, the conditions of entry for the purpose of residing legally in a Member State and issuing long-stay visas and residence permits for that purpose. However, the Treaty does not define the notion of short stay.

(6) A new type of visa ('touring visa') should be established for both visa-exempt and visa-requiring third-country nationals planning to circulate in the territory of two or more Member States for more than 90 days, provided that they do not intend to stay for more than 90 days in any 180-day period in the territory of the same Member State. At the same time, the 90 days per 180 days rule should be maintained as a general dividing line between short stays and long stays, as it does not pose any problems for the vast majority of travellers.

(7) Where relevant, the provisions of Regulation (EU) No xxx/201x of the European Parliament and of the Council[29] and Regulation (EC) No 767/2008 of the European Parliament and of the Council[30] should apply to the application for and the issuing of touring visas. Given the different needs and conditions of third-country nationals applying for touring visas and due to economic and security considerations, specific rules should nevertheless be introduced, among others, as regards the authorities taking part in the procedures, the application phase, the examination of and decision on applications and the issuing and refusal of touring visas.

(8) Nationals of third countries listed in Annex II of Council Regulation (EC) No 539/2001[31] should benefit from certain facilitations, such as the exemption from the collection of fingerprints.

(9) The interaction between stays on the basis of short-stay visas, long-stay visas and residence permits and stays on the basis of touring visas should be clarified to ensure legal certainty. It should be possible to combine stays on the basis of touring visas with previous and future visa-free stays, stays on the basis of short-stay visas, long-stay visas or residence permits.

(10) It should be possible to extend the authorised stay, taking into consideration specific travel patterns and needs, provided that holders of a touring visa continue to fulfil the entry and visa issuing conditions and can prove that during their prolonged stay, they comply with the requirement of not staying for more than 90 days in any 180-day period in the territory of the same Member State

(11) The touring visa scheme should be integrated into the relevant legal instruments of the Schengen *acquis*. Therefore, amendments should be introduced to Regulation (EC) No 562/2006 of the European Parliament and of the Council[32] and to Regulation (EC) No 767/2008. The entry conditions set out in Article 5 of Regulation (EC) No 562/2006 should apply as visa issuing conditions. Touring visa applications and decisions on touring visas should be registered in the Visa Information System.

---

29 Regulation (EU) No xxx/201x of the European Parliament and of the Council of xxx establishing a Union Code on Visas (Visa Code) (recast) (OJ L x, xxx, p. x).

30 Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

31 Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L, 81, 21.3.2001, p. 1).

32 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).

(12) Following the establishment of the touring visa, Article 20(2) of the Convention implementing the Schengen Agreement should be amended as it is incompatible with 77(2)(a) and (c) of the Treaty on the Functioning of the European Union due to the fact that the common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements concluded by Member States. The authorised length of stay of third-country nationals should not depend on the number and content of such bilateral agreements concluded in the past.

(13) A five-year transitional period should be provided for phasing out the impact of bilateral visa waiver agreements as far as the overall length of stay of third-country nationals in the Schengen area is concerned.

(14) In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission in respect of establishing operational instructions on the practices and procedures to be followed by Member States when processing touring visa applications. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[33]. The examination procedure should be used for the adoption of such implementing acts.

(15) This Regulation respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for private and family life referred to in Article 7, protection of personal data referred to in Article 8 and the rights of the child referred to in Article 24 of the Charter.

(16) Directive 95/46/EC of the European Parliament and of the Council[34] applies to the Member States with regard to the processing of personal data pursuant to this Regulation.

(17) Since the objectives of this Regulation, namely the introduction of a new type of visa valid in all Member States and the establishment of uniform issuing conditions and procedures, can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

(18) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.

---

33 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

34 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

(19) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC[35]; the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(20) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC[36]; Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(21) As regards Iceland and Norway, this Regulation constitutes a development of the 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 latters' association with the implementation, application and development of the Schengen *acquis*[37], which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC[38].

(22) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of 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*[39], which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[40].

(23) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis*, within the meaning of the Protocol signed 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*[41], which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU[42] on the conclusion of that Protocol.

---

35 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* (OJ L 131, 1.6.2000, p. 43).

36 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* (OJ L 64, 7.3.2002, p. 20).

37 OJ L 176, 10.7.1999, p. 36.

38 Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

39 OJ L 53, 27.2.2008, p. 52.

40 Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of 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* (OJ L 53, 27.2.2008, p. 1).

41 OJ L 160, 18.6.2011, p. 21.

42 Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, 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

(24) As regards Cyprus, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis*, within the meaning of Article 3(2) of the 2003 Act of Accession.

(25) As regards Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession.

(26) As regards Croatia, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession.

HAVE ADOPTED THIS REGULATION:

Chapter I – General Provisions

Article 1

Subject matter and scope

1. This Regulation lays down the conditions and procedures for issuing touring visas.

2. It shall apply to third-country nationals who are not citizens of the Union within the meaning of Article 20(1) of the Treaty, without prejudice to:

   (a) the right of free movement enjoyed by third-country nationals who are family members of citizens of the Union;

   (b) the equivalent rights enjoyed by third-country nationals and their family members, who, under agreements between the Union and its Member States and these third countries, enjoy rights of free movement equivalent to those of Union citizens and members of their families.

3. This Regulation does not affect the provisions of Union or national law applicable to third-country nationals with relation to:

   (a) admission for stays for longer than three months on the territory of one Member State and subsequent mobility to the territory of other Member States;

   (b) access to the labour market and the exercise of an economic activity.

Article 2

Application of Regulation (EC) No 767/2008 and Regulation (EC) No xxx/201x [Visa Code (recast)]

1. Regulation (EC) No 767/2008 shall apply to touring visas.

2. Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply to touring visas, as provided for in Articles 4 to 10.

Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

Article 3

Definitions

For the purposes of this Regulation:

(1) the definitions provided for in Article 2(1), and (11) to (16) of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

(2) 'touring visa' means an authorisation issued by a Member State with a view to an intended stay in the territory of two or more Member States for a duration of more than 90 days in any 180-day period, provided that the applicant does not intend to stay for more than 90 days in any 180-day period in the territory of the same Member State.

Chapter II – Conditions and procedures for issuing touring visas

Article 4

Authorities taking part in the procedures relating to applications

1. Article 4(1), (3), (4) and (5), Article 6(1) and Article 7(2) and (3) of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

2. Applications shall not be examined and decided on at the external borders of the Member States.

3. The Member State competent for examining and deciding on an application for a touring visa shall be the Member State whose external border the applicant intends to cross in order to enter the territory of the Member States.

4. Applications by nationals of third countries listed in Annex II to Regulation (EC) No 539/2001 legally present in the territory of a Member State may be lodged within the territory of that Member State provided that the consulate of the competent Member State has at least 20 calendar days to decide on the application.

5. Applications by third-country nationals, irrespective of their nationality, who hold a valid residence permit or valid long-stay visa issued by a Member State may be lodged within the territory of that Member State at least 20 calendar days before the expiry of the residence permit or long-stay visa.

6. In cases referred to in paragraphs 4 and 5 the competent Member State for examining and deciding on an application for a touring visa shall be the Member State the applicant intends to enter first making use of the touring visa.

Article 5

Application

1. Article 8(1), (2), (5), (6) and (7), Article 9, Article 10(1), and (3) to (7), Article 11, points (b) and (c), Article 12, Article 13(1), points (a) to (d), Article 13(5), (6) and (7), Articles 14 and 15 of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

2. The application form for the touring visa shall be as set out in Annex I.

3. In addition to the criteria set out in Article 11, points (b) and (c), of Regulation (EU) No xxx/201x [Visa Code (recast)], applicants shall present a travel document that is

recognised by the Member State competent for examining and deciding on an application and at least one other Member State to be visited.

4. In addition to the categories of persons listed in Article 12(7) of Regulation (EU) No xxx/201x [Visa Code (recast)], nationals of third countries listed in Annex II of Council Regulation (EC) No 539/2001 shall be exempt from the requirement to give fingerprints. In those cases, the entry 'not applicable' shall be introduced in the VIS in accordance with Article 8(5) of Regulation (EC) No 767/2008.

5. In addition to the supporting documents listed in Article 13(1) of Regulation (EU) No xxx/201x [Visa Code (recast)], applicants shall present:

   (a) appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in any 180-day period without staying for more than 90 days in any 180-day period in the territory of any of these Member States;

   (b) proof that they have sickness insurance for all risks normally covered for nationals of the Member States to be visited.

6. The possession of sufficient means of subsistence and a stable economic situation shall be demonstrated by means of salary slips or bank statements covering a period of 12 months prior to the date of the application, and/or supporting documents that demonstrate that applicants will benefit from or will acquire sufficient financial means lawfully during their stay.

7. If the purpose of the visit requires a work permit in one or more Member States, when applying for a touring visa, it shall be sufficient to prove the possession of a work permit in the Member State competent to examine and decide on an application for a touring visa. Holders of a touring visa shall be allowed to apply in the Member State where they are legally present for the work permit required in the Member State to be visited next.

8. Consulates may waive the requirement to present one or more supporting documents if the applicants work for or are invited by a reliable company, organisation or institution known to the consulate, in particular at managerial level, or as a researcher, student, artist, culture professional, sportsman or a staff member with specialist knowledge, experience and technical expertise and if adequate proof is submitted to the consulate in this regard. The requirement may also be waived for those applicants' close family members, including the spouse, children under the age of 18 and parents of a child under the age of 18, in case they intend to travel together.

Article 6

Examination of and decision on an application

1. Articles 16 and 17, Article 18(1), (4), (5), (9), (10) and (11), Article 19 and Article 20(4), last sentence, of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

2. In addition to the verifications provided in Article 17(1) of Regulation (EU) No xxx/201x [Visa Code (recast)] to assess the admissibility of the application, the competent consulate shall verify whether the travel document satisfies the requirement set out in Article 5(3).

3. The examination of an application for a touring visa shall include, in particular, the assessment of whether applicants have sufficient financial means of subsistence for the

whole duration of the intended stay, including their accommodation, unless it is provided by the inviting or hosting company, organisation or institution.

4. The examination of an application for a touring visa and decision on that application shall be conducted irrespective of stays authorised under previously issued short-stay visas or a short-stay visa waiver, long-stay visas or residence permits.

5. Applications shall be decided on within 20 calendar days of the date of the lodging of an admissible application. Exceptionally, this period may be extended for up to a maximum of 40 calendar days.

Article 7

Issuing of the touring visa

1. Article 21(6), Article 24(1), (3) and (4), Article 25, Article 26(1) and (5), Articles 27 and 28, Article 29(1), point (a)(i) to (iii), (v) and (vi) and point (b), and Article 29(3) and (4) of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

2. The touring visa shall allow for multiple entries to the territory of all Member States, without prejudice to paragraph 5.

3. The length of authorised stay shall be decided on the basis of a thorough examination of the application. The length of authorised stay shall not exceed one year, but it can be extended for up to a further year in accordance with Article 8.

4. The period of validity of the touring visa shall correspond to the length of authorised stay.

5. If applicants hold a travel document that is recognised by one or more, but not all, Member States the touring visa shall be valid for the territory of the Member States which recognise the travel document, provided that the intended stay is longer than 90 days in any 180-day period in the territory of the Member States concerned.

6. The touring visa shall be issued in the uniform format for visas as set out in Council Regulation (EC) No 1683/95[43] with the heading specifying the type of visa with the letter "T".

7. In addition to the reasons of refusal listed in Article 29(1) of Regulation (EU) No xxx/201x [Visa Code (recast)], a visa shall be refused if applicants do not provide:

   (a) appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in any 180-day period without staying for more than 90 days in any 180-day period in the territory of any of these Member States;

   (b) proof that they have sickness insurance for all risks normally covered for nationals of the Member States to be visited.

8. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex II.

[43] Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1).

Article 8

Modification of an issued visa

1. Article 30(1), (3), (6) and (7) and Article 31(1) to (5), (7) and (8) of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.
2. In addition to the possibility of extension for specific reasons provided in Article 30(1) of Regulation (EU) No xxx/201x [Visa Code (recast)], holders of a touring visa may apply for an extension in the territory of the Member States not earlier than 90 days and not later than 15 days before the expiry of their touring visa.
3. The consulate of the Member State to be visited next shall be competent to examine and decide on an application for extension.
4. Applicants shall request the extension by submitting a completed application form as set out in Annex I.
5. A fee of EUR 30 shall be charged for each application for an extension.
6. As regards a work permit, Article 5(7) shall apply for extensions, where applicable.
7. Decisions shall be taken within 15 calendar days of the date of the lodging of an application for an extension.
8. When applying for an extension, applicants shall prove that they continue to fulfil the entry and visa issuing conditions and to comply with the requirement not to stay for more than 90 days in any 180-day period in the territory of a single Member State.
9. During the examination of an application for an extension, the competent authority may in justified cases call applicants for an interview and request additional documents.
10. An extension shall not exceed one year, and the overall length of an authorised stay, that is, the length of the initially authorised stay and its extension, shall not exceed two years.
11. A decision to refuse an extension and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex II.
12. Applicants whose application for an extension has been refused shall have the right to appeal. Appeals shall be introduced against the Member State that has taken the final decision on the application for an extension and in accordance with the national law of that Member State. Member States shall provide applicants with detailed information regarding the procedure to be followed in the event of an appeal, as specified in Annex II.
13. A decision on annulment or revocation of a touring visa and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex II.

Chapter III – Administrative management and organisation

Article 9

Administrative management and organisation

1. Articles 35 to 43, Article 45, Article 52(1)(a), (c) to (f) and (h) and Article 52(2) of Regulation (EU) No xxx/201x [Visa Code (recast)] shall apply.

2. Member States shall compile annual statistics on touring visas, in accordance with Annex III. These statistics shall be submitted to the Commission by 1 March of each year for the preceding calendar year.

3. The information on time limits for examining applications to be provided to the general public, referred to in Article 45(1)(e) of Regulation (EU) No xxx/201x [Visa Code (recast)], shall also comprise the time limits for touring visas, laid down in Article 6(5) of this Regulation.

4. In the framework of local Schengen cooperation, within the meaning of Article 46 of Regulation (EU) No xxx/201x [Visa Code (recast)], quarterly statistics on touring visas applied for, issued and refused as well as information on the types of applicants shall be exchanged.

Chapter IV – Final provisions

Article 10

Instructions on the practical application of this Regulation

The Commission shall by means of implementing acts adopt the operational instructions on the practical application of the provisions of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

Article 11

Committee procedure

1. The Commission shall be assisted by the committee established by Article 51(1) of Regulation (EU) No xxx/201x [Visa Code (recast)] (the Visa Committee).

2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 12

Amendment to the Convention implementing the Schengen Agreement

Article 20(2) of the Convention implementing the Schengen Agreement shall be replaced by the following:

‘2. Paragraph 1 shall not affect each Contracting Party’s right to extend beyond 90 days an alien’s stay in its territory in exceptional circumstances.’

Article 13

Amendments to Regulation (EC) No 562/2006

Regulation (EC) No 562/2006 is amended as follows:

(1) Article 5 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

‘(b) they are in possession of a valid visa, if required pursuant to Council Regulation (EC) No 539/2001*, or hold a valid touring visa as defined in Article 3(2) of Regulation (EU) No xxx/201x of xxx **, valid residence permit or a valid long-stay visa;

_____

* Council Regulation (EC) No 539/2001* of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

** Regulation (EU) No xxx/201x of the European Parliament and of the Council of xx.xx.201x establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008 (OJ L xxx).'

(b) paragraph 1a is replaced by the following:

'1a. For the purposes of implementing paragraph 1, the date of entry shall be considered as the first day of stay on the territory of the Member States and the date of exit shall be considered as the last day of stay on the territory of the Member States. Periods of stay authorised under a touring visa, residence permit or a long-stay visa shall not be taken into account in the calculation of the duration of stay on the territory of the Member States.'

(c) the following paragraph 3a is inserted:

'3a. Paragraphs 1 to 3 shall be applicable *mutatis mutandis* for entries related to stays on the basis of a valid touring visa.'

(2) Article 7(3) is amended as follows:

(a) point (aa) is replaced by the following:

'(aa) if the third country national holds a visa or touring visa referred to in Article 5(1)(b), the thorough checks on entry shall also comprise verification of the identity of the holder of the visa/touring visa and of the authenticity of the visa/touring visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No 767/2008 of the European Parliament and of the Council***;

_____

*** Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L, 218, 13.8.2008, p. 60). '

(b) the penultimate sentence of point (ab) is replaced by the following:

'However, in all cases where there is doubt as to the identity of the holder of the visa or touring visa and/or the authenticity of the visa or touring visa, the VIS shall be consulted systematically, using the number of the visa sticker in combination with the verification of fingerprints.'

(c) in point (c), point (i) is replaced by the following:

'(i) verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No 539/2001, or valid touring visa, except where he or she holds a valid residence permit or valid long-stay visa; such verification may comprise consultation of the VIS in accordance with Article 18 of Regulation (EC) No 767/2008;'

Article 14

Amendment to Regulation (EC) No 767/2008

Regulation (EC) No 767/2008 is amended as follows:

(1) Article 1 is replaced by the following:

‘This Regulation defines the purpose of, the functionalities of and the responsibilities for the Visa Information System (VIS), as established by Article 1 of Decision 2004/512/EC. It sets up the conditions and procedures for the exchange of data between Member States on applications for short-stay visas and touring visas as defined in Article 3(2) of Regulation (EU) No xxx/201x of xxx* and on decisions taken in relation thereto, including decisions to annul, revoke or extend the visa, to facilitate the examination of such applications and related decisions.

_____

* Regulation (EU) No xxx/201x of the European Parliament and of the Council of xx.xx.201x establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008 (OJ L xxx).’

(2) Article 4 is amended as follows:

(a) in point 1 the following point is added:

‘(e) ‘touring visa’ as defined in Article 3(2) of Regulation (EU) No xxx/201x;’

(b) points 4 and 5 are replaced by the following:

‘4. ‘application form’ means the uniform application form for visas in Annex I to Regulation (EC) No xxx/201x [Visa Code (recast)] or Annex I to Regulation (EU) No xxx/201x;

5. ‘applicant’ means any person subject to the visa requirement pursuant to Council Regulation (EC) No 539/2001**, who has lodged an application for a visa, or any person who has lodged an application for a touring visa pursuant to Regulation (EU) No xxx/201x;

_____

** Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p.1). ’

(3) In Article 14(2) the following point (e) is added:

‘(e) request for extension and continued fulfilment of the conditions by a holder of a touring visa.’

Article 15

Monitoring and evaluation

By [three years after the date of application of this Regulation] the Commission shall evaluate the application of this Regulation.

Article 16

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from [6 months after the entry into force of this Regulation].
3. Article 12 shall apply from [5 years after the entry into force of this Regulation].
4. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

EUROPEAN
COMMISSION

Brussels, 1.4.2014
COM(2014) 164 final

2014/0094 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union Code on Visas (Visa Code)

(recast)
{SWD(2014) 67 final}
{SWD(2014) 68 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

This proposal recasts and amends 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).

This proposal takes into account the increased political emphasis given to the economic impact of visa policy on the wider European Union economy, and in particular on tourism, to ensure greater consistency with the growth objectives of the Europe 2020 strategy, in line with the Commission's communication *Implementation and development of the common visa policy to spur growth in the European Union*.[1]

The proposal also builds on the conclusions drawn in the Report from the Commission to the European Parliament and the Council on the evaluation of the implementation of the Visa Code[2]. The report is accompanied by a Commission staff working paper[3] containing the detailed evaluation.

This proposal also contains two measures to facilitate family contacts: It introduces certain procedural facilitations for close relatives coming to visit Union citizens residing in the territory of the Member State of which the latter are nationals and for close relatives of Union citizens living in a third country and wishing to visit together with the Union citizen the Member State of which the latter is a national.

Furthermore, it clarifies that the same procedural facilitations should as a minimum be granted to family members of EU citizens who benefit from article 5(2), second subparagraph of Directive 2004/38/EC on the rights of Union citizens and their family members to move and reside freely within the territory of the Member States.

General context

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (Visa Code) became applicable on 5 April 2010. The provisions regarding notification and the requirements on providing the grounds of refusal, revocation and annulment of visas and the right to appeal against such decisions, became applicable on 5 April 2011.

Article 57(1) of the Visa Code requires the Commission to send the European Parliament and the Council an evaluation of its application two years after all the provisions of the Visa Code have become applicable (i.e. 5 April 2013). The evaluation and accompanying staff working document have been submitted. Article 57(2) provides that the evaluation may be accompanied by a proposal for an amendment of the Regulation.

In the light of the evaluation report's conclusions, the Commission decided to submit this proposal for amendments to the legislation together with the report.

The proposed amendments while maintaining security at the external borders and ensuring the good functioning of the Schengen area, make travel easier for legitimate travellers and simplify the legal framework in the interest of Member States, e.g. by allowing more flexible rules on consular cooperation. The common visa policy should contribute to generating

[1] COM(2012) 649 final.
[2] COM (2014) 165.
[3] SWD (2014) 101 .

growth and be coherent with other EU policies on external relations, trade, education, culture and tourism.

Existing provisions

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).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

The consultation of interested parties is covered in the impact assessment[4] accompanying this proposal.

Impact assessment (IA)

Based on the evaluation report referred to in section 1, two principal problem areas were identified:

(1) The overall length and costs (direct and indirect) and the cumbersome nature of the procedures;

The complex nature of this problem area is explained in detail in the IA. As far as regulatory options are concerned, the issuing of multiple-entry visas (MEVs) with a long validity accompanied by certain procedural facilitations was considered the only win-win solution for both sides. It has the potential to lessen the administrative burden on consulates and, at the same time, it is considered a very important facilitation for certain groups of travellers. In practice it would be equivalent to a visa waiver for the period of validity of the MEV, resulting in significant savings and efficiency gains both for visa applicants (in terms of time and cost) and consulates (time). The policy options envisaged in response to this problem area are therefore fairly similar. Only the beneficiaries to be covered and the length of validity of the MEVs to be issued differ, as follows:

Minimum regulatory option: introduction of mandatory procedural facilitations and mandatory issuing of MEVs valid for at least one year and subsequently for three years for frequent travellers (defined as applicants who have previously lawfully used at least three visas (within the previous 12 months prior to the date of the application) that are registered in the Visa Information System (VIS).

Intermediate option: introduction of mandatory procedural facilitations and mandatory issuing of MEVs valid for at least three years and subsequently for five years for regular travellers (defined as applicants who have previously lawfully used at least two visas that are registered in the VIS).

The maximum option identified would extend mandatory procedural facilitations and mandatory issuing of MEVs immediately for five years to the majority of applicants ('VIS registered applicants') by requiring only one lawfully used visa (within the previous twelve months prior to the date of the application) that is registered in the VIS.

The IA showed that these options would all further harmonise the current legal framework and would lead towards a genuinely common visa policy. The potential economic impacts on the Member States of these options occur because the travellers in possession of long(er) validity MEVs with are likely to make more trips to the Schengen area than they otherwise

[4] SWD (2014) 67 and SWD 68.

would. The IA estimates that some 500 000 additional trips to the Schengen area with the minimum policy option, some 2 million with the intermediate and some 3 million with the maximum policy option. The additional trips to the Schengen area obviously generate additional income: some. EUR 300 million (some 7 600 supported full time equivalent /FTE/ jobs) in case of the minimum option; more than EUR 1 billion (ca. 30 000 supported FTE job) with the intermediate option and some EUR 2 billion (50 000 supported FTE jobs) with the maximum option. The IA also showed that the very high potential economic impact of the maximum option is associated with a higher security risk.

None of these options would involve considerable additional costs. In fact, one of the driving forces behind the policy options is to produce savings for both the Member States/consulates and visa applicants. These options progressively lead to cost savings on the applicants' side, mainly resulting from the increasing number of long-validity MEVs issued. From the applicants' point of view, the maximum option is obviously the most efficient, and the minimum option is the least efficient. The declining number of visa applications under the MEV-system, is expected to reduce Member States' visa revenues. However, the issuing of MEVs also reduces costs, as fewer visa applications need to be processed: the economic benefits considerably exceed the estimated costs in all options.

While it was clear that the maximum option had a very high potential economic impact, it is associated with a potentially higher security risk, too. To mitigate this risk, the approach proposed is to issue longer-validity MEVs gradually to 'VIS registered regular travellers' (first for three years, then on the basis of lawful use of that visa, for five years). The impacts of this approach fall between the intermediate and the maximum option identified in the IA, probably closer to the impacts of the maximum option as far as the economic impacts are concerned.

(2) insufficient geographical coverage in visa processing.

The minimum policy option assessed for this problem area was to repeal Article 41 of the Visa Code (co-location, Common Application Centres (CAC*)*) and to introduce a general notion/concept of 'Schengen Visa Centre' which would provide a more realistic, more flexible definition with regard to certain forms of consular cooperation. The intermediate option in addition to the 'Schengen Visa Centres' was introducing the concept of 'mandatory representation' according to which, if the Member State competent to process the visa application is neither present nor represented (under such an arrangement) in a given third country any other Member State present in that country would be obliged to process visa applications on their behalf. Finally, as a maximum option, in order to ensure adequate visa collecting/processing coverage, Commission implementing decisions could lay down what the Schengen visa collecting network in third countries should look like in terms of representation arrangements, cooperation with external service providers and pooling of resources by other means.

The IA noted that the maximum policy option could have the most positive impacts in terms of rationalising the visa collecting/processing presence and could offer important advantages for visa applicants and significant efficiency gains for consulates. However its feasibility appears low. Based on the impact assessment, the intermediate option was preferred. The IA points out that 'mandatory representation' would secure consular coverage in any third country where there is at least one consulate present to process visa applications. This could have a positive impact on some 100 000 applicants who would be able to lodge the application in their country of residence instead of travelling to a country where the competent Member State is present or represented.

The economic impacts of all the policy options were considered fairly modest. In fact due to the very nature of the problem, the policy options were not aimed at generating economic growth in the first place, but providing a better service for visa applicants and providing a good legal framework for Member States to rationalise their resources. The financial impacts of 'mandatory representation' were considered not to be significant because, in principle, if a high number of visa applications is addressed to a Member State in a given third country that state will, in principle, already have ensured consular presence by being present or represented. Moreover the visa fee, in principle, covers the average cost of processing.

The non-regulatory policy options were considered to have very little positive impact on addressing the problems or achieving the policy objectives, so they were not considered very effective.

The evaluation report suggests, and this proposal deals with a number of other (mostly quite technical) issues. The IA did not cover those issues because the changes envisaged were not considered to have substantial and/or measurable budgetary, social, or economic implications; most of the proposed changes are intended to clarify or adjust/complement certain provisions of the Visa Code without altering their substance.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary

The proposed amendments concern the following issues:

The provisions on individual Member States' introduction of airport transit visa requirement for nationals of specific third countries have been revised to ensure transparency and proportionality (Article 3).

To distinguish clearly between different categories of visa applicants while taking into account the full roll out of the VIS, definitions of 'VIS registered applicants' and 'VIS registered regular travellers' have been added (Article 2). This distinction is reflected in all steps of the procedure (Articles 5, 10, 12, 13, 18 and 21). An overview of the various procedural facilitations is set out below:

	Lodging in person	Collection of fingerprints	Supporting documents	Visa to be issued
First time applicant – not VIS registered	YES	YES	Full list corresponding to all entry conditions	Single entry corresponding to travel purpose. However, a MEV may be issued, if the consulate considers the applicant reliable.
VIS registered applicant (but not a regular traveller)	NO	NO, unless the fingerprints have not been collected within the last 59 months	Full list corresponding to all entry conditions	Single entry or MEV
VIS registered regular traveller	NO	NO	Only proof of travel purpose Presumption (because of 'visa history' of fulfilment of entry conditions	First application: three year MEV Following applications: five-

			regarding migratory and security risk and sufficient means of subsistence.	year MEV

The provisions regarding "competent Member State" (Article 5) have been simplified to make it easier for applicants to know where to lodge the application and to ensure that they can, in principle, always lodge the application in their country of residence. This implies that in case the competent Member State is neither present nor represented in a given location, the applicant is entitled to apply at one of the consulates present according to criteria set out in the article.

The provisions provide certain procedural facilitations for close relatives of Union citizens so as to contribute to improving their mobility, in particular by facilitating family visits (Articles 8, 13, 14 and 20).

First, the provisions provide for facilitations for family members intending to visit Union citizens residing in the territory of the Member State of which they are nationals and for family members of Union citizens living in a third country and wishing to visit together the Member State of which the EU citizens are nationals. Both categories of situations are outside the scope of Directive 2004/38/EC. The Visa Facilitation Agreements concluded and implemented by the EU with a number of third countries demonstrate the importance of facilitating such visits: the amended Visa Facilitation Agreements with Ukraine and Moldova, as well as the recent Visa Facilitation Agreements with Armenia and Azerbaijan, provide facilitations (e.g. visa fee waiver and the issuing of multiple entry visas (MEVs) with a long validity) for the citizens of the third country concerned visiting close relatives who have the nationality of the Member State of residence. This practice of the Union should be made general in the Visa Code.

Secondly, according to the provisions the same facilitations are granted as a minimum in situations covered by Directive 2004/38/EC. As provided in Article 5(2) of the Directive, Member States may, where the EU citizen exercises the right to move and reside freely in their territory, require the family member who is a non-EU national to have an entry visa. As confirmed by the Court of Justice[5], such family members have not only the right to enter the territory of the Member State but also the right to obtain an entry visa for that purpose. According to Article 5(2), second subparagraph of the Directive, Member States must grant such persons *every facility*[6] to obtain the necessary visas, which must be issued free of charge as soon as possible and on the basis of an accelerated procedure.

It should be noted that Article 5(2) cited above essentially contains the same provision as Article 3(2) of Directive 68/360/EEC[7] which was repealed by Directive 2004/38/EC. Article 3(2) of Directive 68/360/EEC was adopted at a time when the then Community had no competence to legislate on visas. Since the entry into force of the Amsterdam Treaty on 1 May 1999, the Community has had a competence to legislate on visas. This competence, currently enshrined in Article 77 of the TFEU, was used for the adoption of the Visa Code. It is desirable to render more precise the facilitations which Directive 2004/38/EC refers to, and

5 See, inter alia, judgment of the Court of 31 January 2006 in case C-503/03 Commission v Spain

6 The notion of facilitation has been interpreted by the Court of Justice in relation to the entry and residence of family members falling under Article 3(2) of the Directive as imposing an obligation on the Member States *to confer a certain advantage*, compared with applications for entry and residence of other nationals of third States, on applications submitted by persons who have a relationship of particular dependence with a Union citizen"; judgment of 5 September 2012 in case C-83/11, Rahman.

7 Council Directive of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (68/360/EEC), OJ L 257, 19.10.1968, p. 13.

the appropriate place to do so is the Visa Code, where detailed rules on conditions and procedures for the issuing of visas are established. While respecting the freedom of Member States to grant further facilitations, the facilitations proposed for certain close relatives of Union citizens who have not made use of their right to move and reside freely within the Union should apply, as a minimum, in situations which fall within the scope of Directive 2004/38/EC. Those facilitations are then a common implementation in the Visa Code and for the Member States bound by it, of the obligation contained in Article 5(2), second subparagraph of Directive 2004/38/EC.

The provisions on visa fee waivers have become mandatory rather than optional to ensure equal treatment of applicants (Article 14). Certain categories eligible to visa fee waivers have been enlarged, e.g. minors up to 18 years, or added (close relatives of Union citizens not exercising their right to free movement).

General procedural facilitations:

– The principle of all applicants having to lodge the application in person has been abolished (cf. Commission staff working paper, point 2.1.1.1 (paragraph (7)).Generally, applicants will only be required to appear in person at the consulate or the external service provider for the collection of fingerprints to be stored in the Visa Information System (Article 9).

– The maximum deadline for lodging an application has been increased to allow travellers to plan ahead and avoid peak seasons; likewise a minimum deadline for lodging an application has been set to allow Member States time to proper assessment of applications and organisation of work (Article 8).

– The general visa application form (Annex I) has been simplified and a reference has been made to the use of electronic filling in of the application form (Article 10).

– The list of supporting documents in Annex II is no longer a "non-exhaustive list" and a distinction has been made between unknown applicants and VIS registered regular travellers as regards the supporting documents to be submitted (Article 13). The provisions regarding the preparatory work on drawing up lists adapted to local circumstances in local Schengen cooperation have been reinforced in Article 13.

– The unknown visa applicant (i.e. someone who has not applied for a visa before) should prove that he fulfils the visa issuing conditions.

– In this context, attention is drawn to the recent 'Koushkaki judgement'[8] according to which Articles 23(4), 32(1) and 35(6) (Articles 20(4), 29(1) and 32(5) of the recast Visa Code) "must be interpreted as meaning that the competent authorities of a Member State cannot refuse, following the examination of an application for a uniform visa, to issue such a visa to an applicant unless one of the grounds for refusal of a visa listed in those provisions can be applied to that applicant. Those authorities have a wide discretion in the examination of that application so far as concerns the conditions for the application of those provisions and the assessment of the relevant facts, with a view to ascertaining whether one of those grounds for refusal can be applied to the applicant."

– The European Court of Justice also ruled that the provisions of Article 32(1) (now Article 29(1)) of the Visa Code, read in conjunction with Article 21(1) (now Article 18(1)), "must be interpreted as meaning that the obligation on the competent authorities of a Member State to issue a uniform visa is subject to the condition that

[8] Judgment of 19 December 2013 in case C-84/12 Koushkaki not yet published in the E.C.R.

there is no reasonable doubt that the applicant intends to leave the territory of the Member States before the expiry of the visa applied for, in the light of the general situation in the applicant's country of residence and his individual characteristics, determined in the light of information provided by the applicant."

- It should be presumed that 'VIS registered regular travellers' fulfil the entry conditions regarding the risk of irregular immigration and need to possess sufficient means of subsistence. However, this presumption should be reversible in individual cases.
- The proposal establishes that the authorities of the Member States can rebut the presumption of fulfilment of entry conditions in an individual case and it establishes on which basis this can occur (Article 18(9)).
- General reduction of the deadlines for taking a decision on a visa application (Article 20) in the light of the shortening of the response time in the prior consultation procedure (Article 19). Short deadlines are introduced for the examination of applications from family members of Union citizens exercising their right to free movement and from close relatives of Union citizens not exercising their right to free movement.
- A MEV may be issued with a validity going beyond the validity of the travel document (Article 11(a)).
- The provisions on travel medical insurance (TMI) should be deleted because the actual added value of the TMI measure has never been established (cf. Commission staff working paper, point 2.1.1.2 (14)).
- The standard form for notifying and motivating refusal, annulment or revocation of a visa has been be revised to include a specific ground for refusal of an airport transit visa and to ensure that the person concerned is properly informed about appeal procedures.
- Provisions derogating from the general provisions on the exceptional issuing of visas at the external border have been introduced: Member States will in view of promoting short term tourism be allowed to issue visas at the external borders under a temporary scheme and upon notification and publication of the organisational modalities of the scheme (Article 33).
- Flexible rules allowing Member States to optimise use of resources, increase consular coverage and develop cooperation among Member States have been added (Article 38).
- Member States' use of external service provider is no longer to be the last resort solution.
- Member States are not obliged to maintain the possibility of "direct access" for lodging applications at the consulate in places where an external service provider has been mandated to collect visa applications (deletion of previous Article 17(5)). However, family members of Union citizens exercising their right to free movement and close relatives of Union citizens not exercising their right to free movement as well as applicants who can justify a case of emergency should be given an immediate appointment.
- Member States should annually report to the Commission on the cooperation with external service providers, including the monitoring of the service providers.

– Streamlining of the provisions regarding representation arrangements (Article 39) (cf. Commission staff working paper, points 2.1.1.5 (paragraph (20)) and 2.1.4 (paragraph 41)).

– As explained in the evaluation report (point 3.2) the lack of sufficiently detailed statistical data hinders the assessment of the implementation of certain provisions. Therefore, Annex VII is amended to provide for the collection of all relevant data in a sufficiently disaggregated form allow for proper assessment. All data concerned can be retrieved (by Member States) from the VIS, except for information on the number of visas issued free of charge, but given that that is linked to the general treasury of the Member State, such data should be easily accessible.

– Strengthening of the legal framework regarding information to the public (Article 45):

  - A common Schengen visa internet website is to be created by the Commission

  - A template for the information to be given to visa applicants is to be developed by the Commission

Technical amendments:

– Deletion of the reference to the specific travel purpose "transit" (Article 1(1) mainly) given that short stay visas are not purpose bound. The reference has only been maintained where it referred to as a specific travel purpose, e.g. in Annex II to the Visa Code, listing the supporting documents to be submitted according to purpose of travel

– Establishing harmonised rules on the handling of situations of loss of identity document and valid visa (Article 7).

– Precise deadlines for Member States' various notifications (15 days): on representation arrangements, introduction of prior consultation and ex-post information.

– In accordance with Article 290 of the TFEU, the power to amend non-essential elements of Regulation is delegated to the Commission in respect of the list of third countries whose nationals are required to hold an airport transit visa when passing through the international transit areas of airports situated on the territory of the Member States (Annex III) and the list of residence permits entitling the holder to transit through the airports of Member States without being required to hold an airport transit visa (Annex IV).

– In accordance with Article 291 of the TFEU, the Commission should be empowered to adopt implementing acts establishing the list of supporting documents to be to be used in each location to take account of local circumstances, details for filling in and affixing of the visa stickers and the rules for issuing visas to seafarers at the external borders. Therefore, the previous annexes VII, VIII and IX should be deleted.

Legal basis

Article 77(2)(a) of the Treaty of the Functioning of the European Union.

This proposal recasts 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) which was based on the equivalent provisions of the Treaty establishing the European Community, i.e. Article 62(2)(a) and (b)(ii).

Subsidiarity principle

Article 77(2)(a) of the TFEU empowers the Union to develop measures concerning 'the common policy on visas and other short stay residence permits'.

The current proposal is within the limits set by this provision. The objective of this proposal is to further develop and improve the measures of the Visa Code concerning the conditions and procedures for issuing visas for intended stays in the territory of Member States not exceeding 90 days in any 180 days period. It cannot be sufficiently achieved by the Member States acting alone, because an amendment to an existing Union Act (the Visa Code) can only be achieved by the Union.

Proportionality principle

Article 5(4) of the TEU states that the content and form of Union action must not exceed what is necessary to achieve the objectives of the Treaties. The form chosen for this action must enable the proposal to achieve its objective and be implemented as effectively as possible.

The establishment of the Visa Code in 2009 took the form of a Regulation in order to ensure that it would be applied in the same way in all the Member States that apply the Schengen *acquis*. The proposed initiative constitutes an amendment to an existing regulation and must therefore take the form of a regulation. As to the content, this initiative is limited to improvements of the existing regulation and based on the policy objectives to which one new objective was added: economic growth. The proposal therefore complies with the proportionality principle.

Choice of instrument

This proposal recasts Regulation No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). Therefore only a Regulation can be chosen as a legal instrument.

4. BUDGETARY IMPLICATIONS

The proposed amendment has no implications for the EU budget.

5. ADDITIONAL ELEMENTS

Consequences of the various protocols annexed to the Treaties and of the association agreements concluded with third countries

The legal basis for this proposal is to be found in Title V of Part Three of the Treaty on the Functioning of the European Union, with the result that the system of ‘variable geometry’, provided for in the protocols on the position of the United Kingdom, Ireland and Denmark and the Schengen protocol applies. The proposal builds on the Schengen *acquis*. The consequences for the various protocols therefore have to be considered with regard to Denmark, Ireland and the United Kingdom; Iceland and Norway; and Switzerland and Liechtenstein. Likewise, the consequences for the various Acts of Accessions must be considered. The detailed situation of each of these states concerned is described in recitals 49-57 of this proposal. The system of 'variable geometry' of this proposal is identical to the one that applies to the original Visa Code, with the addition of a reference to the 2011 Act of Accession regarding Croatia.

Link with the simultaneous proposal for a Regulation establishing a touring visa[9]

[9] COM(2014) 163 final.

Possible amendments to this proposal during the legislative process will have an impact on the proposal for a Regulation establishing a touring visa, so particular attention should be paid to ensuring the necessary synergies between these two proposals during the negotiation process. If in the course of these negotiations an adoption within a similar timeframe appears within reach, the Commission intends to merge the two proposals into one single recast proposal. In case the legislators reach agreement on the present proposal before there is prospect of imminent agreement on the proposal for a Regulation establishing the touring visa, the provisions in this proposal relating to the envisaged touring visa (Articles 3(7), 12(3), 18(6)) should not be maintained for adoption but be inserted later by an amendment to the Visa Code when agreement on the touring visa proposal has eventually been reached.

Succinct overview of the proposed amendments

Article 1 – Amendments to the Visa Code

Article 1 – Subject matter and scope

– Horizontal change: throughout the text the reference to "transit" as a travel purpose has been deleted.

Article 2 - Definitions

– Paragraph 6 is added to refer to the definition of 'touring visa' in the relevant Regulation.

– Paragraph 7 is added to provide a definition of 'close relatives' (of citizens of the Union).

– Paragraph 8 is added to provide a definition of 'VIS registered applicant' to ensure that full benefit is drawn of the Visa Information System.

– Paragraph 9 is added to provide a definition of 'VIS registered regular traveller' to ensure that full benefit is drawn of the Visa Information System and account is taken of the applicant's 'visa history'.

– Paragraph 12 is added to provide a definition of 'valid' in the sense of not expired as opposed to false, counterfeit or forged.

– Paragraph 16: a definition of 'seafarer' is added to ensure that all staff working on ships benefit from the various procedural facilitations.

Article 3 – Third country nationals required to hold an airport transit visa

– Paragraph 4: the provisions on the introduction by individual Member States of an airport transit visa requirement for nationals of specific third countries have been revised to be covered by the appropriate institutional legal framework.

Article 5 – Member State competent for examining and deciding on an application

– Paragraph 1 (b) is amended to maintain only one objective criterion, i.e. length of stay, for determining the Member State competent for examining an application when the envisaged trip covers more than one destination. Additionally, provisions have been added to cover situations where the traveller is to carry out several trips to different Member States within a short timeframe, i.e. two months.

– Paragraph 2 is amended to overcome situations where the "competent" Member State is neither present nor represented in the third country where the applicant legally resides. The provisions cover all possible situations and offer solutions expressing the spirit of cooperation and confidence on which the Schengen cooperation is based.

Article 7 - Competence to issue visas to third-country nationals legally present within the territory of a Member State

– Paragraph 1 is amended as a consequence of the amendment of Article 5.

– Paragraphs 2 and 3 are inserted to create a harmonised legal framework for situations where a third country national loses his/her travel document, or this document is stolen, while staying in the territory of the Member States.

Article 8 – Practical modalities for lodging an application

– Paragraph 1 establishes general maximum and minimum deadlines for lodging an application.

– Paragraph 3 is added to provide facilitation in certain situations involving relatives of Union citizens where an immediate appointment should be given.

– Paragraph 4 is amended to become mandatory ('shall') rather than optional ('may'), meaning that urgency cases shall always be treated immediately.

– Paragraph 5 is amended to clarify the rules on who may lodge the application on behalf of the applicant and a reference has been made to professional, cultural,sports or education association or institution as distinct from commercial intermediaries.

– Paragraph 6 has been moved from the previous Article 40(4) and amended to cover only the provision on applicants having only to appear in person at one location to lodge an application.

Article 9 - General rules for lodging an application

– Paragraph 1 has been replaced by a new text to take account of the abolition of the general principle of all applicants having to lodge the application in person (cf. Commission staff working paper, point 2.1.1.1 (paragraph (7)).

– Paragraph 2 is amended as a consequence of the amendment of paragraph 1.

Article 10 – Application form

– Paragraph 1 is amended to add a reference to the possibility of filling in the application form electronically.

– Paragraph 2 is inserted to ensure that the electronic version of the application form corresponds precisely to the application form set out in Annex I

– Paragraph 4 has been simplified to ensure that the application form is always, as a minimum, available in the official language of the Member State, for which the visa is requested, and the host state.

Article 11 – Travel document

– Point (a) is amended with a cross reference to the new provision in Article 21 (2), see below.

– Point (b) is amended to ensure that one blank double page be available in the applicant's travel document so that the visa sticker and subsequent entry-exit stamps are placed next to each other. This will facilitate border checks; cf. Commission staff working paper, point 2.1.1.2 (paragraph (11)).

Article 12 – Biometric identifiers

– Paragraphs 2 and 4 are amended as a consequence of the amendment of Article 9 (1)).

– Paragraph 3 is amended to take account of the proposal on the 'touring visa'.

Article 13 – Supporting documents

– Paragraph 2 is inserted to take account of the procedural facilitations to be granted to VIS registered regular travellers, meaning that this category of applicants only have to present proof of travel purpose.

– Paragraph 3 is inserted to grant or clarify facilitations for relatives of Union citizens in certain situations.

– Paragraph 4 is amended to establish that the harmonised list of supporting documents in Annex II is exhaustive.

– Paragraph 6 is inserted to ensure that applicants can submit facsimile or copies of original supporting documents. Applicants should subsequently submit the original documents, except for specific cases where the original document can only be requested in the case of doubt about the authenticity of the documents.

– In paragraph 7(a), a reference to 'private' accommodation has been added.

– Paragraph 10 has been added to take account of the provisions on implementing measures.

Article 14 – Visa fee

– Point (a) of paragraph 3 enlarges the visa fee waiver to cover minors up to the age of 18 years (previously the age of six), thus doing away with the visa fee reduction for 6-12 year olds and the optional fee waiver for the same age group.

– Point (c) of paragraph 3 is amended to make a clear reference to the category of persons to be covered.

– Point (d) of paragraph 3 renders the fee waiver for holders of diplomatic and service passports mandatory

– Point (e) of paragraph 3 renders the fee waiver for participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations mandatory, thus doing away with optional fee waiver for this group and the mandatory fee waiver for representatives aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.

– Points (f) and (g) are inserted to grant or clarify visa fee waivers in certain situations involving relatives of Union citizens.

See also Commission staff working document, point 2.1.1.3 (paragraph (15)).

Article 15 – Service fee

– In paragraph 1, the reference to an "additional" service fee has been deleted

– Paragraph 3 is amended as a consequence of the amendment of Article 14.

Article 18 – Verification of entry conditions and risk assessment

– Paragraph 2 is inserted to take account of the insertion of Article 2(9) and the insertion of Article 13(1)(e).

– Paragraph 3 is inserted to clarify that the competent authorities of the Member State are responsible for justifying the reversion of the presumption of fulfilment of entry conditions in individual cases and on which grounds such a reversion can be based.

– Paragraph 6 is amended to take account of the proposal on a touring visa and the reference to "issued by another Member State" is deleted which was misleading.

– Paragraph 10 is amended and to allow for Member States to use modern means of communication to carry out an interview with the applicant, rather than requiring him to come to the consulate in person.

Article 19 – Prior consultation

– Paragraph 2 is amended to provide that Member States reply to the consultation requests within five calendar days rather than seven.

– Paragraph 3 provides that Member States notify requests for prior consultation at the latest 15 calendar days before the introduction of the measure to allow for timely information of applicants and for other Member States to prepare at technical level.

– Paragraph 5 is deleted because it has become obsolete

Article 20 – Decision on the application

– Paragraph 1 provides that the decision making time be reduced to maximum 10 calendar days. This is both a consequence of the amendment of Article 19 (2) and of the findings in the evaluation of the implementation of the Visa Code, cf. Commission staff working document, point 2.1.1.6 (paragraph (22)).

– Paragraph 2 is amended to shorten the maximum period for the decision making time to 20 days and the last sentence is deleted as a consequence of the abolition of the provision allowing a represented Member State to require to be consulted on cases handled in representation.

– Paragraph 3 is inserted to grant and clarify the facilitations to be given in certain situations to close relatives of Union citizens.

– The previous paragraph 3 is deleted because an examination of an application for a short stay visa should not be allowed to take 60 calendar days.

– Paragraph 4, point (d) is deleted as a consequence of the abolition of the provision allowing a represented Member State to be consulted; this abolishes the requirement that certain cases be transmitted for handling by that represented Member State rather than the representing Member State.

Article 21 – Issuing of a uniform visa

– Paragraph 2 replaces the previous Article 24 (1) 4th and 5th subparagraphs.

– Paragraph 2, first paragraph, is amended to remove the reference to "two-entry" visas which seems superfluous and reference is made to the possibility of issuing a multiple entry visa going beyond the validity of the travel document.

– Paragraphs 3 and 4 are added to take account of the amendment of Article 2(10) and to introduce objectively defined criteria for granting specific facilitations.

– Paragraph 5 is amended to cover other cases of visa applicants eligible for the issuing of a multiple entry visa.

Article 24 – Filling in of the visa sticker

– Paragraph 2 is inserted to take account of Article 51(2).

– Paragraph 3 is amended to strengthen the provisions on the national comments on the visa sticker, cf. Commission staff working document, point 2.1.1.6 (paragraph (27)).

– Paragraph 5 is amended to ensure that only single entry visas may be issued manually.

Article 25 – Invalidation of a completed visa sticker

– Paragraph 2 is amended to take into account the need to create a proper legal basis for a best practice recommended in the Visa Code Handbook.

Article 26 – Affixing a visa sticker

– Paragraph 2 is inserted to take account of the provisions in Article 51(2).

Article 28 – Informing central authorities of other Member States

– Paragraph 2 is amended to ensure timely information of other Member States, cf. comments made regarding Article 19.

Article 29 – Refusal of a visa

– Point 1 (a) (vii) is deleted as a consequence of the abolition of the requirements on travel medical insurance.

– Paragraph 3 is replaced to add a reference to the need for Member States to provide detailed information on appeal procedures.

– Paragraph 4 is deleted as a consequence of deleting of the provision requiring that certain cases be transmitted for handling by that represented Member State rather than the representing Member State.

Article 31 – Annulment and revocation

– Paragraph 4 is amended to take account of the amendment of Article 13.

Article 32 – Visas exceptionally applied for at the external border

– The title is amended as a consequence of the insertion of Article 33.

– Paragraph 2 is deleted as a consequence of the abolition of the requirements on travel medical insurance.

Article 33 – Visas applied for at the external border under a temporary scheme

– These provisions have been inserted to allow Member States to promote short term tourism, they should be authorised to issue visas at the external border not only on a case-by-case basis depending on the third-country nationals' individual situation, but also on the basis of a temporary scheme. The Article sets out rules on notification and publication of the organisational modalities of a temporary scheme and establishes that the validity the visa issued should be limited to the territory of the issuing Member State.

– Paragraph 6 specifies the requirements on reporting by the Member State concerned.

Article 34 – Visas issued to seafarers at the external borders

– Paragraph 3 is inserted to take account of the provisions in Article 51(2).

Article 38 – Consular organisation and cooperation

– In paragraph 1 the second sentence has become obsolete.

– Point (b) of paragraph 2 is reworded as a consequence of the repeal of the previous Article 41 and of the abolition of the ranking of outsourcing as 'last resort'.

– Paragraph 4 is replaced by the insertion of Article 8 (6).

Article 39 – Representation arrangements

– Paragraph 1 corresponds to the previous Article 8(1).

– Paragraph 2 describes the collection and transmission of files and data among Member States in situations where a Member State represents another solely for the collection of applications and biometric identifiers.

– Paragraph 3 is amended to take account of the deletion of the possibility of a represented Member State to require being involved in cases handled under representation.

– Paragraphs 4 and 5 correspond to the previous Article 8(5) and (6), respectively.

– Paragraph 6 sets a minimum deadline for the represented Member States to notify to the Commission the conclusion or termination of representation arrangements.

– Paragraph 7 provides that the representing Member States shall at the same time notify to other Member States and the European Union Delegation in the jurisdiction concerned the conclusion or termination of representation arrangements.

– Paragraph 8 corresponds to the previous Article 8(9).

Article 40 – Recourse to honorary consuls

– In paragraph 1 "also" is deleted.

Article 41 – Cooperation with external service providers

– The previous paragraph 3 is deleted because such harmonisation is not possible in reality as Member States generally draw up global contracts with external service providers.

– Point (e) of paragraph 5 is amended as a consequence of the amendment of Article 9.

– Paragraph 12 is amended to require Member States to report annually on their cooperation and monitoring of external service providers, as provided for in Annex IX.

Article 42 – Encryption and secure transfer of data

– Paragraphs 1, 2 and 4 are amended to take account of the repeal of the previous Article 8.

Article 43 - Member States' cooperation with commercial intermediaries

– Paragraph 1 is amended as a consequence of the deletion of the previous Article 2(11), i.e. the definition of commercial intermediary.

– Paragraph 5, second sub-paragraph, is amended to ensure information to the public about the accredited commercial intermediaries.

Article 45 – Information to be provided to the public

– Point (c) of paragraph 1 is amended to take account of the repeal of the previous Article 41.

– The previous point (e) of paragraph 1 is deleted to take account of the repeal of the previous Article 20.

– Paragraph 3 is inserted to provide that the Commission establishes a harmonised template for the information to be provided under Article 45(1).

– Paragraph 4 is inserted to provide that the Commission establishes a Schengen internet website containing all relevant information relating to the application for a visa.

Article 46 – Local Schengen cooperation

– In paragraph 1, first sentence, and point (a) are amended to provide that within local Schengen cooperation (LSC), harmonised lists of supporting documents are prepared.

– In paragraph 1, point (b) and the last subparagraph are amended as a consequence of the amended Article 14.

– Paragraph 2 is amended as a consequence of the insertion of Article 45(3).

– Point (a) of paragraph 3 is amended to provide for quarterly compilations of statistics on visas at local level and a reference to the touring visa has been added.

– Point (b) of paragraph 3 is amended as a consequence of the reformulation of the first sentence.

– Paragraph 7 is amended to provide that on the basis of the annual reports drawn up in the various LSC, the Commission draws up one annual report to be transmitted to the European Parliament and the Council.

Articles 48 –49 Exercise of delegation

– These Articles are inserted to take account of the provisions of Article 290 of TFEU on delegated acts.

Article 50 – Instructions on the practical application of the Visa Code

– The Article is amended to take account of the provisions set out in Article 51(2).

Article 51 – Committee procedure

– This Article is amended to take account of the provisions governing the exercise of the Commission's implementing powers in accordance with Regulation (EU) No 182/2011.

Article 52 – Notification

– Point (g) of paragraph 1 is amended as a consequence of the amendment of Article 38.

– Paragraph 2 is amended as a consequence of the insertion of Article 45(4).

Article 54 – Monitoring and evaluation

– These are the standard provisions regarding monitoring and evaluation of legal instruments.

Article 55 – Entry into force

– This is the standard clause on entry into force and direct applicability. The application of the Regulation is deferred for six months following entry into force except for Article 51(2), which shall apply three months following the entry into force to allow for the adoption of implementing acts regarding as provided for in Articles 24, 26, 32 and 50.

Annexes

– Annex I is replaced

– Annex V:

- the previous point 7, regarding travel medical insurance is deleted;

- a new point 10 is added to cover cases where an application for an ATV is refused.

↓ 810/2009 (adapted)

2014/0094 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

~~establishing a Community~~ ⌦ on the Union ⌫ Code on Visas (Visa Code)

(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION ,

Having regard to the Treaty ~~establishing the European Community~~ ⌦ on the Functioning of the European Union (TFEU) ⌫ , and in particular Article ~~62~~ ⌦ 77 ⌫ (2)(a) ~~and (b)(ii)~~ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[10],

Acting in accordance with the ordinary legislative procedure,

Whereas:

⇩ new

(1) Regulation (EC) No 810/2009 of the European Parliament and of the Council[11] has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

↓ 810/2009 recital 1 (adapted)

~~In accordance with Article 61 of the Treaty, the creation of an area in which persons may move freely should be accompanied by measures with respect to external border controls, asylum and immigration.~~

↓ 810/2009 recital 2 (adapted)

~~Pursuant to Article 62(2) of the Treaty, measures on the crossing of the external borders of the Member States shall establish rules on visas for intended stays of no more than three months, including the procedures and conditions for issuing visas by Member States.~~

[10] OJ […].

[11] Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (OJ L 243, 15.9.2009, p. 1).

⇩ new

(2) Union policy in the field of visas allowing for stays of up to 90 days in any 180 days is a fundamental component of the creation of a common area without internal borders. The common rules on the conditions and procedures for issuing visas should be governed by the principle of solidarity and mutual confidence between Member States.

🡻 810/2009 recital 3 (adapted)

(3) ~~As regards visa policy, the establishment of a 'common corpus' of legislation, particularly via the consolidation and development of the *acquis* (the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985[12] and the Common Consular Instructions[13], is one of the fundamental components of~~ ⌦ Regulation (EC) No 810/2009 aims, inter alia, to ⌫ ~~'~~further develop~~ment of~~ the common visa policy as part of a multi-layer system ~~aimed at facilitating~~ ⌦ in order to facilitate ⌫ legitimate travel and ~~tackling illegal~~ ⌦ tackle irregular ⌫ immigration through further harmonisation of ~~national~~ legislation and ~~handling~~ practices ~~at local consular missions', as defined in the Hague Programme: strengthening freedom, security and justice in the European Union[14]~~.

🡻 810/2009 recital 8 (adapted)

(4) ~~Provided that~~ ⌦ It should also ensure that under ⌫ certain conditions ~~are fulfilled,~~ multiple-entry visas ~~should be~~ ⌦ are ⌫ issued in order to lessen the administrative burden of Member States' consulates and to facilitate smooth travel for frequent or regular travellers. Applicants known to the consulate for their integrity and reliability should as far as possible benefit from a simplified procedure.

⇩ new

(5) Regulation (EC) No 810/2009 clarified and simplified the legal framework and greatly modernised and standardised visa procedures. However, specific provisions that were intended to facilitate procedures in individual cases on the basis of subjective criteria are not sufficiently applied.

(6) A smart visa policy should entail continued security at the external borders whilst ensuring the effective functioning of the Schengen area and facilitating travel opportunities for legitimate travel. The common visa policy should contribute to generating growth and be coherent with other Union policies, such as external relations, trade, education, culture and tourism.

(7) To ease mobility and to facilitate family visits for third-country nationals who are visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and for close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union citizen has the nationality, certain procedural facilitations should be provided by this Regulation.

12 ~~OJ L 239, 22.9.2000, p. 19.~~
13 ~~OJ C 326, 22.12.2005, p. 1.~~
14 ~~OJ C 53, 3.3.2005, p. 1.~~

(8) The same facilitations should as a minimum be granted to family members in situations covered by Directive 2004/38/[15] in accordance with Article 5(2) of that Directive.

(9) A distinction should be made between new first time applicants and persons who have been previously granted visas and who are registered in the Visa Information System (VIS), in order to simplify the procedure for registered travellers while addressing the risk of irregular immigration and the security concern posed by some travellers. This distinction should be reflected in all steps of the procedure.

(10) It should be presumed that applicants who are registered in VIS and have obtained and lawfully used two visas within the 12 months prior to the application fulfil the entry conditions regarding the risk of irregular immigration and the need to possess sufficient means of subsistence. However, this presumption should be rebuttable where the competent authorities establish that one or more of these conditions are not fulfilled in individual cases.

(11) The assessment of whether an issued visa has been used lawfully should be based on elements, such as respect of the period of authorised stay, of the territorial validity of the visa, and of the rules on access to the labour market and the exercise of an economic activity.

↓ 810/2009 recital 5 (adapted)
⇨ new

(12) It is necessary to set out rules on the transit through international areas of airports in order to combat ~~illegal~~ ⌦ irregular ⌫ immigration. ⌦ To this end ⌫ ~~Thus nationals from~~ a common list of third countries ⇨ the nationals of which ⇦ should be required to hold airport transit visas ⇨should be established ⇦ . Nevertheless, ~~in urgent cases of mass~~ ⇨ when a Member State experiences a sudden and substantial ⇦ influx of ~~illegal~~ ⌦ irregular ⌫ immigrants, ~~Member States~~ ⌦ it ⌫ should be ~~allowed to impose such a~~ ⌦ be able to introduce temporarily the airport transit visa ⌫ requirement ~~on~~ ⌦ for ⌫ nationals of ⌦ a given ⌫ third ~~countries~~ ⌦ country ⌫ ~~other than those listed in the common list~~. ~~Member States' individual decisions should be reviewed on an annual basis.~~ ⇨ The conditions and procedures for doing so should be laid down, in order to ensure that the application of this measure is limited in time and that in accordance with the principle of proportionality, it does not go beyond what is necessary in order to achieve the objective. The scope of the airport transit visa requirement should be limited to responding to the specific situation that prompted the introduction of the measure. ⇦

⇩ new

(13) The airport transit visa requirement should be waived for holders of visas and residence permits issued by certain countries.

---

[15] 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 amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, page 77).

(14) It should be clear which is the Member State competent for examining an application for a visa, in particular where the intended visit covers several Member States.

(15) Visa applicants should be able to lodge an application in their country of residence even where the Member State competent under the general rules is neither present nor represented in that country.

(16) Harmonised treatment of visa holders whose travel document is lost or stolen during a stay in the territory of the Member States should be ensured.

↓ 810/2009 recital 9

(17) Because of the registration of biometric identifiers in the Visa Information System (VIS) as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ~~of 9 July 2008 concerning Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)~~[16], the appearance of the applicant in person — at least for the first application — should be one of the basic requirements for the application for a visa.

↓ 810/2009 recital 10

(18) In order to facilitate the visa application procedure of any subsequent application, it should be possible to copy fingerprints from the first entry into the VIS within a period of 59 months. Once this period of time has elapsed, the fingerprints should be collected again.

↓ 810/2009 recital 11 (adapted)

(19) Any document, data or biometric identifier received by a Member State in the course of the visa application process ~~shall~~ ⌦ should ⌫ be considered a consular document under the Vienna Convention on Consular Relations of 24 April 1963 and ~~shall~~ ⌦ should ⌫ be treated ~~in an appropriate manner~~ ⌦ accordingly ⌫.

↓ 810/2009 recital 12

(20) Directive 95/46/EC of the European Parliament and of the Council ~~of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data~~[17] applies to the Member States with regard to the processing of personal data pursuant to this Regulation.

⇩ new

(21) Deadlines for the different steps of the procedure should be established, in particular to allow travellers to plan ahead and avoid peak seasons in consulates.

---

16 Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

17 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

(22) Member States' consulates should charge the same visa fee for processesing visa applications. The categories of persons for which visa fee waivers are granted should be uniform and clearly defined. Member States should be allowed to waive the visa fee in individual cases.

(23) Applicants should not be required to present travel medical insurance when lodging an application for a short stay visa because it is an disproprtionate burden for visa applicants and there is no evidence that holders of short stay visas present a bigger risk in terms of public medical expenditure in Member States than the visa exempted third country nationals.

(24) Professional, cultural and sports associations, as well as accredited commercial intermediaries should be allowed to lodge applications on behalf of visa applicants.

(25) Provisions regarding *inter alia* the 'period of grace', the filling in of the visa sticker and the invalidation of completed visa stickers should be clarified.

(26) Multiple entry visas with a long validity should be issued according to objectively determined criteria. The validity of a multiple entry visa could go beyond the validity of the travel document in which it is affixed.

(27) The application form should take account of the roll out of the VIS. Member States should to the extent possible allow for visa application forms to be completed and submitted electronically and should accept facsimile or copies of supporting documents. Original documents should only be required in specific cases.

(28) The standard form for notifying grounds for the refusal, annulment or revocation of a visa should include a specific ground for refusal of an airport transit visa and ensure that the person concerned is properly informed about appeal procedures.

(29) The rules regarding the exchange of information between the competent authorities of the Member States in view of issuing visas to seafarers at the external borders and the form to be filled in to this effect should be as simple and clear as possible.

(30) The issuing of visas at the external border should, in principle, remain exceptional. However, to allow Member States to promote short term tourism, they should be authorised to issue visas at the external border based on a temporary scheme and upon notification and publication of the organisational modalities of the scheme. Such schemes should be temporary in nature and the validity of the visa issued should be limited to the territory of the issuing Member State.

↓ 810/2009 recital 6 (adapted)
⇨ new

(31) ~~The reception~~ ~~a~~Arrangements for ⌦ the reception of ⌫ applicants should be made with due respect for human dignity. Processing of visa applications should be conducted in a professional and respectful manner and ~~be proportionate~~ ⇨ should not go beyond what is necessary in order ⇦ to ⌦ achieve ⌫ the objectives pursued.

↓ 810/2009 recital 7 (adapted)
⇨ new

(32) Member States should ensure that the quality of the service offered to the public is of a high standard and follows good administrative practices. They should allocate appropriate numbers of trained staff as well as sufficient resources in order to facilitate

as much as possible the visa application process. Member States should ensure that a ~~'one-stop' principle is applied to all~~ ⌦ visa ⌫ applicant~~s~~ ⌦ should only appear in one location for the purpose of lodging the application ⌫. ⇨ This should be without prejudice to the possibility of carrying out a personal interview with the applicant. ⇦

🡻 810/2009 recital 13 (adapted)
⇨ new

(33) ~~In order to facilitate the procedure,~~ ⌦ Regulation (EC) No 810/2009 provides for ⌫ several forms of cooperation ~~should be envisaged, such as limited representation, co-location, common application centres, recourse to honorary consuls and cooperation with external service providers, taking into account in particular data protection requirements set out in Directive 95/46/EC~~ ⌦ among Member States aimed at, on the one hand, allowing Member States to pool resources and on the other, at enhancing the consular coverage for the benefit of applicants ⌫ . ~~Member States should, in accordance with the conditions laid down in this Regulation, determine the type of organisational structure which they will use in each third country.~~ ⇨ Flexible rules should be established to allow Member States to optimise the sharing of resources and to increase consular coverage. Cooperation among Member States ("Schengen Visa Centres"), could take any form adapted to local circumstances aiming at increasing geographical consular coverage, reducing Member States' costs, increasing the visibility of the European Union and improving the service offered to visa applicants. ⇦

🡻 810/2009 recital 4 (adapted)
⇨ new

(34) Member States should be present or represented for visa purposes in all third countries whose nationals are subject to visa requirements. ⇨ Member States should aim at enlarging the consular coverage. ⇦ Member States lacking their own consulate in a given third country or in a certain part of a given third country should ⌦ therefore ⌫ endeavour to conclude representation arrangements in order to avoid a disproportionate effort on the part of visa applicants to have access to consulates.

⇩ new

(35) Representation arrangements should be streamlined and obstacles for the conclusion of such arrangements among Member States should be avoided and the representing Member State should be responsible for carrying out the entire processing of visa applications without involvement of the represented Member State.

🡻 810/2009 recital 14
⇨ new

(36) It is necessary to make provision for situations in which a Member State decides to cooperate with an external service provider for the collection of applications. ~~Such a decision may be taken if, in particular circumstances or for reasons relating to the local situation, cooperation with other Member States in the form of representation, limited representation, co-location or a Common Application Centre proves not to be appropriate for the Member State concerned.~~ Such arrangements should be established

in compliance with the general principles for issuing visas and with the data protection requirements set out in Directive 95/46/EC. ~~In addition, the need to avoid visa shopping should be taken into consideration when establishing and implementing such arrangements.~~

↓ 810/2009 recital 15

~~Where a Member State has decided to cooperate with an external service provider, it should maintain the possibility for all applicants to lodge applications directly at its diplomatic missions or consular posts.~~

↓ 810/2009 recital 16 (adapted)
⇨ new

(37) A Member State should cooperate with an external service provider on the basis of a legal instrument which should contain provisions on ~~its~~ ⌦ the ⌫ exact responsibilities ⌦ of the latter ⌫ , on ⌦ the Member State's ⌫ direct and total access to ~~its~~ ⌦ the ⌫ premises ⌦ of the external service provider ⌫ , information for applicants, confidentiality and on the circumstances, conditions and procedures for suspending or terminating the cooperation. ⇨ Member States should report to the Commission annually on the cooperation with external service providers, including the monitoring of the service providers. ⇦

↓ 810/2009 recital 17

~~This Regulation, by allowing Member States to cooperate with external service providers for the collection of applications while establishing the 'one-stop' principle for the lodging of applications, creates a derogation from the general rule that an applicant must appear in person at a diplomatic mission or consular post. This is without prejudice to the possibility of calling the applicant for a personal interview.~~

↓ 810/2009 recital 19
⇨ new

(38) Statistical data are an important means of monitoring migratory movements and can serve as an efficient management tool. Therefore, such data should be compiled regularly in a common format. ⇨ Detailed data on visas should be collected in view of compiling comparative statistics to allow for evidence-based evaluation of the implementation of this Regulation. ⇦

↓ 810/2009 recital 23 (adapted)
⇨ new

(39) ⌦ The general public should be given all relevant information in relation to the application for a visa and the visibility and uniform image of the common visa policy should be improved. To this end ⌫ ~~A~~ a common Schengen visa Internet site ~~is to~~ ⌦ should ⌫ be established ~~to improve the visibility and a uniform image of the common visa policy~~ ⇨ and a common template for Member States' information to the public should be drawn up ⇦. ~~Such a site will serve as a means to provide the general public with all relevant information in relation to the application for a visa.~~

↓ 810/2009 recital 18 (adapted)

(40) Local Schengen cooperation is crucial for the harmonised application of the common visa policy and for proper assessment of migratory and/or security risks. Given the differences in local circumstances, the operational application of ~~particular~~ ⌦ specific ⌫ legislative provisions should be assessed among Member States' diplomatic missions and consular posts in individual locations in order to ensure a harmonised application of the legislative provisions to prevent visa shopping and different treatment of visa applicants.

⇩ new

(41) If there is no harmonised list of supporting documents in a given location, Member States are free to define the exact supporting documents to be submitted by visa applicants in order to prove the fulfilment of the entry conditions required by this Regulation. Where such a harmonised list of supporting documents exists, in order to provide facilitations for visa applicants, Member States should be allowed to provide certain exemptions from that list when major international events are organised in their territory. These events should be large scale and of particular importance due to their tourism and/or cultural impact, such as international or universal exhibitions and sports championships.

↓ 810/2009 recital 27 (adapted)

(42) When a Member State hosts the Olympic Games and the Paralympic Games, a ~~particular~~ ⌦ specific ⌫ scheme facilitating the issuing of visas to members of the Olympic family should apply.

↓ 810/2009 recital 20

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[18].~~

↓ 810/2009 recital 21

~~In particular, the Commission should be empowered to adopt amendments to the Annexes to this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

↓ 810/2009 recital 22

~~In order to ensure the harmonised application of this Regulation at operational level, instructions should be drawn up on the practice and procedures to be followed by Member States when processing visa applications.~~

[18] ~~OJ L 184, 17.7.1999, p. 23.~~

⇩ new

(43) In order to adapt to changing circumstances the common list of third countries whose nationals are required to be in possession of an airport transit visa when passing through the international transit area of airports situated on the territory of the Member States and the list of residence permits entitling their holder to transit through the airports of Member States without being required to hold an airport transit visa, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultatoins during its preparatory work, including at expert level.

(44) In order to ensure uniform conditions for the implementation of this Regulation, as regards the establishment of operational instructions on the practices and procedures to be followed by Member States when processing visa applications, lists of supporting documents to be applied in each jurisdiction, mandatory entries on the visa sticker, rules on affixing the visa sticker, and rules for issuing visas at the border to seafarers , implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[19].The examination procedure should be used for the adoption of such implementing acts.

🡻 810/2009 recital 26 (adapted)

(45) Bilateral agreements concluded between the ~~Community~~ ⌦ Union ⌫ and third countries aiming at facilitating the processing of applications for visas may derogate from the provisions of this Regulation.

🡻 810/2009 recital 30

(46) The conditions governing entry into the territory of the Member States or the issue of visas do not affect the rules currently governing recognition of the validity of travel documents.

🡻 810/2009 recital 28 (adapted)
⇨ new

(47) Since the objective of this Regulation, namely the establishment of ~~the procedures and~~ ⇨ common ⇦ conditions ⌦ and procedures ⌫ for issuing visas for ~~transit through or~~ intended stays in the territory of the Member States not exceeding ~~three months~~ ⌦ 90 days ⌫ in any ~~six month~~ ⌦ 180 days ⌫ period, ~~cannot be sufficiently achieved by the Member States and~~ can ~~therefore~~ ⇨ only ⇦ be ~~better~~ achieved at ~~Community~~ ⌦ Union ⌫ level, the ~~Community~~ ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ⌦ on the European Union (TEU) ⌫. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve ~~that objective~~ ⌦ this objective ⌫ .

---

[19] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

↓ 810/2009 recital 29 (adapted)
⇨ new

(48) This Regulation respects fundamental rights and observes the principles recognised in particular ~~by the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms and~~ by the Charter of Fundamental Rights of the European Union. ⇨ In particular this Regulation seeks to ensure full respect for private and family life referred to in Article 7, protection of personal data referred to in Article 8 and the rights of the child referred to in Article 24 of the Charter of Fundamental Righs of the European Union⇦ .

↓ 810/2009 recital 31 (adapted)
⇨ new

(49) In accordance with Articles 1 and 2 of ~~the~~ Protocol ⌦ No 22 ⌫ on the Position of Denmark annexed to the ~~Treaty on European Union~~ ⌦ TEU ⌫ and to the Treaty ~~establishing the European Community~~ ⌦ on the Functioning of the European Union (TFEU) ⌫, Denmark ~~does~~ ⌦ is ⌫ not ~~take~~ ⌦ taking ⌫ part in the adoption of this Regulation and is not bound by it, or subject to its application. Given that this Regulation builds ~~on~~ ⌦ upon ⌫ the Schengen *acquis* ~~under the provisions of Title IV of Part Three of the Treaty establishing the European Community~~, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the ~~date of adoption of~~ ⇨ Council has decided on ⇦ this Regulation whether it will implement it in its national law.

↓ 810/2009 recital 32 (adapted)

(50) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the ⌦ latters' ⌫ association ~~of those two States~~ with the implementation, application and development of the Schengen *acquis*[20] which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC[21] ~~on certain arrangements for the application of that Agreement~~.

↓ 810/2009 recital 33 (adapted)

~~An arrangement should be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers under this Regulation. Such an arrangement has been contemplated in the Exchange of Letters between the Council of the European Union and Iceland and Norway concerning committees which assist the European Commission in the exercise of its executive~~

[20] OJ L 176, 10.7.1999, p. 36.

[21] Council Decision of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31).

~~powers[22], annexed to the abovementioned Agreement. The Commission has submitted to the Council a draft recommendation with a view to negotiating this arrangement.~~

↓ 810/2009 recital 34

(51) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of 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*[23], which fall within the area referred to in Article 1, point B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC[24] ~~on the conclusion of that Agreement~~.

↓ 810/2009 recital 35 (adapted)
⇨ new

(52) As regards Liechtenstein, this Regulation constitutes a development of ⌦ the ⌫ provisions of the Schengen *acquis* within the meaning of the Protocol signed 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 concluded 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 B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision ~~2008/261/EC~~ 2011/350/EU[25] on the ~~signing~~ ⇨ conclusion ⇦ of that Protocol.

↓ 154/2012 recital 11

(53) As regards Cyprus, this Regulation constitutes an act building upon or otherwise related to the Schengen acquis, within the meaning of Article 3(~~1~~2) of the 2003 Act of Accession.

↓ 154/2012 recital 12

(54) As regards Bulgaria and Romania, this Regulation constitutes an act building upon or otherwise related to the Schengen acquis within the meaning of Article 4(~~1~~2) of the 2005 Act of Accession.

22 ~~OJ L 176, 10.7.1999, p. 53.~~

23 OJ L 53, 27.2.2008, p. 52.

24 Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of 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 (OJ L 53, 27.2.2008, p. 1).

25 ~~OJ L 83, 26.3.2008, p. 3~~ Council Decision of 7 March 2011 on the conclusion, on behalf of the European Union, 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, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

⇩ new

(55) As regards Croatia, this Regulation constitutes an act building upon, or otherwise related to, the Schengen acquis within the meaning of Article 4(2) of the 2011 Act of Accession.

🡻 810/2009 recital 36

(56) This Regulation constitutes a development of the 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*~~[26]. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

🡻 810/2009 recital 37 (adapted)

(57) This Regulation constitutes a development of the 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*~~ [27]. Ireland is therefore not taking part in the adoption of the Regulation and is not bound by it or subject to its application,

🡻 810/2009 recital 38 (adapted)

~~This Regulation, with the exception of Article 3, constitutes provisions building on the Schengen *acquis* or otherwise relating to it within the meaning of Article 3(2) of the 2003 Act of Accession and within the meaning of Article 4(2) of the 2005 Act of Accession,~~

🡻 810/2009 (adapted)

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

~~Objective~~ ⌦ Subject matter ⌫ and scope

[26] 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* (OJ L 131, 1.6.2000, p. 43).

[27] 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* (OJ L 64, 7.3.2002, p. 20).

↓ 610/2013 Art. 6.1 (adapted)

1. This Regulation establishes the ~~procedures and conditions~~ ⌦conditions and procedures ⌫ for issuing visas for ~~transit through or~~ intended stays on the territory of the Member States not exceeding 90 days in any 180~~-day~~ ⌦ days ⌫ period.

↓ 810/2009 (adapted)

2. The provisions of this Regulation shall apply to any third-country national who must be in possession of a visa when crossing the external borders of the Member States pursuant to Council Regulation (EC) No 539/2001 ~~of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement~~[28], without prejudice to:

(a) the rights of free movement enjoyed by third-country nationals who are family members of citizens of the Union;

(b) the equivalent rights enjoyed by third-country nationals and their family members, who, under agreements between the Union and its Member States, on the one hand, and these third countries, on the other, enjoy rights of free movement equivalent to those of Union citizens and members of their families.

3. This Regulation ~~also~~ lists the third countries whose nationals are required to hold an airport transit visa by way of exception from the principle of free transit laid down in Annex 9 to the Chicago Convention on International Civil Aviation, and establishes the ~~procedures and conditions~~ ⌦conditions and procedures ⌫ for issuing visas for the purpose of transit through the international transit areas of Member States' airports.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

1.'third-country national' means any person who is not a citizen of the Union within the meaning of Article ~~17~~ ⌦ 20 ⌫ (1) of the ~~Treaty~~ ⌦ TFEU ⌫ ;

2.'visa' means an authorisation issued by a Member State with a view to:

↓ 610/2013 Art. 6.2 (adapted)

(a) ~~transit through or~~ an intended stay on the territory of the Member States of a duration of no more than 90 days in any 180~~-day~~ ⌦ days ⌫ period; ⌦ or ⌫

↓ 810/2009

(b) transit through the international transit areas of airports of the Member States;

[28] Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

3.‘uniform visa’ means a visa valid for the entire territory of the Member States;

4.‘visa with limited territorial validity’ means a visa valid for the territory of one or more Member States but not all Member States;

5.‘airport transit visa’ means a visa valid for transit through the international transit areas of one or more airports of the Member States;

⇩ new

6. 'touring visa' means a visa as defined in Article 3(2) of [Regulation No…/…];

7. 'close relatives' means the spouse, children, parents, persons exercising parental authority, grandparents and grandchildren;

8.'VIS registered applicant' means an applicant whose data are registered in the Visa Information System;

9.'VIS registered regular traveller' means a visa applicant who is registered in the Visa Information System and who has obtained two visas within the 12 months prior to the application;

🡻 810/2009
⇨ new

~~6~~10.‘visa sticker’ means the uniform format for visas as defined by Council Regulation (EC) No 1683/95 ~~of 29 May 1995 laying down a uniform format for visas~~[29];

~~7~~11. ‘recognised travel document’ means a travel document recognised by one or more Member States for the purpose of ⇨ crossing the external borders and ⇦ affixing visas ⇨ , under Decision No 1105/2011/EU of the European Parliament and of the Council[30] ⇦;

⇩ new

12.'valid travel document' means a travel document that is not false, counterfeit or forged and the period of validity of which as defined by the issuing authority has not expired;

🡻 810/2009
⇨ new

~~8~~13.‘separate sheet for affixing a visa’ means the uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form as defined by Council Regulation (EC) No 333/2002 ~~of 18 February 2002 on a uniform format for forms~~

---

[29] Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1).

[30] Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list (OJ L 287, 4.11.2011, p. 9).

~~for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form~~[31];

~~9~~14.'consulate' means a Member State's diplomatic mission or a Member State's consular post authorised to issue visas and headed by a career consular officer as defined by the Vienna Convention on Consular Relations of 24 April 1963;

~~10~~15.'application' means an application for a visa;

~~11.'commercial intermediary' means a private administrative agency, transport company or travel agency (tour operator or retailer).~~

⇩ new

16.'seafarer' means any person who is employed or engaged or works in any capacity on board a ship to which the Maritime Labour Convention, 2006 applies.

🡻 810/2009
⇨ new

TITLE II

AIRPORT TRANSIT VISA

Article 3

Third-country nationals required to hold an airport transit visa

1. Nationals of the third countries listed in Annex ~~IV~~ III shall be required to hold an airport transit visa when passing through the international transit areas of airports situated on the territory of the Member States.

⇩ new

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning amendments to the list of the third countries set out in Annex III.

Where in the case of emerging risks, imperative grounds of urgency so require, the procedure provided for in Article 49 shall apply to delegated acts adopted pursuant to this paragraph.

🡻 810/2009 (adapted)
⇨ new

3. ~~In urgent cases of mass~~ ⌦ Where there is a sudden and substantial⌫ influx of ~~illegal~~ ⌦ irregular ⌫ immigrants, ~~individual~~ ⌦ a ⌫ Member State~~s~~ may require nationals of third countries other than those referred to in paragraph 1 to hold an airport transit visa when passing through the international transit areas of airports situated on ~~their~~ ⌦ its ⌫ territory. ~~Member States shall notify the Commission of such decisions before their entry into force and of withdrawals of such an airport transit visa requirement.~~ ⇨ The duration of such a measure

---

[31] Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (OJ L 53, 23.2.2002, p. 4).

shall not exceed 12 months. The scope and duration of the airport transit visa requirement shall not exceed what is strictly necessary to respond to the sudden and substantial influx of irregular immigrants. ⇦

⇩ new

4. Where a Member State plans to introduce the airport transit visa requirement in accordance with paragraph 3, it shall as soon as possible notify the Commission, and shall provide the following information:

(a) the reason for the planned airport transit visa requirement, substantiating the sudden and substantial influx of irregular immigrants;

(b) the scope and duration of the planned introduction of the airport transit visa requirement.

5. Following the notification by the Member State concerned in accordance with paragraph 4, the Commission may issue an opinion.

6. The Member State may prolong the application of the airport transit visa requirement only once where the lifting of the requirement would lead to a substantial influx of irregular migrants. Paragraph 3 shall apply to such prolongation.

7. The Commission shall, on an annual basis, inform the European Parliament and the Council about the implementation of this Article.

🡻 810/2009

~~3. Within the framework of the Committee referred to in Article 52(1), those notifications shall be reviewed on an annual basis for the purpose of transferring the third country concerned to the list set out in Annex IV.~~

~~4. If the third country is not transferred to the list set out in Annex IV, the Member State concerned may maintain, provided that the conditions in paragraph 2 are met, or withdraw the airport transit visa requirement.~~

🡻 810/2009
⇨ new

~~5~~8. The following categories of persons shall be exempt from the requirement to hold an airport transit visa provided for in paragraphs 1 and 3:

(a) holders of a valid uniform visa, ⇨ touring visa, ⇦ national long-stay visa or residence permit issued by a Member State;

🡻 154/2012 Art. 1 (adapted)
⇨ new

(b) third-country nationals holding a valid residence permit issued by a Member State which does not take part in the adoption of this Regulation or by a Member State which does not yet apply the provisions of the Schengen *acquis* in full, or third-country nationals holding one of the valid residence permits listed in Annex ~~V~~ IV issued by Andorra, Canada, Japan, San Marino or the United States of America guaranteeing the holder's unconditional readmission ⇨ , or holding a residence

permit for the Caribbean parts of the Kingdom of the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba) ⇦;

(c) third-country nationals holding a valid visa for a Member State which does not take part in the adoption of this Regulation, ⌦ or ⌫ for a Member State which does not yet apply the provisions of the Schengen *acquis* in full, ⇨ or for a country party to the Agreement on the European Economic Area, ⇦ or for Canada, Japan or the United States of America, ⇨ or holders of a valid visa for ⇦ the Caribbean parts of the Kingdom of ⇨ the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba), ⇦ when travelling to the issuing country or to any other third country, or when, having used the visa, returning from the issuing country;

🡻 810/2009
⇨ new

(d) family members of citizens of the Union as referred to in Article ~~1(2)(a)~~⇨ 3 of Directive 2004/38/EC ⇦;

(e) holders of diplomatic ⇨ , service, official or special ⇦ passports;

(f) flight crew members who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation.

⇩ new

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concering the amendmens to the list of valid residence permits entitling the holder to transit through the airports of Member States without being required to hold an airport transit visa, set out in Annex IV.

🡻 810/2009 (adapted)
⇨ new

TITLE III

~~*PROCEDURES AND*~~ *CONDITIONS* ⌦ *AND PROCEDURES* ⌫ *FOR ISSUING VISAS*

CHAPTER I

AUTHORITIES TAKING PART IN THE PROCEDURES RELATING TO APPLICATIONS

Article 4

Authorities competent for taking part in the procedures relating to applications

1. Applications shall be examined and decided on by consulates.

2. By way of derogation from paragraph 1, applications may be examined and decided on at the external borders of the Member States by the authorities responsible for checks on persons, in accordance with Articles ~~25~~32 ⇨ , 33 ⇦ and ~~26~~34.

3. In the non-European overseas territories of Member States, applications may be examined and decided on by the authorities designated by the Member State concerned.

4. A Member State may require the involvement of authorities other than the ones ~~designated~~ ⌦ referred to ⌫ in paragraphs 1 and 2 in the examination of and decision on applications.

5. A Member State may require to be consulted or informed by another Member State in accordance with Articles ~~22~~19 and ~~31~~28.

Article 5

Member State competent for examining and deciding on an application

1. The Member State competent for examining and deciding on an application for a uniform visa shall be:

(a) the Member State whose territory constitutes the sole destination of the visit(s);

(b) if the visit includes more than one destination, ⇨ or if several separate visits are to be carried out within a period of two months, ⇦ the Member State whose territory constitutes the main destination of the visit(s) in terms of the length ~~or purpose~~ of stay ⇨ , counted in days ⇦ ; or

(c) if no main destination can be determined, the Member State whose external border the applicant intends to cross in order to enter the territory of the Member States.

~~4~~2. ~~Member States shall cooperate to prevent a situation in which an application cannot be examined and decided on because~~ ⌦ If ⌫ the Member State that is competent in accordance with paragraph~~s~~ 1 ~~to 3~~ ⇨ , point (a) or (b), ⇦ is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6, ⇨ the applicant is entitled to lodge the application: ⇦

⇩ new

a) at the consulate of one of the Member States of destination of the envisaged visit,

b) at the consulate of the Member State of first entry, if point a) is not applicable,

c) in all other cases at the consulate of any of the Member States that are present in the country concerned.

🡻 810/2009

3. The Member State competent for examining and deciding on an application for an airport transit visa shall be:

(a) in the case of a single airport transit, the Member State on whose territory the transit airport is situated; or

(b) in the case of double or multiple airport transit, the Member State on whose territory the first transit airport is situated.

Article 6

Consular territorial competence

1. An application shall be examined and decided on by the consulate of the competent Member State in whose jurisdiction the applicant legally resides.

2. A consulate of the competent Member State shall examine and decide on an application lodged by a third-country national legally present but not residing in its jurisdiction, if the applicant has provided justification for lodging the application at that consulate.

Article 7

Competence to issue visas to third-country nationals legally present within the territory of a Member State

1. Third-country nationals who are legally present in the territory of a Member State and who are required to hold a visa to enter the territory of one or more other Member States shall apply for a visa at the consulate of the Member State that is competent in accordance with Article 5~~(1) or (2)~~.

⇩ new

2. Third-country nationals who have lost their travel document, or from whom this document has been stolen, while staying in the territory of a Member State, may leave that territory on the basis of a valid travel document entitling them to cross the border issued by a consulate of their country of nationality without any visa or other authorisation

3. Where the third-country national, referred to in paragraph 2, intends to continue travelling in the Schengen area, the authorities in the Member State where he declares the loss or theft of his travel document, shall issue a visa with a duration of validity and period of allowed stay identical to the original visa on the basis of the data registered in the VIS.

🡻 810/2009
⇨ new

CHAPTER II

APPLICATION

Article ~~9~~8

Practical modalities for lodging an application

1. Applications ~~shall~~ ⇨ may ⇦ be lodged ~~no more than three~~ ⇨ six ⇦ months before ⇨ and no later than 15 calendar days before ⇦ the start of the intended visit. ~~Holders of a multiple-entry visa may lodge the application before the expiry of the visa valid for a period of at least six months~~.

🡻 810/2009 (adapted)

2. ~~Applicants~~ ⌦ Consulates ⌫ may ~~be~~ require~~d~~ ⌦ applicants ⌫ to obtain an appointment for the lodging of an application. The appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested.

⇩ new

3. The consulate shall allow to lodge the application either without prior appointment or with an immediate appointment to close relatives of Union citizens who:

(a) intend to visit their Union citizen close relatives residing in the Member State of their nationality;

(b) intend to travel, together with their Union citizen close relatives residing in a third country, to the Member State of which the Union citizen has the nationality.

4. The consulate shall allow to lodge the application either without prior appointment or with an immediate appointment to family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC.

🡻 810/2009 (adapted)
⇨ new

5. In justified cases of urgency, the consulate ~~may~~ ⇨ shall ⇦ allow applicants to lodge their applications either without appointment, or an ⌦ immediate ⌫ appointment shall be given ~~immediately~~.

6. Applications may ⇨ , without prejudice to Article 12, ⇦ be lodged: ~~at the consulate~~

(a) by the applicant ~~or~~

(b) by ⌦ an ⌫ accredited commercial ⌦ intermediary referred to in Article 43 ⌫ ~~intermediaries~~, ~~as provided for in Article 45(1), without prejudice to Article 13, or in accordance with Article 42~~ or ~~43.~~

⌦ (c) a professional, cultural,sports or educational association or institution. ⌫

⌦ 7. An applicant shall not be required to appear in person at more than one location in order to lodge an application ⌫

🡻 810/2009 (adapted)
⇨ new

Article ~~10~~9

General rules for lodging an application

1. ~~Without prejudice to the provisions of Articles 13, 42, 43 and 45,~~ ~~a~~Applicants shall appear in person ~~when lodging an application~~ ⇨ for the collection of fingerprints, in accordance with Article 12 (2) and (3) ⇦ .

⇩ new

2. VIS registered applicants shall not be required to appear in person when lodging an application, where their fingerprints have been entered into the VIS less than 59 months before.

↓ 810/2009 (adapted)

~~2. Consulates may waive the requirement referred to in paragraph 1 when the applicant is known to them for his integrity and reliability.~~

3. When lodging the application, the applicant shall:

(a) present an application form in accordance with Article ~~11~~10;

(b) present a travel document in accordance with Article ~~12~~11;

(c) present a photograph in accordance with the standards set out in Regulation (EC) No 1683/95 or, where the VIS is operational pursuant to Article 48 of ~~the~~ ~~VIS~~ Regulation ⊠ (EC) No 767/2008 ⊠ , in accordance with the standards set out in Article ~~13~~12 of this Regulation;

(d) allow the collection of his fingerprints in accordance with Article ~~13~~12, where applicable;

(e) pay the visa fee in accordance with Article ~~16~~14;

(f) provide supporting documents in accordance with Article ~~14~~ 13 and Annex II~~:~~.

~~(g) where applicable, produce proof of possession of adequate and valid travel medical insurance in accordance with Article 15.~~

Article ~~11~~10

Application form

1. Each applicant shall submit a ⊠ manually or electronically ⊠ completed and signed application form, as set out in Annex I. Persons included in the applicant's travel document shall submit a separate application form. Minors shall submit an application form signed by a person exercising permanent or temporary parental authority or legal guardianship.

⇩ new

2. The content of the electronic version of the application form, if applicable, shall be as set out in Annex I.

↓ 810/2009 (adapted)
⇨ new

~~2~~3. Consulates shall make the application form widely available and easily accessible to applicants free of charge.

~~3~~4. The form shall ⇨ as a minimum ⇦ be available in the following languages:

(a) the official language(s) of the Member State for which a visa is requested; ⊠ and ⊠

(b) the official language(s) of the host country~~:~~.

~~(c) the official language(s) of the host country and the official language(s) of the Member State for which a visa is requested; or~~

~~(d) in case of representation, the official language(s) of the representing Member State.~~

In addition to the language(s) referred to in point (a), the form may be made available in ~~another~~ ⌦ any other ⌫ official ~~language~~ ⌦ language(s) ⌫ of the institutions of the European Union.

~~4~~5. If the application form is not available in the official language(s) of the host country, a translation of it into that/those language(s) shall be made available separately to applicants.

~~5~~6. ~~A~~ ⌦ The ⌫ translation of the application form into the official language(s) of the host country shall be produced under local Schengen cooperation ~~provided for~~ ⌦ as set out ⌫ in Article ~~48~~46.

~~6~~7. The consulate shall inform applicants of the language(s) which may be used when filling in the application form.

Article ~~12~~11

Travel document

The applicant shall present a valid travel document satisfying the following criteria:

(a) ~~its validity shall extend~~ ⌦ without prejudice to Article 21(2), it shall be valid for ⌫ at least three months after the intended date of departure from the territory of the Member States or, in the case of several visits, after the last intended date of departure from the territory of the Member States. However, in a justified case of emergency, this obligation may be waived;

(b) it shall contain at least ~~two~~ ⇨ one ⇦ blank ⇨ double ⇦ page~~s~~ ⇨ , and if several applicants are covered by the same travel document it shall contain one blank double page per applicant ⇦ ;

(c) it shall have been issued within the previous 10 years.

Article ~~13~~12

Biometric identifiers

1. Member States shall collect biometric identifiers of the applicant comprising a photograph of him and his 10 fingerprints in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child.

2. At the time of submission of the first application, ~~the applicant shall be required to appear in person. At that time,~~ the following biometric identifiers of the applicant shall be collected:

– a photograph, scanned or taken at the time of application, and

– his 10 fingerprints taken flat and collected digitally.

3. Where fingerprints collected from the applicant as part of an earlier application ⇨ for a short stay visa or a touring visa ⇦ were entered in the VIS for the first time less than 59 months before the date of the new application, they shall be copied to the subsequent application.

However, where there is reasonable doubt regarding the identity of the applicant, the consulate shall collect fingerprints within the period specified in the first subparagraph.

Furthermore, if at the time when the application is lodged, it cannot be immediately confirmed that the fingerprints were collected within the period specified in the first subparagraph, the applicant may request that they be collected.

4. In accordance with Article 9(5) of ~~the VIS~~ Regulation ⊠ (EC) No 767/2008 ⊠ , the photograph attached to each application shall be entered in the VIS. ~~The applicant shall not be required to appear in person for this purpose.~~

The technical requirements for the photograph shall be in accordance with the international standards as set out in the International Civil Aviation Organization (ICAO) document 9303 Part 1, 6th edition.

5. Fingerprints shall be taken in accordance with ICAO standards and Commission Decision 2006/648/EC[32].

6. The biometric identifiers shall be collected by qualified and duly authorised staff of the authorities competent in accordance with Article 4(1), (2) and (3). Under the supervision of the consulates, the biometric identifiers may also be collected by qualified and duly authorised staff of an honorary consul as referred to in Article ~~42~~ 40 or of an external service provider as referred to in Article ~~43~~41. The Member State(s) concerned shall, where there is any doubt, provide for the possibility of verifying at the consulate fingerprints which have been taken by the external service provider.

7. The following applicants shall be exempt from the requirement to give fingerprints:

(a) children under the age of 12;

(b) persons for whom fingerprinting is physically impossible. If the fingerprinting of fewer than 10 fingers is possible, the maximum number of fingerprints shall be taken. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling;

(c) heads of State or government and members of a national government with accompanying spouses, and the members of their official delegation when they are invited by Member States' governments or by international organisations for an official purpose;

(d) sovereigns and other senior members of a royal family, when they are invited by Member States' governments or by international organisations for an official purpose.

8. In the cases referred to in paragraph 7, the entry 'not applicable' shall be introduced in the VIS in accordance with Article 8(5) of ~~the VIS~~ Regulation ⊠ (EC) No 767/2008 ⊠ .

Article ~~14~~13

Supporting documents

1. When applying for a uniform visa, the applicant shall present:

[32] Commission Decision 2006/648/EC of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the Visa Information System, OJ L 267, 27.9.2006, p. 41.

(a) documents indicating the purpose of the journey;

(b) documents in relation to accommodation, or proof of sufficient means to cover his accommodation;

(c) documents indicating that the applicant possesses sufficient means of subsistence both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or that he is in a position to acquire such means lawfully, in accordance with Article 5(1)(c) and (3) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 of the European Parliament and of the Council[33] ⌫ ;

(d) information enabling an assessment of the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for.

⇩ new

2. Points (b), (c) and (d) of paragraph 1 do not apply to applicants who are VIS registered regular travellers and who have lawfully used the two previously obtained visas.

3. Close relatives of Union citizens referred to in Article 8(3) shall provide only documentary evidence proving the family relationship with the Union citizen, and that they visit or travel together with the Union citizen.

Family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC shall provide only documentary evidence proving that they travel to accompany or join the Union citizen and the family relationship with the Union citizen as referred to in Article 2(2) or the other circumstances referred to in Article 3(2) of that Directive.

🡻 810/2009 (adapted)

~~3~~4. ~~A~~ ⌦ The ⌫ ~~non-exhaustive~~ list of supporting documents which ~~the consulate~~ may ~~request~~ ⌦ be requested ⌫ from the applicant in order to verify the fulfilment of the conditions listed in paragraph~~s~~ 1 ~~and 2~~ is set out in Annex II.

~~6~~5. Consulates may waive one or more of the requirement~~s~~ to provide one or more of the documents referred to in paragraph 1(a) to (d) in the case of an applicant known to them for his integrity and reliability, in particular the lawful use of previous visas, if there is no doubt that he will fulfil the requirements of Article 5(1) of ⌦ Regulation (EC) No 562/2006 ⌫ ~~Schengen Borders Code~~ at the time of the crossing of the external borders of the Member States.

⇩ new

6. The consulate shall start processing the visa application on the basis of facsimile or copies of the supporting documents. Applicants who are not yet registered in the VIS shall provide the original. The consulate may ask for original documents from applicants who are VIS registered applicants or VIS registered regular travellers, only where there is doubt about the authenticity of a specific document.

---

[33] 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).

↓ 810/2009 (adapted)

~~4~~7. Member States may require applicants to present a proof of sponsorship and/or private accommodation by completing a form drawn up by each Member State. That form shall indicate in particular:

(a) whether its purpose is proof of sponsorship and/or of ⌦ private ⌫ accommodation;

(b) whether the ~~host~~ ⌦ sponsor/inviting person ⌫ is an individual, a company or an organisation;

(c) the ~~host's~~ identity and contact details ⌦ of the sponsor/inviting person ⌫;

(d) the ~~invited~~ applicant(s);

(e) the address of the accommodation;

(f) the length and purpose of the stay;

(g) possible family ties with the ~~host~~.⌦ sponsor/inviting person ⌫.

(h) the information required pursuant to Article 37(1) of Regulation (EC) No 767/2008;

In addition to the Member State's official language(s), the form shall be drawn up in at least one other official language of the institutions of the ~~European~~ Union. ~~The form shall provide the person signing it with the information required pursuant to Article 37(1) of the VIS Regulation.~~ A specimen of the form shall be notified to the Commission.

~~2~~8. When applying for an airport transit visa, the applicant shall present:

(a) documents in relation to the onward journey to the final destination after the intended airport transit;

(b) information enabling an assessment of the applicant's intention not to enter the territory of the Member States.

~~5~~9. Within local Schengen cooperation ~~the need to complete and harmonise the~~ lists of supporting documents shall be ~~assessed~~ ⌦ prepared ⌫ in each jurisdiction in order to take account of local circumstances.

⇩ new

10. Without prejudice to paragraph 1, Member States may provide exemptions from the list of supporting documents referred to in paragraphs 4 and 9 in the case of applicants attending major international events organised in their territory that are considered particularly important due to their tourism and/or cultural impact

11. The Commission shall by means of implementing acts adopt the lists of supporting documents to be used in each jurisdiction in order to take account of local circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)
⇨ new

~~*Article 15*~~

~~**Travel medical insurance**~~

~~1. Applicants for a uniform visa for one or two entries shall prove that they are in possession of adequate and valid travel medical insurance to cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment or death, during their stay(s) on the territory of the Member States.~~

~~2. Applicants for a uniform visa for more than two entries (multiple entries) shall prove that they are in possession of adequate and valid travel medical insurance covering the period of their first intended visit.~~

~~In addition, such applicants shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance for subsequent stays.~~

~~3. The insurance shall be valid throughout the territory of the Member States and cover the entire period of the person's intended stay or transit. The minimum coverage shall be EUR 30000.~~

~~When a visa with limited territorial validity covering the territory of more than one Member State is issued, the insurance cover shall be valid at least in the Member States concerned.~~

~~4. Applicants shall, in principle, take out insurance in their country of residence. Where this is not possible, they shall seek to obtain insurance in any other country.~~

~~When another person takes out insurance in the name of the applicant, the conditions set out in paragraph 3 shall apply.~~

~~5. When assessing whether the insurance cover is adequate, consulates shall ascertain whether claims against the insurance company would be recoverable in a Member State.~~

~~6. The insurance requirement may be considered to have been met where it is established that an adequate level of insurance may be presumed in the light of the applicant's professional situation. The exemption from presenting proof of travel medical insurance may concern particular professional groups, such as seafarers, who are already covered by travel medical insurance as a result of their professional activities.~~

~~7. Holders of diplomatic passports shall be exempt from the requirement to hold travel medical insurance.~~

Article ~~16~~14

Visa fee

1. Applicants shall pay a visa fee of EUR 60.

~~2. Children from the age of six years and below the age of 12 years shall pay a visa fee of EUR 35.~~

~~3~~2. The visa fee shall be revised regularly in order to reflect the administrative costs.

~~4~~3. The ~~visa fee shall be waived for applicants belonging to one of the~~ following categories ⌦ shall pay no visa fee ⌫ :

(a) ~~children under six years~~ ⇨ minors under the age of eighteen years ⇦ ;

(b) school pupils, students, postgraduate students and accompanying teachers who undertake stays for the purpose of study or educational training;

(c) researchers from third countries ⇨, as defined in Council Directive 2005/71/EC[34], ⇦ travelling for the purpose of carrying out scientific research ~~f 28 September 2005 to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research~~ ⇨ or participating in a scientific seminar or conference ⇦ ;

⇩ new

(d) holders of diplomatic and service passports;

🡻 810/2009 (adapted)

(~~d~~e) ~~representatives of non-profit organisations~~ ⌦ participants ⌫ aged 25 years or less ~~participating~~ in seminars, conferences, sports, cultural or educational events organised by non-profit organisations~~.~~;

⇩ new

(f) close relatives of the Union citizens referred to in Article 8(3).

(g) family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC in accordance with Article 5(2) of that Directive.

🡻 810/2009 (adapted)
⇨ new

~~5. The visa fee may be waived for:~~

~~(a) children from the age of six years and below the age of 12 years;~~

~~(b) holders of diplomatic and service passports;~~

~~(c) participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.~~

~~Within local Schengen cooperation, Members States shall aim to harmonise the application of these exemptions.~~

~~6~~4. ⌦ Member States may, ⌫ ~~I~~in individual cases, ⌦ waive or reduce ⌫ the amount of the visa fee to be charged ~~may be waived or reduced~~ when ~~to do so~~ ⌦ this ⌫ serves to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons.

~~7~~5. The visa fee shall be charged in euro, in the national currency of the third country or in the currency usually used in the third country where the application is lodged, and shall not be refundable except in the cases referred to in Articles ~~18~~16(2) and ~~19~~17(3).

---

[34] Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research (OJ L 289, 3.11.2005, p. 15).

When charged in a currency other than euro, the amount of the visa fee charged in that currency shall be determined and regularly reviewed in application of the euro foreign exchange reference rate set by the European Central Bank. The amount charged may be rounded up and consulates shall ensure under local Schengen cooperation that they charge equivalent fees.

~~8~~6. The applicant shall be given a receipt for the visa fee paid.

Article ~~17~~15

Service fee

1. A~~n additional~~ service fee may be charged by an external service provider referred to in Article ~~43~~41. The service fee shall be proportionate to the costs incurred by the external service provider while performing one or more of the tasks referred to in Article ~~43~~41(6).

2. The service fee shall be specified in the legal instrument referred to in Article ~~43~~41(2).

~~3. Within the framework of local Schengen cooperation, Member States shall ensure that the service fee charged to an applicant duly reflects the services offered by the external service provider and is adapted to local circumstances. Furthermore, they shall aim to harmonise the service fee applied.~~

~~4~~3. The service fee shall not exceed half of the amount of the visa fee set out in Article ~~16~~14(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article ~~16~~14~~(2), (4), (5) and (6)~~ ⇨ (3) and (4) ⇦ .

~~5. The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.~~

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

Article ~~18~~16

Verification of consular competence

1. When an application has been lodged, the consulate shall verify whether it is competent to examine and decide on it in accordance with the provisions of Articles 5 and 6.

2. If the consulate is not competent, it shall, without delay, return the application form and any documents submitted by the applicant, reimburse the visa fee, and indicate which consulate is competent.

Article ~~19~~17

Admissibility

1. The competent consulate shall verify whether:

(a) the application has been lodged within the period referred to in Article ~~9~~8(1),

(b) the application contains the items referred to in Article ~~10~~9(3)(a) to (c),

(c) the biometric data of the applicant have been collected, and

(d) the visa fee has been collected.

2. Where the competent consulate finds that the conditions referred to in paragraph 1 have been fulfilled, the application shall be admissible and the consulate shall:

(a) follow the procedures described in Article 8 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ , and

(b) further examine the application.

Data shall be entered in the VIS only by duly authorised consular staff in accordance with Articles 6(1), 7, 9(5) and 9(6) of ~~the VIS~~ Regulation ⌦ (EC) No 767/ ⌫ 2008 .

3. Where the competent consulate finds that the conditions referred to in paragraph 1 have not been fulfilled, the application shall be inadmissible and the consulate ⌦ without delay ⌫ shall ~~without delay~~:

(a) return the application form and any documents submitted by the applicant,

(b) destroy the collected biometric data,

(c) reimburse the visa fee, and

(d) not examine the application.

4. By way of derogation, an application that does not meet the requirements set out in paragraph 1 may be considered admissible on humanitarian grounds or for reasons of national interest.

~~*Article 20*~~

~~**Stamp indicating that an application is admissible**~~

~~1. When an application is admissible, the competent consulate shall stamp the applicant's travel document. The stamp shall be as set out in the model in Annex III and shall be affixed in accordance with the provisions of that Annex.~~

~~2. Diplomatic, service/official and special passports shall not be stamped.~~

~~3. The provisions of this Article shall apply to the consulates of the Member States until the date when the VIS becomes fully operational in all regions, in accordance with Article 48 of the VIS Regulation.~~

Article ~~21~~18

Verification of entry conditions and risk assessment

1. In the examination of an application for a uniform visa, it shall be ascertained whether the applicant fulfils the entry conditions set out in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ , and particular consideration shall be given to assessing whether the applicant presents a risk of ~~illegal~~ ⌦ irregular ⌫ immigration or a risk to the security of the Member States and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for.

⇩ new

2. In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who has lawfully used the two previously obtained visas, it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration, a risk to the security of the Member States, and the possession of sufficient means of subsistence.

3. The presumption referred to in paragraph 2 shall not apply where the consulate has reasonable doubts about the fulfilment of these entry conditions based on information stored in the VIS, such as decisions annulling a previous visa, or in the passport, such as entry and exit stamps. In such cases, the consulates may carry out an interview and request additional documents.

↓ 810/2009 (adapted)
⇨ new

~~2~~4. In respect of each application, the VIS shall be consulted in accordance with Articles 8(2) and 15 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ . Member States shall ensure that full use is made of all search criteria pursuant to Article 15 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ in order to avoid false rejections and identifications.

~~3~~5. ⌦ Without prejudice to paragraph 2, ⌫ ~~W~~while checking whether the applicant fulfils the entry conditions, the consulate shall verify:

(a) that the travel document presented is not false, counterfeit or forged;

(b) the applicant's justification for the purpose and conditions of the intended stay, and that he has sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is in a position to acquire such means lawfully;

(c) whether the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;

(d) that the applicant is not considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ or to the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds~~;~~.

~~(e) that the applicant is in possession of adequate and valid travel medical insurance, where applicable.~~

~~4~~6. The consulate shall, where applicable, verify the length of previous and intended stays in order to verify that the applicant has not exceeded the maximum duration of authorised stay in the territory of the Member States, irrespective of possible stays authorised under ⇨ a touring visa, ⇦ a national long-stay visa or a residence permit ~~issued by another Member State~~.

~~5~~7. The means of subsistence for the intended stay shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, multiplied by the number of days stayed, on the basis of the reference amounts set by the Member States in accordance with Article 34(1)(c) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫. Proof of sponsorship and/or private accommodation may also constitute evidence of sufficient means of subsistence.

~~6~~8. In the examination of an application for an airport transit visa, the consulate shall in particular verify:

(a) that the travel document presented is not false, counterfeit or forged;

(b) the points of departure and destination of the third-country national concerned and the coherence of the intended itinerary and airport transit;

(c) proof of the onward journey to the final destination.

~~7~~9. The examination of an application shall be based notably on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant.

~~8~~10. During the examination of an application, consulates may in justified cases ~~call the applicant for~~ ⇨ carry out ⇦ an interview and request additional documents.

~~9~~11. A previous visa refusal shall not lead to an automatic refusal of a new application. A new application shall be assessed on the basis of all available information.

Article ~~22~~19

Prior consultation of central authorities of other Member States

1. A Member State may require the central authorities of other Member States to consult its central authorities during the examination of applications lodged by nationals of specific third countries or specific categories of such nationals. Such consultation shall not apply to applications for airport transit visas.

2. The central authorities consulted shall reply definitively within ~~seven~~ ⇨ five ⇦ calendar days after being consulted. The absence of a reply within this deadline shall mean that they have no grounds for objecting to the issuing of the visa.

3. Member States shall notify the Commission of the introduction or withdrawal of the requirement of prior consultation ⇨ at the latest 15 calendar days ⇦ before it becomes applicable. This information shall also be given within local Schengen cooperation in the jurisdiction concerned.

4. The Commission shall inform Member States of such notifications.

~~5. From the date of the replacement of the Schengen Consultation Network, as referred to in Article 46 of the VIS Regulation, prior consultation shall be carried out in accordance with Article 16(2) of that Regulation.~~

Article ~~23~~20

Decision on the application

1. Applications shall be decided on within ~~15~~ ⇨ 10 ⇦ calendar days of the date of the lodging of an application which is admissible in accordance with Article ~~19~~17.

2. That period may be extended up to a maximum of 20 calendar days in individual cases, notably when further scrutiny of the application is needed ~~or in cases of representation where the authorities of the represented Member State are consulted~~.

~~3. Exceptionally, when additional documentation is needed in specific cases, the period may be extended up to a maximum of 60 calendar days.~~

⇩ new

3. Applications of close relatives of the Union citizens referred to in Article 8(3) and of family members of Union citizens as referred to in Article 3(1) of Directive 2004/38/EC shall be decided on within 5 calendar days of the date of the lodging of an application. That period may be extended up to a maximum of 10 calendar days in individual cases, notably when further scrutiny of the application is needed.

⇩ new

4. The deadlines provided for in paragraph 3 shall apply as a maximum to family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC, in accordance with Article 5(2) of that Directive.

🡻 810/2009

5. Unless the application has been withdrawn, a decision shall be taken to:

(a) issue a uniform visa in accordance with Article ~~24~~21;

(b) issue a visa with limited territorial validity in accordance with Article ~~25~~22;

⇩ new

(c) issue an airport transit visa in accordance with Article 23; or

🡻 810/2009 (adapted)
⇨ new

(d) refuse a visa in accordance with Article ~~32~~29~~.~~ ~~or~~

~~(d) discontinue the examination of the application and transfer it to the relevant authorities of the represented Member State in accordance with Article 8(2).~~

The fact that fingerprinting is physically impossible, in accordance with Article ~~13~~12(7)(b), shall not influence the issuing or refusal of a visa.

CHAPTER IV

ISSUING OF THE VISA

Article ~~24~~21

Issuing of a uniform visa

1. The period of validity of a visa and the length of the authorised stay shall be based on the examination conducted in accordance with Article ~~21~~18.

2. A visa may be issued for one~~, two~~ or multiple entries. The period of validity ⇨ of a multiple entry visa ⇦ shall not exceed five years. ⇨ The period of validity of a multiple entry visa may extend beyond the period of validity of the passport to which the visa is affixed. ⇦

~~In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.~~

Without prejudice to Article ~~12~~11(a), the period of validity of ~~the~~ ⇨ a single entry ⇦ visa shall include a~~n additional~~ 'period of grace' of 15 days. Member States may decide not to grant such a period of grace for reasons of public policy or because of the international relations of any of the Member States.

⇩ new

3. VIS registered regular travellers who have lawfully used the two previously obtained visas shall be issued a multiple entry visa valid for at least three years.

4. Applicants referred to in paragraph 3 who have lawfully used the multiple entry visa valid for three years shall be issued a multiple entry visa valid for five years provided that the application is lodged no later than one year from the expiry date of the multiple entry visa valid for three years.

🡻 810/2009 (adapted)
⇨ new

~~2~~5. ~~Without prejudice to Article 12(a),~~ ⌦ A ⌫ multiple-entry visa~~s~~ ⇨ valid for up to 5 years may ⇦ ~~shall~~ be issued ~~with a period of validity between six months and five years, where the following conditions are met:~~

~~(a) the~~ ⌦ to an ⌫ applicant ⌦ who ⌫ proves the need or justifies the intention to travel frequently and/or regularly~~, in particular due to his occupational or family status, such as business persons, civil servants engaged in regular official contacts with Member States and EU institutions, representatives of civil society organisations travelling for the purpose of educational training, seminars and conferences, family members of citizens of the Union, family members of third-country nationals legally residing in Member States and seafarers; and~~

~~(b)~~ ⇨ provided that ⇦ the applicant proves his integrity and reliability, in particular the lawful use of previous uniform visas or visas with limited territorial validity, his economic situation in the country of origin and his genuine intention to leave the territory of the Member States before the expiry of the visa ⌦ for which he has ⌫ applied ~~for~~.

~~3~~6. The data set out in Article 10(1) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ shall be entered into the VIS when a decision on issuing such a visa has been taken.

🡻 810/2009 (adapted)

Article ~~25~~22

Issuing of a visa with limited territorial validity

1. A visa with limited territorial validity shall be issued exceptionally, in the following cases:

(a) when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations,

(i) to derogate from the principle that the entry conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ must be fulfilled;

(ii) to issue a visa despite an objection by the Member State consulted in accordance with Article ~~22~~ 19 to the issuing of a uniform visa; or

(iii) to issue a visa for reasons of urgency, although the prior consultation in accordance with Article ~~22~~ 19 has not been carried out;

or

↓ 610/2013 Art. 6.3

(b) when for reasons deemed justified by the consulate, a new visa is issued for a stay during the same 180-day period to an applicant who, over this 180-day period, has already used a uniform visa or a visa with limited territorial validity allowing for a stay of 90 days.

↓ 810/2009 (adapted)

2. A visa with limited territorial validity shall be valid for the territory of the issuing Member State. It may exceptionally be valid for the territory of more than one Member State, subject to the consent of each such Member State.

3. If the applicant holds a travel document that is not recognised by one or more, but not all Member States, a visa valid for the territory of the Member States recognising the travel document shall be issued. If the issuing Member State does not recognise the applicant's travel document, the visa issued shall only be valid for that Member State.

4. When a visa with limited territorial validity has been issued in the cases described in paragraph 1(a), the central authorities of the issuing Member State shall circulate the relevant information to the central authorities of the other Member States without delay, by means of the procedure referred to in Article 16(3) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ .

5. The data set out in Article 10(1) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ shall be entered into the VIS when a decision on issuing such a visa has been taken.

Article ~~26~~23

Issuing of an airport transit visa

1. An airport transit visa shall be valid for transiting through the international transit areas of the airports situated on the territory of Member States.

2. Without prejudice to Article ~~12~~11(a), the period of validity of the visa shall include an ~~additional~~ 'period of grace' of 15 days.

Member States may decide not to grant such a period of grace for reasons of public policy or because of the international relations of any of the Member States.

3. Without prejudice to Article ~~12~~11(a), multiple airport transit visas may be issued with a period of validity of a maximum six months.

4. The following criteria in particular are relevant for taking the decision to issue multiple airport transit visas:

(a) the applicant's need to transit frequently and/or regularly; and

(b) the integrity and reliability of the applicant, in particular the lawful use of previous uniform visas, visas with limited territorial validity or airport transit visas, his economic situation in his country of origin and his genuine intention to pursue his onward journey.

5. If the applicant is required to hold an airport transit visa in accordance with the provisions of Article 3(2), the airport transit visa shall be valid only for transiting through the

international transit areas of the airports situated on the territory of the Member State(s) concerned.

6. The data set out in Article 10(1) of ~~the VIS~~ Regulation ⊠ (EC) No 767/2008 ⊠ shall be entered into the VIS when a decision on issuing such a visa has been taken.

↓ 810/2009 (adapted)

Article ~~27~~24

Filling in the visa sticker

1. When the visa sticker is filled in, ~~the mandatory entries set out in Annex VII shall be inserted and~~ the machine-readable zone shall be filled in, as provided for in ICAO document 9303, Part 2.

⇩ new

2. The Commission shall by means of implementing acts adopt the details for filling in the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)
⇨ new

~~2~~3. Member States may add national entries in the 'comments' section of the visa sticker, which shall ~~not~~ ⊠ neither ⊠ duplicate the ~~mandatory~~ entries ~~in Annex VII~~ ⇨ established in accordance with the procedure referred to in paragraph 2 nor indicate a specific travel purpose ⇦ .

~~3~~4. All entries on the visa sticker shall be printed, and no manual changes shall be made to a printed visa sticker.

~~4~~5. ⊠ A ⊠ ~~V~~visa sticker~~s~~ ⇨ for a single entry visa ⇦ may be filled in manually only in case of technical force majeure. No changes shall be made to a manually filled in visa sticker.

~~5~~6. When a visa sticker is filled in manually in accordance with paragraph 4 of this Article, this information shall be entered into the VIS in accordance with Article 10(1)(k) of ~~the VIS~~ Regulation ⊠ (EC) No 767/2008 ⊠ .

↓ 810/2009 (adapted)
⇨ new

Article ~~28~~25

Invalidation of a completed visa sticker

1. If an error is detected on a visa sticker which has not yet been affixed to the travel document, the visa sticker shall be invalidated.

2. If an error is detected after the visa sticker has been affixed to the travel document, the visa sticker shall be invalidated by drawing a cross with indelible ink on the visa sticker ⇨ , the

optically variable device shall be destroyed ⇦ and a new visa sticker shall be affixed to a different page.

3. If an error is detected after the relevant data have been introduced into the VIS in accordance with Article 10(1) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ , the error shall be corrected in accordance with Article 24(1) of that Regulation.

↓ 810/2009 (adapted)

Article ~~29~~26

Affixing a visa sticker

1. The printed visa sticker containing the data provided for in Article ~~27~~ 24 ~~and Annex VII~~ shall be affixed to the travel document ~~in accordance with the provisions set out in Annex VIII~~.

⇩ new

2. The Commission shall by means of implementing acts adopt the details for affixing the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)

3. Where the issuing Member State does not recognise the applicant's travel document, the separate sheet for affixing a visa shall be used.

4. When a visa sticker has been affixed to the separate sheet for affixing a visa, this information shall be entered into the VIS in accordance with Article 10(1)(j) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ .

5. Individual visas issued to persons who are included in the travel document of the applicant shall be affixed to that travel document.

6. Where the travel document in which such persons are included is not recognised by the issuing Member State, the individual stickers shall be affixed to the separate sheets for affixing a visa.

Article ~~30~~27

Rights derived from an issued visa

Mere possession of a uniform visa or a visa with limited territorial validity shall not confer an automatic right of entry.

↓ 810/2009 (adapted)
⇨ new

Article ~~31~~28

~~Information of~~ ⌦ Informing ⌫ central authorities of other Member States

1. A Member State may require that its central authorities be informed of visas issued by consulates of other Member States to nationals of specific third countries or to specific categories of such nationals, except in the case of airport transit visas.

2. Member States shall notify the Commission of the introduction or withdrawal of the requirement for such information ⇨ at the latest 15 calendar days ⇦ before it becomes applicable. This information shall also be given within local Schengen cooperation in the jurisdiction concerned.

3. The Commission shall inform Member States of such notifications.

~~4. From the date referred to in Article 46 of the VIS Regulation, information shall be transmitted in accordance with Article 16(3) of that Regulation.~~

Article ~~32~~29

Refusal of a visa

1. Without prejudice to Article ~~25~~22(1), a visa shall be refused:

(a) if the applicant:

(i) presents a travel document which is false, counterfeit or forged;

(ii) does not provide justification for the purpose and conditions of the intended stay;

(iii) does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is not in a position to acquire such means lawfully;

🡻 610/2013 Art. 6.4

(iv) has already stayed for 90 days during the current 180-day period on the territory of the Member States on the basis of a uniform visa or a visa with limited territorial validity;

🡻 810/2009 (adapted)
⇨ new

(v) is a person for whom an alert has been issued in the SIS for the purpose of refusing entry;

(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds; ~~or~~

~~(vii) does not provide proof of holding adequate and valid travel medical insurance, where applicable;~~

or

(b) if there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or the veracity of their contents, the reliability of the

statements made by the applicant or his intention to leave the territory of the Member States before the expiry of the visa applied for.

2. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex ~~VI~~ V.

3. Applicants who have been refused a visa shall have the right to appeal. Appeals shall be ~~conducted~~ ⌦ instituted ⌫ against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Member States shall provide applicants with ⇨ detailed ⇦ information regarding the procedure to be followed in the event of an appeal, as specified in Annex ~~VI~~ V.

~~4. In the cases referred to in Article 8(2), the consulate of the representing Member State shall inform the applicant of the decision taken by the represented Member State.~~

~~5~~4. Information on a refused visa shall be entered into the VIS in accordance with Article 12 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ .

CHAPTER V

MODIFICATION OF AN ISSUED VISA

Article ~~33~~30

Extension

1. The period of validity and/or the duration of stay of an issued visa shall be extended where the competent authority of a Member State considers that a visa holder has provided proof of force majeure or humanitarian reasons preventing him from leaving the territory of the Member States before the expiry of the period of validity of or the duration of stay authorised by the visa. Such an extension shall be granted free of charge.

2. The period of validity and/or the duration of stay of an issued visa may be extended if the visa holder provides proof of serious personal reasons justifying the extension of the period of validity or the duration of stay. A fee of EUR 30 shall be charged for such an extension.

3. Unless otherwise decided by the authority extending the visa, the territorial validity of the extended visa shall remain the same as that of the original visa.

4. The authority competent to extend the visa shall be that of the Member State on whose territory the third-country national is present at the moment of applying for an extension.

5. Member States shall notify to the Commission the authorities competent for extending visas.

6. Extension of visas shall take the form of a visa sticker.

7. Information on an extended visa shall be entered into the VIS in accordance with Article 14 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ .

Article ~~34~~31

Annulment and revocation

1. A visa shall be annulled where it becomes evident that the conditions for issuing it were not met at the time when it was issued, in particular if there are serious grounds for believing that the visa was fraudulently obtained. A visa shall in principle be annulled by the competent authorities of the Member State which issued it. A visa may be annulled by the competent

authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such annulment.

2. A visa shall be revoked where it becomes evident that the conditions for issuing it are no longer met. A visa shall in principle be revoked by the competent authorities of the Member State which issued it. A visa may be revoked by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such revocation.

3. A visa may be revoked at the request of the visa holder. The competent authorities of the Member States that issued the visa shall be informed of such revocation.

4. Failure of the visa holder to produce, at the border, one or more of the supporting documents referred to in Article ~~14~~13(4), shall not automatically lead to a decision to annul or revoke the visa.

5. If a visa is annulled or revoked, a stamp stating 'ANNULLED' or 'REVOKED' shall be affixed to it and the optically variable feature of the visa sticker, the security feature 'latent image effect' as well as the term 'visa' shall be invalidated by being crossed out.

6. A decision on annulment or revocation of a visa and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex ~~VI~~ V.

7. A visa holder whose visa has been annulled or revoked shall have the right to appeal, unless the visa was revoked at his request in accordance with paragraph 3. Appeals shall be conducted against the Member State that has taken the decision on the annulment or revocation and in accordance with the national law of that Member State. Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex ~~VI~~ V.

8. Information on an annulled or a revoked visa shall be entered into the VIS in accordance with Article 13 of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫ .

CHAPTER VI

VISAS ISSUED AT THE EXTERNAL BORDERS

Article ~~35~~32

Visas applied for ⌦ exceptionally ⌫ at the external border

1. In exceptional cases, visas may be issued at border crossing points if the following conditions are satisfied:

(a) the applicant fulfils the conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ ;

(b) the applicant has not been in a position to apply for a visa in advance and submits, if required, supporting documents substantiating unforeseeable and imperative reasons for entry; and

(c) the applicant's return to his country of origin or residence or transit through States other than Member States fully implementing the Schengen *acquis* is assessed as certain.

~~2. Where a visa is applied for at the external border, the requirement that the applicant be in possession of travel medical insurance may be waived when such travel medical insurance is not available at that border crossing point or for humanitarian reasons.~~

~~3~~2. A visa issued at the external border shall be a uniform visa, entitling the holder to stay for a maximum duration of 15 days, depending on the purpose and conditions of the intended stay. In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.

~~4~~3. Where the conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity, in accordance with Article ~~25~~22(1)(a) of this Regulation, for the territory of the issuing Member State only.

~~5~~4. A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article ~~22~~ 19 shall, in principle, not be issued a visa at the external border.

However, a visa with limited territorial validity for the territory of the issuing Member State may be issued at the external border for such persons in exceptional cases, in accordance with Article ~~25~~22(1)(a).

~~6~~5. In addition to the reasons for refusing a visa as provided for in Article ~~32~~29(1) a visa shall be refused at the border crossing point if the conditions referred to in paragraph 1(b) of this Article are not met.

~~7~~6. The provisions on justification and notification of refusals and the right of appeal set out in Article ~~32~~29(3) and Annex ~~VI~~ V shall apply.

⇩ new

Article 33

Visas applied for at the external border under a temporary scheme

1. In view of promoting short term tourism, a Member State may decide to temporarily issue visas at the external border to persons fulfilling the conditions set out in Article 32 (1) (a) and (c).

2. The duration of such a scheme shall be limited to 5 months in any calendar year and the categories of beneficiaries shall be clearly defined.

3. By way of derogation from Article 22(1), a visa issued under such a scheme shall be valid only for the territory of the issuing Member State and shall entitle the holder to stay for a maximum duration of 15 calendar days, depending on the purpose and conditions of the intended stay.

4. Where the visa is refused at the external border, the Member State cannot impose the obligations set out in Article 26 of the Convention Implementing the Schengen Agreement on the carrier concerned.

5. Member States shall notify the envisaged schemes to the European Parliament, the Council and the Commission at the latest three months before the start of their implementation. The notification shall define the categories of beneficiaries, the geographical scope, the

organisational modalities of the scheme and the measures envisaged to ensure the verification of the visa issuing conditions.

The Commission shall publish this notification in the Official Journal of the European Union.

6. Three months after the end of the scheme, the Member State concerned shall submit a detailed implementation report to the Commission. The report shall contain information on the number of visas issued and refused (including citizenship of the persons concerned); duration of stay, return rate (including citizenship of persons not returning).

↓ 810/2009 (adapted)

Article ~~36~~34

Visas issued to seafarers ~~in transit~~ at the external border

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa ~~for the purpose of transit~~ at the border where:

(a) he fulfils the conditions set out in Article ~~35~~32(1); and

(b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.

2. Before issuing a visa at the border to a seafarer ~~in transit~~, the competent national authorities shall ~~comply with the rules set out in Annex IX, Part 1, and~~ make sure that the necessary information concerning the seafarer in question has been exchanged ~~by means of a duly completed form for seafarers in transit, as set out in Annex IX, Part 2~~.

⇩ new

3. The Commission shall by means of implementing acts adopt operational instructions for issuing visas at the border to seafarers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009

~~3~~4. This Article shall apply without prejudice to Article ~~35~~32(~~3~~2), (~~4~~3) and (~~5~~4).

↓ 810/2009 (adapted)
⇨ new

TITLE IV

ADMINISTRATIVE MANAGEMENT AND ORGANISATION

Article ~~37~~35

Organisation of visa sections

1. Member States shall be responsible for organising the visa sections of their consulates.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up, where appropriate. Particular attention shall be paid to clear work structures and a distinct allocation/division of responsibilities in relation to the taking of final decisions on applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised staff. Appropriate measures shall be taken to prevent unauthorised access to such databases.

2. The storage and handling of visa stickers shall be subject to adequate security measures to avoid fraud or loss. Each consulate shall keep an account of its stock of visa stickers and register how each visa sticker has been used.

3. Member States' consulates shall keep archives of applications. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and the reference number of the visa issued, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.

Individual application files shall be kept for a minimum of two years from the date of the decision on the application as referred to in Article ~~23~~20(1).

Article ~~28~~36

Resources for examining applications and monitoring of consulates

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the examining of applications, in such a way as to ensure reasonable and harmonised quality of service to the public.

2. Premises shall meet appropriate functional requirements of adequacy and allow for appropriate security measures.

3. Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and up-to-date information on the relevant ~~Community~~ ⌦ Union ⌫ and national law.

4. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of examination of applications and take corrective measures when deviations from the provisions of this Regulation are detected.

Article ~~39~~37

Conduct of staff

1. Member States' consulates shall ensure that applicants are received courteously.

2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.

3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article ~~40~~38

~~Forms of~~ ⌦ Consular organisation and ⌫ cooperation

1. Each Member State shall be responsible for organising the procedures relating to applications. ~~In principle, applications shall be lodged at a consulate of a Member State.~~

2. Member States shall:

(a) equip their consulates and authorities responsible for issuing visas at the borders with the required material for the collection of biometric identifiers, as well as the offices of their honorary consuls, whenever they make use of them, to collect biometric identifiers in accordance with Article ~~42~~40; ~~and/or~~

(b) cooperate with one or more other Member States~~, within the framework of local Schengen cooperation or by other appropriate contacts, in the form of limited representation, co-location, or a Common Application Centre in accordance with Article 41~~ ⇨ under representation arrangements or any other form of consular cooperation ⇦ .

~~3. In particular circumstances or for reasons relating to the local situation, such as where:~~

~~(a) the high number of applicants does not allow the collection of applications and of data to be organised in a timely manner and in decent conditions; or~~

~~(b) it is not possible to ensure a good territorial coverage of the third country concerned in any other way;~~

~~and where the forms of cooperation referred to in paragraph 2(b) prove not to be appropriate for the Member State concerned,~~ ~~a~~

⌦ 3. A ⌫ Member State may~~, as a last resort,~~ ⌦ also ⌫ cooperate with an external service provider in accordance with Article ~~43~~41.

~~4. Without prejudice to the right to call the applicant for a personal interview, as provided for in Article 21(8), the selection of a form of organisation shall not lead to the applicant being required to appear in person at more than one location in order to lodge an application.~~

~~5~~4. Member States shall notify to the Commission ~~how they intend to organise the procedures relating to applications~~ ⇨ their consular organisation and cooperation ⇦ in each consular location.

⇩ new

~~6~~5. In the event of termination of cooperation with other Member States, Member States shall assure the continuity of full service.

🡻 810/2009 (adapted)
⇨ new

Article ~~8~~39

Representation arrangements

1. A Member State may agree to represent another Member State that is competent in accordance with Article 5 for the purpose of examining applications and issuing visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner ~~solely~~ ⌦ only ⌫ for the collection of applications and the enrolment of biometric identifiers.

~~2. The consulate of the representing Member State shall, when contemplating refusing a visa, submit the application to the relevant authorities of the represented Member State in order for~~

~~them to take the final decision on the application within the time limits set out in Article 23(1), (2) or (3).~~

~~3~~2. ⇨ Where the representation is limited to the collection of applications, ⇦ ~~T~~the collection and transmission of files and data to the represented Member State shall be carried out in compliance with the relevant data protection and security rules.

3. A bilateral arrangement shall be established between the representing Member State and the represented Member State ~~containing the following elements~~ ⌦ . That arrangement ⌫ :

(a) shall specify the duration of ~~such~~ ⌦ the ⌫ representation, if only temporary, and ⌦ the ⌫ procedures for its termination;

(b) may, in particular when the represented Member State has a consulate in the third country concerned, provide for the provision of premises, staff and payments by the represented Member State~~;~~.

~~(c) it may stipulate that applications from certain categories of third-country nationals are to be transmitted by the representing Member State to the central authorities of the represented Member State for prior consultation as provided for in Article 22;~~

~~(d) by way of derogation from paragraph 2, it may authorise the consulate of the representing Member State to refuse to issue a visa after examination of the application.~~

~~5~~4. Member States lacking their own consulate in a third country shall endeavour to conclude representation arrangements with Member States that have consulates in that country.

~~6~~5. With a view to ensuring that a poor transport infrastructure or long distances in a specific region or geographical area do not require a disproportionate effort on the part of applicants to have access to a consulate, Member States lacking their own consulate in that region or area shall endeavour to conclude representation arrangements with Member States that have consulates in that region or area.

~~7~~6. The represented Member State shall notify the representation arrangements or the termination of ~~such~~ ⌦ those ⌫ arrangements to the Commission ⇨ at least two months ⇦ before they enter into force or are terminated.

~~8~~7. ~~Simultaneously,~~ ~~t~~The consulate of the representing Member State shall ⌦ , at the same time that the notification referred to in paragraph 6 takes place, ⌫ inform both the consulates of other Member States and the delegation of the ~~Commission~~ ⌦ European Union ⌫ in the jurisdiction concerned about representation arrangements or the termination of such arrangements ~~before they enter into force or are terminated~~.

~~9~~8. If the consulate of the representing Member State decides to cooperate with an external service provider in accordance with Article ~~43~~41, or with accredited commercial intermediaries as provided for in Article ~~45~~43, ~~such~~ ⌦ that ⌫ cooperation shall include applications covered by representation arrangements. The central authorities of the represented Member State shall be informed in advance of the terms of such cooperation.

~~*Article 41*~~

~~**Cooperation between Member States**~~

~~1. Where 'co-location' is chosen, staff of the consulates of one or more Member States shall carry out the procedures relating to applications (including the collection of biometric identifiers) addressed to them at the consulate of another Member State and share the~~

~~equipment of that Member State. The Member States concerned shall agree on the duration of and conditions for the termination of the co-location as well as the proportion of the visa fee to be received by the Member State whose consulate is being used.~~

~~2. Where 'Common Application Centres' are established, staff of the consulates of two or more Member States shall be pooled in one building in order for applicants to lodge applications (including biometric identifiers). Applicants shall be directed to the Member State competent for examining and deciding on the application. Member States shall agree on the duration of and conditions for the termination of such cooperation as well as the cost-sharing among the participating Member States. One Member State shall be responsible for contracts in relation to logistics and diplomatic relations with the host country.~~

~~3. In the event of termination of cooperation with other Member States, Member States shall assure the continuity of full service.~~

Article ~~42~~40

Recourse to honorary consuls

1. Honorary consuls may ~~also~~ be authorised to perform some or all of the tasks referred to in Article ~~43(6)~~ 41(5). Adequate measures shall be taken to ensure security and data protection.

2. Where the honorary consul is not a civil servant of a Member State, the performance of those tasks shall comply with the requirements set out in Annex ~~X~~ VI, except for the provisions in point D(c) of that Annex.

3. Where the honorary consul is a civil servant of a Member State, the Member State concerned shall ensure that requirements comparable to those which would apply if the tasks were performed by its consulate are applied.

Article ~~43~~41

Cooperation with external service providers

1. Member States shall endeavour to cooperate with an external service provider together with one or more Member States, without prejudice to public procurement and competition rules.

2. Cooperation with an external service provider shall be based on a legal instrument that shall comply with the requirements set out in Annex ~~X~~ VI.

~~3. Member States shall, within the framework of local Schengen cooperation, exchange information about the selection of external service providers and the establishment of the terms and conditions of their respective legal instruments.~~

~~4~~3. The examination of applications, interviews (where appropriate), the decision on applications and the printing and affixing of visa stickers shall be carried out only by the consulate.

~~5~~4. External service providers shall not have access to the VIS under any circumstances. Access to the VIS shall be reserved exclusively to duly authorised staff of consulates.

~~6~~5. An external service provider may be entrusted with the performance of one or more of the following tasks:

(a) providing general information on visa requirements and application forms;

(b) informing the applicant of the required supporting documents, on the basis of a checklist;

(c) collecting data and applications (including collection of biometric identifiers) and transmitting the application to the consulate;

(d) collecting the visa fee;

(e) managing ~~the~~ appointments for ~~appearance in person~~ ⇨ the applicant, where applicable, ⇦ at the consulate or at the external service provider;

(f) collecting the travel documents, including a refusal notification if applicable, from the consulate and returning them to the applicant.

~~7~~6. When selecting an external service provider, the Member State(s) concerned shall scrutinise the solvency and reliability of the company, including the necessary licences, commercial registration, company statutes, bank contracts, and ensure that there is no conflict of interests.

~~8~~7. The Member State(s) concerned shall ensure that the external service provider selected complies with the terms and conditions assigned to it in the legal instrument referred to in paragraph 2.

~~9~~8. The Member State(s) concerned shall remain responsible for compliance with data protection rules for the processing of data and shall be supervised in accordance with Article 28 of Directive 95/46/EC.

Cooperation with an external service provider shall not limit or exclude any liability arising under the national law of the Member State(s) concerned for breaches of obligations with regard to the personal data of applicants or the performance of one or more of the tasks referred to in paragraph ~~6~~5. This provision is without prejudice to any action which may be taken directly against the external service provider under the national law of the third country concerned.

~~10~~9. The Member State(s) concerned shall provide training to the external service provider, corresponding to the knowledge needed to offer an appropriate service and sufficient information to applicants.

~~11~~10. The Member State(s) concerned shall closely monitor the implementation of the legal instrument referred to in paragraph 2, including:

(a) the general information on visa requirements and application forms provided by the external service provider to applicants;

(b) all the technical and organisational security measures required to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the cooperation involves the transmission of files and data to the consulate of the Member State(s) concerned, and all other unlawful forms of processing personal data;

(c) the collection and transmission of biometric identifiers;

(d) the measures taken to ensure compliance with data protection provisions.

To this end, the consulate(s) of the Member State(s) concerned shall, on a regular basis, carry out spot checks on the premises of the external service provider.

~~12~~11. In the event of termination of cooperation with an external service provider, Member States shall ensure the continuity of full service.

~~13~~12. Member States shall provide the Commission with a copy of the legal instrument referred to in paragraph 2. ⇨ By 1st January each year, Member States shall report to the

Commission on their cooperation with and monitoring (as referred to in Annex VI, point C) of external service providers worldwide. ⇦

↓ 810/2009 (adapted)
⇨ new

Article ~~44~~42

Encryption and secure transfer of data

1. In the case of ~~representation arrangements between~~ ⇨ cooperation among ⇦ Member States and cooperation ~~of Member States~~ with an external service provider and recourse to honorary consuls, ~~the represented Member State(s) or~~ the Member State(s) concerned shall ensure that the data are fully encrypted, whether electronically transferred or physically transferred on an electronic storage medium ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned~~.

2. In third countries which prohibit encryption of data to be electronically transferred ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned, the represented Members State(s) or~~ the Member State(s) concerned shall not allow ~~the representing Member State or the external service provider or the honorary consul to~~ transfer data electronically.

In such a case, ~~the represented Member State(s) or~~ the Member State(s) concerned shall ensure that the electronic data are transferred physically in fully encrypted form on an electronic storage medium ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned~~ by a consular officer of a Member State or, where such a transfer would require disproportionate or unreasonable measures to be taken, in another safe and secure way, for example by using established operators experienced in transporting sensitive documents and data in the third country concerned.

3. In all cases the level of security for the transfer shall be adapted to the sensitive nature of the data.

4. The ~~Member States or the Community~~ ⌦ Union ⌫ shall endeavour to reach agreement with the third countries concerned with the aim of lifting the prohibition against encryption of data to be electronically transferred ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned~~.

↓ 810/2009 (adapted)

Article ~~45~~43

Member States' cooperation with commercial intermediaries

1. Member States may ~~cooperate with~~ ⌦ accept the lodging of applications by a private administrative agency, a transport company or a travel agency, such as a tour operator or a retailer (commercial intermediaries) ⌫ ~~for the lodging of applications~~, except for the collection of biometric identifiers.

2. ~~Such c~~Cooperation ⌦ with commercial intermediaries ⌫ shall be based on the granting of an accreditation by Member States' relevant authorities. The accreditation shall, in particular, be based on the verification of the following aspects:

(a) the current status of the commercial intermediary: current licence, the commercial register, contracts with banks;

(b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;

(c) contracts with transport companies, which must include an outward journey, as well as a guaranteed and fixed return journey.

3. Accredited commercial intermediaries shall be monitored regularly by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation~~, verification that the travel medical insurance provided is adequate and covers individual travellers~~, and wherever deemed necessary, verification of the documents relating to group return.

4. Within local Schengen cooperation, information shall be exchanged on the performance of the accredited commercial intermediaries concerning irregularities detected and refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to carry out scheduled trips.

5. Within local Schengen cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each consulate and from which accreditation has been withdrawn, together with the reasons for any such withdrawal.

Each consulate shall ~~make sure that~~ inform the public ~~is informed~~ about the list of accredited commercial intermediaries with which it cooperates.

Article ~~46~~44

Compilation of statistics

Member States shall compile annual statistics on visas, in accordance with ~~the table set out in~~ Annex ~~XII~~ VIII. These statistics shall be submitted by 1 March for the preceding calendar year.

🡻 810/2009 (adapted)

Article ~~47~~45

Information ⌦ to be provided ⌫ to the public

1. Member States' central authorities and consulates shall provide the public with all relevant information in relation to the application for a visa, in particular:

(a) the criteria, conditions and procedures for applying for a visa;

(b) the means of obtaining an appointment, if applicable;

(c) where the application may be submitted ~~(competent consulate, Common Application Centre or external service provider)~~;

(d) accredited commercial intermediaries;

~~(e) the fact that the stamp as provided for in Article 20 has no legal implications;~~

(~~f~~e) the time limits for examining applications provided for in Article ~~23~~20(1), (2) and (3);

(~~g~~f) the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information;

(~~h~~g) that negative decisions on applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal, with information regarding the procedure to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;

(~~i~~h) that mere possession of a visa does not confer an automatic right of entry and that the holders of visa are requested to present proof that they fulfil the entry conditions at the external border, as provided for in Article 5 of ~~the Schengen Borders Code~~ ⌦ Regulation (EC) No 562/2006 ⌫ .

2. The representing and represented Member State shall inform the general public about representation arrangements as referred to in Article ~~8~~ 39 before such arrangements enter into force.

⇩ new

3. The Commission shall establish a standard information template for the implementation of the provisions of paragraph 1.

4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the application for a visa.

🡻 810/2009 (adapted)
⇨ new

TITLE V

LOCAL SCHENGEN COOPERATION

Article ~~48~~46

Local Schengen cooperation between Member States' consulates

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' consulates and the Commission shall cooperate within each jurisdiction, ~~and assess the need to establish~~ in particular ⌦ to ⌫ :

(a) ⌦ prepare ⌫ a harmonised list of supporting documents to be submitted by applicants, taking into account Article ~~14~~ 13 and Annex II;

(b) ⌦ ensure a ⌫ common ~~criteria for examining applications in relation to exemptions from paying the visa fee in accordance with Article 16(5) and matters~~

~~relating to the~~ translation of the application form in accordance with Article ~~11(5)~~ 10(6);

(c) ~~an~~ ⌦ establish ⌫ ~~exhaustive~~ ⌦ the ⌫ list of travel documents issued by the host country~~, which shall be updated~~ ⌦ and update it regularly ⌫ .

~~If in relation to one or more of the points (a) to (c), the assessment within local Schengen cooperation confirms the need for a local harmonised approach measures on such an approach shall be adopted pursuant to the procedure referred to in Article 52(2).~~

2. Within local Schengen cooperation a common information sheet shall be established ⇨ on the basis of the standard information template drawn up by the Commission under Article 45(3) ⇦ ~~on uniform visas and visas with limited territorial validity and airport transit visas, namely, the rights that the visa implies and the conditions for applying for it, including, where applicable, the list of supporting documents as referred to in paragraph 1(a)~~.

3. ~~The following information shall be exchanged tasks shall be carried out~~ Member States within local Schengen cooperation ⇨ shall exchange the following ⇦ :

(a) ~~monthly~~ ⇨ quarterly ⇦ statistics on uniform visas, visas with limited territorial validity, ~~and~~ airport transit visas ⇨ and touring visas ⇦ ⇨ applied for, ⇦ issued~~, as well as the number of visas~~ ⌦ and ⌫ refused ⌦ ~~shall be compiled~~ ⌫ ;

(b) ⌦ ~~exchange of~~ information ⌫ with regard to the assessment of migratory and/or security risks~~,~~ ~~information~~ ⌦ in particular ⌫ on:

(i) the socioeconomic structure of the host country;

(ii) sources of information at local level, including social security, health insurance, fiscal registers and entry-exit registrations;

(iii) the use of false, counterfeit or forged documents;

(iv) ~~illegal~~ ⌦ irregular ⌫ immigration routes;

(v) refusals;

(c) information on cooperation with transport companies~~;~~.

~~(d) information on insurance companies providing adequate travel medical insurance, including verification of the type of coverage and possible excess amount.~~

4. Local Schengen cooperation meetings to deal specifically with operational issues in relation to the application of the common visa policy shall be organised regularly among Member States and the Commission. These meetings shall be convened within the jurisdiction by the Commission, unless otherwise agreed at the request of the Commission.

Single-topic meetings may be organised and sub-groups set up to study specific issues within local Schengen cooperation.

~~6~~5. Representatives of the consulates of Member States not applying the Union *acquis* in relation to visas, or of third countries, may on an ad hoc basis be invited to participate in meetings for the exchange of information on issues relating to visas.

~~5~~6. Summary reports of local Schengen cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of the reports to a Member State. The consulates of each Member State shall forward the reports to their central authorities.

⇨ 7. An annual report shall be drawn up within each jurisdiction by 31 December each year. ⇦ On the basis of these reports, the Commission shall draw up an annual report ~~within~~

~~each jurisdiction~~ ⇨ on the state of affairs of local Schengen cooperation ⇦ to be submitted to the European Parliament and the Council.

TITLE VI

FINAL PROVISIONS

Article ~~49~~47

Arrangements in relation to the Olympic Games and Paralympic Games

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuing of visas set out in Annex ~~XI~~ VII.

~~*Article 50*~~

~~**Amendments to the Annexes**~~

~~Measures designed to amend non-essential elements of this Regulation and amending Annexes I, II, III, IV, V, VI, VII, VIII and XII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 52(3).~~

⇩ new

Article 48

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. Powers to adopt delegated acts referred to in Article 3(2) and (9), shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of power referred to in Article 3(2) and (9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the Europen Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(2) and (9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 49

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 48(5). In such cases, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

↓ 810/2009 (adapted)

Article ~~51~~ 50

Instructions on the practical application of ~~the Visa Code~~ ⌦ this Regulation ⌫

~~Operational instructions on the practical application of the provisions of this Regulation shall be drawn up in accordance with the procedure referred to in Article 52(2).~~

⇩ new

The Commission shall by means of implementing acts adopt the operational instructions on the practical application of the provisions of this Regulation ~~shall be drawn up~~ ~~in accordance with the procedure referred to in Article 52(2)~~. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)
⇨ new

Article ~~52~~ 51

Committee procedure

1. The Commission shall be assisted by a committee (the Visa Committee). ⇨ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇦

2. Where reference is made to this paragraph, ~~Articles 5 and 7 of Decision 1999/468/EC~~ ⇨ Article 5 of Regulation (EU) No 182/2011 ⇦ shall apply~~, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation~~.

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.~~

~~3. Where reference is made to this paragraph, Articles 5a(1) to (4) and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

Article ~~53~~ 52

Notification

1. Member States shall notify the Commission of:

(a) representation arrangements referred to in Article ~~8~~39;

(b) third countries whose nationals are required by individual Member States to hold an airport transit visa when passing through the international transit areas of airports situated on their territory, as referred to in Article 3;

(c) the national form for proof of sponsorship and/or private accommodation referred to in Article ~~14(4)~~ 13(7), if applicable;

(d) the list of third countries for which prior consultation referred to in Article ~~22~~19(1) is required;

(e) the list of third countries for which information referred to in Article ~~31~~28(1) is required;

(f) the additional national entries in the 'comments' section of the visa sticker, as referred to in Article ~~27~~24(3);

(g) authorities competent for extending visas, as referred to in Article ~~33~~30(5);

(h) the ~~forms~~ ⌦ choice ⌫ of ⇨ consular organisation and ⇦ cooperation ~~chosen~~ as referred to in Article ~~40~~38;

(i) statistics compiled in accordance with Article ~~46~~ 44 and Annex ~~XII~~ VIII.

2. The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via ~~a~~ ⌦ the ⌫ constantly updated ~~electronic publication~~ ⇨ Schengen visa website, referred to in Article 45(4) ⇦ .

~~*Article 54*~~

~~**Amendments to Regulation (EC) No 767/2008**~~

~~Regulation (EC) No 767/2008 is hereby amended as follows:~~

~~1. Article 4(1) shall be amended as follows:~~

~~(a) point (a) shall be replaced by the following:~~

~~'(a)"uniform visa" as defined in Article 2(3) of 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)[35];'»~~

~~(b) point (b) shall be deleted;~~

~~(c) point (c) shall be replaced by the following:~~

~~'(c)"airport transit visa" as defined in Article 2(5) of Regulation (EC) No 810/2009;';»~~

~~(d) point (d) shall be replaced by the following:~~

~~'(d)"visa with limited territorial validity" as defined in Article 2(4) of Regulation (EC) No 810/2009;';»~~

~~(e) point (e) shall be deleted;~~

~~2. in Article 8(1), the words 'On receipt of an application', shall be replaced by the following:~~

~~'When the application is admissible according to Article 19 of Regulation (EC) No 810/2009';~~

~~35 OJ L 243, 15.9.2009, p. 1.;~~

3. Article 9 shall be amended as follows:

(a) the heading shall be replaced by the following:

'Data to be entered on application';»

(b) paragraph 4 shall be amended as follows:

(i) point (a) shall be replaced by the following:

'(a) surname (family name), surname at birth (former family name(s)), first name(s) (given name(s)); date of birth, place of birth, country of birth, sex;';»

(ii) point (e) shall be deleted;

(iii) point (g) shall be replaced by the following:

'(g) Member State(s) of destination and duration of the intended stay or transit;';»

(iv) point (h) shall be replaced by the following:

'(h) main purpose(s) of the journey;';»

(v) point (i) shall be replaced by the following:

'(i) intended date of arrival in the Schengen area and intended date of departure from the Schengen area;';»

(vi) point (j) shall be replaced by the following:

'(j) Member State of first entry;';»

(vii) point (k) shall be replaced by the following:

'(k) the applicant's home address;';»

(viii) in point (l), the word 'school' shall be replaced by: 'educational establishment';

(ix) in point (m), the words 'father and mother' shall be replaced by 'parental authority or legal guardian';

4. the following point shall be added to Article 10(1):

'(k) if applicable, the information indicating that the visa sticker has been filled in manually.';»

5. in Article 11, the introductory paragraph shall be replaced by the following:

'Where the visa authority representing another Member State discontinues the examination of the application, it shall add the following data to the application file:';»

6. Article 12 shall be amended as follows:

(a) in paragraph 1, point (a) shall be replaced by the following:

'(a) status information indicating that the visa has been refused and whether that authority refused it on behalf of another Member State;';»

(b) paragraph 2 shall be replaced by the following:

'2. The application file shall also indicate the ground(s) for refusal of the visa, which shall be one or more of the following:

(a) the applicant:

(i) presents a travel document which is false, counterfeit or forged;

(ii) does not provide justification for the purpose and conditions of the intended stay;

(iii) does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is not in a position to acquire such means lawfully;

(iv) has already stayed for three months during the current six-month period on the territory of the Member States on a basis of a uniform visa or a visa with limited territorial validity;

(v) is a person for whom an alert has been issued in the SIS for the purpose of refusing entry;

(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of the Schengen Borders Code or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds;

(vii) does not provide proof of holding adequate and valid travel medical insurance, where applicable;

(b) the information submitted regarding the justification for the purpose and conditions of the intended stay was not reliable;

(c) the applicant's intention to leave the territory of the Member States before the expiry of the visa could not be ascertained;

(d) sufficient proof that the applicant has not been in a position to apply for a visa in advance justifying application for a visa at the border was not provided.';»

7. Article 13 shall be replaced by the following:

'Article 13

Data to be added for a visa annulled or revoked

1. Where a decision has been taken to annul or to revoke a visa, the visa authority that has taken the decision shall add the following data to the application file:

(a) status information indicating that the visa has been annulled or revoked;

(b) authority that annulled or revoked the visa, including its location;

(c) place and date of the decision.

2. The application file shall also indicate the ground(s) for annulment or revocation, which shall be:

(a) one or more of the ground(s) listed in Article 12(2);

(b) the request of the visa holder to revoke the visa.';»

8. Article 14 shall be amended as follows:

(a) paragraph 1 shall be amended as follows:

(i) the introductory paragraph shall be replaced by the following:

‘1. Where a decision has been taken to extend the period of validity and/or the duration of stay of an issued visa, the visa authority which extended the visa shall add the following data to the application file:’;»

(ii) point (d) shall be replaced by the following:

‘(d) the number of the visa sticker of the extended visa;’;»

(iii) point (g) shall be replaced by the following:

‘(g) the territory in which the visa holder is entitled to travel, if the territorial validity of the extended visa differs from that of the original visa;’;»

(b) in paragraph 2, point (c) shall be deleted;

9. in Article 15(1), the words ‘extend or shorten the validity of the visa’ shall be replaced by ‘or extend the visa’;

10. Article 17 shall be amended as follows:

(a) point 4 shall be replaced by the following:

‘4. Member State of first entry;’;»

(b) point 6 shall be replaced by the following:

‘6. the type of visa issued;’;»

(c) point 11 shall be replaced by the following:

‘11. main purpose(s) of the journey;’;»

11. in Article 18(4)(c), Article 19(2)(c), Article 20(2)(d), Article 22(2)(d), the words ‘or shortened’ shall be deleted;

12. in Article 23(1)(d), the word ‘shortened’ shall be deleted.

Article 55

Amendments to Regulation (EC) No 562/2006

Annex V, Part A of Regulation (EC) No 562/2006 is hereby amended as follows:

(a) point 1(c), shall be replaced by the following:

‘(c) annul or revoke the visas, as appropriate, in accordance with the conditions laid down in Article 34 of 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)[36];’»

(b) point 2 shall be deleted.

Article 5653

Repeals

36 OJ L 243, 15.9.2009, p. 1.;

~~1. Articles 9 to 17 of the Convention implementing the Schengen Agreement of 14 June 1985 shall be~~ ⌦ Regulation (EC) No 810/2009 is ⌫ repealed ⌦ and replaced by this Regulation from 6 months after the day of entry into force ⌫.

~~2. The following shall be repealed:~~

~~(a) Decision of the Schengen Executive Committee of 28 April 1999 on the definitive versions of the Common Manual and the Common Consular Instructions (SCH/Com-ex (99) 13 (the Common Consular Instructions, including the Annexes);~~

~~(b) Decisions of the Schengen Executive Committee of 14 December 1993 extending the uniform visa (SCH/Com-ex (93) 21) and on the common principles for cancelling, rescinding or shortening the length of validity of the uniform visa (SCH/Com-ex (93) 24), Decision of the Schengen Executive Committee of 22 December 1994 on the exchange of statistical information on the issuing of uniform visas (SCH/Com-ex (94) 25), Decision of the Schengen Executive Committee of 21 April 1998 on the exchange of statistics on issued visas (SCH/Com-ex (98) 12) and Decision of the Schengen Executive Committee of 16 December 1998 on the introduction of a harmonised form providing proof of invitation, sponsorship and accommodation (SCH/Com-ex (98) 57);~~

~~(c) Joint Action 96/197/JHA of 4 March 1996 on airport transit arrangements[37];~~

~~(d) 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[38];~~

~~(e) Council Regulation (EC) No 1091/2001 of 28 May 2001 on freedom of movement with a long-stay visa[39];~~

~~(f) Council Regulation (EC) No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit[40];~~

~~(g) Article 2 of Regulation (EC) No 390/2009 of the European Parliament and of the Council of 23 April 2009 amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications[41].~~

~~3.~~ References to ⌦ the ⌫ repealed ~~instruments~~ ⌦ Regulation ⌫ shall be construed as references to this Regulation and ⌦ shall be ⌫ read in accordance with the correlation table in Annex XIII.

Article ~~57~~54

Monitoring and evaluation

1. ~~Two~~ ⇨ Three ⇦ years after ~~all the provisions of this Regulation have become applicable~~ ⇨ the date set in Article 55(2) ⇦, the Commission shall produce an evaluation of ~~its~~ ⇨ the ⇦ application ⇨ of this Regulation ⇦ . This overall evaluation shall include an examination of the results achieved against objectives and of the implementation of the provisions of this Regulation, without prejudice to the reports referred to in paragraph 3.

37 ~~OJ L 63, 13.3.1996, p. 8.~~
38 ~~OJ L 116, 26.4.2001, p. 2.~~
39 ~~OJ L 150, 6.6.2001, p. 4.~~
40 ~~OJ L 64, 7.3.2003, p. 1.~~
41 ~~OJ L 131, 28.5.2009, p. 1.~~

2. The Commission shall transmit the evaluation referred to in paragraph 1 to the European Parliament and the Council. On the basis of the evaluation, the Commission shall submit, if necessary, appropriate proposals with a view to amending this Regulation.

3. The Commission shall present, three years after the VIS is brought into operation and every four years thereafter, a report to the European Parliament and to the Council on the implementation of Articles ~~13~~ 12, ~~17~~ 15, 38, 40 to ~~44~~ 42 of this Regulation, including the implementation of the collection and use of biometric identifiers, the suitability of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data, the implementation of the 59-month rule for the copying of fingerprints and the organisation of the procedures relating to applications. The report shall also include, on the basis of Article 17(12), (13) and (14) and of Article 50(4) of ~~the VIS~~ Regulation ⌦ (EC) No 767/2008 ⌫, the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons, compared with the number of cases in which fingerprints were taken. The report shall include information on cases in which a person who could factually not provide fingerprints was refused a visa. The report shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

4. The first of the reports referred to in paragraph 3 shall also address the issue of the sufficient reliability for identification and verification purposes of fingerprints of children under the age of 12 and, in particular, how fingerprints evolve with age, on the basis of the results of a study carried out under the responsibility of the Commission.

Article ~~58~~55

Entry into force

1. This Regulation shall enter into force on the ~~20th~~ day following ⌦ that of ⌫ its publication in the *Official Journal of the European Union*.

2. It shall apply from ~~5 April 2010~~ ⌦ [6 months after the day of entry into force] ⌫ .

3. ⌦ Article 51 shall apply from [3 months after the day of entry into force] ⌫.

~~3. Article 52 and Article 53(1)(a) to (h) and (2) shall apply from 5 October 2009.~~

~~4. As far as the Schengen Consultation Network (Technical Specifications) is concerned, Article 56(2)(d) shall apply from the date referred to in Article 46 of the VIS Regulation.~~

~~5. Article 32(2) and (3), Article 34(6) and (7) and Article 35(7) shall apply from 5 April 2011.~~

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the ~~Treaty establishing the European Community~~ ⌦ Treaties ⌫ .

Done at […],

For the European Parliament	*For the Council*
The President	*The President*

EUROPEAN
COMMISSION

Brussels, 1.4.2014
COM(2014) 165 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

A SMARTER VISA POLICY FOR ECONOMIC GROWTH

{SWD(2014) 101 final}

TABLE OF CONTENTS

Evaluation of the implementation of regulation (EC) No 810/2009 of the European Parliament and the Council establishing a Community Code on Visas (Visa Code)

1. INTRODUCTION

A common visa policy is a fundamental component of the creation of a common area without internal borders. The Schengen *acquis* on visa policy established in the framework of the Schengen intergovernmental cooperation was incorporated into the institutional and legal framework of the European Union following the entry into force of the Treaty of Amsterdam[1].

The Visa Code[2] sets out harmonised procedures and conditions for issuing short-stay visas. The Code was a 'recast' and consolidation of all legal acts governing the conditions and procedures for issuing short-stay visas and repealed obsolete parts of the 'Schengen *acquis*'. The recast covered the 'Common Consular Instructions', as well as parts of the Schengen Convention and 11 'Schengen Executive Committee' Decisions. Additionally, the Joint Action 96/197/JHA of 4 March 1996 on airport transit arrangements was incorporated into the Union legal framework.

Consolidation, and therefore simplification, of the legal framework was one aim of the Visa Code. Another was to facilitate legitimate travel and to tackle irregular immigration through further harmonisation of the way in which local consular missions of the Member States deal with visa applications. The aim of facilitating legitimate travel was to be achieved, *inter alia*, on the premise that frequent and regular travellers known to consulates should be able to get a visa more easily than unknown, first-time applicants.

The main procedural facilitations concern the issuing of multiple entry visas and lighter requirements for supporting documents. The Visa Code thus allows differentiated treatment of applicants on the basis of their 'visa track record'. It is also intended to ensure that similar cases are dealt with in a similar way.

The need to facilitate travel to Europe in a secure environment has gained increased political attention since the adoption of the Visa Code. To this end, the EU is currently engaged in Visa Liberalisation Dialogues with a number of partner countries and more such dialogues are likely to follow in the coming years. In addition, the EU has concluded nine Visa Facilitation Agreements (VFAs) with partner countries[3]. These can be considered as a first step towards visa liberalisation and show the EU's commitment to promote mobility and to facilitate travel to Europe for a broader range of third country nationals. It is in the EU's interests to be 'open' to visitors, as travellers contribute to economic growth. Furthermore, contacts between peoples and cultures promote mutual understanding and intercultural dialogue.

A recent study[4] on the economic impact of short-stay visa facilitation concludes that the number of travellers deterred from coming to the Schengen area by current visa requirements for the six third countries examined represents a significant direct, indirect and induced lost contribution to GDP. A conservative estimate of this annual loss is EUR 4.2 billion, while a probable estimate is EUR 12.6 billion. This implies about 80 000 lost jobs from both direct

---

1 (Article 62(2)(b); now Treaty on the Functioning of the European Union (TFEU), Article 77(2) (a)).

2 Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, OJ L 243, 15.9.2009, p. 1.

3 Such VFAs are typically linked with readmission agreements.

4 http://ec.europa.eu/enterprise/sectors/tourism/international/index en.htm

and indirect effects in the Schengen Area under the conservative estimate and about 250 000 under the probable scenario.

The Visa Code has greatly improved Schengen visa procedures since its entry into force three years ago, but the world has not stood still, and objectives and priorities have evolved (see for example 2.2.1 below). The need to ensure more consistency among the Union's policies (e.g. according to Article 167 of the Treaty on the Functioning of the European Union the Union shall take cultural aspects into account in its action under other provisions of the Treaties) as well as the current economic outlook have led to the addition of 'generation of growth' as another objective of the common visa policy. In this context, more coherence should also be ensured with trade policies. The latter could for instance be achieved by taking into account trade relations, including trade agreements, when considering negotiating visa facilitation agreements. This report has been drawn up against this background. It identifies further improvements that can be made to achieve a smarter common visa policy, which also increases the attractiveness of the EU for business, researchers, students and artists and culture professionals and which responds to current and future challenges.

2. OBJECTIVES OF THE VISA CODE AND PREVIOUS ASSESSMENTS

2.1. Objectives of the Visa Code

The main objective of the Visa Code is to establish the conditions and procedures for issuing visas for transit through the Schengen area, or intended stays in it, for short stays as well as for transit through the international transit areas of airports. In addition, the Visa Code is intended to facilitate legitimate travel and tackle irregular immigration. To achieve its aims, as stated in the explanatory memorandum[5] of the Commission's 2006 proposal, the Visa Code should:

- *'improve consular organisation and cooperation (also in view of the roll out of the Visa Information System(VIS))*[6]*;*

– *strengthen procedural guarantees*

– *reinforce the equal treatment of visa applicants by clarifying a number of issues in order to enhance the harmonised application of the legislative provisions.'*

Article 57(1) of the Visa Code requires the Commission to report to the European Parliament and the Council on the Visa Code's application two years after all provisions have become applicable (i.e. on 5 April 2013), with an examination of the results achieved against the objectives and of the implementation of the Regulation's provisions. This report, based on

5 COM(2006) 403 final/2.

6 Originally the VIS was to become operational in 2007, and therefore the Commission chose to present a separate legal proposal establishing the standards for the biometric identifiers to be collected and providing for a series of options for the practical organisation of Member States' diplomatic missions and consular posts for the enrolment of biometric data from visa applicants as well as for a legal framework for Member States' cooperation with external service providers. The content of the finally adopted Regulation (OJ L 131, 28.5.2009, p. 1) was inserted into and adapted to the structure of the Visa Code adopted in July 2009.

detailed evaluation of the implementation of the Visa Code set out in the Commission Staff Working Document[7] (CSWD) meets that obligation and suggests ways to address the objectives that have not been fully achieved and the identified problems of implementation.

2.2. Previous assessments

The Commission anticipated this evaluation of the implementation of the Visa Code by publishing in November 2012 a Communication on the 'Implementation and development of the common visa policy to spur growth' and a 'Report on the functioning of Local Schengen Cooperation during the first two years of implementation of the Visa Code'.

2.2.1 Implementation and development of the common visa policy to spur growth[8]

In the light of the Declaration of G20 Ministers at their meeting in Mérida, Mexico in May 2012 on the potential for growth through facilitated visa procedures, the Commission initiated considerations on the economic impact of visa policy on the wider EU economy. It focused in particular on tourism, and how policy could be organised to ensure greater coherence with the Europe2020 strategy's growth objectives.

The purpose of the common visa policy is, together with the common rules on checks at external borders, to support the abolition of controls at internal borders, i.e. the creation of the 'Schengen area'[9]. The primary objective of the visa policy has been to facilitate travel for legitimate travellers and to prevent irregular migration and safeguard public order and security. However, the current economic downturn has highlighted the need for the common visa policy to also address potential for generating economic growth.

The Communication, on the one hand, established that '*compared with the situation before its adoption, the Visa Code represents a fundamental progress in that it greatly improves the visa procedures'*, listing a number of substantial improvements as regards the legal provisions. However, it concluded, on the other hand, that *'there is … room for improvement, as the optimal implementation of the Visa Code has not yet been achieved across the board'* and that *'most of these obstacles [to facilitating the visa issuing procedure] can be removed by a correct implementation of the Visa Code by Member States' consulates to be monitored by the Commission'*. The Communication also listed issues to be addressed in a future revision of the Visa Code to '*improve and facilitate procedures for bona fide travellers while continuing to allow addressing the risk posed for irregular migration or security by some travellers.'*

2.2.2 Report on the functioning of Local Schengen Cooperation during the first two years of implementation of the Visa Code[10]

The provisions of the Visa Code apply universally. However, the co-legislators have acknowledged the need to take local circumstances into account while ensuring harmonised application of general legal provisions. Article 48 of the Visa Code sets out the legal framework for local Schengen consular cooperation (LSC), thus making coherent cooperation

7 SWD(2014) 101.
8 COM(2012) 649.
9 http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/index_en.htm.
10 COM(2012) 648.

among Member States[11] at local level an essential part of implementing the common visa policy.

This cooperation is currently limited to assessing the need to adapt certain provisions to local circumstances, particularly as regards the supporting documents applicants need to submit. In case of a positive assessment, the common 'local' rules are to be adopted by the Commission via an implementing decision. However, this work on the core task of LSC — which is also most visible to the general public — regarding harmonisation on supporting documents has so far only led to the adoption of six Commission Implementing Decisions covering 15 third countries and one EU Member State.

This shows that the strengthened legal framework has not had the intended results. There is a lack of understanding of the added value of LSC and Member States need to commit to this collective task. These findings were confirmed by the annual reports compiled for the period 2012-2013. Therefore, it is essential to reinforce the LSC legal framework, as the lack of consistency in practices among Member States in the same location is a significant source of complaints and frustrations among visa applicants irrespective of nationality, profession or status.

The Commission proposes that mandatory rules for the harmonisation of supporting documents within LSC be introduced. The new Schengen Evaluation Mechanism that will become applicable in 2015 and which provides for the possibility of conducting thematic evaluations, can be instrumental for enforcing the provisions on LSC.

Currently, annual reports are to be drawn up in each location and the Commission is to transmit these to the European Parliament and the Council to ensure full transparency.

The Commission proposes to draw up one comprehensive annual state of affairs report on LSC, to be shared with the co-legislators, to ensure consistent transparency.

3. OVERALL IMPLEMENTATION OF THE VISA CODE

3.1. General considerations

Although it is not possible to prove the direct impact of the Visa Code on the number of short stay visas applied for and issued in the period 2010–2012, clarification of the legal framework has contributed to a significant increase in the number of visa applications. Between 2009 and 2012, the global number of applications increased by 48 %, with an annual increase of around 15 %. With only a few exceptions[12], Member States have experienced an increase in the

[11] Throughout this document, unless otherwise specified 'Member States' refers to EU Member States applying the common visa policy in full (all EU Member States with the exception of Bulgaria, Croatia, Ireland, Cyprus, Romania and the United Kingdom) and the associated states, Iceland, Liechtenstein, Norway and Switzerland.

[12] For Austria the overall increase in this period was only 1.5 % and for Slovenia a decrease of 58.5 % was registered; both situations are likely to be linked to the abolition of the visa requirement for nationals of most Western Balkan countries in 2009 and 2010. .

number of visa applications processed each year. Over the same period, the global refusal rate fell[13], though there were large differences between regions of the world[14].

The overall objective of tackling irregular immigration is generally considered to have been met. Neither the Member States nor the results of studies and of the public consultation identify security risks or problems arising from the Visa Code or its implementation. Of course, a high level of security must be maintained when proposing any new facilitation for legitimate travellers. The contribution to security flowing from the roll-out of the Visa Information System (VIS), which started in October 2011 and should be completed in the course of 2015, should also be taken into account.

3.2. Lack of statistical data

Adequate, reliable and comparable statistics are a prerequisite for evidence-based evaluation of the implementation of legislation and its efficiency and effectiveness.

Article 46 establishes that Member States must submit annual statistics for the preceding year to the Commission. Annex XII sets out the data to be submitted (e.g. type of visa, number of visas applied for/issued/refused, single or multiple entry).

Although the data supplied by Member States have been useful to assess the implementation of certain elements of the Visa Code, the lack of disaggregation makes it difficult to assess the impact of certain provisions. For instance, for multiple entry visas (MEVs), only total numbers are collected, without taking into account length of validity. So the totals cover MEVs valid for periods varying from two weeks up to five years. Data are collected on the basis of location (i.e. where the visa was applied for/issued) and the type of visa applied for (short stay or airport transit visa), but data on the nationality of the applicant or the purpose of travel are not available. So it is impossible to monitor trends, for instance, in the number of visas applications for the purpose of tourism.

The Commission proposes to review Annex XII to ensure the collection of more detailed data enabling appropriate evaluation of the achievement of objectives in future.

3.3. Evaluation per specific objective

3.3.1. Simplification of the legal framework

The integration of all legislation regarding the processing of short-stay visa applications and the modification of issued visas into a single instrument has clearly contributed to simplifying legislation, improving transparency and increasing legal certainty.

3.3.2. Strengthening the legal framework to enhance the harmonisation of practices

The objective of establishing a clear, legal framework for the common visa policy regulating stays of up to 90 days in any 180-day period has generally been met. However, the

[13] 2010: 5.8%; 2012: 4.8%.

[14] From a refusal rate of 1% in the Russian Federation to 44% in Guinea.

Commission has had its attention drawn over the years to the situation of third country nationals who have legitimate reasons to **stay more than 90 days in any 180-day period** (section 2.1.9. CSWD). Such persons, whether or not subject to the visa requirement, wish to stay in the Schengen area for a period exceeding 90 days without intending to stay in any one Member State for more than 90 days.

This category of persons typically includes live performing artists who tour in the Schengen area for a prolonged period, but also individual travellers, such as, for example, artists, culture professionals, students and pensioners. As they are eligible neither for a national long-stay visa nor a short-stay Schengen visa or other authorisation, they find themselves in a legal vacuum. This situation often leads Member States into 'creative' use of certain legal instruments. Rather than turning a blind eye to such practices, the Commission proposes to introduce a specific authorisation that would cater for the needs of these persons.

The Commission proposes a legal instrument establishing a new authorisation for stays in the Schengen area longer than the current 90 days per 180 days limitation.

3.3.3. Strengthening procedural guarantees and ensuring equal treatment and transparency

The results of the public consultation[15], the economic impact study referred to above and individual complaints suggest that the objectives of **procedural guarantees** have not been sufficiently met. Both individual applicants and professional stakeholders have found certain application procedures **lengthy, cumbersome and costly**.

Any visa application begins with the need for the applicant to identify **which Member State is competent to process the application** (2.1.1.1., paragraph (1) CSWD). There are clear, objective criteria setting out which Member State is competent to examine an application. However, in practice, this has proven to be rather challenging for applicants and consulates alike in cases where the applicant wishes to travel to several Member States on one visa. The current rules are apparently confusing and applicants often have a negative first experience with the Schengen visa policy.

The next step in the process concerns filling in the **application form** (2.1.1.2, paragraph (10) CSWD). Although the form does not generally give rise to many problems, it could still be simplified. For instance, it could be revised to drop the requirement for information currently requested that would actually be available in VIS, taking into account the roll-out of the system. A better explanation for applicants on how to fill in the form would also be helpful.

The Commission proposes that the rules regarding 'competent' Member State be clarified and that the application form be simplified.

The requirement on '**lodging in person'** (section 2.1.1.1., paragraphs (7) — (9) CSWD) has been identified as a major obstacle because it is often extremely cumbersome. In some cases, it requires applicants to travel to a neighbouring country, because the competent Member State is not present/represented in their country of residence. Such travel obviously raises the overall costs for applicants. Although Member States allow applicants to lodge the application

[15] http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2013/consulting_0025_en.htm.

at an external service provider (ESP) or via a commercial intermediary, known applicants are seldom granted optional waivers from 'lodging in person'.

So far, the general rule has been that a visa application should be lodged in person at a consulate or an ESP. The progressive roll-out of the VIS will mean that first-time applicants will in any event have to go to a consulate or an ESP to have their fingerprints taken.

But most Member States face a rise in applications, combined with cuts in public spending. This has led to more use of external service providers for the collection of visa applications, accreditation of commercial intermediaries (i.e. travel agencies/tour operations) who lodge applications on behalf of (groups of) visa applicants, and individual Member States waiving the requirement for well-known applicants to lodge their applications in person.

This seems to indicate that visiting the consulate tends to become the exception. In certain consulates, only 30% of visa applications are 'lodged in person'. Judging by information gathered in Schengen evaluations, personal interviews are rarely carried out when an application is lodged. On the other hand, in keeping with developments in modern technology, Member States are increasingly allowing applicants to submit their applications electronically.

Currently, applicants may lodge their applications **not earlier than three months** before their intended trip (section 2.1.1.1, paragraph (5) CSWD). This deadline poses problems for seafarers (see also p. 11) and persons wishing to avoid peak times with long waiting periods. In the interest of both applicants and consulates, it should be allowed to lodge an application up to six months ahead of the intended trip.

The Commission proposes to abolish the principle of 'lodging in person' (without prejudice to the requirements on the collection of fingerprints for first time applicants) while maintaining the possibility of conducting an interview. It also proposes to clarify the rules allowing for on-line submission of applications and to allow all applicants to lodge their applications up to six months ahead of the intended trip.

Once an application has been lodged, various deadlines start running. Although the deadline for a decision is usually met, if the third country concerned is under **prior consultation** (2.1.1.5, paragraph (20) CSWD) this mechanism can mean processing takes longer. However, better IT systems enable a shorter response time in case of prior consultation than the current seven calendar days. A shorter deadline for a decision should equally be possible.

The Commission proposes to review the maximum deadlines, including the response time for prior consultation, which should be decreased to five calendar days.

The Visa Code includes provisions designed to streamline and shorten procedures, enabling procedural facilitations for applicants known to the consulate for their 'integrity' and 'reliability', including the lawful use of previously issued visas. However, these potential facilitations, which should apply in particular as regards the requirements concerning supporting documents and the issuing of multiple entry visas (MEVs), are not applied by Member States in a uniform and consistent manner.

Most applicants find it a burden to have to provide a large number of **supporting documents** (2.1.1.2, paragraph (12) CSWD) repeatedly to prove they fulfil the entry conditions. Many complain that requirements differ from consulate to consulate in the same third country, even when the travel purpose is the same.

According to the Visa Code, applicants known to consulates for their 'integrity' and 'reliability' may benefit already from certain procedural facilitations (waiving of the requirement to lodge the application in person and to submit certain/all supporting documents). However, Member States do not seem to be systematic in the way they grant waivers for known applicants. This is mainly due to the fact that this is a 'may' clause and that the eligibility criteria of 'integrity' and 'reliability' have not been defined. In addition, about 70 % of all applications are lodged via an external service provider that is not allowed to make a qualitative assessment of the application/applicant.

The added value of the requirement to present '**travel medical insurance**' (2.1.1.2, paragraph (14) CSWD) is questionable. It should therefore be abolished.

The Commission proposes that an exhaustive and simplified list of supporting documents be established and that the travel medical insurance requirement be abolished.

Although the article in the Visa Code on issuing of **multiple entry visas (MEV)** (2.1.1.6, paragraph (24) CSWD) is a 'shall' clause, it is undermined by the discretionary assessment of eligibility conditions for a MEV, which again include the notions of 'integrity' and 'reliability'. In addition, the public consultation showed that Member States' consulates seem to be reluctant to issue MEVs valid for longer than six months. So while consulates should in principle issue MEVs with a period of validity of up to five years to the categories of persons enumerated in the article (who are, essentially, regular travellers and therefore 'known'), the margin of discretion left to consulates, combined with their reluctance to issue MEVs with a long period of validity, means that far fewer MEVs with long validity are issued than could potentially be the case.

This is unfortunate, as a MEV is the most important and easiest facilitation travellers can get. Issuing more MEVs would also ease the administrative burden for both applicants and consulates. Strengthening the article on MEVs would provide remedies for many of the problems that have been identified in the public consultation and various studies. Applicants in particular would not have to go through repetitive application procedures. In practice, however, consulates make little or no distinction among applicants: first-time applicants are often treated in the same way as regular travellers.

The availability of the VIS, which is being progressively rolled out and should be fully operational worldwide in the course of 2015, could facilitate distinguishing among applicants as all data related to their visa applications will be entered into the system and can be consulted by all Member State consulates. Data remain stored in the VIS for five years. It will be easy to distinguish between the first-time, 'unknown' applicant not yet registered in the VIS with no 'visa history', and the applicant who already has his/her data registered.

A further distinction could be made between those registered in the VIS but who have not obtained any visa in the 12 months prior to their application and those that have obtained and lawfully used two visas during that period. The latter could be defined as 'regular travellers'

and should enjoy maximum facilitations in terms of supporting documents required and period of validity of the MEV to be issued.

On this basis mandatory rules should be introduced providing specific procedural facilitations for 'regular travellers'. Such facilitations would include (partial) waiving of requirements for supporting documents and the issuing of MEVs with a long period of validity. In concrete terms, the applicant who has obtained and lawfully used two visas in the preceding 12 months should only have to submit supporting documents proving the travel purpose and should receive a MEV valid for three years. Applicants who previously obtained and lawfully used such a three-year MEV should, for their next application, receive a MEV with a validity of five years.

First-time applicants, on the other hand, while benefiting from the general facilitations, would still need thorough screening, as they would enjoy significant facilitations if they apply again. This screening is necessary to preserve the security of the system.

The Commission proposes mandatory rules, on the basis of clearly defined and objective criteria, to enable a clear distinction to be made between categories of applicants. The principle should be that applicants with a positive 'visa history' registered in the VIS during the 12 months prior to their application, should enjoy maximum facilitations in terms of supporting documents to be submitted and the multiple entry visa to be issued.

To ensure the proposals on MEVs with a long period of validity (three and five years) have the maximum impact, consulates should be allowed to issue a MEV with a validity going beyond the validity of the applicant's **travel document** (2.1.1.2, paragraph (11) CSWD).

The Commission proposes that rules be introduced enabling the issuing of a visa with a period of validity longer than the period of validity of the travel document to which the visa sticker is affixed.

The Visa Code introduced **mandatory and optional visa fee waivers** (2.1.1.3, paragraph (15) CSWD) for certain categories of applicants. The implementation of the relevant provisions has revealed two problems. First, the categories of persons eligible for a waiver of either type are not in all cases clearly defined and, secondly, consulates in a given location rarely apply optional fee waivers consistently. The result is that few potentially eligible applicants actually benefit from a waiver.

The Commission proposes that all visa fee waivers become mandatory and that the categories to which they apply be more clearly defined.

Visas can only be issued at the external borders (2.1.1.8, paragraph (35) CSWD) in exceptional cases. However, people working in the shipping and cruise industries are often obliged to apply for a visa at the border, due to the nature of their profession. For these seafarers, a specific Article and Annex were included in the Visa Code. Despite these rules, visa issuing to seafarers remains a complicated procedure, not least because of the complexity of Annex IX, which establishes the form that seafarers have to fill in to apply for a visa.

The Commission proposes that Annex IX be reviewed with a view to simplifying the

application form.

As stated above, visas can only be issued at external borders in exceptional cases. The Commission nevertheless recently endorsed a pilot project from a Member State allowing it to issue single-entry visas at its external borders to tourists during the summer season, to enable them to make a short visit. In view of the enhanced role of the common visa policy in facilitating travel opportunities for legitimate travellers, including tourists, to spur growth in the EU, the Commission proposes to open up this possibility to all Member States.

The Commission proposes to introduce a provision in the Visa Code allowing single-entry visas to be issued at external borders in order to promote short-term tourism.

While the Commission recognises that a Member State should be able to impose **airport transit visas** (2.1.7 CSWD) when confronted with a sudden and substantial influx of irregular migrants, the current rules should be reviewed to ensure that such measures are proportional in terms of scope and duration.

The Commission proposes that the current rules on airport transit visas be reviewed, with a view to ensuring proportionality.

The Visa Code applies to visa applications lodged by all third-country nationals, including family members of Union citizens (2.1.5., paragraphs (47) — (52) CSWD). In order to ease mobility, in particular by facilitating family visits, for third-country nationals visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and for close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union citizen has the nationality, procedural facilitations should be provided. Union law currently does not provide specific facilitations for these two situations. However, the recently concluded Visa Facilitation Agreements provide certain procedural facilitations to them (e.g. simplification of the requirements regarding supporting documents, visa fee waiver, mandatory issuing of MEVs). This practice should be made general in the Visa Code.

Article 5(2) of Directive 2004/38/EC[16] provides particular facilitations to the beneficiaries of that Directive, such as issuing the visa "*free of charge*" and "*on the basis of an accelerated procedure*". The Commission receives many complaints and requests for clarification on the relationship between Directive 2004/38/EC and the Visa Code, as facilitations provided to family members of Union citizens on the basis of the Directive are apparently implemented differently in different Member States. This state of affairs creates uncertainty for family members. Therefore, the same facilitations proposed for third-country nationals in the above mentioned two situations should as a minimum be granted to family members in situations covered by Directive 2004/38/EC as well.

The Commission proposes that visa facilitations be provided for third-country nationals

[16] Directive 2004/38 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 amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, page 27).

visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and for close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union citizen has the nationality.

The same facilitations should as a minimum apply to family members of EU citizens benefiting from Directive 2004/38/EC.

3.3.4. Improving consular organisation and cooperation (also in view of the roll out of the VIS)

The Visa Code has established a legal framework for different forms of **consular cooperation** (2.1.4., paragraphs (40) — (46) CSWD) to reduce costs for Member States and to ensure better consular coverage for the benefit of applicants. There are, however, serious doubts about the effectiveness and efficiency of these provisions.

First, in principle, Member States should only decide to cooperate with an external service provider (ESP) after having assessed other possibilities of cooperation. It should be a 'last resort' measure, as it entails extra costs for the applicants and Member States should maintain the possibility for all applicants to lodge applications directly at their diplomatic missions or consular posts. In practice, however, Member States are in most cases opting for cooperation with an ESP without assessing other possibilities, as outsourcing is by far the cheapest, quickest and most efficient way of dealing with a big increase in the number of visa applications and enhancing consular coverage. Moreover, very often in case of outsourcing, direct access to the consulate is not provided.

Secondly, the new forms of cooperation defined in the Visa Code, i.e. limited representation (for the collection of applications, including biometric data, only), co-location, common application centres (CAC) and authorisation of honorary consuls to collect applications, have not been used widely. There are no cases of limited representation and co-location and only hybrid forms of CACs, while few Member States have authorised honorary consuls to collect applications.

Thirdly, as far as visa collecting and processing presence (so-called 'consular coverage') is concerned, while there has been progress, mostly by concluding representation arrangements and outsourcing, consular cover still needs to be increased considerably. Applicants should not have to travel abroad to lodge their application because the competent Member State does not have a consulate or is not represented in their country of residence.

Access to a consulate can also be challenging, costly and time-consuming in third countries where all or most Member States are present in the capital, but many applicants still need to travel a long distance to reach them. This is the case in China, India and Russia, for instance. Both representation arrangements and outsourcing are already widespread, but visa collection and processing is concentrated in the capitals and a few big cities. Finally, in nine third countries whose nationals are subject to the visa requirement, no Member State is present and there is no external service provider. These countries would be ideal places for Member States to pool resources and establish common application centres or any feasible form of cooperation.

In this respect, it should be noted that the external borders and visa component of the Internal Security Fund (ISF)[17] will co-finance actions related to infrastructure, buildings and operating equipment (including the maintenance of the VIS) required for processing of visa applications and for training. More importantly, under the operating support element of the ISF, staffing of consulates will be eligible for full financing.

The Commission proposes that the existing definitions of consular cooperation be reviewed with a view to making them more flexible and that the principle of mandatory representation be introduced.

4. CONCLUSIONS

The overarching objective of the Visa Code was to ensure that the common visa policy would become truly common and applied in the same manner by all Member States in all locations, by means of one set of legal provisions and one set of operational instructions. Additionally, the common rules should contribute to facilitating legitimate travel, particularly for frequent and regular travellers, and for tackling irregular immigration. This evaluation has highlighted a number of benefits, but also areas for improvement regarding the procedures and conditions for issuing visas.

Although the facilitation of legitimate travel *ipso facto* brings economic benefits, the objective of providing visa facilitations to boost economic growth and job creation had not been assigned to the Visa Code. It was only introduced in the Commission Communication of November 2012 against the background of the need to ensure consistency among all EU policies and the current economic outlook. This report has therefore evaluated the extent to which the initial overall goal of facilitating legitimate travel and ensuring equal treatment in similar cases has been achieved, without specifically assessing its effectiveness in terms of contributing to economic growth.

Generally, compared to the situation before its adoption, the Visa Code clarifies and simplifies the legal framework for the common visa policy. The Code has to a considerable extent modernised and standardised visa procedures and, if correctly implemented, allows to address certain problems highlighted in the evaluation. However, the implementation of the legal provisions has not been optimal. This can largely be explained by the fact that most elements of flexibility are formulated as options ('may'-clauses) rather than mandatory rules.

The provisions of the Visa Code that aimed to preserve the security of external borders have proved to be consistent and effective and are still central to the purpose of the system. But the provisions intended to offer procedural facilitations to specific categories of persons, and which could also ease the administrative burden for Member States' consulates, have not had the expected impact. The result is unsatisfactory, not just for legitimate travellers, but also for the Member States and the EU as a whole, in terms of missed economic benefits.

The Visa Code applies universally and its provisions apply to all persons who are nationals of countries subject to the visa requirement. Therefore it is essential to adapt certain provisions to match local circumstances. But the legal framework has never really been embraced at

[17] COM(2011)750.

local level, and only in a very few locations has sustainable and continued cooperation been introduced, whereas in others, certain legal obligations have sometimes simply been ignored.

To work towards a truly common visa policy, the Commission proposes a revision of Regulation (EC) No 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code). The findings of the evaluation have fed into an impact assessment report drawn up by the Commission.

The Commission's proposal for revising the Visa Code essentially builds on the following findings:

➢ The provisions of the Visa Code are applied to all applicants in the same manner, regardless of their individual situation, even though the Visa Code provides a legal basis to apply procedural facilitations to applicants known to consulates. In practice, consulates do not sufficiently distinguish between unknown applicants and those who have a positive visa record.

➢ Procedural facilitations envisaged by the Visa Code for known applicants are provided too rarely.

➢ Due to the extensive use of outsourcing, the possibility of waiving the requirement of appearing in person to lodge the visa application and exempting applicants from having to provide certain supporting documents simply cannot be put in practice. Making an assessment of the applicant's situation against inherently discretionary notions such as 'integrity' and 'reliability' cannot be left to external service providers. This lack of differentiation is one of the main reasons why applicants — and to a certain extent consulates, too — find the existing visa procedure lengthy, cumbersome and costly.

Therefore, the Commission proposes:

(1) **To ease the administrative burden for both applicants and consulates by fully exploiting the benefits of the Visa Information System** and **differentiating the treatment of known/regular travellers and unknown applicants on the basis of clear, objective criteria;**

(2) **To further facilitate legitimate travel by streamlining and fully harmonising procedures and by rendering certain provisions mandatory where discretion is currently left to consulates**.

If adopted, these new rules will offer applicants significant procedural facilitations, as follows:

	Lodging in person	*Collection of fingerprints*	*Supporting documents*	*Visa to be issued*
First time applicant, not VIS registered	YES	YES	Full list corresponding to all entry conditions	In principle single but MEV also possible if the consulate

				considers applicant reliable
VIS registered (but not regular traveller)	NO	NO (unless fingerprints have not been collected within last 59 months)	Full list corresponding to all entry conditions	Single or MEV
VIS registered regular traveller having lawfully used 2 visas in the 12 months prior to the application	NO	NO	Only proof of travel purpose. Presumption because of 'positive visa history' of fulfilment of entry conditions	3-year MEV
VIS registered regular traveller having lawfully used 3-year MEV	NO	NO	Only proof of travel purpose	5-year MEV

First-time applicants should not automatically be eligible for a MEV as their applications need to be thoroughly examined to maintain a high level of security in the Schengen area. But they will benefit from all the general procedural facilitations that the Commission proposes, e.g. abolishing travel medical insurance, shorter deadlines for decision-making and a simplified application form. And they will benefit from 'VIS registered regular traveller' status, with accompanying facilitations, if they apply for a third visa within 12 months of their lawfully used first visa.

The lack of visa collecting and processing presence in many third countries makes the lodging of a visa application very costly and time consuming. Therefore, the Commission proposes:

(3) **To revise the existing framework to boost consular cooperation and ensure easier access to Schengen visa application procedures in as many places as possible.**

In keeping with the objective of spurring economic growth through a smarter visa policy, the possibility of using certain provisions in the Visa Code on a temporary basis, with a view to promoting short-term tourism, should be established. Therefore, the Commission proposes:

(4) **To introduce an article in the Visa Code allowing visas to be issued at external borders on a temporary basis under strict conditions.**

With a view to easing the mobility of persons by facilitating family visits it is proposed:

(5) **To provide certain procedural facilitations to third-country nationals visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and to close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union citizen has the nationality.**

With a view to clarifying in relation to the Visa Code the procedural facilitations that apply to family members of Union citizens under Directive 2004/38/EC[18], it is proposed:

(6) **To establish that the procedural facilitations referred to under (5) should as a minimum apply to the family members of Union citizens to whom Directive 2004/38/EC applies**.

Finally, third-country nationals face problems as authorised stays in the Schengen area are limited to 90 days in any 180-day period. Because of the lack of appropriate authorisation for stays longer than 90 days, they either have to limit their stays or they look to make use of legal instruments that are not designed for 'extending' their authorised stay in the Schengen area in such cases. Therefore:

(7) **A legislative initiative is proposed to close the legal gap between the rules on short stays and the rules on admission of third-country nationals to individual Member States.**

The proposal revising the Visa Code also takes account of other problems highlighted in the Commission Staff Working Document that are of minor importance and/or mainly of a technical nature.

If adopted, this comprehensive revision of the Visa Code would establish a truly smarter common visa policy, which in turn would result in a rise in the number of visits to the EU.

Pending the adoption by the co-legislators of the proposal revising the Visa Code, the Commission considers it important and necessary to foster harmonisation and implementation of current provisions. The Commission will therefore work with the Member States, in the framework of the Visa Committee and other relevant fora, with a view to ensuring full implementation of the current provisions and by promoting identified best practices.

As regards current provisions, the focus will be on issuing MEVs and speeding up the harmonisation of the lists of supporting documents in jurisdictions where this has not yet been done. As regards the latter, the Commission will endeavour to assist LSC in its work in the jurisdictions of high political and/or economic importance and which offer the best tourism potential In terms of best practices, new pilot project proposals for issuing visas at external borders can be assessed by the Commission. Finally, for future revisions of the Annexes of Regulation 539/2001, economic and trade considerations will also be taken into account, in line with the new criteria for assessing visa waivers that the co-legislators will shortly adopt; a new Article will be inserted in Regulation 539/2001 as follows: "*The purpose of this Regulation is to determine those third countries whose nationals are subject to or exempt from the visa requirement, based on a case-by-case assessment of a variety of criteria*

[18] OJ L 158, 30.04.2004, p. 77

relating, inter alia, to illegal immigration, public policy and security, the economic benefits, in particular in terms of tourism and foreign trade, and the Union's external relations with relevant third countries including, in particular, human rights and fundamental freedoms considerations, as well as the implications of regional coherence and reciprocity."

EUROPEAN
COMMISSION

Brussels, 1.4.2014
SWD(2014) 67 final

COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union Code on Visas (Visa Code) (recast)

{COM(2014) 164 final}
{SWD(2014) 68 final}

1. INTRODUCTION

This Impact Assessment (IA) accompanies a proposal for a Regulation on a Union Code on Visas (Visa Code) (recast) which is the core legal instrument of the common visa policy as it establishes harmonised procedures and conditions for processing visa applications and issuing visas. Regulation (EC) No 810/2009 of the European Union and of the Council of 13 July 2009 establishing a Community Code on Visas (Article 57) requires the Commission to send the European Parliament and the Council an evaluation of its application two years after all the provisions of the Regulation have become applicable (5 April 2011). On the basis of this evaluation, it may also submit appropriate proposals for amending the Visa Code.

2. PROBLEM DEFINITION

For the purpose of the IA, three problem areas have been identified: (1) the overall length and costs (direct and indirect) as well as the cumbersome nature of the procedures; (2) insufficient geographical coverage in visa processing; (3) lack of visa or other authorisation allowing travellers to stay more than 90 days in any 180-day period in the Schengen area.

(1) The overall length of the procedure (from the preparation of the application file until the return of the passport with or without the visa) is probably considered the primary deterrent and is the subject of much criticism by visa applicants. At the same time, **Schengen States already find the existing deadlines very tight and have problems respecting them. The majority of travellers consider the overall cost of a visa application equally problematic** (not necessarily the visa fee but the indirect costs)**. Schengen States, on their side, claim that processing visa applications in a speedy, client-friendly manner would in many places require additional investment,**, which they feel unable to make in times of budgetary constraints. In fact, some Schengen States note that their administrative costs of processing visa applications are currently not even covered by the visa fee. Visa applicants and consulates clearly have conflicting interests regarding these issues, which are unlikely to be resolved in the future. On the other hand, the ever-increasing number of visa applications will lead to further bottlenecks, and the applicants' dissatisfaction with the visa procedure will increase.

The most cumbersome procedures relate to the requirement to lodge the application in person (50% of respondents to the public consultation considered this obligation as a difficulty) and the number (and lack of harmonisation) of supporting documents to be submitted at each application. The Commission has already adopted several implementing decisions establishing harmonised lists of **supporting documents** to be presented by visa applicants in various third countries (non-EU countries), but frequent and regular visa applicants in particular are frustrated that procedural facilitations provided under the Visa Code (waiver of the above-mentioned requirements) do not apply to them.

Consequently, the **main driver of this problem area** is that the same procedures are applied to all applicants, irrespective of their individual situation, even though the Visa Code already provides a legal basis to apply procedural facilitations for applicants known to the consulates. However **consulates do not make sufficient distinction between unknown applicants and those who have a positive visa record (frequent/regular travellers)**. This is (also) due to extensive use of external service providers (ESPs) and commercial intermediaries: in many places, the possibility of putting such distinction into practice is impossible because assessing

the applicant's situation against rather vague notions such as 'integrity' and 'reliability' currently referred to in the Visa Code cannot be done by ESPs or commercial intermediaries.

(2) In the past three years there has been progress in ensuring better **geographical coverage for collecting/processing visa applications**. However, due to the lack of visa collecting/processing presence, lodging visa applications can still be very costly and time consuming in many third countries. In particular, the number of cases where applicants have to travel abroad to lodge the application because the competent Schengen State does not have a consulate or is not represented in the applicant's country of residence needs to be reduced. There are some 900 "blank spots" such as these. Access to consulate/ESPs can also be challenging in countries where all or most of the Schengen States are present in the capital but where many applicants still need to travel long distances to reach them. This is the case in the emerging tourism market countries such as Russia, China and India. Finally, there are still nine third countries subject to the visa obligation where no Schengen States are present for the purpose of collecting/processing visa applications.

With regard to projects aimed at pooling resources, very little progress can be reported. Co-locations and Common Application Centres (CACs) as defined by the Visa Code are hardly used, although the Commission promotes, in particular, the setting up of CACs. There are various reasons for this, one of which is a legislative problem: co-location and CAC as legally defined in Article 41 of the Visa Code do not provide the necessary flexibility for establishing operational structures on the spot.

(3) **There are several categories of third country nationals (TCNs) – both visa requiring and visa exempted - who have a legitimate reason and need for travelling in the Schengen area for more than 90 days in any 180-day period without being considered as 'immigrants'** (i.e. they do not intend to reside in any of the Schengen States for a period beyond 90 days). The main characteristic of these travellers is that they 'tour around' Europe/the Schengen area. **The current legal framework does not provide an authorisation that would cater for these travellers' legitimate needs/itinerary. The most vocal interest group regularly raising this long-standing problem is the live performing industry.** Other categories of **travellers** (pensioners, business visitors, students, researchers) also have a strong interest in being allowed to circulate in the Schengen area for longer than 90 days in any 180-day period.

3. ANALYSIS OF SUBSIDIARITY

The abolition of checks at internal borders requires, among other things, a common policy on visas. Under **Article 77(2)(a) of the TFEU**, the EU has the power and even the obligation to adopt measures relating to the common policy on visas and other short-stay residence permits. The rules for processing short-stay visas are already regulated by a regulation that is directly applicable, i.e. the Visa Code.

The problems described in the IA are unlikely to disappear as they are directly related to the existing provisions of the Visa Code. Some progress can be achieved by enforcing correct implementation. However, introducing procedural facilitations for travellers in a harmonised manner, as well as making considerable progress in increasing the geographical coverage in visa processing, requires EU action, i.e. a review of the Visa Code.

As regards establishing a new authorisation for stays exceeding 90 days in a given 180-day period in the overall Schengen area, the need for intervention at EU level is clear: any

authorisation which would be valid in all of the Schengen States can only be introduced at EU level. **Article 77 of the TFEU** empowers the Union to act on 'short-stay' permits in the Schengen area and **Article 79 of the TFEU** empowers the Union to act on visas and residence permits in the context of legal residence in EU Member States (i.e. for stays beyond 3 months in an EU Member State). It follows that the EU also has competence to introduce an authorisation for stays exceeding 90 days in any 180-day period in the overall Schengen area.

4. POLICY OBJECTIVES

The **general policy objectives** of the proposal are: to foster economic growth in the EU; to ensure more coherence with other EU policies and to maintain the security of the Schengen area.

The **specific objectives** are: to move towards a truly harmonised, genuinely common visa policy; to tailor visa procedures more to the needs of legitimate travellers; and to make the visa procedure more efficient by streamlining the rules.

The **operational objectives,** in light of the problems outlined above, are; to provide mandatory procedural facilitations for "well-known" travellers by making use of the possibilities offered by the Visa Information System (VIS); to increase and rationalise the visa collecting/processing presence in third countries; and to provide the possibility of stays exceeding 90 days in a 180-day period in the Schengen area.

5. POLICY OPTIONS

For the purpose of the IA the following policy packages were drawn up:

Policy package 0 - Status quo: The existing legal framework remains unchanged and on-going activities will continue.

Policy package A: Non-regulatory measures: With respect to *problem area 1*, a range of 'soft law measures' are envisaged aiming to better implement the Visa Code. Concerning *problem area 2*, the funding possibilities from the future Internal Security Fund would be largely promoted by the Commission. Regarding *problem area 3*, since the problem driver is a legislative gap, a non-regulatory option was not developed.

Policy package B-D: These options would require EU level regulatory action to amend the Visa Code. **The policy options are grouped according to their level of ambition (political feasibility) in three packages - minimum, intermediate and maximum.**

For *problem area 1*, **policy package B (minimum)** would introduce mandatory procedural facilitations (i.e. a waiver of the requirement to appear in person to lodge the application; a waiver to present certain supporting documents) and mandatory issuing of MEVs valid for at least one year and subsequently (after two MEVs for 1 year) an MEV for three years for applicants who have previously lawfully used at least three visas (within the previous 12 months prior to the date of the application) that are registered in the VIS ('frequent travellers'). For *problem area 2*, the proposed option would repeal Article 41 of the Visa Code (co-location, CAC) and introduce a general concept of 'Schengen Visa Centre' which would provide a more realistic, more flexible definition of certain forms of consular cooperation. For *problem area 3*, a new type of authorisation would be established, allowing certain categories of applicants (i.e. artists and their crew members) to stay more than 90 days but not more than 360 days in the Schengen area.

Concerning *problem area 1*, **policy package C (intermediate)** envisages mandatory procedural facilitations, similar to the minimum package, and mandatory issuance of MEVs valid for at least three years and subsequently for five years. In addition, the beneficiaries are defined more broadly: applicants who have previously lawfully used at least two visas that are registered in the VIS ('regular travellers'). Regarding *problem area 2*, in addition to the introduction of the flexible concept of 'Schengen Visa Centres', the concept of 'mandatory representation' would also be introduced: when a Schengen State competent to process the visa application is not present nor represented (by virtue of an arrangement) in a certain third country, any other Schengen State present in that country would be obliged to process visa applications on its behalf. Regarding *problem area 3*, as with the minimum package, a new type of authorisation would be established that would apply not only to certain categories of TCNs, i.e. live performing groups, but also to all TCNs (i.e. 'individuals' as well) who can demonstrate a legitimate interest for travelling for a period exceeding 90 days in the Schengen area.

Policy package D (maximum) would extend mandatory procedural facilitations and mandatory issuance of MEVs immediately for five years to the majority of applicants by requiring only one lawfully used visa that is registered in the VIS. Regarding *problem area 2*, in order to ensure adequate visa collecting/processing coverage, Commission implementing decisions would define what the Schengen visa collecting network in third countries should look like in terms of representation arrangements, cooperation with ESPs and pooling of resources by other means. Finally, as regards *problem area 3*, it would introduce the same type of authorisation as in the intermediate package; anything more ambitious is deemed highly unrealistic.

6. ASSESSMENT OF IMPACTS

The procedural facilitations, and, in particular issuing of MEVs with long validity has the potential to lessen the administrative burden of consulates and at the same time provide a very important facilitation to travellers. By making the Schengen area an even more attractive destination, the options would increase the overall number of trips of visa-obliged TCNs whose spending would have a positive impact on the EU economy. As regards problem area 2, the concept of 'mandatory representation' would considerably increase the visa-issuing presence in third countries. It would secure consular coverage in any third country where there is at least one consulate processing visa applications. This concerns some 900 'blanks spots' and could have a positive impact on some 100 000 applicants who would be able to lodge the applications in their country of residence instead of having to travel to a country where the competent Schengen State is present or represented. Finally, the introduction of a new authorisation for stays for a period exceeding 90 days for all TCNs would affect some 120 000 travellers, which at most could lead to an estimated EUR 1 billion additional income to the Schengen area.

As regards the anticipated financial and economic impacts see the table under point 7 for further details.

7. COMPARISON OF OPTIONS

Policy package A would only have a small positive impact on addressing the problems and achieving the policy objectives. Therefore it is not considered very effective.

Policy packages B, C and D would progressively addresses the problems, meets the operational objectives and has a positive impact on travel to and spending in the Schengen area. Policy package B is the least **effective**; it would partially address the problems to the benefit of a smaller group of visa applicants. Packages C and D are almost equally effective in terms of addressing the objectives. The expected economic benefits are higher in the case of package D (over EUR 3 billion per year), but it is associated with a potentially higher security risk.

As far as **efficiency** is concerned none of the policy packages/options would, in principle involve considerable additional costs[1]. In fact, one of the driving forces behind the policy options is to generate savings for both the Schengen States/consulates and the visa applicants. Policy packages B, C and D progressively lead to cost savings for applicants, mainly due to the increasing number of MEVs issued with long validity. From the applicants' point of view, policy package D is the most efficient and policy package B the least efficient. **In each package the economic benefits for the EU as a whole considerably exceed the estimated costs for individual Schengen States.**

The table below presents an overview of the anticipated impact of each policy package[2].

Policy option/ Criteria	**Non-regulatory package (A)**	**Minimum regulatory package (B)**	**Intermediate regulatory package (C)**	**Maximum regulatory package (D)**
Effectiveness				
Mandatory procedural facilitations for certain categories of travellers	1	2	3	4
Increased and rationalised visa collecting/processing presence in third countries	1	2	4	4
Possibility to stay longer than 90 days in a 180-day period in the Schengen area, on the basis of a new type of authorisation	0	2	4	4
Impact on the security of the Schengen area	0	0	-0,5	-2
Economic benefits - income from travellers' spending (millions of EUR per year)	-	Ca. 800	More than 2 000	More than 3 000
Jobs supported (number of FTEs)	-	Ca. 20 000	Ca. 60 000	Ca. 80 000
Efficiency				
Direct costs saved by visa applicants (millions of EUR per year)	-	Ca. 50	Ca. 200	Ca. 300

[1] One exception is the policy option related to the geographical coverage in visa processing.

[2] 0: no impact; 0-1: small impact, if any; 2: medium impact; 3: high impact; 4: very significant impact. The rating is negative (-) if the impact is negative.

Policy option/ Criteria	Non-regulatory package (A)	Minimum regulatory package (B)	Intermediate regulatory package (C)	Maximum regulatory package (D)
Indirect costs saved by visa applicants (millions of EUR per year)	-	Ca. 120	Ca. 500	Ca. 800
Net financial impact on Schengen States (millions of EUR per year)	-	Ca. -1	Ca. -5	Ca. -9
Feasibility				
Legal	Good	Good	Good	Good
Political	Good	Reasonable	Reasonable	Poor
Practical	Good	Good	Good	Reasonable

As far as **problem area 1** is concerned (**lengthy, cumbersome and costly procedures**), the assessment is **inconclusive with regard to what the preferred option should be.** This is because the very high potential economic impact of the proposal in policy package D is however associated with a potentially higher security risk. The proposal in the intermediate package (C) is associated with a low security risk, but its potential economic impact is estimated to be almost EUR 1 billion less. With regard to **problem area 2** (**geographical coverage**) and **problem area 3** (**new type of authorisation**), **the options identified in the intermediate package are the preferred ones** (introduction of the new concept of the 'Schengen Visa Centre' and the 'mandatory' representation for problem area 2; new authorisation for stays exceeding 90 days for all TCNs as for problem area 3).

8. MONITORING AND EVALUATION

Three years after the entry into force of the recast of the Visa Code, the Commission will present an evaluation report.

EUROPEAN
COMMISSION

Brussels, 1.4.2014
SWD(2014) 101 final

COMMISSION STAFF WORKING DOCUMENT

Evaluation of the implementation of Regulation (EC) No 810/2009 of the European Parliament and Council establishing a Community Code on Visas (Visa Code)

Accompanying the document

Report from the Commission to the European Parliament and the Council

A Smarter Visa Policy for Economic Growth

{COM(2014) 165 final}

TABLE OF CONTENTS

1. INTRODUCTION

This staff working document accompanies the Commission's evaluation report[1] on the implementation of the Visa Code. It has been informed by extensive discussions with various stakeholders and inputs through different channels. These include exchanges on practical issues arising from the implementation of the Code's legal provisions with specific professional stakeholders, e.g. seafarers' associations, the tourism industry, artists' organisations, and discussions with Member States (including ad hoc enquiries).

This document is also based on the Commission's regular monitoring of the correct implementation of EU legislation, petitions addressed to the European Parliament, questions raised by Members of the European Parliament, complaints and questions from private persons, and Schengen evaluations. Additionally, representatives of third countries' authorities have raised issues and concerns in bilateral meetings with the European Union/the Commission. Views been exchanged on the implementation of the Visa Code particularly in the framework of the Joint Committees set up under the various Visa Facilitation Agreements[2] between the EU and a number of third countries.

An on-line public consultation on the implementation of the Visa Code seen from the applicants' point of view was launched in March 2013 and ran for 12 weeks. This yielded a total of 1084 responses to a detailed questionnaire and written contributions from a wide range of stakeholders. They included individuals, performing artists' representatives and organisations, business associations, the tourism industry, and academics. The results of the consultation and the list of respondents have been published[3]. This working document is also based on a study of Member States' 'Schengen Visa Information' carried out for the Commission[4].

Finally, this document is informed by data collected in an external study commissioned by DG Enterprise, focusing on the economic impact of visa facilitation on the tourism industry and on the economies of Schengen States (hereinafter: Economic Impact Study)[5]. This study particularly focused on travellers from six target countries (China, India, the Russian Federation, Saudi Arabia, South Africa and Ukraine), covering in total more than 60 % of all short-stay visa applications (2012).

A distinction should be made between the overall evaluation of the implementation of the Visa Code, covered in this document, and the evaluation referred to in Article 57(3) of the Visa Code.

The latter concerns the evaluation of the implementation of seven Articles of the Visa Code (of which two are specifically related to the collection of biometric data and five others to forms of cooperation for the collection of visa applications), and specific Articles of the VIS Regulation. The latter (periodic) evaluation is to be made for the first time 'three years after the VIS is brought into operation and every four years thereafter', i.e. for the first time in October 2014.

---

1 COM(2013) xxx.

2 Visa Faciliation Agreements have been concluded with: the Russian Federation, Ukraine, Moldova, Georgia, [Cape Verde], Armenia, FYROM, Serbia, Montenegro, Bosnia and Herzegovina and Albania.

3 http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2013/docs/consultation_025/report_on_the_results_of_the_consultation_en.pdf .

4 Carried out by Tracys/Stratiqo.

5 http://ec.europa.eu/enterprise/sectors/tourism/international/index_en.htm.

However, this document also addresses the implementation of the five articles related to consular cooperation, as significant problems with their implementation have been identified, not related to the progressive rollout of the Visa Information System.

2. THEMATIC EVALUATION

2.1. Detailed evaluation

The structure of the Visa Code basically follows the logic of the visa application process and is divided into six Titles, of which the core Title III ('procedures and conditions for issuing visas') is subdivided into six Chapters. The Annexes cover measures implementing the general rules on the procedures and conditions for issuing visas and administrative management, laid down in Titles III and IV.

This chapter comprises a detailed assessment of the implementation of the provisions of the Visa Code grouped under thematic headings, except for the following:

Article 13 ('*Biometric identifiers'*) and Article 44 ('*Encryption and secure transfer of data'*) that are to be covered in the October 2014 evaluation report;

Article 49 ('*Arrangements in relation to the Olympic Games and Paralympic Games'*) as it has not yet been applied; and

legal acts that were not subject to interpretation and/or implementation issues, such as Articles 2, 4, 28 and 29.

2.1.1. The visa application procedure

This chapter covers provisions on procedural aspects and different steps of the procedure.

With the Visa Code, the separate '**transit visa'** was abolished. It was acknowledged that the distinction between transit and stay was artificial (e.g. during a 'transit' by car between Ukraine and the United Kingdom, the person concerned may decide to 'stay' for a few days in Belgium).

Article 1(1) and several others[6] were amended by the recent amendment of the Schengen Border Code[7]. The amendment concerns the **definition and calculation of 'short stay'.** Pursuant to *Case C-241/05 Nicolae Bot v Préfet du Val- de-Marne*[8]), there was a need to amend the rules dealing with the definition and calculation of the authorised length of short stays in the Union. The reference to 'first entry' has been deleted and the period of allowed stay is now counted in days (90/180days) only, whereas previously it had been counted in months. The clear, simple and harmonised rules benefit travellers as well as border and visa authorities.

---

6 Article 2(2), point (a), Article 25(1), point (b), Article 32(1)(a), point (iv), and Annexes VI, VII and IX. .

7 Regulation (EU) no 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No 1683/95 and (EC) No 539/2001 and Regulations (EC) No 767/2008 and (EC) No 810/2009 of the European Parliament and of the Council, OJ L 182, 29.6.2013, p. 1.

8 [2006] ECR I-9627.

2.1.1.1. Lodging the visa application

So-called Schengen visas are issued in the interests of the Union as a whole, on the basis of one set of legal provisions, and are mutually recognised by the Member States (cf. Article 19 of the Schengen Convention). However, they remain 'national' in the formal sense that they are issued by consulates which are public services of the Member States. A 'common European issuing mechanism for short-term visas', as mentioned in the Stockholm Programme, has not been created (yet).

The purpose of the rules in Article 5 is to clarify for applicants what consulate they should apply to and to ensure that the best/better placed Member State consulate examines their application, e.g. the Member State of sole or main destination. Visa applicants can not choose freely where to apply.

(1)[9] The rules on **the competent Member State for examining applications for short stays**[10] are challenging for both applicants and Member States' consulates, unless the applicant only intends to travel to one Member State. In other cases, even if Article 5 sets out criteria intended to be objective, such as 'main destination', 'length or purpose of the stay' and 'first entry' (in the case of itinerant travellers), these seem too rigid to match reality.

The most important aspect cannot always be determined easily; nor can the difference in length of stay clearly justify that one Member State is competent, rather than another. Cases have been reported where a difference in length of stay of a few hours meant that applicants were sent from one consulate to another.

The 'length of stay' criteria is also one that can easily be changed (a technique frequently used by travel agencies) by adapting itineraries to make the longest stay in the Member State whose consulate is considered the most 'accessible'. About 30 % of respondents in the public consultation found it difficult to determine where to apply for a visa when staying in several Member States during the same trip. The cruise industry, shipping and manning companies point to the specific working conditions of seafarers (maritime and hospitality crew) and the culture sector points to touring/performing artists. These require flexibility of practices regarding, among others, the determination of the 'competent' Member State.

The Visa Code Handbook contains a specific chapter on the determination of the competent Member State with numerous examples and best practices to illustrate how to apply the rules on competence. Even if the notion of 'competent' Member State could seem to contradict the fact that Member States issue a visa valid for a territory covering 26 Member States, discussions on this specific point were just as difficult and lengthy as the examination of these legal provisions preceding the adoption of the Visa Code.

An additional complication occurs when a person has to travel to several Member States in consecutive trips and does not have time to apply for several visas. Although Member States' central authorities advocate a flexible approach, the Commission has received numerous complaints about consulates refusing to take responsibility for issuing multiple entry visas covering all subsequent trips. This forces an applicant to apply for a visa for each trip, which is often impossible time-wise, and can be costly, as each application incurs a visa fee.

---

9 *The consecutive numbering of paragraphs are intended to facilitate reading of cross-references in the text.*

10 The competence issue for applications for airport transit visas is clearly defined and easily applicable, because the airport transit rarely covers more than one airport in the Schengen area.

Judging by the number of questions raised by Member States and complaints from individual applicants, the problems created by the strict application of this provision (cf. also the public consultation), the criteria appear to need clarifying. This could help applicants to know where to apply without necessarily having an impact in terms of facilitation if the competent Member State is located far away. Clarifying these criteria would not have an impact on the workload of Member States' consulates.

Finally, some applicants may have to travel far to apply at the consulate of the competent Member State because of the combination of rules on competence, rules on 'lodging in person', further tightened by the mandatory collection of fingerprints from first-time applicants linked to the roll out of the VIS, and the fact that some Member States' consular network is limited. This is costly and time-consuming and sometimes even prohibitive for potential visa applicants (this issue is further developed below).

The current 'soft law' provisions (Article 5(4)) encouraging Member States to cooperate to ensure that a visa applicant can always apply in his/her place of residence are inefficient and difficult to enforce, or used on an ad hoc basis.

(2) Article 6 establishes clear rules on **consular territorial competence** to remedy diverging practices due to the absence of legal provisions. The basic rule is that a person should apply in his/her country of residence as the consulate there would be better placed to assess his/her application and will to return than a consulate in a location where he/she might just be passing through.

This provision would not allow for the spontaneous application for a visa by, e.g. a Chinese national visiting the United Kingdom as a tourist and wishing to spend time in a Schengen State. The consulate in the United Kingdom of the intended Schengen destination would not be in a position to properly verify that the person concerned fulfilled the entry conditions.

However, an exemption to the general rule is possible in justified cases (Article 6(2)). Therefore, this provision seems to fulfil the criteria of both relevance and consistency and should therefore be maintained.

(3) Article 18 on the **verification of consular competence** is linked to Articles 5, 6, 42 and 43. Honorary consuls (Article 42) and external service providers (Article 43) who collect visa applications, visa fees and biometric data are not involved in assessing the content of an application. Often, a consulate can only establish whether it is competent to handle an application once it has started to examine a file. This is also the case where electronic services are introduced in the visa handling process. However, if a consulate realises that it is not competent to handle an application, all documents and collected fees must be returned and biometric data, if collected, must be destroyed (under Article 18(2)) and no data can be registered in the VIS.

(4) Article 7 establishes clear rules to apply in rare cases where a third country national is **legally present in the territory of a Schengen State** without holding a document allowing him/her to circulate freely, e.g. a person whose application for asylum is under examination. The Commission is not aware of any problems regarding the implementation of these provisions.

However, situations may arise where a person present in the Schengen area on the basis of a visa loses his/her passport (including the visa sticker) and is no longer able to prove that he/she is legally present or — upon exit — that the stay was legal and that the length of

authorised stay was not exceeded. The Visa Code does not contain provisions regarding this situation and discussions in the Visa Committee revealed diverging practices among Member States. These ranged from no legal national provisions at all to relatively cumbersome rules covering only situations where the lost visa had been issued by the Member State in which the passport was declared lost or stolen.

The various Visa Facilitation Agreements (VFAs) that apply to nationals of specific third countries (and cover about 50 % of all visa holders) stipulate that a person who has lost his/her passport and visa is entitled to leave the Schengen area on the basis of valid identity documents, issued by his/her country of origin, without a visa or any other authorisation.

Providing a general rule on practices to follow in the case of loss of a passport with a valid visa may be useful.

Difficulties regarding the loss of a visa issued by another Member State will be overcome once the VIS has become fully operational, as Member States would have access to information on visas issued by others**.**

The Visa Code contains provisions designed to facilitate the visa application procedure for both visa applicants and consular staff. But the increasing number of visa applications (overall increase of 48 % between 2009 and 2012)[11] and the often decreasing capacity of Member States' consulates to handle applications due to budget cuts have led to bottleneck problems.

(5) Article 9 sets out **deadlines for lodging an application and for obtaining an appointment** for lodging and the possibility of (accredited) commercial intermediaries to lodge an application on behalf of applicants. The objective of introducing such deadlines was to ensure procedural certainty and equal treatment of applicants.

Applicants may lodge their applications **no earlier than three months** before their intended trip. The reasoning behind this time period is that it should be possible for the consulate to assess the applicant's situation (e.g. financial status and employment situation) relatively close to the intended trip, under the assumption that it would not change in such a short period of time. A minimum deadline for lodging an application is not set explicitly, but given that the normal maximum processing time is 15 calendar days, that would also be the minimum deadline for submitting an application.

[11] Number of visas applied for in the top-10 countries where most visas were applied for, 2009-2012

	2009	2010	2011	2012	Increase 2009-2012(%)
Russia	3 241 940	4 222 551	5 265 866	6 069 001	87.2
Ukraine	854 209	972 580	1 142 732	1 313 727	53.8
China	597 430	824 860	1 079 516	1 242 507	108.0
Belarus	369 842	433 102	583 871	698 404	88.8
Turkey	484 209	559 946	624 361	668 835	38.1
India	364 408	444 562	499 954	506 162	38.9
Algeria	267 460	263 794	311 167	387 942	45.0
Morocco	269 875	330 218	359 657	373 823	38.5
Saudi Arabia	137 548	170 029	196 327	255 083	85.5
United Kingdom	191 178	198 046	212 564	210 610	10.2
TOTAL	6 778 099	8 419 688	10 276 015	11 726 094	73.0.

These deadlines create problems for some applicants, e.g. seafarers who might be on the high seas for more than three months before arriving at a port in the Schengen area, and persons who wish to avoid peak periods with potentially long waiting times. The lack of explicit minimum deadlines for lodging an application creates problems for consulates when applications are lodged at the last minute without there being a justified case of urgency.

It could therefore be considered whether it would be in the interest if both visa applicants and Member States' consulates to allow for the lodging of applications up to 6 months ahead of the intended trip.

In the public consultation, respondents said the total time spent on their last visa application ranged from 1 day (10%) to 5 days (59%), including time to obtain relevant information from the consulate, time to obtain supporting documents, travelling time to lodge the application, collection of the passport etc.. The total 'application period' exceeded one month in the case of 18% of respondents.

(6) **Appointment systems** were generally introduced as a crowd control measure, to avoid queues and informal 'appointment systems' outside consulates. According to Article 9(2), the appointment for lodging a visa application should, as a rule, take place within two weeks of the date on which the appointment was requested. This provision was part of the final compromise in the negotiations of the proposal, and the ambiguous formulation 'as a rule' makes it difficult to enforce this provision. The Visa Code Handbook, which does not create legally binding rules, states: *'the capacity of Member States' consulates to handle should be adapted so that the [two week] deadline is complied with even during peak seasons.'*

The Commission has received numerous complaints about violations of these rules and has therefore conducted an investigation of Member States' practices. It found that the waiting time for an appointment to lodge a visa application in several consular posts of certain Member States was always longer than two weeks. In some cases, there was no 'direct access' to the Member State consulate, only to an external service provider. Respondents in the public consultation also said the deadline for obtaining an appointment was not met[12].

The Commission took up this issue with 13 Member States through the EU pilot platform in December 2012. The majority provided concrete information about the problems faced in certain jurisdictions and mentioned measures taken or planned to reduce delays in their appointment system. Some Member States denied that waiting times were always longer than two weeks and argued that they had experienced isolated problems during peak periods, special events or problems with their online appointment systems due to fraudulent practices by individuals or intermediaries.

The problems with meeting deadlines for obtaining an appointment have also been cited by the European tourism industry as one of the obstacles to running the visa application process smoothly (cf. the November 2012 Communication). The sames applies to the culture sector, especially for touring/performing artists.

[12] Result of the Public Consultation: 30% of respondents signalled that they did not get an appointment within two weeks. In the opinion of 49.3% this timeframe is not acceptable, as consulates do not allow urgent applications to be made directly without an appointment, while 18% of respondents find this deadline acceptable, but not kept by the consulates. According to another 33% of respondents a two-week timeframe for appointments is acceptable, considering that in urgent cases, the requirement to make an appointment is waived. .

At the same time, travellers complain that they cannot benefit from cheap last minute reservations, and the business community points to loss of business opportunities because of the deadlines for lodging an application (in such cases, processing time would also be an issue).

The Visa Code provides that *'in justified cases of urgency, the consulate may allow applicants to lodge their applications either without appointment, or an appointment shall be given immediately'* (Article 9(3)). On this basis, the Visa Code Handbook (cf. paragraph (38)) states that *'a consulate may decide to establish a 'fast track' procedure for the submission of applications in order to receive certain categories of applicants'*. Some Member States have indeed formally established such fast track procedures in some consulates for certain categories of applicants such as businesspeople or seafarers. Other Member States have informal fast track procedures in their consulates in justified cases of urgency.

(7) Article 10 establishes the **basic principle of 'lodging the application in person'** while allowing exceptions for known applicants. The maintenance of this principle was the final issue to be solved before the adoption of the Visa Code.

In the public consultation, 70% of respondents considered lodging in person an unnecessary burden because it is costly (travel expenses) and time consuming. In the Economic Impact Study, roughly 50% of respondents among travellers consider lodging in person problematic. According to the same study, 25%, of respondents among consulates said this requirement could be 'modified or simplified'.

The traditional opinion is that the added value of having applicants lodge in person is that consular staff can already get a 'first impression', and ask additional questions/request documents at the counter. For the applicant, it is an opportunity to explain the purpose of travel.

However, the reality in 2013 is that consular staff processing and deciding on visa applications have very little or even no direct contact with applicants. A very high number of applications are lodged via external service providers (ESPs), via commercial intermediaries (e.g. travel agencies), in 'front offices' that are remote from decision-making staff, or sent by post.

Under these circumstances there is little to no added value in obliging applicants, especially frequent or regular travellers, to lodge their applications in person at the premises of an ESP or the consulate, other than when biometric data is to be collected.

In locations where the VIS has been rolled out, the fingerprints of first-time applicants must be collected. This can obviously only happen if the person comes to the consulate or the ESP in person. For the following 59 months, fingerprints are not taken at each subsequent application; the first set is copied to the new application.

The Visa Code states the one-stop principle for lodging the application: according to Article 40(4) *'…the selection of a form of organisation shall not lead to the applicant being required to appear in person at more than one location in order to lodge the application.'* This fundamental principle rules out obliging an applicant to go first to an ESP to hand in the application form, supporting documents, etc., then to a consulate to have fingerprints taken. A Member State that had put in place such a two-stop procedure has been addressed via the EU PILOT platform.

(8) Article 45 covers the rules on Member States' **cooperation with commercial intermediaries**. The 'cooperation' refers to Member States that have accredited a travel

agency, tour operator etc. to lodge applications on behalf of (groups of) visa applicants, meaning that applicants do not have to go to an ESP or consulate 'in person'. This article clarifies and structures provisions covered in the previous legislation. Rather than defining the various types of commercial intermediaries, as was previously the case, the article defines the tasks that commercial intermediaries may carry out, lists various aspects to be verified before accreditation is granted, sets out provisions on monitoring such intermediaries and establishes rules on exchange of information on fraudulent behaviour within local Schengen cooperation (LSC).

The Commission does not compile information on Member States' accreditation of commercial intermediaries (mainly travel agencies and transport companies). However, based on ad hoc inquiries (among others in local Schengen cooperation) and Schengen evaluations, it can be established that such accreditation is widely used, accreditation procedures are sound and information on malpractice is exchanged locally.

Member States often fail to inform the public about commercial intermediaries that have been accredited as provided by Article 45(5). Such clear information could contribute to combating the phenomenon of self-acclaimed intermediaries that charge exorbitant fees and lure applicants into having them lodge applications on their behalf. According to the Economic Impact Study, 60% of the Member States interviewed in the six target countries accept applications from travel agents. It should be noted that Member States often allow (known) commercial intermediaries to lodge applications on behalf of individuals or group travellers without there being a formal accreditation procedure in place.

It goes without saying that the start of the roll out of the VIS, requiring first-time applicants to have their fingerprints collected, will have an impact on cooperation with commercial intermediaries (cf. Article 45(1)), as they are not entitled to collect fingerprints.

The 'Approved Destination Status (ADS)'scheme[13] with China has been in place since September 2004. The aim of this is to facilitate organised group travel from China to the Member States with a view to strengthening the tourism sectors in both China and the EU. It is based on a Memorandum of Understanding (MoU) signed by the European Community and the National Tourism Administration of the People's Republic of China. The Chinese authorities establish the list of travel agencies that may operate under the ADS scheme and Member States decide which of these they accredit. It should be noted that the MoU includes measures to be taken in case of illegal overstay of any ADS tourist and his/her readmission that have not hitherto been applied.

(9) According to Article 10(2), the requirement on 'lodging in person' may be waived for persons 'known ... for [their] integrity and reliability'. This is another example of a legal provision that is difficult to enforce. Article 24(2) links 'integrity and reliability' of the applicant to the 'lawful use' of previous visas (without specifying how many), the applicant's economic situation and the 'genuine will to return'.

Given that there are no objective criteria for waiving the 'lodging in person', applicants will in reality never know whether they qualify for a waiver. Generally, Member States do not inform applicants about the criteria for being exempted from 'lodging in person'. This, combined with the widespread use of outsourcing to ESPs that cannot be given any responsibilities regarding the assessment of the application or the status of the applicant (e.g. lawful use of previous visas), hinders the implementation of this facilitation.

[13] OJ L 296, 21.9.2004, page 23.

Article 21(8) of the Visa Code offers the possibility 'in justified cases' of carrying out an **interview** during the examination process to provide additional information, but experience shows this possibility is rarely used, meaning that in reality, decision-making is almost exclusively a 'paper procedure'.

It should therefore be considered whether it would be more appropriate to drop the 'basic principle' of lodging in person (without prejudice to requirements to collect fingerprints of first-time applicants), while maintaining the provisions regarding the interview, and to adapt the rules to what seems to be general practice and allow for full 'online application': filling in the application form online, transmit documents electronically, or send them by surface mail.

Individual Member States are currently testing different ways of making use of modern technology in the visa application process to ease the burden on both sides. However, as long as the 'physical' passport and visa sticker are still key elements in processing visa applications, the process cannot become fully electronic. Moreover, in the public consultation, certain 'youth exchange' and 'artist/cultural worker' stakeholders said that the quasi-mandatory requirement of having access to the internet to apply for a visa may be problematic in certain (rural) parts of the world.

2.1.1.2. Documentary requirements when lodging an application

(10) The basic 'document' in the visa application process is the **application form** (Article 11). The harmonised form was introduced in 2001, It was amended and streamlined and a number of fields were abolished by the Visa Code. Irrespective of the format (hard copy or electronic) in which the application form is made available to visa applicants, Member States generally do not inform visa applicants precisely enough about how to fill in the form. This means that applicants leave fields open, so Member States do not get the entries indispensable for them to enter data into the VIS or to carry out consultations electronically. A means of overcoming such problems would be to revise the format, to make the titles of boxes more explicit or to add a comprehensive explanation of how to fill in the application form as an annex.

It should be noted that in the public consultation, 51% of respondents found the application form 'easy' or 'very easy' and 37% had a neutral opinion. Compared to the visa application forms used by certain other countries[14], the 'Schengen application form' is relatively simple and user-friendly. In view of the VIS becoming fully operational, the fields regarding information on previously-issued visas could be simplified or abolished.

(11) To lodge an application, an applicant must hold a **travel document**. Article 12 specifies the requirements regarding validity, issuing date and minimum number of available blank pages. The formulation 'valid' travel document was imposed by the formulation in the Schengen Borders Code, regarding entry conditions (Article 5(1)(a) — formulation maintained in the recent amendment of the Borders Code). Although the following paragraph refers to 'validity' in terms of temporal validity, e.g. three months beyond the date of intended departure, the term 'valid' has given rise to varying interpretations, and some Member States understand 'valid' as meaning 'recognised' for the purpose of affixing a visa[15].

[14] UK visa application form: 12 pages covering approximately 80 questions/fields, Australia: approx. 45 questions/fields .

[15] Commission Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list. OJ L 278, 4.11.12, p. 9.

Clarifying the distinction between the two notions could be considered.

Provisions on the validity of the travel document mean that, in principle, the visa issued could at maximum be valid until three months before the expiry of the travel document. This rule could mean frequent and regular travellers, who are eligible for a multiple entry visa (MEV) with a long validity, may not be able to take full advantage of that facilitation. An MEV issued to the holder of a travel document valid for another two years could have a maximum length of validity of two years minus three months.

Allowing the issuing of a MEV with a validity beyond the validity of the travel document could be considered, providing the visa holder presents a (new) valid travel document and the valid visa in the expired travel document to be allowed to enter the Schengen area.

The reason why a passport must have two blank pages is that the visa sticker is affixed to one of the pages and the 'matching' entry-exit stamps are affixed on the opposite page to facilitate border controls on compliance with the length of authorised stay, as printed on the visa sticker. As the text does not specify that the blank pages must be a 'double page', the text can be interpreted as meaning two blank pages anywhere in the travel document, thus undermining the intention of the requirement. For holders of MEVs, one additional blank page is obviously not sufficient. The travel document of frequent travellers will quickly fill up with entry-exit stamps before the expiry of both the visa and the travel document.

To cover such situations without penalising the visa holder, a recommended best practice has been added in the Visa Code Handbook. This allows frequent travellers to travel bearing both their old and new passports, with the valid visa in the old, 'full' passport and a new passport where entry-exit stamps can be affixed. The requirement on blank pages necessary for affixing entry-exit stamps will become obsolete when the 'Entry-Exit System' (EES)[16] becomes applicable.

(12) The Visa Code applies universally to all categories of persons, irrespective of travel purpose, as the entry conditions are unvarying. Yet local circumstances vary greatly. It is therefore not possible to draw up exhaustive rules on documentary evidence to be submitted by all visa applicants all over the world, hence the need for harmonisation at local level.

Provisions on **supporting documents** have been established in Article 14, and a non-exhaustive, more 'operational' list is set out in Annex II. In both the article and the annex, there is a clear distinction between supporting documents to be submitted for a short stay on the one hand and for airport transit on the other. This distinction is important, as persons in airport transit do not enter the 'Schengen' area and should not need to prove they have sufficient means of subsistence for the transit.

The Visa Code Handbook contains very detailed guidelines as to generic types of supporting documents that may be requested. The purpose of harmonisation within local Schengen cooperation (Article 48(1)(a)) was to 'translate' the generic lists and guidelines into harmonised lists corresponding to local circumstances, e.g. what precise document should prove a person's employment situation in, say, Ecuador or Ukraine. Unfortunately, the Commission has noted a tendency to go for either 'maximalist' or 'minimalist' lists, as

[16] Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP) (COM(2013) 96 final.

Member States could not agree on relevant documents. So 'harmonisation' would in the first case mean more severe requirements, and in the latter case, would leave it to Member States' discretion as to whether they systematically require more than what appears on the harmonised list.

Three years after the implementation of the Visa Code, work on establishing harmonised lists of supporting documents has resulted in the adoption of only six Commission Implementing Decisions[17] covering 16 LSCs, and work has progressed in another 30 LSCs around the world. There are various reasons for the lack of progress: reluctance on the part of Member States at local level, seemingly unaware of the legal obligation to carry out this assessment; lack of awareness by consulates of certain Member States regarding application of a common visa policy; presence of only one or two Member States, obviously rendering harmonisation less relevant; nationals of the host state not subject to the visa requirement, in which case harmonisation is considered unnecessary.

Some requirements such as 'reservation of either a return or a round ticket' and proof of accommodation appear to be incompatible with current travel and booking habits and unjustly burdensome for (refused) visa applicants, though such reservations can serve to prove the purpose of journey and Member State of destination/competent Member State.

Article 14(6) allows flexibility in the implementation of requirements on supporting documents, but the criteria for doing so are vague and difficult to enforce in an objective manner. Certain documents may be waived for '*applicants known [to the consulate] for his integrity and reliability, in particular the lawful use of previous visas, if there is no doubt that he will fulfil [the entry conditions].*' The widespread use of outsourcing and commercial intermediaries means that these provisions allowing facilitation in individual cases are in many cases practically impossible to implement. For instance, a service provider does not have information that may determine whether a given person is 'known to the consulate' or 'that there is no doubt that he will fulfil the entry conditions'. External service providers are in any case not entitled to assess the content of applications, only to collect them on the basis of Member States' instructions.

The vague formulations regarding flexibilities and facilitations to be offered to certain categories of persons also lead to diverging practices among Member State consulates, a source of frustration among visa applicants.

In the Economic Impact Study, respondents (travellers) rank the requirements on supporting documents as problematic. In the public consultation, only 9.4% of respondents who consider themselves as frequent travellers have experienced facilitations regarding documentary evidence. In contrast, 22% of the consulates covered in the Economic Impact Study said the rules on supporting documents could be simplified.

Clarification of the rules on the supporting documents to be submitted by applicants should be considered, particularly for the general facilitations and flexibilities to be offered to ensure equal treatment of applicants on the basis of objective criteria.

The Visa Code does not cover rules on original vs copies/scans or certified translations of supporting documents. Applicants and stakeholders consider these requirements problematic both because of the costs they incur for collecting the supporting documents (including

[17] C(2011) 5500 final, C(2011) 7192 final, C(2012) 1152 final, C(2012) 4726) final, C(2012) 5310 final, C(2013) 1725 final.

translation) but also because of Member States' differing practices. In the public consultation, 33% of the respondents spent EUR 11-50 on fulfilling these requirements, while 13% said they had spent more than EUR 50. In 4.3% of cases, translation costs alone exceeded EUR 50.

(13) Under Article 14, Member States may require applicants to present **proof of sponsorship and/or private accommodation** by completing a form drawn up by each Member State. The Visa Code lists a number of minimum requirements for the content of such forms. A recent evaluation of the 24 national forms in use showed that the forms do not fulfil the minimum requirements, and that it is not always clear whether the form is proof of 'invitation' and/or proof of sponsorship and/or of accommodation. Additionally, many forms cover more than sponsorship and/or proof of accommodation during the visitor's intended stay. Some forms explicitly impose the financial risks of an extended stay on the signee of the form. Some limit the signee's responsibility to the period of validity of the visa or three months, while others commit the signee to cover costs of a possible overstay (up to a maximum of five years). Some forms seem to be less interested in the visa applicant proving sufficient means of subsistence than in attempting to eliminate any financial risk to the public authorities that might occur if the visa applicant overstays.

Most forms do not contain a reference to data protection under Article 37 of the VIS Regulation, which is important, because inviting persons' personal data are stored in the VIS for as long as the data of the visa application.

(14) The requirements on **travel medical insurance (TMI)** were introduced in 2004[18] at the initiative of a Member State (now Article 15). The purpose of TMI is to cover repatriation and emergency treatment for unforeseen health problems due to accidents etc. during the visa holder's stay (to be distinguished from cases where the purpose of the trip is medical treatment). The previous legislation was largely taken over in the Visa Code, though certain provisions were clarified on the basis of past experience. General exemptions from the TMI requirement were introduced for holders of diplomatic passports and seafarers. Third country nationals applying for a visa at the border — which should be an exceptional occurrence, for reasons of emergency — may also be exempted, as it would seem disproportionate and often impossible for such persons to contract an insurance. As regards implementation of the provisions on travel medical insurance, guidelines drawn up under the previous legislation have been revised and included in the Handbooks (see point 2.1.3).

Whereas acquiring a TMI seems unproblematic[19], frequent discussions in the Visa Committee and in local Schengen cooperation have shown that the requirement poses problems in several other respects. For the applicant, having to show proof of TMI when lodging an application can mean losing money spent on insurance if a visa is refused, or if a stay shorter than requested is authorised.

---

18 Council Decision No 2004/17/EC of 22 December 2003 amending Part V, point 1.4, of the Common Consular Instructions and Part I, point 4.1.2 of the Common Manual as regards inclusion of the requirement to be in possession of travel medical insurance as one of the supporting documents for the grant of a uniform entry visa. OJ L 5, 9.1.2004, page 79.

19 In the Economic Impact Study, respondents generally did not consider the travel medical requirement to be a problem and 90% of the respondents in the Public Consultation have declared that acquiring a TMI is unproblematic.

According to the rules, the TMI must cover the period of stay, but most Member State consulates appear to require the TMI to cover the entire period of validity[20] of the visa. This means the applicant pays for insurance that covers a period longer than the effective stay. The LSC has in certain locations been in contact with local insurance associations to explain the rules of the Visa Code to try to adapt insurance policies to match the Code, but these attempts have so far been in vain.

The simple solution would be to require the visa holder to present a TMI when collecting their passport, as the TMI would then cover precisely the period of authorised stay. Member States discarded this possibility during negotiations on the Visa Code proposal as it would be a challenge from a practical and logistic point of view to verify the TMI after issuing the visa. It would also rule out the possibility of returning the passport by post/courier service.

These problems only concern single-entry visas, as persons applying for a multiple entry visa are only obliged to present proof of TMI for their first intended visit and, by signing the application form, promise to carry a TMI for each trip carried out on the basis of the visa, though this is not verified at the border.

From the consulates' perspective, it is difficult to verify whether the detailed and highly technical insurance policies are adequate. Member States have in a number of locations drawn up a list of 'recommended insurance companies' in an attempt to limit the number of different products that have to be assessed, though WTO rules on competition do not allow the refusal of any insurance policy that fulfils the criteria set out in the Visa Code.

Very limited evidence is available as to the enforcement of insurance policies if a visa holder needs emergency treatment during his/her stay in a Member State. Some Member States have recently carried out surveys that show that the level of recovery of medical expenses is extremely low. Others do not have any data. This is partly because of the fact that in most Member States, public hospitals are obliged to treat all emergency cases.

The TMI requirement poses other fundamental problems. First, it only covers nationals of third countries subject to the short-stay visa requirement, not third country nationals in general. There is no evidence that persons under the visa requirement would be more likely to need emergency treatment than others. Some Member States have indicated that nationals of visa-free countries without medical insurance are more likely to be a burden for public budgets

Secondly, it is not an entry condition. The TMI is not verified at external borders, yet not having insurance is listed among grounds for refusal on the standard form for refusal of a visa (Annex VI). Since the TMI requirement is not verified at the external borders, a visa holder could cancel the insurance once the visa has been issued. And even if those applying for a multiple entry visa promise to have TMI for each trip made with the visa, there is no check at the border to confirm that the traveller actually has insurance.

Finally, travellers nowadays, especially tourists, generally take out TMI at their own initiative; business travellers are covered by their company's insurance; and an increasing number of travellers hold such insurance on the basis of their credit card.

Based on the above, the added value of maintaining the provisions regarding TMI could be considered.

[20] Period of authorised stay (XX days) + 'period of grace' (15 days) = period of validity of the visa (XX+15days).

2.1.1.3. Fees to be paid

(15) Article 16 sets the rules for the **visa fee** to be paid by applicants and should cover the administrative costs of processing a visa application (Article 16(3)). The fee, EUR 60 (irrespective of the type of visa or number of entries applied for), was taken over from the legislation adopted in 2006. At that time, it was argued that the administrative costs of processing an application, including the collection of biometric data (to be stored in the VIS), was EUR 60[21]. It should be noted that under VFAs, accounting in 2012 for almost 50% of all visa applications, the visa fee is fixed at EUR 35.

Respondents in the public consultation were concerned mainly about the overall cost of the visa application procedure (70% consider that to be a burden) rather than about the level of the fee and 27% would be willing to pay a higher visa fee for faster processing (max. three days).

The Visa Code provides for regular revision of the visa fee 'in order to reflect the administrative costs', but no such revision has taken place. Experience has shown that calculating the costs of processing a visa application has proved to be impossible. The cost of the 'visa handling procedure' cannot be isolated from the overall costs of activities at Member States' diplomatic missions and consular posts. Most consular staff have duties other than processing visa applications. Different cost components (premises, personnel, operational and security related equipment) differ from one location to another and depend on whether visa applications are lodged via external service providers.

The Visa Code introduced **mandatory[22] and optional[23] visa fee waivers** for certain applicants. Some waivers are easily applicable, because they cover clearly defined categories of persons, e.g. children under six, children between six and 12, holders of diplomatic and service passports. Others cover large, less clearly defined categories of persons, e.g. *'representatives of non-profit organisation, aged 25 years or less participating [in certain events] organised by non-profit organisations'* and *'participants aged 25 years or less [in certain events] organised by non-profit organisations*'. The VFAs provide for additional waivers for some specific categories of applicants.

While the provisions on mandatory visa fee waivers create a clear legal obligation for Member States, those on optional waivers depend on individual Member States who, in most cases, determine all consular fees to be applied at central level. This in reality prevents the implementation of the provision in Article 16(5), last paragraph, according to which 'within local Schengen cooperation Member States shall aim to harmonise the application' of optional visa fee waivers. Given that the Visa Code does not lay down a clear obligation ('shall aim to'), local harmonisation is *de facto* not possible.

---

21 'Short stay visa' fees applied by other countries: United Kingdom: 93, 55 EUR; Australia: 93.67 EUR; Canada: 56.36 EUR (single entry) and 112.69 EUR (multiple entry); Japan 24.45 EUR (single entry) and 49.12 EUR (multiple entry); United States: 125.35 EUR.

22 Children under six years; school pupils, students, post-graduate students and accompanying teachers who undertake stays for the purpose of study or educational training; researchers from third countries travelling for the purpose of carrying out scientific research as defined in Recommendation No 2005/761/EC of the European Parliament and of the Council; representatives of non-profit organisations aged 25 years or less participating in seminars, conferences, sports, cultural or educational events organised by non-profit organisations.

23 Children 6 – 12 years; holders of diplomatic and service passports; participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.

Additionally, some of the categories to benefit from fee waivers or reductions are not defined precisely enough, which leaves room for interpretation and diverging practices. For instance, what is a 'non-profit organisation'? what is the difference between 'participants' and 'representatives'? In the public consultation, stakeholders said the visa fee waiver for participants in seminars, conferences, cultural etc. events was rarely applied.

Given the lack of harmonisation in this field, introducing more mandatory visa fee waivers for clearly defined categories could be considered.

Member States may also in **individual cases** waive or reduce the visa fee in view of promoting cultural or sporting interests, interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons. No evidence is available of the extent to which this possibility is applied.

Article 16(7) establishes that the **visa fee** may be **charged in EUR or in the 'local' currency**. When the visa fee is charged in local currency, Member States' differing methods and frequency in calculating exchange rates often leads to substantial differences in fees applied by different Member States in the same location. In some countries — mainly those neighbouring the EU — the problem is 'solved' by simply charging the fee in EUR because acquisition of foreign currency is easy. This 'solution' would be excessively burdensome in most other parts of the world.

To overcome the problems linked to differences in fees charged in local currency, the Visa Code envisages that the reference exchange rate set by the European Central Bank should be used as a basis for regular revisions to ensure that 'similar' fees are charged. Member States have argued that it is not possible for individual consulates to adapt the level of fees charged. Contrary to the vague formulation in Article 16(5), Article 16(7) imposes a clear legal obligation that is directly applicable Union legislation, to effectively ensure that fees are similar. However, the formulation 'similar' leaves room for interpretation as to how big the difference has to be for fees to be considered not to be similar in the sense of Article 16(7).

Ad hoc surveys of Member States' implementation of optional visa fee waivers and reductions and of the possibility for individual consulates to adapt their practices or the level of fees charged locally have been carried out at central level and in a number of third country locations. Although far from exhaustive, these surveys show that the application of visa fees is far from harmonised and the legal provisions have not been and cannot be implemented effectively. However, the surveys also show that differences in visa fees, due to charging in local currency, are not a source of 'visa shopping'.

(16) An ESP charges a **service fee** to cover the service offered (Article 17). The fee is to be set in the legal instrument (contract) between the Member State and the company, but it can never be higher than 50% of the basic visa fee of EUR 60. This means that total maximum fees for lodging an application could be EUR 90 (and EUR 65 in VFA countries, accounting for more than 50% of all visa applications), which is still relatively low.

According to the Visa Code, Member States should at local level 'ensure that the service fee reflects the services offered by the company and is adapted to local circumstances' and even 'aim to harmonise' the fee. Though there appear to be no cases of the maximum being exceeded, the latter provisions are *de facto* impossible to implement because contracts with service providers are concluded at central level. There is often a global contract setting the service fee as a result of a public call for tender, e.g. at EUR 20 globally. Therefore, the fee is neither adapted to local circumstances, nor can consulates influence the level of the fee.

2.1.1.4. Examination of the application

(17) Article 19 on 'admissibility' is directly linked to Article 10 ('general rules for lodging an application'). It establishes the basic elements (which do not cover 'supporting documents') for an application to be 'admitted' for examination. This notion was introduced to distinguish between 'rejection of incomplete applications' (e.g. where the applicant has failed to submit all supporting documents) and formal refusals based on an examination of the application. Previously 'incomplete' applications rejected at the counter were either unrecorded, leaving no trace of an attempt to lodge an application, thus facilitating 'visa shopping', or counted as 'refusals' and distorted statistics. 'Incomplete' applications were not legally defined, but depended on the practices of the individual consulate.

With the rollout of the VIS, it became necessary to regulate precisely when an application is to be recorded in the system to ensure that all Member States applied the provisions on entry of data in the same manner to ensure full exploitation of the advantages of the system.

Evaluations of individual Member States' consulates and countless questions raised within local Schengen cooperation and in various Council and Commission bodies show that the rules on admissibility are not understood and therefore not applied correctly. So the practices regarding '(in)complete' applications continue to apply, including in locations where the VIS has become operational.

ESPs and honorary consuls, who cannot be given responsibility regarding the assessment of applications, are instructed by Member States on what applicants have to produce for an application to be 'complete' so as to avoid requests for additional documents/information later in the procedure. If the collection of applications is outsourced, the (basic) criteria for an application to be admissible are only verified once the the file is examined at the consulate.

To ensure correct and effective implementation of the provisions on admissibility, including supporting documents in the admissibility criteria could be considered, but that would presuppose that the requirements on supporting documents that applicants have to produce in a given location had been fully harmonised under the legal framework set out in the Visa Code.

A declaration of 'non-admissibility' is not a formal refusal, but linked to the basic criteria for an application to be considered formally lodged and formally registered (with the legal implications that this entails, i.e. examination and decision-making). So applicants are not formally notified of grounds for non-admissibility, nor do they have a right of appeal.

There would be no added value in offering applicants the possibility of appeal against 'non-admissibility', as such a decision has no legal effects or impacts on future applications for a visa since the case is not registered in the VIS. Nevertheless, making it mandatory to notify applicants and to explain the reasons for 'non- admissibility' could be considered for reasons of transparency.

(18) Article 20 provides that when an application is admissible, the competent consulate should **stamp the applicant's travel document**. The purpose of this is to 'inform' other Member States that if such a stamp is found in a travel document, it means that the person has applied for a visa at the consulate of another Member State and that a visa has not (yet) issued. Member States fairly systematically omit to inform the public (cf. Article 47(1)(e))

that the stamp has no legal implications and that it simply means the holder has applied for a visa and that the application was admissible.

Once Member States start transmitting data to the VIS, the stamp will become redundant as Member States will have access to information on the applicant's 'visa history'. But this stamp is not serving its purpose even now, in locations where the VIS has not yet become operational. Rather than presenting a travel document with an 'admissibility stamp' from a previous application, some applicants prefer to acquire a new travel document (which is often fairly easy and not very costly) with no reference to a previous unsuccessful application (if the application was 'admissible' but not successful).

(19) Article 21 sets out provisions on the **verification of entry conditions** with particular focus on the criteria of 'migratory risk' and 'security risks'. These legal provisions take the form of operational guidelines[24]. Basically the article (paragraphs 3 and 4) repeats the entry conditions and grounds for refusal (Article 32 of the Visa Code and Annex V, Part A, of the Schengen Borders Code). Additionally, a reference is also made to the applicant's possession of adequate travel medical insurance (also repeated as grounds for refusal of a visa). However, possession of travel medical insurance is not an entry condition.

Article 21(8) establishes that an applicant may in 'justified cases' be called for an interview during the examination process or asked to bring additional information/documents.

Article 21(9) establishes the basic principle that a refusal should not lead to future applications being refused and that each application must be assessed on its own merit. Although this is an important principle, it is difficult to enforce.

This article does not contribute to legal certainty because of the combination of repetition of the entry conditions/grounds for refusal, operational instructions enabling subjective assessment ('justified cases'), reference to issues governed by the Schengen Borders Code ('reference amounts'), clarification of the link between 'long stay' and 'short stay' and inconsistency with other legal provisions (e.g. adding possession of travel medical insurance as an entry condition).

Based on the above, clarifying the provisions regarding the verification of fulfilment of entry conditions could be considered.

2.1.1.5. Consultation of and sharing information with other Member States

(20) **'Prior consultation'** means a Member State can require to be consulted during the examination of applications from all nationals of one or more third countries or specific

[24] This legal implications of this provision have been raised in a preliminary ruling (Case C-84/12):

'1) In order for the court to direct the defendant to issue a Schengen visa to the applicant, must the court be satisfied that, pursuant to Article 21(1) of the Visa Code, the applicant intends to leave the territory of the Member States before the expiry of the visa applied for, or is it sufficient if the court, after examining Article 32(1)(b) of the Visa Code, has no doubts based on special circumstances as to the applicant's stated intention to leave the territory of the Member States before the expiry of the visa applied for?

2) Does the Visa Code establish a non-discretionary right to the issue of a Schengen visa if the entry conditions, in particular those of Article 21(1) of the Visa Code, are satisfied and there are no grounds for refusing the visa pursuant to Article 32(1) of the Visa Code?

3) Does the Visa Code preclude a national provision whereby a foreigner may, in accordance with Regulation (EC) No 810/2009, be issued with a visa for transit through or an intended stay in the territory of the Schengen States of no more than three months within a six-month period from the date of first entry (Schengen visa)?'.

categories of such nationals[25] to give them the possibility of objecting to the issuing of a visa. This mechanism is intended to ensure that other Member States' interests are taken into account when examining visa applications.

The provisions on 'prior consultation' (Article 22) were largely carried over from the previous legislation, but with two major changes. The maximum response time was reduced from 14 days to seven calendar days and the list of third countries for which there has to be such prior consultation on all or some persons must be published. Information on Member States requiring such prior consultation is not published.

Prior consultation continues to give rise to discontent on the part of visa applicants and third countries' authorities because of prolonged processing times, despite efforts to ensure processing does not exceed the maximum of 15 calendar days,. However, it appears that certain Member States can now carry out the procedures within 72 hours, thanks to better IT systems.

Currently (July 2013) prior consultation concerns nationals of 30 third countries. In some cases, Member States do not require prior consultation for holders of certain official passports. In others, it only applies to holders of certain official passports. In some cases, the requirement is limited to specific categories regarding age and gender: e.g. 'male persons' — '18-60 years of age'. Some Member States link the request for prior consultation to the travel itinerary, i.e. persons entering/transiting through their territory. More than five Member States require prior consultation from the same 15 third countries. For the remaining 15 third countries, between one and three Member States require prior consultation. In 2012, prior consultation was required for about 1 548 000 visa applications (i.e. about 10 % of all visa applications).

A recent survey on the implementation of prior consultation in the Visa Committee showed that the 'hit rate' of such consultation is extremely low and that visas are rarely refused because of an objection from a consulted Member State. It also emerged that the number of visas with limited territorial validity (see below) issued because of an objection from a consulted Member State is low. However, there have been situations where the introduction of prior consultation requirements by one Member State has led to the systematic issuing of visas with limited territorial validity because there has been no time to carry out the prior consultation. Statistics are not collected on the specific reasons for issuing a visa with limited territorial validity.

[25] Overview of third countries according to number of Member States requiring prior consultation for all or some categories of persons:

Third country	No of MS
Afghanistan, Iraq, Pakistan	14
Iran	13
Libya, Syria, Yemen	10
Sudan	9
Lebanon, Somalia	8
Jordan, N-Korea	7
Belarus, Nigeria, South-Sudan	5
Egypt	3
Bangladesh	2
, DR Congo, Mali, Mauritania, Morocco, Niger, Russian Federation (only service passport holders), Rwanda, Saudi Arabia, Sri Lanka, Tunisia, Uzbekistan, Vietnam	1

Member States have argued that the low number of 'hits' or objections under the consultation mechanism is not evidence that the mechanism has no added value, because prior consultation is among the measures to prevent entry of persons presenting a security risk.

The list of third countries for whose nationals prior consultation is required has remained fairly stable over recent years. Contrary to the situation for the airport transit requirement, there is no regular review mechanism. Introducing a regular review could be considered, and account should be taken of technological developments to shorten response times.

(21) Given the negative 'practical' and political impact of prior consultation and given that several Member States have indicated they would rather be informed about visas issued than consulted on visa applications, the option of **ex-post information** was introduced (Article 31). However, this has not had the expected result. Only one Member State moved a relatively high number of third countries from 'prior consultation' to 'ex-post information'.

Currently (July 2013) ex-post information concerns all nationals of 65 third countries. In one case, this does not apply to holders of certain official passports. In another, it only applies to holders of certain official passports. Consequently, practically all nationals of 64 third countries are concerned. This corresponded in 2012 to about 13 123 000 visa holders (in total about 14.5 million visas were issued), meaning that some Member States require ex-post information on practically all visas issued.

The purpose of prior consultation is obvious: verification against national databases of visa applicants before a final decision is taken on a given application. The legal consequences are clearly established by the Visa Code: refusal of a visa because of a Member State's opposition to the issue of a uniform visa (valid for the entire Schengen area) or the issue of an LTV valid only for the issuing Member State. Any consequences of ex-post information are not settled by the Visa Code. A recent ad hoc (but incomplete) survey among Member States showed that practices vary from storage of data in national databases to mainly using the data for statistical purposes. On the basis of information received in ex-post information, some Member States annul or revoke visas issued by another Member State.

2.1.1.6. Decision making and issuing or refusal of a visa

(22) Before the Visa Code, there were no **deadlines** set **for examining a visa application**. Article 23 introduced a fixed maximum deadline, i.e. 15 calendar days[26], to ensure equal treatment of visa applicants. Generally, this deadline is met,, including in cases where 'prior consultation' applies. The actual average decision-making time is much shorter, often less than five days (cf. also the Economic Impact Study).

The waiting time for lodging an application may be up to 15 days, and an application can only be lodged three months before the intended date of travel. So the prolonged deadlines for examining an application for a short-stay visa seem excessive and could in extreme cases result in the person concerned not being able to travel at all, given that Article 23(2) and (3) provide for up to 30 days (in 'individual cases', e.g. where the represented Member State must be consulted) and of up to 60 days (in 'exceptional cases').

The reference to the deadline starting on the date of lodging an admissible application could create legal uncertainty. This is because the application may be lodged with an external service provider, but only Member State consular authorities are entitled to consider an application admissible (cf. Article 19). However, this issue does not have any significant

[26] The Commission had proposed 10 days. In the VFAs the maximum deadline is 10 calendar days. .

practical impact, since, as a general rule, applications lodged at an external service provider are transferred to the responsible consulate the following day.

The period of validity of the uniform visa, the number of allowed entries, and the duration of the stay to be granted are based on the travel purpose, the examination of the application and the applicant's 'visa history'. A visa may be issued for one, two or multiple entries with a period of validity of up to a maximum of five years.

Article 24(1), third sub-paragraph, states that '*in case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit'*, and Annex VII, point 4, provides that '*when a visa is valid for more than six months, the duration of stays is 90 days in any 180 days period'*.

The first provision is clear in the case of a single or two-entry visa, but the combination of the two raises doubt about how to interpret the rules if an MEV with a validity of two years is issued for the purpose of 'transit'. However, the Commission agreed that among the underlying principles of the common visa policy is that a visa is not purpose bound, so this implies that point 4 of Annex VII also applies when the MEV is issued in view of transiting regularly through the Schengen area.

Given the 'merging' of transit and short stay and the acknowledgement of the artificial distinction between the two, clarifying the provisions in Article 24(1), third subparagraph, accordingly could be considered.

(23) To allow for unexpected changes in timing of a planned journey for reasons beyond the visa holder's control (e.g. flight cancellations, postponement of commercial or cultural events, business meetings), a reasonable number of additional days, i.e. a '**period of grace'**, is to be added to the validity of the visa (for a single-entry visa). The 'period of grace' is to be added systematically, but given problems with the period to be covered by the TMI, the intended flexibility for the traveller has mainly led to excessive insurance requirements (see paragraph (14)). In the public consultation, some respondents also mentioned problems arising from the fact that the authorised stay generally corresponds precisely to the event which is the purpose of the trip. This means that in the case of unforeseen delays or sudden business or other professional opportunities, the visa holder cannot postpone departure for a few days..

(24) Article 24(2) contains crucial provisions both for visa applicants and consulates. It regulates the issuing of **multiple-entry visas with a period of validity between six months and five years**. The corresponding recital (8) reads as follows: '*Provided that certain conditions are fulfilled, multiple-entry visas should be issued in order to lessen the administrative burden of Member States' consulates and to facilitate smooth travel for frequent or regular travellers. Applicants known to the consulate for their integrity and reliability should as far as possible benefit from a simplified procedure.'* In fact, the most important facilitation travellers can get is a MEV with long(er) validity. This is in practice equivalent to a visa waiver within the period of validity of the MEV, resulting in significant savings and efficiency gains both for visa applicants (time and costs) and consulates (time). Therefore the implementation of this provision is of crucial importance.

The provisions (paragraph (2)) on issuing multiple entry visas were carried over from the previous legislation, but rules on mandatory issuing of MEVs to certain categories of persons were added. Although Article 24(2) is a 'shall'clause *('multiple-entry visas shall be issued […]'*), it is undermined by the subjective assessment of notions such as 'integrity', reliability' and 'genuine intention to leave'.

In practice, more and more MEVs are issued under the provisions of the Visa Code — but to a larger extent in third countries with which a Visa Facilitation Agreement is in place[27]. Judging by the overall statistics[28], the number of MEVs issued is growing steadily, but precise data detailing the length of validity of the MEVs (e.g.one, two or three years) is not available.

However, Member States are reluctant to issue MEVs valid for more than one year and rarely grant MEVs valid for five years. In the public consultation, 84% of respondents had been granted MEVs valid for less than a year and for 43%, validity was under six months. Only 5% of respondents had been granted visas valid for more than two years. (Some even claim that it is not in the interests of ESPs and Member States to issue MEVs, as this would reduce the number of applicants and economic gain from service and visa fees!). The cruise industry, manning and shipping companies emphasise that the lack of long-validity MEVs for seafarers is problematic and generates additional costs for their business.

The Visa Code Handbook provides clarifications for processing visa applications as regards the categories of persons that could be eligible for MEVs. But eligibility conditions such as 'integrity' and 'reliability' of the applicant set out in the Visa Code give Member States' consulates too big a margin of discretion in implementing this provision.

On the basis of the above, the possibility of introducing objective criteria could be considered to ensure proper, harmonised implementation of the provisions on MEVs.

Additionally, there is a tendency among consulates to disregard a visa holder's correct use of short-stay visas previously issued by other Member States when assessing whether a person is eligible to be granted a MEV with long validity.

(25) If a visa applicant does not fulfil the entry conditions, the visa should be refused (Article 32). Under specific circumstances, a **visa with limited territorial validity (LTV**) may nevertheless exceptionally be issued to such a person. These circumstances may be humanitarian grounds, for reasons of national interest, or because of international obligations. An LTV may be issued if a person has already stayed in the Schengen area for 90 days within a 180-day period, but there are justified reasons for allowing the person to stay longer (in the issuing Member State only). Finally, an LTV should be issued to persons who hold a travel document not recognised by all Member States. In principle, an LTV is only valid for a stay in the issuing Member State, but in the latter case, if issued by a Member State that recognises the travel document, the validity is limited to stays in Member States that recognise the travel document.

All provisions regarding LTVs that were previously scattered around in various, incoherent legal instruments are now covered by Article 25. Apart from clarifying the general provisions, the Visa Code also introduced provisions to cover a situation in which an LTV is issued by a Member State that cannot be reached by a direct flight, obliging the visa holder to enter the Schengen area via another Member State to reach their destination. That other Member State must give its consent to such an extension of the validity of the LTV.

Given the absence of internal border controls, one could question the added value of LTVs, because it is very difficult to verify whether the holder of such a visa complies with the limits

[27] The overall MEV rate (2012) is 41.5% worldwide (without the Russian Federation, Ukraine and Moldova: 36%). MEV rate in the Russian Federation: 49%; Ukraine: 38.5%; Moldova: 26.7%.

[28] Share of MEVs of total number of visas issued: 35.8% (2010), 37.8% (2011), 41.6% (2012).

on the right to travel to other Member States. There is, however, no statistical evidence of abuse. .

The total number of LTVs issued remains low (about 2% of all visas issued in 2012) and detailed data are not available about the specific reasons for issuing them. High numbers of LTVs are issued to nationals of countries involving prior consultation. This could indicate that in urgent cases, prior consultation is not carried out and a LTV is issued instead.

(26) When an LTV has been issued, the issuing Member State has to inform other Member States of this, except when the LTV has been issued because the person concerned holds a travel document not recognised by one or more other Member State(s) or when the LTV is issued to a person who has already stayed for 90 days in a 180-day period.

As the Visa Code does not specify what data are to be transmitted and how, 'best practices' and a form to be used have been drawn up in accordance with the provisions of Article 51 as an amendment of the Visa Code Handbook. Despite the fact that information on issued visas is stored in the VIS, it will always be necessary to actively inform the central authorities of other Member States about individual cases. Once VISMail becomes operational, it will be easier to share information (Article 16(3) of the VIS Regulation), i.e. only the application number will have to be transmitted.

As mentioned in paragraph (25), the issuing of an LTV can be the solution if a person has legitimate reasons for staying longer than 90 days in a 180-day period without wishing to reside in a Member State. The Commission is aware that some Member States have used this possibility to cover the particular needs of live performing artists, (see chapter 2.1.9), but such practices are not legally sound.

(27) Article 27 and Annex VII set out rules on **filling in the visa sticker**. These provisions were generally taken over from the previous legislation, but new provisions were added in the Annex, particularly regarding the 'COMMENTS' section of the visa sticker (Annex VI, point 9). One of the mandatory entries is 'TRANSIT' to be added when a visa is issued for the purpose of transit, but given that Schengen visas are not purpose-bound, this seems superfluous.

Whereas the entire Annex covers mandatory rules, point 9 b) allows Member States to enter 'national comments' which should not overlap with the mandatory ones. Many Member States have nevertheless notified overlapping 'national' comments. Some have notified an excessive number of comments, often in the form of codes, which refer to details on the purpose of stay, national legislation or intended border crossing point.

Some of the comments are incomprehensible for the visa holder and not explained to them, e.g. codes such as 'BNL 12' 'BNL 13'' or 'C/VB/99-/--'[29], and border control and law enforcement authorities do not necessarily have the translation (or explanation of codes) of the relevant annex to the Visa Code Handbook at hand. Moreover, codes/comments that may signify a 'limitation' of purpose go against the fundamental principle that short-stay visas, particularly visas allowing multiple entries, are not purpose-bound.

Member States have claimed that such comments are necessary to facilitate border control, but the added value is questionable. Additionally, border control authorities now have access to information on the visa application that has been entered into the VIS, so such national comments seem obsolete and irrelevant.

[29] BNL 12: visa issued for "professional purposes"; BNL 13:visa issued for "business purposes"; C/VB/99-/--: " single-entry visa for up to 90 days – other".

(28) Member States generally omit to inform visa applicants about the difference between period of allowed stay and period of validity of the visa and the significance of the entries on the visa sticker. In the public consultation, 74% of respondents said they had not received such information.

The entries on the visa sticker must always be printed, but in cases of *'technical force majeure'*, the visa sticker may be filled in manually. Judging by the notifications on manually filled in visa stickers, such 'technical force majeure' occurs regularly. Rather than filling in visa stickers manually in such cases, Member States should ensure that sufficient backup equipment is available to overcome technical problems immediately or to seek technical support from other Member States in the same location.

(29) The VIS is progressively rolled out, region by region, in the order defined by the Commission. This means that the collection of applicants' fingerprints also becomes mandatory progressively. However, Member States may start storing (and consulting) data in the VIS ahead of the general planning in any location, with or without collecting fingerprints.

This means that until the VIS is rolled out worldwide, different situations regarding the storage of data on visa applications will co-exist. For some applications, all data, including fingerprints, are stored in the VIS; for others, only alphanumeric data and the digital photograph are stored in the VIS; for others still, no data are as yet stored in the VIS.

To facilitate controls at external borders until the full roll-out, Annex VII to the Visa Code was amended[30] to establish specific codes to be printed on the visa sticker to show whether the visa holder's data had been registered in the VIS and whether his/her fingerprints had also been stored.

(30) A specific article has been dedicated (Article 30) to restating the basic and essential principle that possession of a visa does not confer any automatic right of entry. Possession merely allows the holder to present him/herself at the external borders so that they are aware that border control authorities can check that entry conditions are fulfilled at that time.

Although Member States are, under Article 47(1)(i) of the Visa Code, obliged to inform visa applicants of this, some Member States have reported that up to 30% of all refusals of entry were caused by third country nationals' lack of knowledge of entry conditions. To ensure that visa holders are aware of these, a harmonised 'leaflet' informing holders of the rights derived from an issued visa has been drawn up in accordance with the provisions of Article 51 and will be integrated into the Visa Code Handbook.

(31) The innovating provisions on **mandatory motivation (giving reasons) and notification of refusal/revocation and annulment of a visa and the right of appeal** of such decisions became applicable one year after the start of application of the Visa Code. By that date (5 April 2011), all Member States had established procedures for the appeals procedure. The reason for the staggered implementation was that several Member States needed a transitional period to prepare the legal set-up for such procedures. In reality, a number of Member States that already offered such a legal remedy under national legislation started implementing these provisions of the Visa Code immediately.

Articles 32(3), 34(7) and 35(7) establish the obligation for Member States to provide a **right of appeal** against a visa refusal/annulment/revocation. Following a horizontal analysis of Member States' legal implementation of this obligation, some Member States appeared not to

[30] Commission Regulation (EU) No 977/2011 of 3 October 2011, OJ L 258, 4.10.11, p 3. .

provide access to a judicial body for an appeal against a visa refusal/annulment/revocation. The appeal was only possible at an administrative body, which in some occasions was the same authority (i.e. the consulate) that issued the decision to refuse/revoke/annul the visa. Some Member States had also established problematic short deadlines or very high fees to lodge these appeals. The Commission addressed eight Member States through the EU pilot platform in August 2012. Some of the Member States reacted positively and have amended their national legislation in accordance with the Commission's arguments. However, several Member States rejected the Commission's position, arguing that the Visa Code left the organisation of the appeals procedures against visa decisions to the national legislator. The first steps towards formal infringement procedures against these Member States started in 2013.

The Commission does not collect data on the number of appeals lodged against negative decisions on visa applications or on their outcome, but ad hoc surveys show that the numbers vary among Member States and the visa applicants' country of origin. Therefore, comprehensive data on the administrative burden that this provision has entailed for Member States is not available. However, based on the limited information collected by the European Agency for Fundamental Rights, the number of appeals against negative decisions is very low and the original decision is rarely reversed[31].

From the figures that are available, it is clear that not all visa refusals lead to an appeal. A visa applicant may, indeed, consider that it is more appropriate to lodge a new visa application than to lodge an appeal. The grounds for refusal are probably an important factor in this regard. If the refusal is based e.g. on insufficient proof of means of subsistence, an applicant may consider lodging a new application accompanied by more convincing proof that he/she possesses sufficient means of subsistence (e.g. a new sponsorship). If the refusal is based on doubts about the 'will to return', the applicant may be motivated to appeal against the refusal to avoid any negative impact on subsequent visa applications even if, according Art. 21 (9) of the Visa Code, '*a previous visa refusal shall not lead to an automatic refusal of a new application. A new application shall be assessed on the basis of all available information.*'

Annex VI contains the standard form for notifying and motivating (explaining) refusal, revocation and annulment of visas. The form matches the standard form for refusing entry at the external border and is based on the entry conditions. Although the form allows Member States to add more explanation, rather than just ticking one of the boxes for standard grounds for refusal, that is rarely done. Generally, the form is seen as offering insufficient motivation (explanation) of the refusal (75% of the respondents in the public consultation whose application had been refused stated that they had not received sufficient information about the possibility and time limits for appealing against refusal of a visa).

Data are not collected on the grounds for refusal, revocation or annulment (contrary to what is the case for refusals of entry, for which data are collected on the reasons for refusal of entry and the nationality of the persons refused entry (Schengen Borders Code, Article 13).

[31]Examples:
Belgium: Total number of refusals 37 362 — appeals:300; decision reversed: 2
Hungary: Total number of refusals 7 157 — appeals:341; decision reversed: 58
The Netherlands: Total number of refusals 29 912 — appeals: 463; decision reversed: 39
Slovenia: Total number of refusals 1 769 — appeals:1; decision reversed: 0
http://fra.europa.eu/en/publication/2013/fundamental-rights-challenges-and-achievements-2012.

2.1.1.7. Management of visa sections

(32) The content of Article 37 on the organisation of visa sections has mainly been taken over from the previous legislation. Given the initial 'disclaimer' that Member States shall be responsible for organising the visa sections of their consulates, it provides rather general guidelines instead of precise and enforceable legal requirements. Certain provisions regarding archiving appear outdated.

(33) Article 38 corresponds to Article 14 of the Schengen Borders Code and refers both to deployment and training of staff and functional and security standards of premises. Like the previous article, these provisions are rather general guidelines instead of enforceable legislation. Based on information gathered in local Schengen cooperation, it appears there is room for improvement on training. Judging by the Member States' capacity referred to earlier, and given the steady rise in the number of visa applications combined with budget cuts, it would seem that in a number of locations, staff are not available in 'sufficient numbers'. However, many Member States seek to solve that problem by temporary posting of staff during peak season and/or outsourcing the collection of visa applications to an ESP.

(34) The objective of Article 39 is to ensure that staff of Member States' diplomatic missions and consular posts respect the European Charter of Fundamental Rights when dealing with visa applicants by treating them courteously, in respect of human dignity and without discrimination. Nevertheless, the Commission regularly receives complaints about treatment by consular staff. A third of respondents in the public consultation rated consular staff as 'not friendly'.

2.1.1.8. Visas applied for and issued at the external borders

(35) Generally, visas are to be applied for before the person concerned travels, at the consulate of the competent Member State (cf. Article 4(1) of the Visa Code) to ensure that applications are properly examined. There may, however, be situations where a person has to apply for a visa at the external borders and therefore a legal framework for this situation was drawn up in 2003. These provisions were largely carried over in the Visa Code. Article 35 covers the general provisions on the issuing of visas at the borders and Article 36 and Annex IX cover provisions concerning seafarers (in particular the 'form for seafarers in transit'). The current rules were generally carried over from the previous legislation, but it has been emphasised that visas can only exceptionally be applied for at the external borders. This seems to have led to a restriction in offering this possibility only to specific categories of persons who, due to the nature of their profession, are often compelled to apply for visas at the external borders, e.g. seafarers.

As regards the specific category of seafarers, their particular work situation makes it virtually impossible for them to comply with certain provisions of the Visa Code, e.g. applying for a visa no earlier than three months before intended travel. Often, the seafarer will be at sea at this point and unable to apply for a visa before reaching the harbour of a Member State. Lodging an application in person at a consulate can be impossible if the person concerned comes from a remote location or if there is an urgent need to change vital crew. As for the issue of 'competent Member State', for certain types of shipping, the port(s) of destination/call are not always known in advance. The shipping and cruise industries have reported major expenses linked to administration and staff travel (to match visa requirements), rerouting of vessels to countries either outside the Schengen area or to Schengen States considered the most 'flexible' in terms of issuing visas at the border.

Many of the specific problems facing seafarers could be solved by the systematic issuing of a two-entry visa valid for 12 months as a minimum. This would also reduce the number of applications lodged at the external borders. Guidelines to this effect were already drawn up in 2003 in the Visa Working Party and have now been added in the Visa Code Handbook.

Annex IX, Part I, covers 'rules for issuing visas at the border to seafarers in transit subject to visa requirements'. Rather than legal provisions, this part of the annex contains guidelines regarding the exchange of information between Member States' authorities under three different situations of transit: 'signing on a vessel, leaving service from a vessel and transferring from a vessel to another vessel.' Additionally, the 'guidelines' contain a general reference to the rules of stamping of travel documents, set out in the Schengen Borders Code.

Annex IX, Part 2, establishes a 1-page 'form for seafarers in transit who are subject to visa requirements' and contains a two-page explanation on how to fill in the form. The purpose of this form is to provide information on the seafarer, the vessel and the shipping agent. Additionally, the seafarer's personal data are to be given (also covered by the mandatory visa application form) and information on the purpose of entry. Only one problem with the use of this form has been signalled by the industry: the reference to the 'seaman's book'. As a general rule, only maritime staff hold a seaman's book, whereas hotel and hospitality staff (80 % of staff in the cruise industry) do not.

It would seem appropriate to consider a revision of Annex XI.

Despite the legal requirement for Member States to submit data to the Commission on the issuing of visas in all 'locations' (including at border crossing points), some Member States claim that they are not obliged to provide such data. This is a matter of concern, not least as regards the secure handling of blank visa stickers. According to available data, approximately 107 000 visas were applied for at the external borders in 2011 and about 1 % were refused.

2.1.2. Information to the general public

(36) It is essential that applicants be well informed of the criteria and procedures for applying for a visa, given recent developments, where call centres, appointment systems and outsourcing have been introduced. It is in the interests of visa applicants to know precisely what is required for submitting an application. Member States too need to ensure that all relevant information and documentation is available to enable applications to be properly assessed.

Article 47 lists all the aspects to be covered (e.g. criteria, conditions and procedures for applying for a visa, accredited commercial intermediaries, deadlines for examining a visa application).

Within local Schengen cooperation, common information sheets have been drawn up in some locations, whereas in others, work is in progress on these. In some locations, the view is that, although mandatory under Article 48, work on such information sheets is superfluous as Member States already provide the appropriate information.

The assessment of websites showed that about 70 % of the sites offered 'average' or 'poor' information in comparison with the provisions of the Visa Code (Article 47)., This is mainly because information is not comprehensive and the 'Schengen' aspect of the visa is not always described. Applicants may get the impression that conditions and procedures for applying for a visa differ from Member State to Member State. Respondents (applicants and experts) said that it was not always obvious where to find the relevant website, because of the lack of

overview on the consulates and their representations. Feedback also highlights the lack of consistency and completeness of information. Among those who looked for information on the Internet, 60% of the respondents found that the procedure was explained clearly and 25% found that the information was fairly helpful, but needed to be completed by details from the consulate or personal contacts that had already gone through the application procedure themselves.

In the public consultation, 35% of respondents rated getting access to information as difficult or very difficult.

(37) According to Article 53, Member States are to notify a number of items to the Commission. The Commission publishes the compilation of this information on its website and also shares it with Member States on a common electronic platform.

Recital (23) of the Visa Code establishes that: 'A common Schengen visa internet site is to be established to improve the visibility and a uniform image of the common visa policy. Such a site will serve as a means to provide the general public with all relevant information in relation to the application for a visa.' In 2012-2013, a study was carried out on the availability, completeness and consistency of information on the Schengen visa on the Internet, primarily on Member States' websites (at central level or at consulate level).

A second phase of the above study has been launched to identify best practices and recommendations for establishing a common Schengen visa Internet site, or for improving existing EU and national websites.

2.1.3. Common operational instructions

Article 51 of the Visa Code establishes that 'operational instructions on the practical application of [the] Regulation' are to be drawn up by means of implementing acts. These operational instructions have been gathered in two Handbooks. The objective of the Handbooks is to draw up one set of instructions to ensure consistent implementation of common legal provisions. The Handbooks neither create any legally binding obligations on Member States, nor do they establish any new rights and obligations for persons who might be concerned by them. Only the legal acts on which the Handbooks are based or refer to have legally binding effects and can be invoked before a national jurisdiction.

(38) The 'Handbook for the processing of visa applications and the modification of issued visas', addressed to Member States' consular staff, was drawn up in close cooperation with Member States in the Visa Committee (established by the Visa Code) and became applicable simultaneously with the Visa Code. In the light of early experience in the application of the Visa Code, the Handbook was amended in 2011 to ensure that it remained a useful tool. A second amendment is under preparation and should be adopted in autumn 2013. To ensure that Member States' operational staff have all relevant information at hand, there are 28 annexes to this Visa Code Handbook: the annexes to the Visa Code, compilations of various Member States' notifications (cf. Article 53) and relevant annexes from the Schengen Borders Code Manual.

(39) A separate 'Handbook for the organisation of visa sections and local Schengen cooperation', mainly addressed to Member States' central authorities, was adopted just after the start of implementation of the Visa Code. Unlike the handbook mentioned above, this set of operational instructions largely reproduces the legal provisions of the Visa Code, because given the relatively vague formulations of the legal provisions, e.g. 'Member States shall deploy appropriate staff in sufficient numbers' (Article 38(1)) and Member States'

competence regarding the organisation of visa sections, it was difficult to draw up common guidelines.

2.1.4. Consular cooperation and consular coverage

The progressive roll-out of the VIS will require visa applicants to present themselves in person, at least for their first application. To allow pooling of resources of Member States and to avoid excessive burden and costs for visa applicants, the Visa Code set up a legal framework of alternative ways of cooperation among Member States to ensure a consular presence for the lodging of visa applications in applicants' places of residence.

(40) According to Article 40(1), 'each Member State shall be responsible for organising procedures relating to applications' and that 'in principle, applications shall be lodged at a consulate of a Member State'. The common visa policy is applied by 26 Member States whose consular networks differ greatly, as do the numbers of visa applicants. To ensure that visa applicants can apply where they reside (as provided by Article 7), to ease the effects of some Member States' limited consular network, and to allow Member States not to maintain visa processing consular posts in locations where the number of visa applications is low, the Visa Code contains a number of articles allowing for different types of representation, cooperation and organisation to enlarge 'consular coverage'.

(41) **Representation** arrangements between Member States are the 'classic' means of cooperation and of enlarging consular coverage. Article 8 generally carried over the existing rules. However, efforts were made to restructure the provisions to make them clearer (e.g. basic requirements of bilateral representation arrangements) and specific rules have been added, ensuring that applicants and other Member States both locally and centrally are informed in good time about the entry into force or termination of agreements on representation.

Generally, and in line with the basic principle of mutual confidence on which the common visa policy is built, representation arrangements are to cover the entire visa handling process. But the Visa Code also allows for **'limited representation'** for the sole purpose of collecting applications and biometric data. The reasoning behind this was that Member States could save costs in connection with the roll-out of the VIS, by having another Member State collect applications and biometric data from applicants on their behalf, while the examination itself would be carried out by the Member States with 'limited representation'. To date, according to the information at the disposal of the Commission, this possibility has never been used because the practical and technical challenges outweigh the added value.

Previously, there were no clear rules on how to handle cases where a representing Member State envisaged taking a negative decision on an application. Often, the visa applicant was simply asked to resubmit the application to the nearest consular office of the represented Member State. The intention of Article 8(2) was to avoid putting the burden on the applicant in such cases by having the two Member States concerned exchange the application file. However, acknowledging that such transmission is costly, cumbersome and time consuming and, to be coherent with the mandatory provisions on refusal of a visa (including regarding the legal responsibility for appeals), Article 8 provides that a representation arrangement may stipulate that representation also covers refusals.

In the 2005 proposal for the Visa Code, the Commission proposed clarifying (contrary to what was previously the case) that it would always be the representing Member State that would carry out 'prior consultation' under Article 22, and the previous rules on 'prior consultation' of a represented Member State were abolished. Article 8(4)(c), nevertheless, contains unclear

rules mixing up the two issues. This has given rise to recurrent technical problems with the exchange of data for prior consultation, but also created obstacles for the conclusion of representation arrangements, to the detriment of visa applicants.

Article 8(5) allows a represented Member State to offer *'premises, staff and payment'* to the representing Member State. No data on the application of this possibility are available, and it is assumed that it has never been applied, most likely because of technical and administrative obstacles.

Complete data on the number of visa applications lodged under representation arrangements are not available. Based on data collected ad hoc (in the exchanges of statistics in local Schengen cooperation and upon specific request), it seems that the number of visas applied for in representation is generally[32] low in a specific location. This contrasts with the considerable added value of facilitation for visa applicants, especially for the 'image' of the common visa policy when all Member States are represented in a given location. Member States have indicated that one of the main reasons for refusing to represent others is lack of resources. That said, some Member States already represent all or most others in a number of locations.

It could therefore be considered whether the availability of EU funding for representation arrangements could be a way to promote the effectiveness of these provisions.

Article 8(5) and (6) cover 'soft law' provisions encouraging Member States to conclude formal representation arrangements or to ensure 'ad hoc' arrangements to enable applicants to apply in their place of residence. However, the non-mandatory character of these provisions renders them ineffective and inconsistent with the requirements for applicants to apply in their place of residence.

However, 8.3% of respondents in the public consultation on the implementation of the Visa Code said they had <u>not</u> been able to apply for a visa where they live because the competent Member State was neither present nor represented there.

Overall, the system of (full) representation works well and the number of representation arrangements has been steadily growing. However, the requirements referred to in point (20), i.e. the represented Member State wanting to be consulted or to take negative decisions, preventing the representing Member States from taking sole responsibility for full processing, render the system inefficient and are inconsistent with a common visa policy. To date, there are about 900 'blank spots' in the table of consular presence/representation, where Member States are neither present nor represented. Only in approximately 20 locations worldwide is full presence/representation ensured.

(42) Recital (13) reads as follows: 'In order to facilitate the procedure, several forms of cooperation should be envisaged'. Article 40 provides a legal framework for various organisational options, which rather than being 'forms of cooperation', cover means of ensuring consular coverage, mainly for the purpose of <u>collecting</u> visa applications (and biometric data). This article is not a precise legal, enforceable provision, but is intended as a 'scene setter' for different forms of cooperation in order of priority. It also sets the criteria for

[32] Example: France is the Member State that represents the most: by May 2013, France represented 23 other Member States in various locations which amounted to a total of 436 representations arrangements covering 81 consular posts. Number of visas issued under these representation arrangements was: 27 144 visas (2010), 32 795 (2011) and 44 991 (2012). In comparison, France issued in total 2 104 760 visas in 2012.

the last resort option, i.e. outsourcing, to be used only when other possibilities 'prove not to be appropriate.' The following three articles set out the details of different types of organisation.

Article 40 defines **co-location** (consular staff of several Member States sharing the consular premises of one Member State). No information on co-location has been communicated to the Commission. It can be assumed that from a practical and technical point of view, setting up such cooperation is cumbersome and not worthwhile if the purpose is only to collect applications, while maintaining consular premises fully equipped to examine visa applications, which includes connection to central databases. The costs potentially saved by sharing facilities to receive applicants and equipment to collect biometric data are likely to be spent on additional costs linked to transferral of data, files and staff from the 'co-location' to the 'back office'.

The article also defines Common Application Centres (CACs). These provisions are hardly used by Member States. To date a fully-fledged CAC has not materialised, though, for the same reasons as those mentioned regarding challenges of co-location, millions of euros have been made available for developing consular cooperation projects, in particular CACs, under the Community Actions of the External Borders Fund. Only two such projects have been funded: the 'Schengen House' in Kinshasa, Democratic Republic of Congo and the 'Centro Comum de Vistos' in Praia, Cape Verde. These operate on the basis of classical representation arrangements: not only are applications lodged at the centre, but examination and decisions also take place there, by the Belgian and the Portuguese consulates respectively.

One of the main reasons for the limited use of such options is the fact that Member States consider representation arrangements and outsourcing as the cheapest and easiest form of cooperation. In addition, Member States claim that co-location and CAC as defined in Article 41 of the Visa Code do not provide the necessary flexibility for establishing operational structures on the spot.

According to the definition, the CAC, for instance, is a form of cooperation where staff of the consulates of two or more Member States are pooled in one building (other than their own) to enable applicants to lodge visa applications there. As the name suggests, a Common Application Centre is 'just' an application centre. Decisions on applications should be made by the consulates of the respective Member States.

Practice shows that it is much easier to have another Member State carry out the entire procedure (full representation) than just a part of it. In the case of a CAC, the secure and speedy transfer of application files from that centre to the decision-making consulate should be ensured. This takes time and money, and requires personnel. Moreover, the definition implies that the building to be used should not be the consulate of one of the participating Member States (otherwise, in legal terms, the project should be considered as co-location).

Finally, the definition also requires that project partners should deploy their own consular staff to the CAC, something that Member States will not do unless there are enough of 'their own' visa applications to process.

It should also be borne in mind that setting up co-location or a CAC would not necessarily lead to increasing consular presence, as both (particularly co-location) presuppose that one Member State is already present in the location and the existing cooperation structures labelled as 'CACs' have all been established in the capitals of the countries concerned. They have, however, led to better reception facilities for applicants and provide good visibility for the EU and its common visa policy.

It could be considered whether a more flexible framework would enable the most appropriate cooperation structures to the established in the light of local circumstances.

(43) Under the Visa Code (Article 42), it became possible for Member States to authorise **honorary consuls** to collect visa applications and biometric data to enhance consular presence. To date only five Member States[33] have authorised some of their honorary consuls to collect visa applications, often in third countries whose nationals are not subject to the visa requirement. Some Member States have authorised honorary consuls to collect applications in locations where these Member States are also represented by another Member State (in one case, only for certain categories of visa applicants).

Based on information collected from Member States, honorary consuls will only exceptionally be authorised to collect fingerprints, which could put the 'one-stop' principle at stake, unless authorisation is withdrawn altogether, which would be detrimental to visa applicants.

(44) **Outsourcing** of parts of the visa handling process had started before the implementation of the Visa Code, but the Code sets out a clear legal framework on which such cooperation is to be based, also covering the content of the legal instrument (i.e. the contract). Member States should notify the start of such cooperation, as well as the legal instrument, to the Commission. Member States do not systematically do so. Often, information on new instances of outsourcing is discovered 'by accident' and contracts are only submitted upon request.

Outsourcing collection of visa applications to private companies, i.e. external service providers, is a relatively new phenomenon. It has been prompted by increasing numbers of visa applicants, inadequate reception facilities at consular premises, redeployment or lack of consular staff and, in some locations, for security reasons.

The use of outsourcing also considerably enlarges the 'consular' presence in large countries such as the Russian Federation, as ESPs can open 'visa offices'/'drop boxes' in locations remote from the capital, which is generally the only location in which the competent Member State is present. Although lodging an application at an external service provider means the applicant has to pay a service fee, this is always less costly than travelling long distances to lodge the application. It should also be noted that there have been examples of third country authorities, e.g. in China, that have prevented external service providers from opening offices in locations where no Member State has a consular presence.

(45) According to Article 17(5), Member States using outsourcing must maintain the possibility for applicants to lodge their application directly at the consulate so that no one is forced to pay an extra service fee. The original Commission proposal referred to 'direct access' only as an option, but the text eventually adopted was part of the final compromise in negotiations. Its ambiguous formulations ('maintain the possibility of …. to lodge their application directly') make it difficult to enforce this provision. Bearing in mind that the main reason for using outsourcing is a Member State's lack of resources and reception facilities to receive applicants in high numbers or for security reasons, the requirement on maintaining access to the consulate can be seen as an impossible burden for Member States. To ensure that emergency cases are treated promptly, priority access to the external service provider should be the general rule.

[33] Italy (97), Austria (75), the Netherlands (27), the Czech Republic (4) and Portugal (2). The figures in (..) refer to number of locations and are based on data available in June 2013.

The ‘direct access’ is often — except for cases of extreme urgency — more a theoretical possibility than a real one, e.g. a service provider collects visa applications for a Member State in Belarus, the applications are transferred to the Member State’s consulate in Moscow, where direct access for Belarus applicants is ‘ensured’, or access to the consulate is only possible during limited opening hours and requires an appointment.

The Commission has received numerous complaints about Member States’ violation of this provision, and has therefore conducted an investigation of their practices. It turned out that in some cases, there was no ‘direct access’ to lodge applications directly at the Member State’s consulate. The only option was to lodge them at the external service provider.

(46) As mentioned above, outsourcing should be used as the last resort, but in reality, it is the preferred option. Article 43 states that ‘Member States shall endeavour to cooperate with an external service provider together with one or more Member States’. This has proved unrealistic in practice, because Member States have to launch individual calls for tender according to national public procurement rules. Although most Member States have signed contracts with the same (few) service providers operating in this field, all have drawn up individual — and in some cases — global contracts.

This situation could be a source of concern. Though the major companies tend to standardise information given to the public, which could be seen as an asset in terms of the image of the common visa policy (and ‘common application centres’), it can also lead to the lack of precise, up-to-date information.

The Commission has received complaints about the lack of access to information or of direct access to consular staff when outsourcing is used. In the public consultation, respondents complained that the employees of visa application centres were poorly informed and that they refused to accept applications for multiple entry visas. Some respondents complained that the services provided at the centres did not justify their high charges as, for instance, staff did not take responsibility for the safety of the passports with which they were entrusted.

Article 43 sets out the tasks that can be carried out by an external service provider and Annex X sets out the requirements of the contracts to be drawn up. Member States are supposed to submit copies of such contracts to the Commission. Generally, the contracts submitted comply with the provisions of Annex X. However, some Member States have systematically omitted to forward contracts. Some Member States also systematically fail to notify the use of outsourcing.

To date, no examples of fraudulent behaviour nor problems regarding the secure transmission of data on the part of ESPs have been reported to the Commission. The Commission does not have the means to verify the nature and frequency of Member States’ monitoring of ESPs to ascertain any possible problems that may have occurred.

2.1.5. Interaction between the Visa Code and Directive 2004/38 on the free movement of EU citizens[34] and their family members

(47) Both before and after the entry into force of the Visa Code, the Commission has received numerous complaints and requests for clarification and information on the procedural visa facilitations that apply to family members of EU citizens.

[34] By virtue of the EEA Agreement, Directive 2004/38/EC applies also in relation to the EEA Member States *(Norway, Iceland and Liechtenstein)*. The derogations to the Directive, foreseen in the EEA Agreement, are not relevant for the visa procedure. Consequently, where this part refers to the EU citizen, it must be understood as referring to EEA citizens as well, unless specified otherwise.

According to Article 5(2) of Directive 2004/38 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[35], *'family members who are not nationals of a Member State shall only be required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law. … Member States shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible and on the basis of an accelerated procedure.'*

The provisions of the Visa Code apply to all third-country nationals who require a visa pursuant to Regulation 539/2001 *without prejudice* to the right of free movement enjoyed by third-country nationals who are family members of EU citizens (Article 1(2)(a) of the Visa Code) and of EEA and Swiss citizens (Article 1(2)(b)).

Thus, as a rule, the Visa Code applies to visa applications (to be) lodged by family members of EU citizens, but without affecting the visa facilitations provided by the Directive which apply as a *lex specialis*.

The Visa Code does not contain many other specific provisions taking account of the Directive and settling explicitly the relationship between the general Visa Code rules and the regime applicable to family members of EU citizens.

One of the exceptions is Annex I on the harmonised visa application form. This gives family members of EU, EEA or CH citizens an exemption from having to fill in specified fields while exercising their right to free movement, as requiring that data — e.g. on the purpose of travel and the means of subsistence — would be incompatible with the Directive. Nevertheless, certain Member States seem to ask family members to fill in these fields in view of entering the data in the VIS.

(48) A specific chapter (Part III) has been added to the Visa Code Handbook to clarify the relationship between the Visa Code and the Directive, and to explain the particular rules applying to visa applicants who are family members of EU citizens covered by the Directive and family members of Swiss citizens covered by the EC-Switzerland Agreement on Free Movement of Persons.

The first part deals with the fundamental question as to whether the Directive applies to a visa applicant. The applicability of the Directive depends on the reply to three questions:

(1) is there an EU citizen from whom the visa applicant can derive any rights? In other words, is the EU citizen exercising or has he/she exercised his/her right to free movement?

(2) does the visa applicant fall under the definition of 'family member' in the Directive?

(3) does the visa applicant accompany or will they join the EU citizen?

A separate part contains an overview of the specific derogations from the general rules of the Visa Code flowing from the Directive (e.g. with regard to grounds for refusing a visa grounds and the notification and motivation (explanation) for this).

The question of whether the Directive applies to a given family member of an EU citizen is a horizontal issue on which the Commission has already adopted Guidelines[36]. The reply to this question is also of fundamental importance in the area of visa policy:

---

35 OJ L 158 of 30 April 2004, p. 35.

36 See the Communication from the Commission to the EP 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

- if the Directive applies to a family member, the latter has the right to obtain an entry visa; if the Directive does not apply, there is no such right[37];

- if the Directive applies, the facilitations imposed by the Directive apply. The visa should be issued free of charge, every facility to obtain the visa should be granted, it should be granted promptly on the basis of an accelerated procedure, no supporting documents should be required with regard to the purpose of travel, accommodation, and soforth.

- If the Directive does not apply, the general rules under the Visa Code apply: visa fee, normal procedures and deadlines, submission of supporting documents on the purpose of travel, accommodation, etc..

(49) The Directive only applies to EU citizens who exercise the right of free movement and their family members. Thus it should be stressed that a family member may benefit from this Directive for certain trips (e.g. when joining his/her EU spouse who is spending holidays in a Member State other than that of which they hold the nationality) but not for certain other trips (e.g. when visiting his/her EU spouse residing in the Member State of which that spouse holds the nationality).

The fact that different visa application regimes apply in these two cases leads to great confusion for family members and may lead to visa refusals (e.g. because of non-submission of supporting documents on the purpose of travel and accommodation). In Local Schengen Cooperation in certain jurisdictions (e.g. London), Member States' consulates state that 'Brussels must clarify the rules'.

As can be seen from the above, it is of utmost importance that clear information be made available on this issue to both family members of EU citizens and consular staff.

(50) The facilitations for family members of EU citizens are established in the Directive and must therefore be transposed by each Member State into national law and practices. Whereas the visa fee waiver for family members imposed by the Directive does not leave room for manoeuvre for Member States when transposing into national law, they have flexibility when transposing the other 'facilities' and issuing the visa 'as soon as possible and on the basis of an accelerated procedure'.

It should be stressed that this provision of the Directive dates back to the 1960s[38], when there was no common EU visa policy. Each Member State had to transpose this provision using its own national visa procedures as a reference point, and as a result, the facilitations still vary from one Member State to another.

However, now that the Schengen States have common visa procedures as defined in the Visa Code, it should be assessed whether it is politically acceptable that today, these facilitations to family members of EU citizens on the basis of the Directive remain un-harmonised for these Member States, compared with the Visa Code, which imposes harmonised procedures.

---

family members to move and reside freely within the territory of the Member States, COM(2009) 313 final, of 2.7.2009.

37 See the Communication in the previous footnote, p. 6 and Case C-503/03 Commission v. Spain (para 42).

38 See e.g. Council Directive 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (OJ No L 257 of 19.10.1968): Art. 3 (2): an entry visa may be demanded from non-EU family members but 'Member States shall accord to such persons every facility for obtaining any necessary visas'; Art. 9 (2): this visa 'shall be free of charge'.

(51) In its Communication of November 2012[39], the Commission stressed that '*Visa facilitation will not only bring economic benefits but it will also make it easier for EU citizens to be joined by their non-EU family members and travel within the EU.'* EU citizens will indeed benefit from the overall improvements that the revised Visa Code will provide. Further to this, it should be considered whether harmonisation of facilitations for family members of EU citizens should also be pursued in the Visa Code, for the Member States applying the Visa Code, witout, however re-opening and amending the provisions of Directive 2004/38/EC on visa facilitations for family members. Th provisions of the Directive remain unchanged. Only the facilitations required under the Directive should now be made concrete with regard to the general provisions of the Visa Code.

(52) Finally, it should be noted that for reasons of legal basis (the Articles of the Treaty regarding the free movement of EU citizens within the territory of the Member States), the Free Movement Directive and its facilitations only apply to family members of EU citizens who are exercising or have exercised their right to free movement. Family members who come to visit or join EU citizens who reside and have always resided in the Member State of their nationality are not covered by the Directive.

Historically, this was considered to be a purely national situation not covered by EC competence. However, to date, the EU has the competence to adopt a common short stay visa policy. As mentioned in paragraph (47), the Visa Code applies to all applicants, including the family members of EU citizens residing in the Member State of their nationality.

Therefore, providing facilitations for the family members of all EU citizens irrespective of their place of residence[40] could be considered.

In this context, it should be noted that in the up-graded Visa Facilitation Agreements with Moldova and Ukraine and in recent Visa Facilitation Agreements with Armenia and Azerbaijan, facilitations are provided for citizens of these countries who come to visit their EU family members residing in the Member State of their nationality.

2.1.6. Modification of issued visas

The provisions on annulment, revocation and extension of visas were previously covered in different texts, including the Schengen Borders Code, without a clear distinction between the different issues/purposes/circumstances. These provisions are now covered in two articles.

(53) Article 33 covers the rules on **extension** of the validity of a visa when the visa holder is still present in the 'Schengen area' which were clarified (e.g. an extension must always take the form of a visa sticker), and completed (e.g. harmonised fee) to ensure consistent practices. There have been no reports of specific problems with the implementation of these provisions, but when drawing up the operational guidelines covering this point, there was difficulty in distinguishing between cases in which the visa should be extended free of charge ('*force majeure or humanitarian reasons'*) and those in which a fee (of EUR 30) is to be charged ('*serious personal reasons').*

Currently, no data is available as to the number of visas extended per year, nor on the reasons for extension. These items should therefore be added to the requirements on statistics to be

[39] COM(2012) 649 final.

[40] It should be noted that Article 24 on the issuing of MEVs already refers to 'family members of citizens of the Union', in general.

notified by Member States to enable proper assessment of the implementation of this provision.

In principle, the territorial validity of an extended visa should remain the same as that for the original visa, e.g. a uniform visa will be extended as a uniform visa. Exceptions to this rule are possible, but given that a visa cannot be extended to go beyond the maximum period of authorised stay (90/180days), extension is not a solution if a person has legitimate reasons for needing to stay longer than 90 days in a 180-day period in the Schengen area, without wishing to reside in a Member State (see chapter 2.1.9).

(54) In Article 34, a clear distinction is made between the different circumstances in which **annulment and revocation** take place[41]. Revocation means that the remaining period of validity of a visa is cancelled when it becomes evident that the conditions for issuing it are no longer met, whereas a visa is annulled when it becomes evident that the conditions for issuing it were not met at the time when it was issued.

Misinterpretation on the part of consulates regarding the implementation of the provisions on revocation have been observed, mainly through numerous questions raised in local Schengen cooperation meetings around the world. Over-extensive use of the provisions on revocation is based on a mixture of lack of understanding of the basic principle of mutual recognition of short-stay visas issued by other Member States, lack of knowledge of the Visa Code Handbook, where guidelines on how to handle a visa application from a person who still holds a valid visa are set out, and finally, visa applicants being insufficiently informed. Member States have argued that visas are sometimes revoked 'because the applicant asked for it'. Such cases may occur, but based on the information collected, the applicant often asks for revocation because of misinformation by a consulate and not, as established in the Visa Code, in situations 'where it becomes evident that the conditions for issuing [the visa] are no longer met.'

The Commission has received numerous complaints, in particular in Joint Committees set up under Visa Facilitation Agreements, about alleged abusive annulments at the external borders of MEVs issued by other Member States, which indicates lack of compliance with the fundamental principle of mutual recognition.

The Schengen Convention (Article 19) establishes one of the fundamental principles on which the common visa policy (and the movement of third country nationals inside the area without internal borders, the 'Schengen area'), is based, namely the mutual recognition of short-stay visas.

The harmonised rules governing the common visa policy (i.e. Regulation 539/2001 establishing the common 'visa lists', the Visa Code establishing the procedures and conditions for issuing short-stay visas and Regulation 1683/95 laying down a uniform format for the visa sticker) allow the Member States that apply the common visa policy in full to mutually recognise short-stay visas issued by other Member States.

The decision to issue a uniform visa is taken by national authorities, taking into account the interests not only of that Member State, but of all Member States which have abolished internal border controls. Therefore, the holder of the uniform visa issued by Member States' consulates is entitled to circulate in the entire Schengen area. As an exception to this rule, a

[41] To ensure that all matters pertaining to short stay visa be covered by the Visa Code, the Schengen Borders Code, Annex V, Part A ('Procedures for refusing entry') was amended by repealing the previous text and replacing it by a cross reference to the relevant provisions of the Visa Code. .

person who does not fulfil the entry conditions may be issued a visa with limited territorial validity allowing for a stay in one or some Member States only.

The principle of mutual recognition is supported by several provisions in the Visa Code, the scope of which is to establish *'the procedures and conditions for issuing visas for transit through or intended stays in the territory of the Member States not exceeding 90 days in any 180 days period.'* (Article 1(1)).

The principle of mutual recognition as explained above also implies that Member States must, in principle, accept that the holder of a uniform visa issued by other Member States presents him/herself at their external border in view of entering in and staying on their territory. The entry conditions should of course be respected, and if a visa holder is unable to explain or prove his/her purpose of stay in a Member State other than which issued the visa, he/she may be refused entry, but Article 34(4) in the Visa Code provides that *'failure of the visa holder to produce, at the border, one or more of the supporting documents [to be submitted when the application is lodged], shall not automatically lead to a decision to annul or revoke the visa'*. Accordingly, the Schengen Borders Manual (point 6.6), states that such refusal of entry should not automatically lead to the annulment of the visa.

When a person holds an MEV, it means that the competent issuing Member State has assessed that he/she fulfils the criteria for being granted this type of visa and holds 'bona fide' status. That should be the prevailing element in the assessment of cases where such persons might wish to enter the Schengen area via a Member State other that which issued the visa. However, if a person holding an MEV issued by Member State (A) uses this visa to travel for the first time to Member State (B), this circumstance could indicate that he/she has obtained the visa on the basis of fraudulent declarations[42].

If a Member State revokes or annuls a visa issued by another Member State, the latter should be informed of this. The Visa Code does not specify what data are to be transmitted nor how. Therefore, 'best practices' and a form to be used have been drawn up in accordance with the provisions of Article 51. These have been added to the Visa Code Handbook. When the VIS is fully rolled out and information on annulment/revocation is stored in the database, it will still be necessary actively to inform the central authorities of other Member States about individual cases of revocation/annulment. However, once VISMail becomes operational, this sharing of information will become easier (Article 16(3) of the VIS Regulation): only the application number will have to be transmitted.

2.1.7. Airport Transit Visa (ATV)

The provisions on airport transit visas, previously covered by an 'ex-third pillar' Joint Action[43], were integrated into the Union legal framework, and the 'common list' (now Annex IV) of third countries whose nationals are under the ATV requirement that has been in force since 1996 was maintained.

A number of mandatory exemptions from this requirement were inserted into the body of the legal text to ensure transparency and equal treatment. During the preparation of the Handbook, it was observed that the formulation of two paragraphs of Article 3(5) were unclear and did not correspond to the will of the co-legislators. According to the initial text, holders of visas and residence permits issued by EU Member States not fully applying the Schengen *acquis* (such as the United Kingdom and Ireland) would not be exempted from the

[42] Cf. Council doc 10139/13 FRONT 62 VISA 114 COMIX 336.

[43] Joint Action 96/197/JHA, OJ L 63, 13.3.1996, p. 8.

ATV requirement. However, holders of visas and residence permits issued by certain third countries, such as the USA and Canada, were exempted from the ATV requirement. Additionally, during the preparation of the Visa Code Handbook, it was also observed that the formulation of Article 3(5)(c) was open to different interpretations.

While drawing up the Handbook, it was sought to remedy the above-mentioned problems via guidelines, but given that the operational instructions of the Handbook cannot create any legally-binding obligations on Member States, it was judged necessary to amend the Visa Code[44] to ensure legal certainty as to its application.

Individual Member States may also impose the ATV requirement on nationals from other third countries in *'urgent cases of massive influx of illegal immigrants'*. The Member State concerned is not required to substantiate or prove the 'urgency' or 'massive influx' and the requirement becomes applicable upon notification. This provision also existed before the Visa Code and the pre-existing requirements were maintained, but an annual 'review' mechanism was introduced to prevent national ATV requirements introduced under circumstances of 'urgency' remaining permanent without any re-consideration.

The wording of this criterion for adding a new country to national lists appears to be less appropriate for assessing existing ATV requirements, as there could not be such a 'sudden massive influx', precisely because of the ATV requirement.

Under the new mechanism (Article 3(3) and (4)), Member States are asked to review maintaining ATV requirements once a year, i.e. to justify a continuing situation of 'urgency', to withdraw the requirement for a specific country, or to suggest that a specific country be moved to the 'common' list (Annex IV).

The review mechanism has been effective in the sense that third countries have been removed from national lists when the circumstances that led to them being listed have changed[45]. In many cases, Member States have failed to substantiate the need to maintaining a third country on the national list and the Visa Code does not refer to substantiated justification when a new country is added to a national list. This, in combination with the unilateral competence to impose the airport transit visa requirement in the first place, means that the procedure is not transparent, particularly as regards proportionality. Statistical data on the number of ATVs applied for/issued[46] are not a means of verifying the relevance of ATV requirements, as it could be argued that low numbers of application for such a visa prove the measure is justified.

In the light of the above, providing for transparency and proportionality as regards the introduction of airport transit requirements by a single Member State could be considered.

The implementation of the option of suggesting that a given third country be added to the common list has not yet been applied. A number of Member States were in favour of adding Syria to the 'common' list, but the Commission has found that given the overall situation in

[44] Regulation (EU) No 154/2012 of the European Parliament and of the Council of 15 February 2012), OJ L 58, 29.2.2012, p 3.

[45] 2011 review: ATV requirement removed in 20 cases, leading to the total removal of 2 third countries.
2012 review: ATV requirement removed in 1 case.
2013 review: ATV requirement removed in 2 cases, leading to the removal of 1 third country.

[46] Total number of ATVs applied for: in 2011: 13 242; in 2012: 13 941.

Syria, it would not be appropriate to do so[47]. Finally, the review mechanism does not cover a situation in which removing a country from the common list is suggested, i.e. Annex IV. This aspect is covered by the general rules on the amendment of annexes (Article 50).

Under Regulation 539/2001 a Member State may waive the visa requirement for holders of service passports. Under the Visa Code, Article 3(5)(e), the ATV requirement is waived for holders of diplomatic passports. However, it remains unclear whether a Member State that exempts holders of service passports, for instance, from the ATV requirement would be obliged to submit them to the ATV requirement according to the list in Annex IV. As an example, 13 Member States waive the visa requirement for holders of service passports issued by Sri Lanka, but an analogue ATV waiver is not in place. Certain Member States that waive the visa requirement for this category of persons seem to enforce the ATV requirement on the same category.

Under Article 3(5)(b) and (c), the ATV requirement is waived for holders of visas or residence permits issued by five third countries (Andorra, Canada, Japan, San Marino and the United States of America) under the assumption that the right of entry/residence in these countries dispels the risk of irregular migration into the EU, cf. Annex V. There is no evidence indicating that these exemptions pose problems in terms of irregular migration.

2.1.8. Institutional aspects

In line with the Union legal framework, Article 50 sets out procedures for amending non-essential elements of the Regulation and nine of the 12 Annexes via the regulatory procedure with scrutiny. This procedure has been applied once.

Article 52 provides for the creation of the Committee to assist the Commission, i.e. the Visa Committee and the Committee's essential mandate is established in Article 51, namely to draw up the 'operational instructions' for the application of the Visa Code, i.e. the Visa Code Handbooks (cf. chapter 2.1.3, paragraph (38)).

The Visa Committee has convened regularly over the last three years and has proved a useful forum for addressing issues related to the implementation of the Visa Code.

Additionally, this article establishes the procedures to be applied for the adoption of implementing acts. Originally, two different procedures applied: the 'regulatory procedure' and the 'regulatory procedure with scrutiny'.

These provisions should be amended to take account of Regulation 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

As the Visa Code is not covered by the Commission's Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the TFEU, this should be dealt with in the proposal for a revision of the Visa Code.

[47] Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Towards a comprehensive EU approach to the Syrian crisis, JOIN(2013) 22 final.

2.1.9. Lack of visa or other authorisation allowing travellers to stay more than 90 days in any 180-day period in the Schengen area

The Visa Code covers the procedures and conditions for issuing short-stay visas, allowing the visa holder to stay in the Schengen area for up to 90 days in any 180-day period, in principle.. In the context of the implementation of the Visa Code, the Commission has been confronted with a specific problem related to this 90 day/180 day 'limitation' of stay in the Schengen area.

There are several categories of third-country nationals — both those who are subject to the visa requirements and those who are not — who have legitimate reasons for circulating in the Schengen area for more than 90 days in any 180-day period without being considered as 'immigrants' (i.e. they do not intend to reside in any of the Member States for a period beyond 90 days).

The main characteristic of these travellers is that they 'tour around' Europe/the Schengen area. They intend to stay longer than 90 days (in any 180-day period) in the Schengen area and could therefore in theory not apply for a short-stay uniform visa or travel under a short-stay visa waiver. At the same time, in most cases, these people do not intend to stay for more than 90 days in a single Member State and are thus not eligible for a 'national' long-stay (D) visa, or a residence permit.

In particular, associations and interest groups of live performing artists emphasise that they often experience difficulties in organising tours in Europe due to the 'limitation' of stay described above. In addition, travel agencies and several queries addressed to the Commission show that 'individual' travellers (students, researchers, trainees, young people participating in youth exchanges, artists and culture professionals, pensioners, business people) also often face problems with the limitation of the authorised stay to 90/180 days.

Neither the Visa Code nor any other part of the Union legal framework provide for an authorisation that would cater for these travellers' legitimate needs/itinerary. Until the entry into force of TFEU, it was not possible to envisage an authorisation for stays longer than three months in the overall Schengen area on a short-stay legal basis, since the Treaty itself had an explicit reference to the three-month 'limitation'. Article 62(3) of the Treaty Establishing the European Community referred to *'measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months'*. In Article 77 of the TFEU, which confers the power on the EU to act on 'short-stay' there is no reference to the three-month limitation and it thus provides a more flexible legal basis on which to act.

The legislative gap between the rules on short stays in the Schengen area and the rules on admission of third-country nationals into individual Member States encourage the use of certain legal instruments not designed for extending an authorised stay in the Schengen area or to addrees the needs of this category of travellers: some Member States use Article 20 of

the Convention Implementing the Schengen Agreement[48] or issue LTV visas under Article 25(1)(b) of the Visa Code[49].

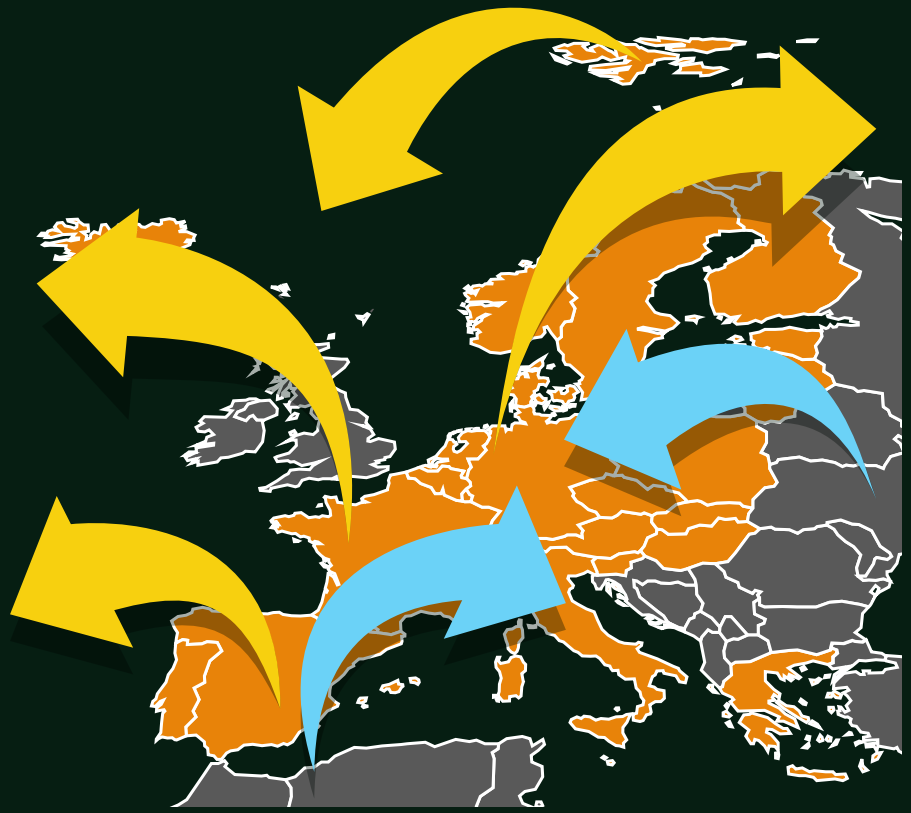
Rather than tolerating these practices, introducing harmonised rules by creating a new authorisation for stays longer than 90 days in the Schengen area could be considered.

[48] *'Aliens not subject to a visa requirement may move freely within the territories of the Contracting Parties for a maximum period of three months during the six months following the date of first entry, […]. Paragraph 1 shall not affect each Contracting Party's right to extend beyond three months an alien's stay in its territory in exceptional circumstances or in accordance with a bilateral agreement concluded before the entry into force of this Convention.'* OJ L 239, 22.9.2000, p. 19-62.

[49] 'A visa with limited territorial validity shall be issued exceptionally, in the following cases: […] (b) when for reasons deemed justified by the consulate, a new visa is issued for a stay during the same six-month period to an applicant who, over this six-month period, has already used a uniform visa or a visa with limited territorial validity allowing for a stay of three months.'.

ENTERING THE EU – VISAS

Schengen visa = uniform short-stay visa that entitles the holder to transit through or stay in the territories of all Schengen States for a duration of maximum 90 days per 180 days period and that may be issued for the purpose of a single or multiple entries



IN 2013

17 204 391 visa applications
submitted by non-EU nationals

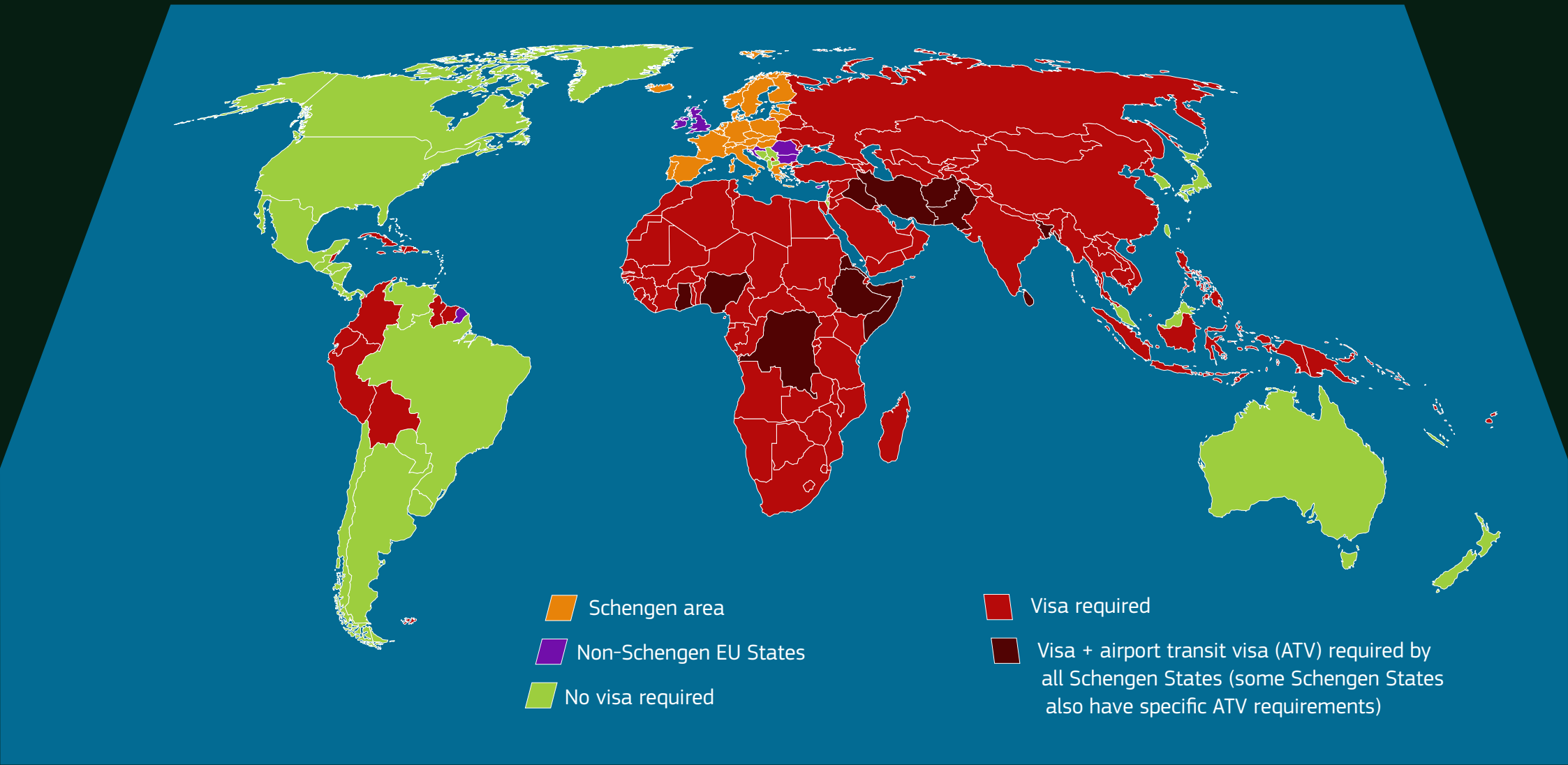
16 139 701 visas
issued by Schengen States

A common visa policy for an area without internal borders

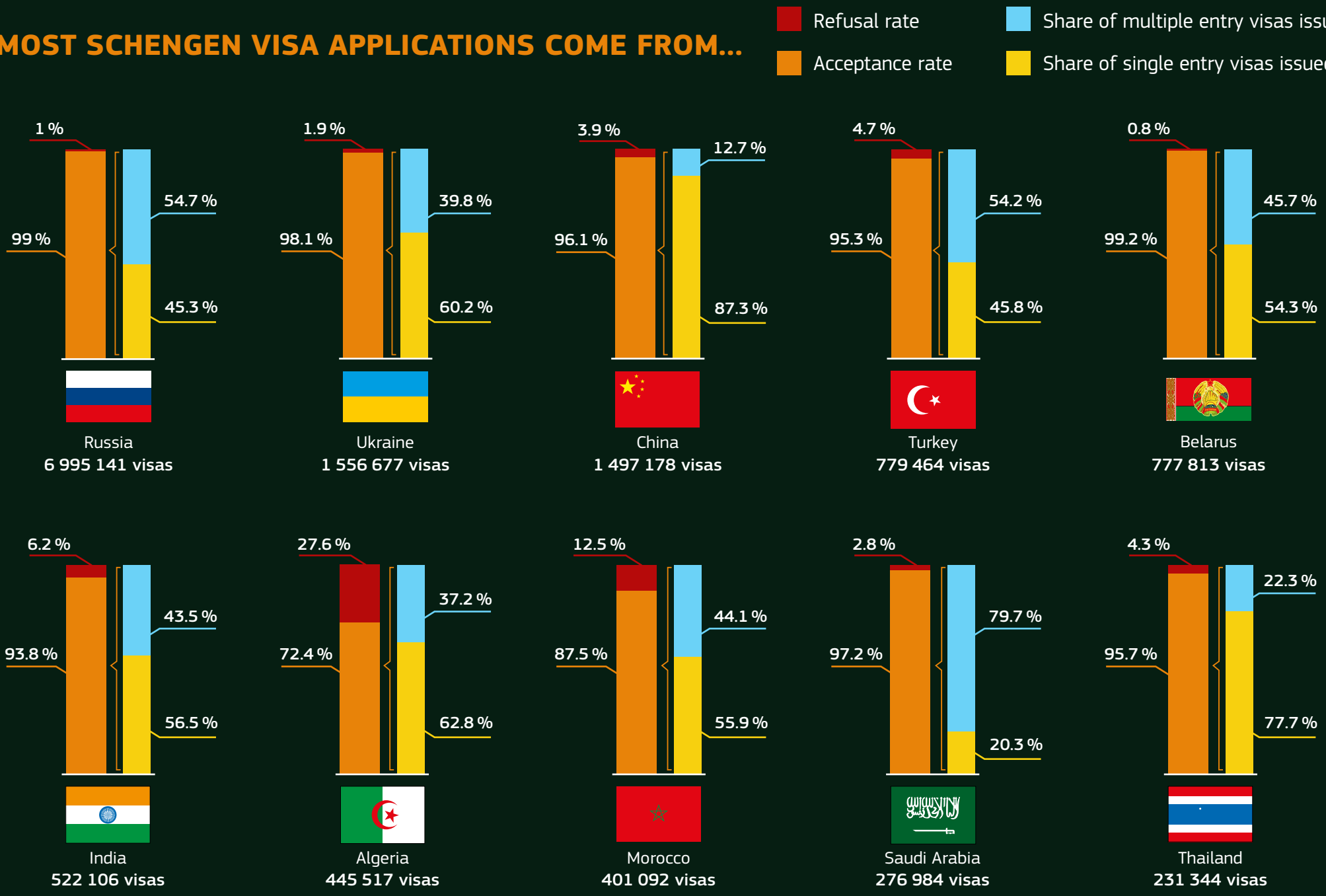
- Maintains safety and security inside the Schengen area
- Introduces simplified rules for travellers
- Contributes to preventing irregular migration
- Contributes to generating economic growth

VISA REQUIREMENTS FOR THE SCHENGEN AREA

Some non-EU nationals need a short-stay Schengen visa to visit the Schengen area



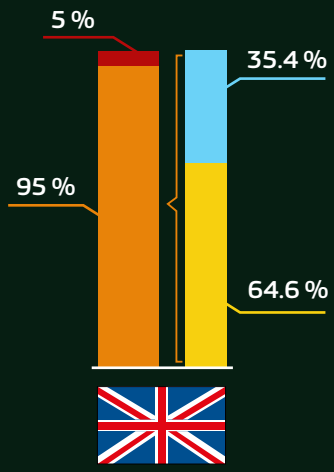
MOST SCHENGEN VISA APPLICATIONS COME FROM...



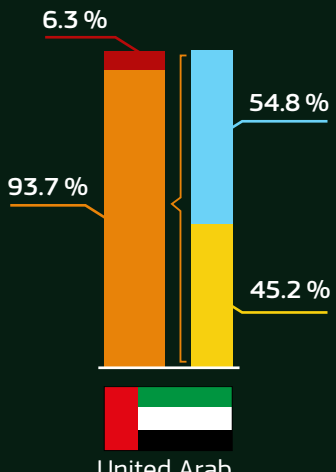
Source: DG Home Affairs, 2013

MOST SCHENGEN VISA APPLICATIONS COME FROM...

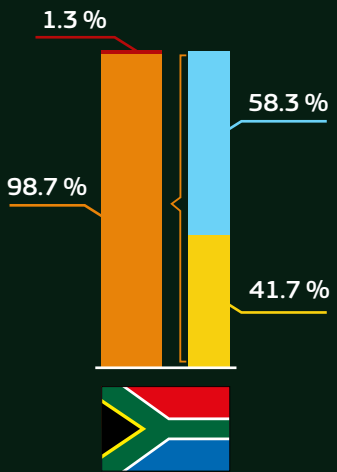
Refusal rate
Acceptance rate
Share of multiple entry visas issued
Share of single entry visas issued



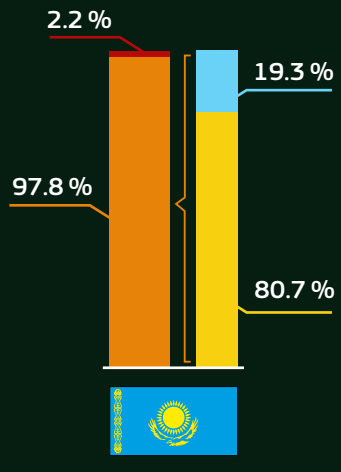
United Kingdom*
225 390 visas



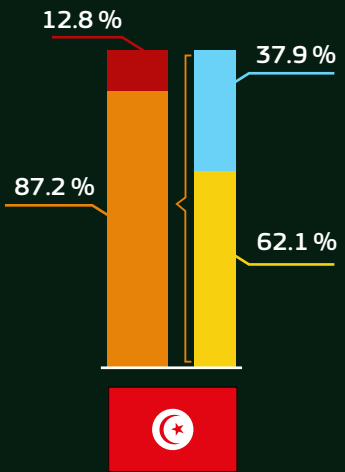
United Arab Emirates
210 270 visas



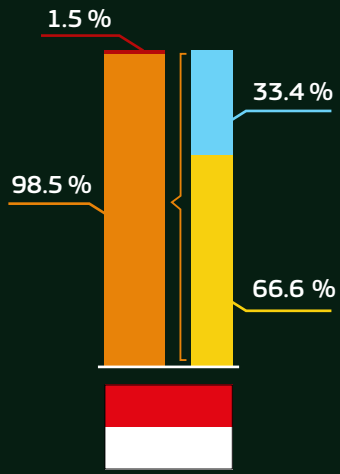
South Africa
180 038 visas



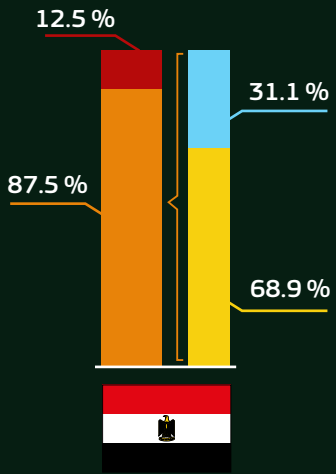
Kazakhstan
159 396 visas



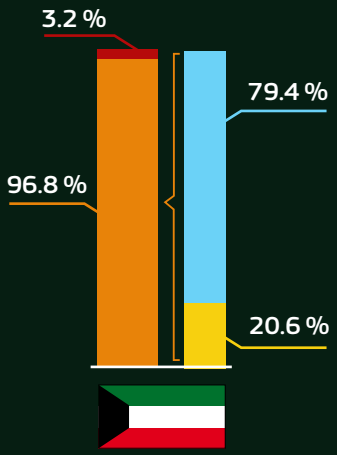
Tunisia
150 624 visas



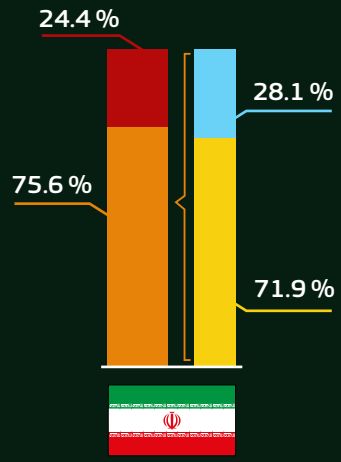
Indonesia
149 824 visas



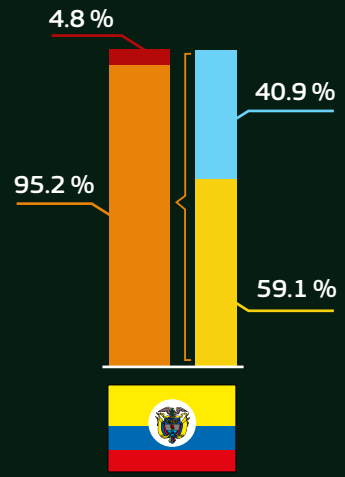
Egypt
147 531 visas



Kuwait
142 248 visas



Iran
131 648 visas

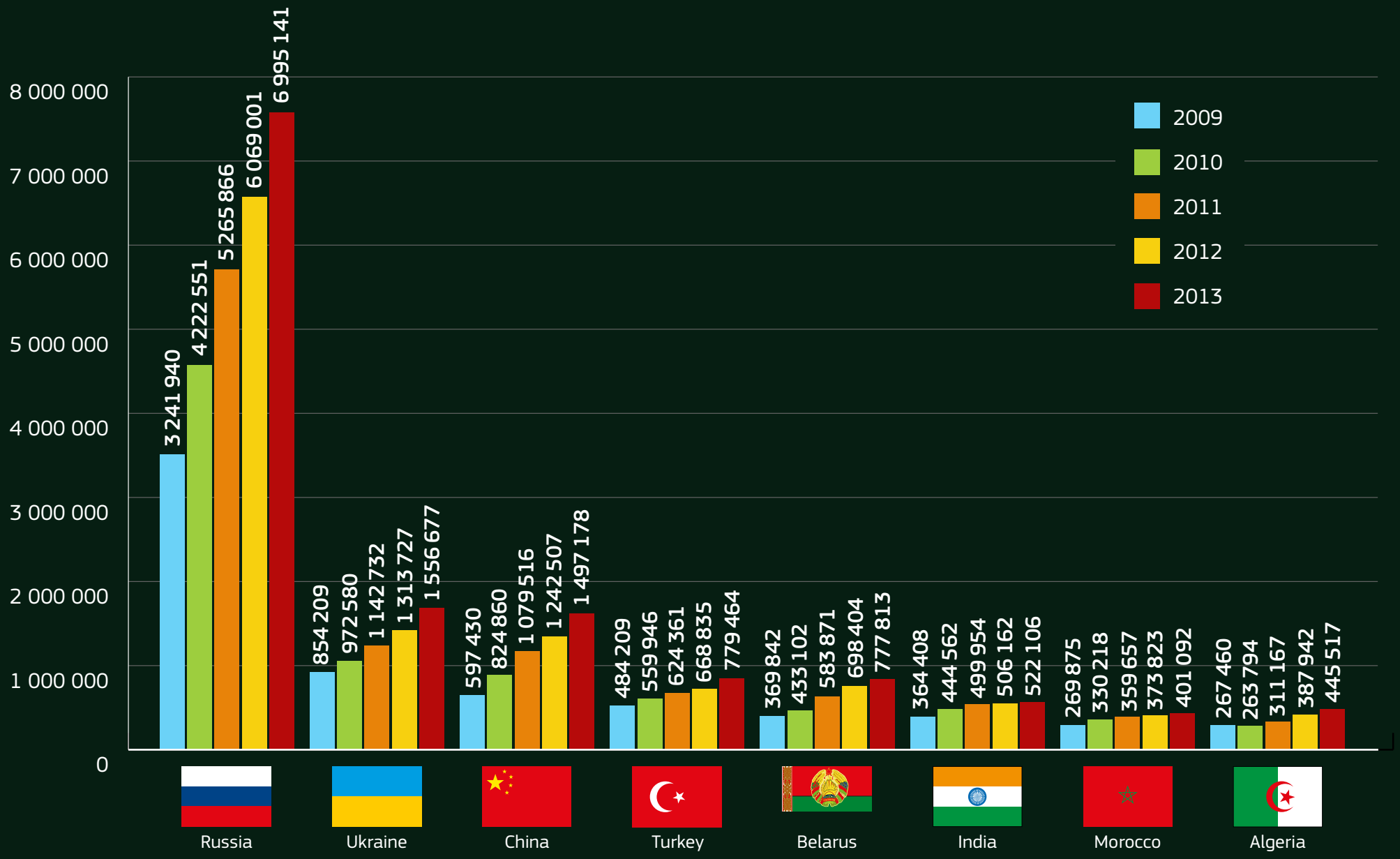


Colombia
128 443 visas

Source: DG Home Affairs, 2013

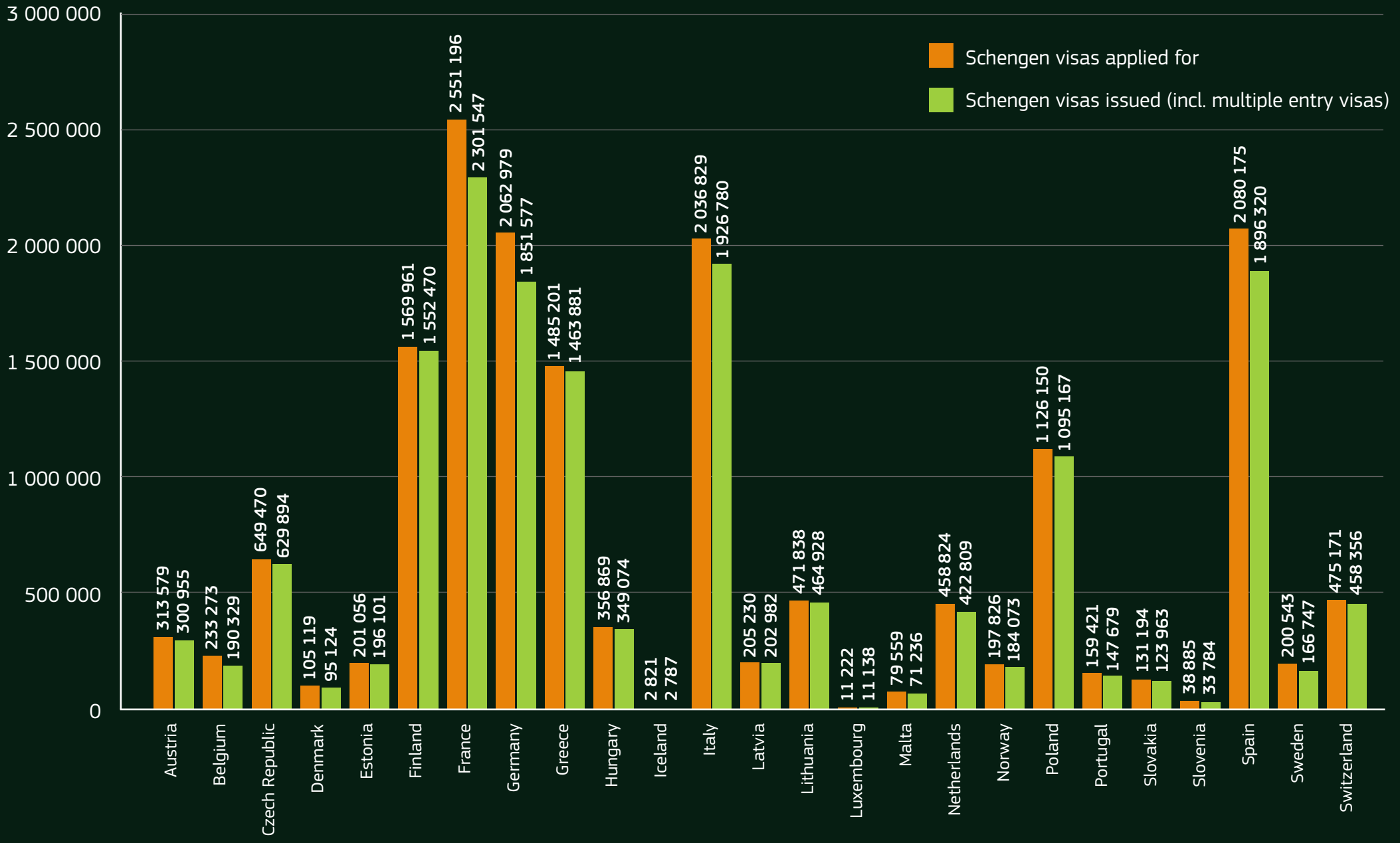
* Figures concern non-EU nationals residing in the UK who are under the visa obligation

TOP APPLICANT COUNTRIES



Source: DG Home Affairs, 2013

SCHENGEN VISA APPLICATIONS



Source: DG Home Affairs, 2013

European Commission

http://ec.europa.eu/dgs/home-affairs/

Disclaimer: Information in this infographic is for reference purposes only and is not necessarily comprehensive or up to date.