



2014/0094(COD)

31.8.2015

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the Union Code on Visas (Visa Code) (recast)
(COM(2014)0164 – C8-0001/2014 – 2014/0094(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Juan Fernando López Aguilar

(Recast – Rule 104 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ¶ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code) (recast)
(COM(2014)0164 – C8-0001/2014 – 2014/0094(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2014)164),
 - having regard to Article 294(2) and Article 77(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0001/2014),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 10 September 2014,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 30 September 2014 from the Committee on Legal Affairs to the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 104(3) of its Rules of Procedure,
 - having regard to the letters pursuant to Rule 104(3) of its Rules of Procedure of its President of 31 August 2015 to the Commission and the Council informing them that the Committee on Civil Liberties, Justice and Home Affairs may submit amendments to the codified parts of the recast proposal referred to above, in accordance with point 8 of the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts,
 - having regard to Rules 104 and 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Transport and Tourism (A8-0000/2015),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal or in the opinion of the Consultative Working Party and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

¹ OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
2. Suggests that the act be cited as 'the López Aguilar-NN Regulation on the Visa Code';
3. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

The Visa Code has only been amended in a very limited way through Commission Regulation 977/211, Regulation 154/2012 and Regulation 610/2013. At their meeting of 7 July the LIBE Coordinators agreed that the Committee should be able to amend also the codified parts, in accordance with point 8 of the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts. The Commission and the Council have been notified accordingly.

Amendment 2

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The issuing of a visa to a person

seeking protection constitutes a means of allowing such a person to access the territory of the Member States in a safe manner. When considering consular territorial competence, the admissibility of a visa application or the possibility of issuing a visa with limited territorial validity, consulates should, therefore, pay particular attention to persons seeking protection. For such persons, Member States should make use of the exemptions on humanitarian grounds or because of international obligations provided in this Regulation.

Or. en

Justification

*The current migration crisis and the unacceptable death toll at sea constitute a complex problem which can only be addressed by a variety of measures in a holistic way. The review of the Visa Code provides an occasion for putting possible protection needs stronger in the focus of consulates and thereby could provide one element of a solution. The proposed recital recalls that according to the case law of the European Court of Human Rights, in some situations, states have certain obligations even outside their territory when they exercise jurisdiction. See *Hirsi and others v. Italy*.*

Amendment 3

Proposal for a regulation Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) When applying this Regulation, Member States should respect their respective obligations under international law, in particular the United Nations Convention relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment

or Punishment, the United Nations Convention on the Rights of the Child and other relevant international instruments.

Or. en

Justification

The Visa Code refers several times to the "international obligations" of Member States without any reference in the text as to what is meant by these obligations. This proposed recital recalls the obligations assumed by the Member States. Depending on the respective case law and interpretation, certain provisions of the acts mentioned in this proposed recital might indeed entail obligations for Member States to respect the rights of visa applicants when dealing with visa applications.

Amendment 4

Proposal for a regulation

Recital 10

Text proposed by the Commission

(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.

Amendment

(10) It should be presumed that applicants who are registered in VIS and have obtained and lawfully used two visas within the **18** 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.

Or. en

Justification

The period in which the two visas are required in order to be considered a "regular traveller" should be prolonged as 12 months is a too short period. If a traveller, for instance, comes every year once for holidays to the EU, for instance in August, he could not benefit from this provision even if he has used dozens of visas lawfully.

Amendment 5

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Member States and consulates should work towards enabling online applications for visas especially for VIS registered applicants and VIS registered regular travellers whose data, including biometrics, is already stored in the VIS.

Or. en

Justification

It is important that steps are undertaken towards a modernisation of the visa application procedure. Especially with the roll-out of the VIS almost completed efficiency gains for consulates could be achieved if further steps of the visa process would be undertaken electronically. It is not intended to make this an obligation but Member States and consulates which would like to proceed in this direction should be encouraged to do so.

Amendment 6

Proposal for a regulation Recital 36

Text proposed by the Commission

Amendment

(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 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.

(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 decision may be taken if, in particular circumstances or for reasons relating to the local situation, other solutions are not possible.*** 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. ***Where a Member State has decided to cooperate with an external service provider, it should maintain the possibility***

for applicants to lodge applications directly at its diplomatic missions or consular posts except where security considerations do not allow for such a possibility.

Or. en

Justification

It might indeed be necessary in certain circumstances to work with a service provider and this might also improve the service for applicants. Outsourcing should, however, be carefully considered and not be quasi-automatically chosen.

The obligation to maintain an access to the consulate is currently part of the Code but the Commission proposes to delete it. Consulates should, however, be equipped to receive applicants, and be it only in case of problems with the service provider or for family members of EU citizens (see AM to Art. 8(3)). A rewording of the current provision is proposed.

Amendment 7

Proposal for a regulation

Recital 43

Text proposed by the Commission

(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 **consultations** during its preparatory work, including at expert level.

Amendment

(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, 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 provisions on the filling in and affixing of the visa sticker as well as the rules for issuing visas at the border to seafarers in transit, subject to the visa requirement and in order to adopt the operational instructions on the practical application of this Regulation, which supplement it,*** 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 *consultations* during its preparatory work, including at expert level. ***The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.***

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. As this would reduce the role of the legislator it is proposed that the annexes remain part of the legislation but that they can be amended by delegated acts. This is not a matter of different legal interpretations but one of political choice. It is constant case law of the Court of Justice that it is up to the legislator to determine what should be part of legislation (see for example C-88/14).

Regarding the instructions see justification of the amendment to Art. 50.

Amendment 8

Proposal for a regulation

Recital 44

Text proposed by the Commission

(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. The examination procedure

Amendment

(44) In order to ensure uniform conditions for the implementation of this Regulation, as regards lists of supporting documents to be applied in each jurisdiction, 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. The examination procedure should be used for the adoption of such implementing acts.

should be used for the adoption of such implementing acts.

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. As this would reduce the role of the legislator it is proposed that the annexes remain part of the legislation but that they can be amended by delegated acts. This is not a matter of different legal interpretations but one of political choice. It is constant case law of the Court of Justice that it is up to the legislator to determine what should be part of legislation (see for example C-88/14).

Regarding the instructions see justification of the amendment to Art. 50.

Amendment 9

Proposal for a regulation

Recital 48

Text proposed by the Commission

(48) This Regulation respects fundamental rights and observes the principles recognised in particular 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 Rights of the European Union.

Amendment

(48) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ***which is applicable whenever Member States and their authorities implement Union law***. 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 Rights of the European Union.

Or. en

Justification

Clarification given the nature of the Visa Code.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

This Regulation, including the provision on an intended stay not exceeding 90 days, shall apply without prejudice to a possible application for international protection on the territory of the Member States and to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Or. en

Justification

The proposed addition intends to clarify that the provision on an intended short stay cannot be used as a ground to refuse granting a visa to a person seeking protection. The proposed provisions on non-refoulement are identical to the Schengen Borders Code as they both deal with conditions of entry into the Schengen area for third-country nationals.

Amendment 11

Proposal for a regulation

Article 2 – paragraph 9

Text proposed by the Commission

Amendment

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.

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 **18** months prior to the application.

Or. en

Justification

The period in which the two visas are required in order to be considered a "regular traveller" should be prolonged as 12 months is a too short period. If a traveller, for instance, comes

every year once for holidays to the EU, for instance in August, he could not benefit from this provision even if he has used dozens of visas lawfully.

Amendment 12

Proposal for a regulation

Article 3 – paragraph 5 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

If, based on the information contained in the notification or on any additional information it has received, the Commission has concerns as regards the necessity or proportionality of the planned introduction of the airport transit visa requirement, it shall issue an opinion to that effect.

Or. en

Justification

The introduction of an airport transit visa requirement by a Member State outside the common list set up in this Regulation is a de facto amendment of the Visa Code. Therefore the procedure by which the check is made that it is indeed necessary should be strengthened. The addition suggested is based on Article 24 of the Schengen Borders Code.

Amendment 13

Proposal for a regulation

Article 3 – paragraph 6

Text proposed by the Commission

Amendment

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.

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, **4 and 5** shall apply to such prolongation.

Or. en

Justification

A Member State should also provide information about the need for an extension and the Commission should as well have the opportunity to issue an opinion in such cases.

Amendment 14

**Proposal for a regulation
Article 3 – paragraph 7**

Text proposed by the Commission

Amendment

7. The Commission shall, on an annual basis, inform the European Parliament and the Council about the implementation of this Article. ***deleted***

Or. en

Justification

It is suggested that the Commission produces annually one report in which all the different aspects are covered for which this Regulation foresees a report or an information of the Parliament and the Council. See amendment to Art. 54(4a new).

Amendment 15

**Proposal for a regulation
Article 5 – paragraph 2 – subparagraph 1 a (new)**

Text proposed by the Commission

Amendment

If the consulate of the Member State that is competent in accordance with paragraph 1 or the consulate of the Member State referred to in the first subparagraph of this paragraph are located at a distance of more than 500 km from the place of residence of the applicant and if the consulate of another Member State is located closer, the applicant is entitled to lodge the application at the consulate of that Member State.

Justification

The burden for the applicant depends on the distance that needs to be travelled in order to reach the consulate to lodge an application. To address the situation in territorial large third countries it is therefore suggested to add a further case of representation.

Amendment 16

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the conditions referred to in paragraph 1 and 2 are not met, a consulate shall decide to examine and decide on an application when it considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations.

Or. en

Justification

The Visa Code already allows in many provisions for exceptions on the basis of humanitarian grounds, for reasons of national interest or because of international obligations. This should also apply to the territorial competence.

Amendment 17

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. Applications may be lodged **six** months before and no later than 15 calendar days before the start of the intended visit.

1. Applications may be lodged **nine** months before and no later than 15 calendar days before the start of the intended visit.

Or. en

Justification

Travel patterns have changed drastically in recent years, a trend which the Commission confirms by already proposing to prolong the timeframe from 3 to 6 months. The rapporteur believes that 9 months would be more appropriate as it would allow for a longer preparation time for an intended visit.

Amendment 18

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

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:

Amendment

3. The consulate shall allow ***direct access to it and*** to lodge the application either without prior appointment or with an immediate appointment to close relatives of Union citizens who:

Or. en

Justification

According to Directive 2004/38 family members have the right to be issued a visa free of charge. They should therefore not be obliged to submit their application via an external service provider and pay the service fee.

Amendment 19

Proposal for a regulation Article 8 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. The consulate shall allow ***direct access to it and*** 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.

Or. en

Justification

According to Directive 2004/38 family members have the right to be issued a visa free of charge. They should therefore not be obliged to submit their application via an external service provider and pay the service fee.

Amendment 20

Proposal for a regulation

Article 8 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Without prejudice to Article 12, consulates may provide for the possibility of lodging an application online and of sending travel document, as well as supporting documents, by mail.

Or. en

Justification

It is important to insert a provision that consulates, if they wish to do so, may receive online applications.

Amendment 21

Proposal for a regulation

Article 8 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Where a Member State cooperates with an external service provider, that Member State shall maintain the possibility for applicants to lodge their applications directly at its own consulates, except where security considerations do not allow for such a possibility.

Or. en

Justification

The obligation to maintain an access to the consulate is currently part of the Code but the Commission proposes to delete it. Consulates should, however, be equipped to receive applicants, and be it only in case of problems with the service provider or for family members of EU citizens (see AM to Art. 8(3)). The rapporteur proposes, however, an addition that this should not be required if the security situation in a third country does not allow for it.

Amendment 22

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

Amendment

2. The content of the electronic version of the application form, **if applicable**, shall be as set out in Annex I.

2. The application form shall be available in an electronic version and the content of the electronic version of the application form shall be as set out in Annex I.

Or. en

Justification

In today's world it should be normal to have the form electronically available so that those who would like to do so can make use of it.

Amendment 23

Proposal for a regulation Article 10 – paragraph 5

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

The paragraph should be deleted as it constitutes a contradiction with paragraph 4(b) which requires the form to be available in the official language(s) of the host country.

Amendment 24

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

After the collection of the biometric identifiers, the applicant shall be issued with a receipt.

Or. en

Justification

A receipt is important in case a person submits the next visa application via an external service provider. External service providers are not allowed to have an access to the VIS and are therefore not in a position to verify whether indeed the biometrics have been captured before.

Amendment 25

Proposal for a regulation

Article 13 – paragraph 7

Text proposed by the Commission

Amendment

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***:

7. Where applicants receive financial support or intend to stay with a host, Member States may require ***those*** 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 :

Or. en

Justification

It should be clarified, as so far this is not stated in the text of the Visa Code, that proof of sponsorship or private accommodation can only be requested if indeed the third-country national finances part of his or her stay thorough a sponsorship or intends to stay with a host. The "in particular" should be deleted to ensure a more harmonised application of this provision by the Member States.

Amendment 26

Proposal for a regulation

Article 14 – paragraph 3 – point e

Text proposed by the Commission

(e) participants aged **25** years or less in seminars, conferences, sports, cultural or educational events organised by non-profit organisations;

Amendment

(e) participants aged **30** years or less in seminars, conferences, sports, cultural or educational events organised by non-profit organisations;

Or. en

Justification

The age limit should be higher as today many persons between 25 and 30 still are not in full-time, regularly paid employment but in a qualification phase of various kinds.

Amendment 27

Proposal for a regulation

Article 15 – paragraph 3

Text proposed by the Commission

3. The service fee shall not exceed half of the amount of the visa fee set out in Article 14(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article 14 (3) and (4).

Amendment

3. The service fee shall not exceed half of the amount of the visa fee set out in Article 14(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article 14 (3) and (4). ***It shall include all costs related to the submission of the visa application including the transmission of the application and the travel document from the external service provider to the consulate and the return of the travel***

document to the external service provider.

Or. en

Justification

There have been reports that applicants were charged additional fees, contrary to the provisions of the Visa Code. The proposed addition tries to clarify further that no additional, compulsory fees may be charged.

Amendment 28

**Proposal for a regulation
Article 17 – paragraph 4**

Text proposed by the Commission

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.

Amendment

4. By way of derogation, an application that does not meet the requirements set out in paragraph 1 *shall* be considered admissible *when the Member State concerned considers it necessary* on humanitarian grounds, for reasons of national interest *or because of international obligations*.

Or. en

Justification

"International obligation" is added and the language slightly changed in order to align the provisions on admissibility with those regarding visas with a limited territorial validity.

Amendment 29

**Proposal for a regulation
Article 18 – paragraph 3**

Text proposed by the Commission

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

Amendment

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.

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 *as set out in Annex II*.

Or. en

Justification

The relevant reference is added for clarity reasons.

Amendment 30

Proposal for a regulation

Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. 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 assessed taking into account the right to respect private and family life as expressed in the Charter of Fundamental Rights of the European Union.

Refusals of such applications shall be justified in a detailed way and in writing in addition to the use of the standard form set out in Annex V.

Refusals of applications of family members of Union citizens as referred to in Article 3(1) of Directive 2004/38/EC are subject to the provisions of that Directive.

A family member may be refused a visa exclusively on the following grounds:

(a) the visa applicant failed to demonstrate that he is covered by the Directive 2004/38/EC on the basis of the visa application and attached supporting

documents;

(b) the national authorities demonstrate that the visa applicant is a genuine, present and sufficiently serious threat to public policy, public security or public health; or

(c) the national authorities demonstrate that there was abuse or fraud.

Or. en

Justification

There are numerous accounts of family members who were refused visas. Often these constitute personal tragedies and the family is seriously affected. Refusals of visas for family members should therefore be subject to a more detailed justification. For family members the provisions of Directive 2004/38 apply. So far specific provisions are included only in the handbook. To improve the clarity of the legal provisions they should be included also in the text of the Visa Code.

Amendment 31

Proposal for a regulation

Article 18 – paragraph 5 – point c

Text proposed by the Commission

(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;

Amendment

(c) whether the applicant is a person for whom an alert has been issued in the Schengen Information System **II** (SIS **II**) for the purpose of refusing entry **as provided for in Regulation (EC) No 1987/2006 of the European Parliament and the Council^{1a}**;

^{1a} Regulation (EC) No 1987/2006 of the European Parliament and the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 381 28.12.2006, p. 4).

Or. en

Justification

The text should be updated as since 9 April 2013 SIS II has entered into operation and therefore the SIS II legal basis applies.

Horizontal amendment: If adopted all references throughout the text to SIS are to be changed to SIS II.

Amendment 32

**Proposal for a regulation
Article 18 – paragraph 10**

Text proposed by the Commission

10. During the examination of an application, consulates may in justified cases carry out an interview and request additional documents.

Amendment

10. During the examination of an application, consulates may in justified cases carry out an interview and request additional documents ***as set out in Annex II.***

Or. en

Justification

The relevant reference is added for clarity reasons.

Amendment 33

**Proposal for a regulation
Article 19 – paragraph 4**

Text proposed by the Commission

4. The Commission shall ***inform Member States of*** such notifications.

Amendment

4. The Commission shall ***publish*** such notifications.

Or. en

Justification

According to Article 45 (1)(f) the public is informed about "the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information". The information which Member State made the request to be consulted or

informed is, however, given only to the Member States. There is no reason such information should only be made available to the Member States also given that a consultation might lead to the refusal of a visa.

Amendment 34

Proposal for a regulation Article 20 – paragraph 4

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Justification

The paragraph should be deleted as the content is covered in paragraph 3 of the same Article.

Amendment 35

Proposal for a regulation Article 21 – paragraph 4

Text proposed by the Commission

Amendment

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.

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 **after** the expiry date of the multiple entry visa valid for three years.

Or. en

Justification

The current wording is unclear as it could mean "one year before the expiry" or "one year after the expiry". It should be clarified that this latter understanding is meant.

Amendment 36

Proposal for a regulation Article 21 – paragraph 5

Text proposed by the Commission

5. A multiple-entry visa valid for up to 5 years *may* be issued to an applicant who proves the need or justifies the intention to travel frequently and/or regularly 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.

Amendment

5. A multiple-entry visa valid for up to 5 years *shall also* be issued to *a family member of a Union citizens as referred to in Article 3(1) of Directive 2004/38/EC as well as* an applicant who proves the need or justifies the intention to travel frequently and/or regularly provided that the applicant proves his integrity and reliability, in particular the lawful use of previous uniform visas, *or* visas with limited territorial validity, *national long-stay visas or residence permits issued by a Member State*, 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.

Or. en

Justification

The rapporteur shares the view that the issuing of multiple-entry visas to bona-fide travellers is a win-win-situation for third-country nationals as well as for consulates. It does therefore not seem logical to change the current "shall"- provision into a "may"-provision as proposed by the Commission. Family Members should be added as they are most likely to travel frequently and/or regularly.

The presumption of "integrity and reliability" should also be possible to be demonstrated through the lawful use of other types or entry permissions than short-stay visas.

Amendment 37

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

1. A visa with limited territorial validity shall be issued ***exceptionally***, in the following cases:

Amendment

1. A visa with limited territorial validity shall be issued in the following cases:

Or. en

Amendment 38

Proposal for a regulation Article 22 – paragraph 1 – point a

Text proposed by the Commission

(a) when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations,

Amendment

(a) when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations, ***in particular when it is necessary in order to ensure the international protection of the person concerned in accordance with the United Nations Convention relating to the Status of Refugees of 1951 or other relevant Union and international instruments,***

Or. en

Justification

The addition aims to clarify that "international obligations" may include granting protection to a third- country national.

While it may be that a protection seeker will not meet all the criteria for the issuing of a Schengen visa this is entirely consistent with the very nature of a visa with limited territorial validity, which expressly is to be issued when not all of these criteria are satisfied.

Amendment 39

Proposal for a regulation Article 24 – paragraph 1

Text proposed by the Commission

1. When the visa sticker is filled in the machine-readable zone shall be filled in, as provided for in ICAO document 9303, Part 2.

Amendment

1. When the visa sticker is filled in, ***the mandatory entries set out in Annex Va shall be inserted and*** the machine-readable zone shall be filled in, as provided for in ICAO document 9303, Part 2.

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 40

Proposal for a regulation Article 24 – paragraph 2

Text proposed by the Commission

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).

Amendment

deleted

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 41

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

3. Member States may add national entries in the ‘comments’ section of the visa sticker, which shall neither duplicate the entries *established in accordance with the procedure referred to in paragraph 2* nor indicate a specific travel purpose.

Amendment

3. Member States may add national entries in the ‘comments’ section of the visa sticker, which shall neither duplicate the **mandatory** entries **in Annex Va** nor indicate a specific travel purpose.

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 42

Proposal for a regulation Article 26 – paragraph 1

Text proposed by the Commission

1. The printed visa sticker containing the data provided for in Article 24 shall be affixed to the travel document.

Amendment

1. The printed visa sticker containing the data provided for in Article 24 **and Annex Va** shall be affixed to the travel document **in accordance with the provisions set out in Annex Vb**.

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 43

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

Amendment

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).

deleted

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 44

Proposal for a regulation Article 28 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall *inform Member States of* such notifications.

3. The Commission shall **publish** such notifications.

Or. en

Justification

According to Article 45 (1)(f) the public is informed about "the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information". The information which Member State made the request to be consulted or informed is, however, given only to the Member States. There is no reason such information should only be made available to the Member States.

Amendment 45

Proposal for a regulation Article 29 – paragraph 3

Text proposed by the Commission

3. Applicants who have been refused a visa shall have the right to appeal. Appeals shall be 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 V.

Amendment

3. Applicants who have been refused a visa shall have the right to appeal ***including the right to a judicial remedy. Member States shall ensure that their national appeal procedures in visa cases are swift and easily accessible.*** Appeals shall be 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. ***Where a Member State is represented by another Member State in accordance with Article 5 or 39, the represented state is considered as the Member State taking the final decision. In case of a decision overturned after the appeal, the applicant shall be reimbursed any costs incurred as a result of the wrongful decision.*** Member States shall provide applicants with detailed information regarding the procedure to be followed in the event of an appeal, as specified in Annex V.

Or. en

Justification

The provisions on the appeal should be reinforced to make them effective: 1) the proceedings should not only be administrative which is also the view of the Commission which has launched infringement procedures against several Member States; 2) the responsibility for appeals in case of representation arrangements should be clarified; 3) especially in cases of wrongfully annulled or revoked visas there should be a compensation as a person concerned might suffer considerable economic damage (for example hotel and ticket cancellation fees).

Amendment 46

Proposal for a regulation Article 31 – paragraph 7

Text proposed by the Commission

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 V.

Amendment

7. A visa holder whose visa has been annulled or revoked shall have the right to appeal ***including the right to a judicial remedy***, unless the visa was revoked at his request in accordance with paragraph 3. ***Member States shall ensure that their national appeal procedures in visa cases are swift and easily accessible.*** 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. ***In case of a decision overturned after the appeal, the applicant shall be reimbursed any costs incurred as a result of the wrongful decision.*** Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex V.

Or. en

Justification

The provisions on the appeal should be reinforced to make them effective: 1) the proceedings should not only be administrative which is also the view of the Commission which has launched infringement procedures against several Member States; 2) especially in cases of wrongfully annulled or revoked visas there should be a compensation as a person concerned might suffer considerable economic damage (for example hotel and ticket cancellation fees).

Amendment 47

Proposal for a regulation

Article 32 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. When a family member of a Union citizens as referred to in Article 3(1) of Directive 2004/38/EC arrives at the border without holding the necessary visa, the Member State concerned must, before

turning him back, give the person concerned every reasonable opportunity to obtain the necessary documents or have them brought to him within a reasonable period of time to corroborate or prove by other means that he is covered by the right of free movement. If he succeeds in doing so and if there is no evidence that he poses a risk to the public policy, public security or public health requirements, the visa must be issued to him without delay at the border, while taking account of the provisions of Directive 2004/38/EC.

Or. en

Justification

Family members currently enjoy exactly the rights as set-out in the amendment which is copied from the current handbook with operational instructions. For reasons of clarity these provisions should be included in the Code.

Amendment 48

Proposal for a regulation
Article 33 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Three years after this Article becomes applicable, the Commission shall produce an evaluation of its application. On the basis of this evaluation, the Commission shall submit, if necessary, appropriate proposals with a view to amending this Regulation.

Or. en

Justification

Three years after the provisions referred to in this Article have become applicable the Commission shall produce an evaluation of their application. On the basis of the evaluation, the Commission shall submit, if necessary, appropriate proposals with a view to amending this Regulation.

Amendment 49

Proposal for a regulation Article 34 – paragraph 1

Text proposed by the Commission

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:

Amendment

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States **shall** be issued with a visa for the purpose of transit at the border where:

Or. en

Justification

The provisions regarding the issuing of visas to seafarers at the border should be harmonised. There have been complaints that Member States handle these provisions in a very different manner. See also petition 1530/2014.

Amendment 50

Proposal for a regulation Article 34 – paragraph 2

Text proposed by the Commission

2. Before issuing a visa at the border to a seafarer the competent national authorities shall make sure that the necessary information concerning the seafarer in question has been exchanged.

Amendment

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 Vc, 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 Vc, Part 2.**

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them

at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 51

Proposal for a regulation Article 34 – paragraph 3

Text proposed by the Commission

Amendment

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).

deleted

Or. en

Justification

The Commission proposes to delete a series of annexes of the current Code and to adopt them at a later stage by implementing acts. The rapporteur wishes to maintain the annexes instead of providing the power to the Commission to adopt the content at a later stage by implementing acts.

Amendment 52

Proposal for a regulation Article 36 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that consulates have a complaints procedure for visa applicants in place. Information on this procedure shall be made available by the consulate on their website and, where applicable, by the external service provider. A record of complaints shall be kept.

Justification

It is a good administrative practice and also in line with the right to good administration as laid down in Article 41 of the Charter to have a complaints procedure. So far no such procedure is foreseen in the Visa Code although it is the case for border crossing-points according to Annex II of the Schengen Borders Code.

Amendment 53**Proposal for a regulation****Article 38 – paragraph 2 – point b***Text proposed by the Commission*

(b) cooperate with one or more other Member States ***under representation arrangements*** or any other form of consular cooperation.

Amendment

(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, representation, co-location, a Common Application Centre,*** or any other form of consular cooperation such as Schengen Visa Centres.

Justification

The Commission proposes to delete a series of forms by which Member States could cooperate with each other. To delete these possibilities seems to give, however, the wrong signal. These possibilities should remain as options in the text in addition to the proposal to set up Schengen Visa Centres (see Article 39b new).

Amendment 54**Proposal for a regulation****Article 38 – paragraph 3***Text proposed by the Commission*

3. A Member State may also cooperate with an external service provider in accordance with Article 41.

Amendment

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;

(b) it is not possible to ensure good territorial coverage of the third country concerned in any other way; or

(c) the security situation in the third country concerned is particularly problematic;

and where cooperation with other Member States proves not to be appropriate for the Member State concerned, a Member State may, if other solutions are not possible, also cooperate with an external service provider in accordance with Article 41.

Or. en

Justification

In this review of the Visa Code the Commission proposes to provide for the possibility of cooperation with an external service provider without any conditions or restrictions. This contrasts with the current Visa Code in force whose philosophy is that outsourcing is permitted but only "as a last resort" after it was ascertained that other options cannot be chosen. The rapporteur believes that outsourcing should be carefully considered and therefore proposes this amendment. The text is changed compared to the one in force to better reflect the reality of consulates.

Amendment 55

Proposal for a regulation

Article 38 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If the representing Member State refuses a visa on behalf of a represented Member State on the basis of a representation arrangement, Article 29(3) and (4) shall apply.

Or. en

Justification

The responsibility for appeals in case of representation arrangements should be clarified.

Amendment 56

Proposal for a regulation
Article 38 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. An appeal lodged in the representing Member State within the term laid down in the law of that Member State, shall be treated by the represented Member State as a timely appeal in accordance with the law of that Member State. The authorities of the representing Member State shall, without delay, forward the appeal to the competent courts or authorities competent under the law of the represented Member State.

Or. en

Justification

The addition aims to safeguard the right of appeal in case of representation agreements.

Amendment 57

Proposal for a regulation
Article 39 a (new)

Text proposed by the Commission

Amendment

Article 39a

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.

Or. en

Justification

The Commission proposes to delete these provisions from the existing Visa Code. To delete them seems to give, however, the wrong signal. These possibilities should remain in the text in addition to the proposal to set up Schengen Visa Centres (see below).

Amendment 58

Proposal for a regulation Article 39 b (new)

Text proposed by the Commission

Amendment

Article 39b

Schengen Visa Centres

1. Member States shall aim to establish Schengen Visa Centres in order to share resources, increase consular coverage, improve the service offered to visa applicants, increase the visibility of the Union and enhance the uniform application of this Regulation.

2. The setting-up of Schengen Visa Centres implies, as a minimum, the pooling of consular staff or the joint use of premises. Other details relating to the operation of Schengen Visa Centres may be adapted to the local circumstances.

3. The term "Schengen Visa Centre" shall be reserved for consular posts and shall not be used by external service providers.

Or. en

Justification

Only in recital 33 the Commission mentions the concept of Schengen Visa Centre. Such a provision should, however, also be included in an Article. "Schengen Visa Centres" should be set-up in the future as they are on the one-hand more cost-efficient and on the other hand also the visible expression of the common EU visa policy and the Schengen area as one area in which persons may travel freely.

Amendment 59

Proposal for a regulation

Article 41 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall, within the framework of local Schengen cooperation, exchange information about their cooperation with external service providers.

Or. en

Justification

The Commission proposes to delete the current provision of Article 43(3) according to which Member States shall exchange information about the selection of external service providers and the terms and conditions of their contract with them with the justification that "such harmonisation is not possible in reality as Member States generally draw up global contracts with external service providers". While this may be true, it is still valuable that the consulates in a particular jurisdiction exchange information about their cooperation with external service providers.

Amendment 60

Proposal for a regulation Article 41 – paragraph 12

Text proposed by the Commission

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.

Amendment

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 of external service providers worldwide. ***This report shall include detailed information in respect of how Member States monitor the activities of the external service providers and how the external service providers ensure the fulfilment of the requirements set out in the legal instrument concluded with the Member State referred to in paragraph 2. It shall also include information about the reports referred to in point C(e) of Annex VI as well as any other breaches of the legal instrument through the external service provider.***

Or. en

Justification

Currently it is very difficult, if not impossible, to know how on the ground the cooperation between Member States and external service providers really works and also the Commission acknowledged that it "does not have the means to verify the nature and frequency of Member States' monitoring of ESPs to ascertain any problems that may have occurred."

(SWD(2014)101, p.34) The reporting of Member States to the Commission, which has the responsibility to ensure the correct application of this Regulation, should therefore be more detailed and comprehensive.

Amendment 61

Proposal for a regulation Article 45 – paragraph 1

Text proposed by the Commission

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:

Amendment

1. Member States' central authorities and consulates shall provide the public with all relevant information in relation to the application for ***and the use of*** a visa in particular:

Or. en

Justification

The addition "and the use of" is necessary to take account of the amendment proposed under paragraph 1 – point h a (new) below.

Amendment 62

Proposal for a regulation Article 45 – paragraph 1 – point a

Text proposed by the Commission

(a) the criteria, conditions and procedures for applying for a visa;

Amendment

(a) the criteria, conditions and procedures for applying for a visa ***including the supporting documents necessary and the standards for the photograph referred to in Article 9(3)(c)***;

Or. en

Justification

More detailed information should be given to applicants so that they can prepare the application properly in advance.

Amendment 63

Proposal for a regulation

Article 45 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the countries whose citizens require an airport transit visa according to Article 3(1) and (3);

Or. en

Amendment 64

Proposal for a regulation

Article 45 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) that third-country nationals in general may stay on the territory of the Member States for a total duration of no more than 90 days in any 180-day period.

Or. en

Justification

It seems that many third-country nationals are unaware of this provision. It is therefore appropriate, also in to avoid problems at the border and unintended overstays, to inform in a more proactive manner about this provision.

Amendment 65

Proposal for a regulation

Article 45 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the

4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the

application for a visa.

application for a visa. ***The website shall be multilingual and be available at least in English, French, Spanish, Arabic, Russian, and Chinese.***

Or. en

Justification

It is suggested that as a minimum the website shall be available in the UN languages as those are probably the most useful for potential visa applicants.

Amendment 66

**Proposal for a regulation
Article 46 – paragraph 7**

Text proposed by the Commission

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 on the state of affairs of local Schengen cooperation to be submitted to the European Parliament and the Council.***

Amendment

7. An annual report shall be drawn up within each jurisdiction by 31 December each year ***and be published by the Commission on its website.***

Or. en

Justification

So far the Parliament and the Council receive all individual, annual reports of all the jurisdictions of local Schengen cooperation. These individual reports should continue to be available for reference purposes. Regarding the annual report it is instead suggested that the Commission produces annually one report in which all the different aspects are covered for which the Regulation foresees a report. Instead of having various specific reports it seems better to have one annual report in which all the different matters are covered. See amendment to Art. 54.4 a (new).

Amendment 67

**Proposal for a regulation
Article 47 a (new)**

Text proposed by the Commission

Amendment

Article 47a

Amendments to the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning amendments to the Annexes to this Regulation.

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 Article.

Or. en

Justification

The rapporteur wishes to maintain the Annex as part of the Visa Code instead of providing for the power to adopt the content of the current annexes at a later stage by implementing acts. In order to ensure the necessary flexibility to be able to adapt the annexes when necessary the rapporteur suggested that changes to the annexes of this Regulation may be made by delegated acts as in the case of the Schengen Borders Code.

Amendment 68

**Proposal for a regulation
Article 48 – paragraph 2**

Text proposed by the Commission

Amendment

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.

2. Powers to adopt delegated acts referred to in Article 3(2) and (9), **Article 47a and Article 50** shall be conferred on the Commission for an indeterminate period of time.

Or. en

Amendment 69

Proposal for a regulation Article 48 – paragraph 3

Text proposed by the Commission

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 **European** Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

Amendment

3. The delegation of power referred to in Article 3(2) and (9), **Article 47a and Article 50** 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 **European** Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

Or. en

Amendment 70

Proposal for a regulation Article 48 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. A delegated act adopted pursuant to Article 3(2) and (9), **Article 47a and Article 50** 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.

Or. en

Amendment 71

Proposal for a regulation Article 50

Text proposed by the Commission

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 51(2).**

Amendment

The Commission shall **be empowered to adopt delegated acts in accordance with Article 48 concerning the adoption of** the operational instructions on the practical application of the provisions of this Regulation.

Or. en

Justification

The current instructions (C(2010) 1620) - despite the disclaimer of not creating legal obligations in addition to the Code - are drafted in the language of a binding legal act (and are in practice also used in this sense), add more obligations as contained in the Code and provide derogations to it. Examples include the provisions on "original" documents (6.1.1), on the requirement for a medical certification (5.3.2), on the receipt for the fee (4.4.5.1) or the obligation to provide certain documents concerning a host (6.2.1 A (3)). The instructions should thus be adopted by a delegated act.

Amendment 72

Proposal for a regulation Article 54 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission shall present a report about the implementation of this Regulation to the European Parliament and the Council on an annual basis. This report shall include, in particular, information about the implementation of the provisions regarding airport transit visas and the temporary schemes for issuing visas at the external border, as well as the state of affairs of cooperation

with external service providers and of local Schengen cooperation.

Or. en

Justification

It is suggested that the Commission produces annually one report in which all the different aspects are covered for which this Regulation foresees a report or an information of the Parliament and the Council.

Amendment 73

**Proposal for a regulation
Article 55 – paragraph 3**

Text proposed by the Commission

3. **Article 51** shall apply from [3 months after the day of entry into force].

Amendment

3. **Articles 48, 49, 50 and 51** shall apply from [3 months after the day of entry into force].

Or. en

Justification

The Articles 48-50 should also become applicable earlier to ensure that the new practical instructions can be ready when the entire new Visa Code becomes applicable.

Amendment 74

**Proposal for a regulation
Annex II – paragraph A – point 3 – point a**

Text proposed by the Commission

(a) documents relating to accommodation;

Amendment

(a) documents relating to accommodation **or proof of sufficient means to cover the costs of accommodation;**

Or. en

Justification

Confirmed bookings are today without any real value as they might be made via an online booking system which allows to cancel them without a fee. The wording also brings this annex in line with Art. 13(1)(b) on supporting documents.

Amendment 75

**Proposal for a regulation
Annex V – point 2**

Text proposed by the Commission

2. justification for the purpose and conditions of the intended stay was not provided

Amendment

2. justification for the purpose and conditions of the intended stay was not provided

The following document(s) could not be provided:

Or. en

Justification

This is an alignment with the provision of Annex V Part B of Regulation 562/2006 (Schengen Borders Code).

Amendment 76

**Proposal for a regulation
Annex V – point 6**

Text proposed by the Commission

6. one or more Member State(s) consider you to be a threat to public policy, internal security, public health as defined in Article 2(19) of Regulation (EC) No 562/2006 (Schengen Borders Code) or the international relations of one or more of the Member States)

Amendment

6. one or more Member State(s) consider you to be a threat to public policy, internal security, public health as defined in Article 2(19) of Regulation (EC) No 562/2006 (Schengen Borders Code) or the international relations of one or more of the Member States)

***The Member States are:
(indication of Member State)***

Or. en

Justification

The visa applicant should be informed which Member State considered him a threat.

Amendment 77

**Proposal for a regulation
Annex V – additional remarks**

Text proposed by the Commission

Amendment

Additional remarks:

Further details as to the reasons for the decision (points 1 - 11 above) and additional remarks:

You may appeal against ***the*** decision ***to refuse/annul/revoke a visa.***

You may appeal against ***this*** decision.

Or. en

Justification

Regarding "additional remarks": it should be clarified that consulates may use this field also to provide further explanations as to the reasons which led to the decision.

The further change aims to make the form more reader-friendly. This is particularly important as it is the form given to the person who does not receive a visa and must as such be easily understandable.

Amendment 78

**Proposal for a regulation
Annex V – additional remarks – point 7**

Text proposed by the Commission

Amendment

Signature of person concerned⁷

Signature of person concerned

⁷ ***If required by national law.***

Or. en

Justification

A decision to refuse, annul or revoke a visa should, given its importance, always be signed. This should not be limited to the cases in which this is required by national law.

Amendment 79

**Proposal for a regulation
Annex V a (new)**

Text proposed by the Commission

Amendment

ANNEX Va

FILLING IN THE VISA STICKER

1. Mandatory entries section

1.1. 'VALID FOR' heading:

This heading indicates the territory in which the visa holder is entitled to travel.

This heading may be completed in one of the following ways only:

(a) Schengen States;

(b) Schengen State or Schengen States to whose territory the validity of the visa is limited (in this case the following abbreviations are used):

<i>BE</i>	<i>BELGIUM</i>
<i>CZ</i>	<i>CZECH REPUBLIC</i>
<i>DK</i>	<i>DENMARK</i>
<i>DE</i>	<i>GERMANY</i>
<i>EE</i>	<i>ESTONIA</i>
<i>GR</i>	<i>GREECE</i>
<i>ES</i>	<i>SPAIN</i>
<i>FR</i>	<i>FRANCE</i>
<i>IT</i>	<i>ITALY</i>
<i>LV</i>	<i>LATVIA</i>
<i>LT</i>	<i>LITHUANIA</i>
<i>LU</i>	<i>LUXEMBOURG</i>

<i>HU</i>		<i>HUNGARY</i>
<i>MT</i>		<i>MALTA</i>
<i>NL</i>		<i>NETHERLANDS</i>
<i>AT</i>		<i>AUSTRIA</i>
<i>PL</i>		<i>POLAND</i>
<i>PT</i>		<i>PORTUGAL</i>
<i>SI</i>		<i>SLOVENIA</i>
<i>SK</i>		<i>SLOVAKIA</i>
<i>FI</i>		<i>FINLAND</i>
<i>SE</i>		<i>SWEDEN</i>
<i>IS</i>		<i>ICELAND</i>
<i>NO</i>		<i>NORWAY</i>
<i>CH</i>		<i>SWITZERLAND</i>

1.2. When the sticker is used to issue a uniform visa this heading is filled in using the words ‘Schengen States’, in the language of the issuing Member State.

1.3. When the sticker is used to issue a visa with limited territorial validity pursuant to Article 25(1) of this Regulation this heading is filled in with the name(s) of the Member State(s) to which the visa holder’s stay is limited, in the language of the issuing Member State.

1.4. When the sticker is used to issue a visa with limited territorial validity pursuant to Article 25(3) of this Regulation, the following options for the codes to be entered may be used:

(a) entry of the codes for the Member States concerned;

(b) entry of the words ‘Schengen States’, followed in brackets by the minus sign and the codes of the Member States for whose territory the visa is not valid;

(c) in case the ‘valid for’ field is not sufficient for entering all codes for the Member States (not) recognising the travel document concerned the font size of the letters used is reduced.

2. ‘FROM ... TO’ heading:

This heading indicates the period of the visa holder’s stay as authorised by the visa.

The date from which the visa holder may enter the territory for which the visa is valid is written as below, following the word ‘FROM’:

– the day is written using two digits, the first of which is a zero if the day in question is a single digit,

– horizontal dash,

– the month is written using two digits, the first of which is a zero if the month in question is a single digit,

– horizontal dash,

– the year is written using two digits, which correspond with the last two digits of the year.

For example: 05-12-07 = 5 December 2007.

The date of the last day of the period of the visa holder's authorised stay is entered after the word 'TO' and is written in the same way as the first date. The visa holder must have left the territory for which the visa is valid by midnight on that date.

3. 'NUMBER OF ENTRIES' heading:

This heading shows the number of times the visa holder may enter the territory for which the visa is valid, i.e. it refers to the number of periods of stay which may be spread over the entire period of validity, see 4.

The number of entries may be one, two or more. This number is written to the right-hand side of the pre-printed part, using '01', '02' or the abbreviation 'MULT', where the visa authorises more than two entries.

When a multiple airport transit visa is issued pursuant to Article 26(3) of this Regulation, the visa's validity is calculated as follows: first date of departure plus six months.

The visa is no longer valid when the total number of exits made by the visa holder equals the number of authorised entries, even if the visa holder has not used up the number of days authorised by the visa.

4. 'DURATION OF VISIT ... DAYS' heading:

This heading indicates the number of days during which the visa holder may stay in the territory for which the visa is valid. This stay may be continuous or, depending on the number of days authorised, spread over several periods between the dates mentioned under 2, bearing in mind the number of entries authorised under 3.

The number of days authorised is written in the blank space between 'DURATION OF VISIT' and 'DAYS', in the form of two digits, the first of which is a zero if the number of days is less than 10.

The maximum number of days that may be entered under this heading is 90.

When a visa is valid for more than six months, the duration of stays is 90 days in any 180-day period.

5. 'ISSUED IN ... ON ...' heading:

This heading gives the name of the location where the issuing authority is situated. The date of issue is indicated after 'ON'.

The date of issue is written in the same way as the date referred to in 2.

6. 'PASSPORT NUMBER' heading:

This heading indicates the number of the travel document to which the visa sticker is affixed.

In case the person to whom the visa is issued is included in the passport of the spouse, parental authority or legal guardian, the number of the travel document of that person is indicated.

When the applicant's travel document is not recognised by the issuing Member State, the uniform format for the separate sheet for affixing visas is used for affixing the visa.

The number to be entered under this heading, if the visa sticker is affixed to the separate sheet, is not the passport number but the same typographical number as appears on the form, made up of six digits.

7. 'TYPE OF VISA' heading:

In order to facilitate matters for the control authorities, this heading specifies the type of visa using the letters A, C and D as follows:

A	:	airport transit visa (as defined in Article 2(5) of this Regulation)
C	:	visa (as defined in Article 2(2) of this Regulation)
D	:	long-stay visa

8. 'SURNAME AND FIRST NAME' heading:

The first word in the 'surname' box followed by the first word in the 'first name' box of the visa holder's travel document is written in that order. The issuing authority verifies that the name and first name which appear in the travel document and which are to be entered under this heading and in the section to be electronically scanned are the same as those appearing in the visa application. If the number of characters of the surname and first name exceeds the number of spaces available, the excess characters are replaced by a dot (.).

9. (a) Mandatory entries to be added in the 'COMMENTS' section

– in the case of a visa issued on behalf of another Member State pursuant to Article 8, the following mention is added: 'R/[Code of represented Member State]',

– in the case of a visa issued for the purpose of transit, the following mention is added: 'TRANSIT',

– "in the case where all data referred to in Article 5(1) of the VIS Regulation is registered in the Visa Information System, the following mention is added: "VIS"

– in the case where only the data referred to in Article 5(1) point a) and b) is registered in the Visa Information System but the data referred to in Article 5(1) point c) was not collected because the collection of fingerprints was not mandatory in the region concerned: "VIS 0"

(b) National entries in 'COMMENTS' section

This section also contains the comments in the language of the issuing Member State relating to national provisions. However, such comments shall not duplicate the mandatory comments referred to in point 1;

(c) Section for the photograph

The visa holder's photograph, in colour, shall be integrated in the space reserved for that purpose.

The following rules shall be observed with respect to the photograph to be integrated into the visa sticker.

The size of the head from chin to crown shall be between 70 % and 80 % of the vertical

dimension of the surface of the photograph.

The minimum resolution requirements shall be:

- 300 pixels per inch (ppi), uncompressed, for scanning,*
- 720 dots per inch (dpi) for colour printing of photos.*

10. Machine-readable zone

This section is made up of two lines of 36 characters (OCR B-10 cpi).

First line: 36 characters (mandatory)

<i>Positions</i>	<i>Number of characters</i>	<i>Heading contents</i>	<i>Specifications</i>
<i>1-2</i>	<i>2</i>	<i>Type of document</i>	<i>First character: V</i> <i>Second character: code indicating type of visa (A, C or D)</i>
<i>3-5</i>	<i>3</i>	<i>Issuing State</i>	<i>ICAO alphabetic code 3-character: 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</i>
<i>6-36</i>	<i>31</i>	<i>Surname and first name</i>	<i>The surname should be separated from the first names by 2 symbols (<<); individual components of the name should be separated by one symbol (<); spaces which are not needed should be filled in with one symbol (<)</i>

Second line: 36 characters (mandatory)

<i>Positions</i>	<i>Number of characters</i>	<i>Heading contents</i>	<i>Specifications</i>
<i>1</i>	<i>9</i>	<i>Visa number</i>	<i>This is the number printed in the top right-hand corner of the sticker</i>
<i>10</i>	<i>1</i>	<i>Control character</i>	<i>This character is the result of a complex calculation, based on the previous area according to an algorithm defined by the ICAO</i>
<i>11</i>	<i>3</i>	<i>Applicant's nationality</i>	<i>Alphabetic coding according to ICAO 3-character codes</i>
<i>14</i>	<i>6</i>	<i>Date of birth</i>	<i>The order followed is YYMMDD where:</i> <i>YY = year (mandatory)</i> <i>MM = month or << if unknown</i> <i>DD = day or << if unknown</i>
<i>20</i>	<i>1</i>	<i>Control character</i>	<i>This character is the result of a complex calculation, based on the previous area</i>

			<i>according to an algorithm defined by the ICAO</i>
<i>21</i>	<i>1</i>	<i>Sex</i>	<i>F = Female, M = Male, < =Not specified</i>
<i>22</i>	<i>6</i>	<i>Date on which the visa's validity ends</i>	<i>The order followed is YYMMDD without a filler</i>
<i>28</i>	<i>1</i>	<i>Control character</i>	<i>This character is the result of a complex calculation, based on the previous area according to an algorithm defined by the ICAO</i>
<i>29</i>	<i>1</i>	<i>Territorial validity</i>	<i>(a) For LTV visas, insert the letter T (b) For uniform visas insert the filler <</i>
<i>30</i>	<i>1</i>	<i>Number of entries</i>	<i>1, 2, or M</i>
<i>31</i>	<i>2</i>	<i>Duration of stay</i>	<i>(a) Short stay: number of days should be inserted in the visual reading area (b) Long stay: <<</i>
<i>33</i>	<i>4</i>	<i>Start of validity</i>	<i>The structure is MMDD without any filler.</i>

Or. en

Amendment 80

Proposal for a regulation Annex V b (new)

Text proposed by the Commission

Amendment

ANNEX Vb

AFFIXING THE VISA STICKER

1. The visa sticker shall be affixed to the first page of the travel document that contains no

entries or stamps — other than the stamp indicating that an application is admissible.

2. The sticker shall be aligned with and affixed to the edge of the page of the travel document. The machine-readable zone of the sticker shall be aligned with the edge of the page.

3. The stamp of the issuing authorities shall be placed in the ‘COMMENTS’ section in such a manner that it extends beyond the sticker onto the page of the travel document.

4. Where it is necessary to dispense with the completion of the section to be scanned electronically, the stamp may be placed in this section to render it unusable. The size and content of the stamp to be used shall be determined by the national rules of the Member State.

5. To prevent re-use of a visa sticker affixed to the separate sheet for affixing a visa, the seal of the issuing authorities shall be stamped to the right, straddling the sticker and the separate sheet, in such a way as neither to impede reading of the headings and the comments nor to enter the machine-readable zone.

6. The extension of a visa, pursuant to Article 33 of this Regulation, shall take the form of a visa sticker. The seal of the issuing authorities shall be affixed to the visa sticker.

Or. en

Amendment 81

Proposal for a regulation Annex V c (new)

Text proposed by the Commission

Amendment

ANNEX Vc

PART 1

Rules for issuing visas at the border to seafarers in transit subject to visa requirements

These rules relate to the exchange of information between the competent authorities of the Member States with respect to seafarers in transit subject to visa requirements. Insofar as a visa is issued at the border on the basis of the information that has been exchanged, the responsibility lies with the Member State issuing the visa.

For the purposes of these rules:

***‘Member State port’:* means a port constituting an external border of a Member State;**

***‘Member State airport’:* means an airport constituting an external border of a Member**

State.

I. Signing on a vessel berthed or expected at a Member State port (entry into the territory of the Member States)

- the shipping company or its agent shall inform the competent authorities at the Member State port where the ship is berthed or expected that seafarers subject to visa requirements are due to enter via a Member State airport, land or sea border. The shipping company or its agent shall sign a guarantee in respect of those seafarers that all expenses for the stay and, if necessary, for the repatriation of the seafarers will be covered by the shipping company,***
- those competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and shall examine whether the other conditions for entry into the territory of the Member States have been satisfied. The travel route within the territory of the Member States shall also be verified e.g. by reference to the (airline) tickets,***
- when seafarers are due to enter via a Member State airport, the competent authorities at the Member State port shall inform the competent authorities at the Member State airport of entry, by means of a duly completed form for seafarers in transit who are subject to visa requirements (as set out in Part 2), sent by fax, electronic mail or other means, of the results of the verification and shall indicate whether a visa may in principle be issued at the border. When seafarers are due to enter via a land or a sea border, the competent authorities at the border post via which the seafarer concerned enters the territory of the Member States shall be informed by the same procedure,***
- where the verification of the available data is positive and the outcome is clearly consistent with the seafarer's declaration or documents, the competent authorities at the Member State airport of entry or exit may issue a visa at the border the authorised stay of which shall correspond to what is necessary for the purpose of the transit. Furthermore, in such cases the seafarer's travel document shall be stamped with a Member State entry or exit stamp and given to the seafarer concerned.***

II. Leaving service from a vessel that has entered a Member State port (exit from the territory of the Member States)

- the shipping company or its agent shall inform the competent authorities at that Member State port of entry of seafarers subject to visa requirements who are due to leave their service and exit from the Member States territory via a Member State airport, land or sea border. The shipping company or its agent shall sign a guarantee in respect of those seafarers that all expenses for the stay and, if necessary, for the repatriation costs of the seafarers will be covered by the shipping company,***
- the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and shall examine whether the other conditions for entry into the territory of the Member States have been satisfied. The travel route within the territory of the Member States shall also be verified e.g. by reference to the (airline) tickets,***
- where the verification of the available data is positive, the competent authorities may issue a visa the authorised stay of which shall correspond to what is necessary for the purpose of the transit.***

III. Transferring from a vessel that entered a Member State port to another vessel

– the shipping company or its agent shall inform the competent authorities at that Member State port of entry of seafarers subject to visa requirements who are due to leave their service and exit from the territory of the Member States via another Member State port. The shipping company or its agent shall sign a guarantee in respect of those seafarers that all expenses for the stay and, if necessary, for the repatriation of the seafarers will be covered by the shipping company,

– the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and shall examine whether the other conditions for entry into the territory of the Member States have been satisfied. The competent authorities at the Member State port from which the seafarers will leave the territory of the Member States by ship shall be contacted for the examination. A check shall be carried out to establish whether the ship they are joining is berthed or expected there. The travel route within the territory of the Member States shall also be verified,

– where the verification of the available data is positive, the competent authorities may issue a visa the authorised stay of which shall correspond to what is necessary for the purpose of the transit.

PART 2

FORM FOR SEAFARERS IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS			
FOR OFFICIAL USE:			
ISSUER: (STAMP) SURNAME/CODE OF OFFICIAL:		RECIPIENT: AUTHORITY	
DATA ON SEAFARER:			
SURNAME(S):	1A	FORENAME(S):	1B
NATIONALITY:	1C	RANK/GRADE:	1D
PLACE OF BIRTH:	2A	DATE OF BIRTH:	2B
PASSPORT NUMBER:	3A	SEAMAN'S BOOK NUMBER:	4A
DATE OF ISSUE:	3B	DATE OF ISSUE:	4B
PERIOD OF VALIDITY:	3C	PERIOD OF VALIDITY:	4C
DATA ON VESSEL AND SHIPPING AGENT:			
NAME OF SHIPPING AGENT:	5A	TELEPHONE NUMBER	5B
NAME OF VESSEL	6A	FLAG:	6C
IMO NUMBER	6B		
DATE OF ARRIVAL:	7A	ORIGIN OF VESSEL:	7B
DATE OF DEPARTURE:	8A	DESTINATION OF VESSEL:	8B
DATA ON MOVEMENT OF SEAFARER:			
FINAL DESTINATION OF SEAFARER:			9
REASONS FOR APPLICATION:			
SIGNING ON	<input type="checkbox"/>	TRANSFER	<input type="checkbox"/>
LEAVING SERVICE	<input type="checkbox"/>		10
MEANS OF TRANSPORT	CAR <input type="checkbox"/>	TRAIN <input type="checkbox"/>	AEROPLANE <input type="checkbox"/>
			11
DATE OF:	ARRIVAL:	TRANSIT:	DEPARTURE:
			12
	CAR (*) <input type="checkbox"/>	TRAIN (*) <input type="checkbox"/>	
	REGISTRATION No:	JOURNEY ROUTE:	
FLIGHT INFORMATION:	DATE:	TIME:	FLIGHT NUMBER:
Formal declaration signed by the shipping agent or the ship owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seafarer.			

(*) = to be completed only if data are available.

DETAILED DESCRIPTION OF FORM

Points 1-4: the identity of the seafarer

(1)	A. Surname(s)
	B. Forename(s)
	C. Nationality
	D. Rank/Grade
(2)	A. Place of birth
	B. Date of birth
(3)	A. Passport number
	B. Date of issue
	C. Period of validity
(4)	A. Seaman's book number
	B. Date of issue
	C. Period of validity

As to points 3 and 4: depending on the nationality of the seafarer and the Member State being entered, a travel document or a seaman's book may be used for identification purposes.

Points 5-8: the shipping agent and the vessel concerned

(5)	Name of shipping agent (the individual or corporation that represents the ship owner on the spot in all matters relating to the ship owner's duties in fitting out the vessel) under 5A and telephone number (and other contact details as fax number, electronic mail address) under 5B
(6)	A. Name of vessel
	B. IMO-number (this number consists of 7 numbers and is also known as 'Lloyds-number')
	C. Flag (under which the merchant vessel is sailing)
(7)	A. Date of arrival of vessel
	B. Origin (port) of vessel
	Letter 'A' refers to the vessel's date of arrival in the port where the seafarer is to sign on
(8)	A. Date of departure of vessel
	B. Destination of vessel (next port)

As to points 7A and 8A: indications regarding the length of time for which the seafarer may travel in order to sign on.

It should be remembered that the route followed is very much subject to unexpected

interferences and external factors such as storms, breakdowns, etc.

Points 9-12: purpose of the seafarer's journey and his destination

(9) The 'final destination' is the end of the seafarer's journey. This may be either the port at which he is to sign on or the country to which he is heading if he is leaving service.

(10) Reasons for application

(a) In the case of signing on, the final destination is the port at which the seafarer is to sign on.

(b) In the case of transfer to another vessel within the territory of the Member States, it is also the port at which the seafarer is to sign on. Transfer to a vessel situated outside the territory of the Member States must be regarded as leaving service.

(c) In the case of leaving service, this can occur for various reasons, such as end of contract, accident at work, urgent family reasons, etc.

(11) Means of transport

List of means used within the territory of the Member States by the seafarer in transit who is subject to a visa requirement, in order to reach his final destination. On the form, the following three possibilities are envisaged:

(a) car (or coach);

(b) train;

(c) aeroplane.

(12) Date of arrival (on the territory of the Member States)

Applies primarily to a seafarer at the first Member State airport or border crossing point (since it may not always be an airport) at the external border via which he wishes to enter the territory of the Member States.

Date of transit

This is the date on which the seafarer signs off at a port in the territory of the Member States and heads towards another port also situated in the territory of the Member States.

Date of departure

This is the date on which the seafarer signs off at a port in the territory of the Member States to transfer to another vessel at a port situated outside the territory of the Member States, or the date on which the seafarer signs off at a port in the territory of the Member States to return to his home (outside the territory of the Member States).

After determining the three means of travel, available information should also be provided concerning those means:

(a) car, coach: registration number;

(b) train: name, number, etc.;

(c) flight data: date, time, number.

(13) Formal declaration signed by the shipping agent or the ship owner confirming his responsibility for the expenses for the stay and, if necessary, for the repatriation of the seafarer.

Amendment 82

Proposal for a regulation Annex VIII – paragraph 2

Text proposed by the Commission

2. The following data shall be submitted to the Commission within the deadline set out in Article 44 using common templates provided by the Commission, and disaggregated by citizenship of the applicant *when relevant*, as indicated in the templates:

Amendment

2. The following data shall be submitted to the Commission within the deadline set out in Article 44 using common templates provided by the Commission, and disaggregated by citizenship of the applicant, as indicated in the templates:

Or. en

Justification

It should be clear from the legislation what statistics should be collected. This should not be left to the Commission when preparing a template for which no further decision-making procedure is provided for. Therefore no margin of discretion can remain in the legislative text.

Amendment 83

Proposal for a regulation Annex VIII – paragraph 2 – indent 14

Text proposed by the Commission

Number of LTV visas issued, disaggregated by the reason why they were issued (cf. Article 22(1), and (3), and Article 33(3),

Amendment

Number of LTV visas issued, disaggregated by the reason why they were issued (cf. Article 22(1) ***in this case further disaggregated by the three different reasons of humanitarian grounds, national interests as well as international obligations***, and (3), and Article 33(3),

Or. en

Justification

In order to get a better picture regarding the issuing of visas with limited territorial validity it is necessary to have statistics not in an accumulated fashion but for the three reasons separately.

EXPLANATORY STATEMENT

Introduction

This draft report is the result of a thorough preparatory process. Input for it was provided by the shadow rapporteurs and other Members following the presentation of the working document on the proposal in the LIBE Committee on 5 March 2015, during the public hearing on the Visa Package held on 17 June, during fact-finding missions to consulates, by various stakeholders including many Member States' (MS) representatives as well as the Commission's services and by individuals who brought specific concerns regarding the current Visa Code to the attention of the rapporteur. The rapporteur greatly benefitted from these contributions and therefore wishes to thank all those who contributed.

In the following the rapporteur sets out his views on the proposal and outlines the reasoning underlying the main amendments presented.

On the proposal in general

As stated in the working document the rapporteur welcomes the proposal and its underlying philosophy. He agrees that - while maintaining the same very high standards regarding safeguarding public security and preventing irregular migration - it is indeed necessary to take a wider perspective and to recognise the importance for the EU as a whole to facilitate legitimate travel towards it. The rapporteur therefore fully supports the procedural facilitations proposed. These include, for example, the abolishment of the rule that all applicants are required to appear in person to lodge the application, clearer requirements as to the necessary documents, shorter deadlines, or the introduction of the possibility to make interviews with applicants by means of modern communication.

Against the criticism voiced that these proposed facilitations would raise security concerns the rapporteur wishes to state very clearly that in his views these facilitations aim to address the frequent criticism that the current procedures are too cumbersome. The facilitations would not change in any way the substantive criteria and conditions against which visa applications are assessed. The issue is the way in which a visa may be applied for and not the criteria that need to be fulfilled for the issuing of a visa.

On specific aspects

While the rapporteur very much shares the Commission's approach there are a number of issues on which amendments are proposed.

In order to make steps towards a further modernisation of the procedure the rapporteur proposes that there should always be an electronic version of the application form be available so that those who may wish to do so may fill it out electronically instead of by hand (Art. 11(2)). In addition, consulates should be given the possibility to accept online applications. (Art 8 (6a)). These two proposed changes are minor but they should be understood as steps towards the long-term objective of a more modern visa application process.

As regards the procedure the rapporteur considers that some of the proposals should be further strengthened. It should, for example, be possible to lodge an application not only six month

before the intended travel but up to nine months before. The rapporteur considers that such a period corresponds better to today's travel patterns especially as international plane tickets are often substantially cheaper when booked early (Art. 8(1)).

As the Commission, the rapporteur thinks that the more frequent issuing of multiple-entry visas (MEVs) with a longer validity to bona fide travellers constitutes an advantage not only those travellers but for consulates as well. Benefit should indeed be drawn from the increasing use of the Visa Information System (VIS) following its worldwide roll out. The rapporteur therefore fully supports the provisions on the issuing of MEVs to VIS registered regular travellers. The rapporteur, however, proposes to define this group of travellers in a slightly more flexible manner by including third country nationals who have used lawfully two previous visas in the last 18 months and not within the last 12 months. Such a slightly longer period would cover situations of travellers who travel every year to the EU but who do not necessarily do so within a strict 12 months' timeframe (Art. 2 point 9).

On the issue of "humanitarian visas" the rapporteur agrees that the Visa Code cannot provide the sole solution to the current challenges of persons seeking international protection. He, however, strongly believes that safe and legal ways of accessing the territory of the EU for persons fleeing from prosecution are necessary and that the issuing of a Schengen visa is one way. The rapporteur in the draft report has chosen a prudent and legally sound approach based on strengthening and developing existing provisions in the text. The underlying philosophy behind the amendments on recital 6a, b and Articles 1, 6, 19 and 22 is to give consular staff more space to take protection needs into account and to recall the international obligations Member States entered into.

A topic which has been subject to numerous individual complaints has been visas refused for third-country nationals who are family members of EU citizens and who wish to obtain a visa to visit them. The current situation is legally complex (due to the specific provisions of the Free Movement Directive 2004/38 which give family members when covered by it the right to a visa) and rather intransparent (as specific provisions in this regard are so far only included in the handbook but not the Visa Code as such). The numerous complaints about consulates not properly applying these provisions do therefore not come as a surprise. The rapporteur recognises that the Commission tries to address this problem in its proposal as well as the case of "close relatives" and situations not covered by the Directive. The rapporteur fully supports these proposals but considers that certain further provisions are necessary. These include provisions to ensure an access to the consulate for family members as they cannot be required to pay a fee, on MEVs, on the issuing of visas at the border and on refusals. Visa refusals to family members need to be justified in a more detailed way allowing the person concerned to better understand the refusal (Art. 18(3a)).

In the same spirit the rapporteur suggests a number of clarifications regarding the procedure for appeal and a new provision that all consulates have a procedure for complaints. Having such a procedure constitutes good administrative practice and is also important for the image of the MS and the EU. Most consulates probably already have one but the rapporteur wishes to include this in the Code. In addition, a properly organised complaint system might reduce the number of formal appeals which constitute an additional workload for consulates and which are often only lodged because an aspect of the procedure was not well understood before.

Therefore also the provision of information for visa applicants and the public should be further improved. The rapporteur suggests some additions to the list of issues about which the public and applicants are to be informed. The rapporteur also suggest that the Schengen visa website - long requested by Parliament - at least be available in the UN languages as these are probably the most useful for a large number of visa applicants (Art. 45).

Regarding consular organisation it is in particular the cooperation with external service providers (ESPs) which has given rise to concern. The rapporteur recognises the budgetary constraints under which MS' administrations need to operate and also sees the advantages of the cooperation with ESPs. At the same time the tasks given to ESPs are public tasks and thus the decision to cooperate with an ESP should be taken only in case other possibilities have proven not possible. Outsourcing should not be the first choice. The rapporteur therefore proposes a redrafting of the Article 38 dealing with the assessment as to the appropriateness of having recourse to an ESP. At the same time the monitoring of the ESP should be strengthened and the Commission needs to be better informed on the cooperation with ESP in order to be able to correctly assess the implementation of the legal provisions on the ground which is difficult if not impossible currently (Art. 41(12)).

For the long-term we should not lose sight of the objective that Schengen visas are dealt with by a single office in any third country to which all MS and the EU provide resources. The current situation is often absurd as considerable energy at all levels is spent on regulating and managing the concept of the "responsible Member State". All steps which would lead towards that long-term goal need to be taken. The rapporteur therefore supports the proposals on the so called mandatory representation but proposes to add even a criteria based on distance to reduce the burden of the applicant further. In addition the current optional forms of cooperation between MS (co-location and Common Application Centres) should remain as deleting them would send the wrong signal. In addition the rapporteur proposes a new article on "Schengen Visa Centres" - an idea the Commission introduces in a recital but then does not develop any further.

Regarding institutional matters the rapporteur would like to mention the proposal of the Commission to delete a number of the current annexes of the Code and to adopt provisions currently covered by these annexes at a later stage by implementing acts. This is in the views of the rapporteur not acceptable as this approach would reduce the legislator's role.

A further matter of concern is the handbook or the "practical instructions" for consular staff which should in the views of the Commission - and as is the case today - be adopted by implementing acts. So called "practical handbooks" have become a standard feature of many borders and visa related legislative instruments (Borders Code, Eurosur) but they are adopted in different legal forms (recommendations, decisions). They bear the inherent risk of trying to "rewrite the legislation", to add new elements and to lower the importance of the underlying legislation by being the sole document at the disposal of staff on the ground. Taking into account the current handbook which does add new elements to the Code and provides for derogations from it the best way forward in terms of legal certainty and in operational terms, as consular staff should indeed have common and harmonised "practical instructions", would be to adopt these instructions as delegated act supplementing the Visa Code.