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Committee on Civil Liberties, Justice and Home Affairs

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AMENDMENTS 62-124

Draft report **(PE 388.360v02-00)**
Henrik Lax
Proposal for a regulation of the European Parliament and of the Council establishing a Community Code on Visas

Proposal for a regulation (COM(2006)0403 – C6-0254/2006 – 2006/0142(COD))

Text proposed by the Commission	Amendments by Parliament

Amendment by Michael Cashman

Amendment 62
Recital 5 a (new)

	(5a)Member States should ensure that they provide as much assistance as possible to all applicants when it comes to facilitating the visa application process. Particular attention should be paid to applicants whose place of residence is at a considerable distance from the consular post which is dealing with their request. The consular post of the responsible Member State should endeavour to ensure that 'one-stop' procedures are possible for as many applicants as possible. Member States may, in the context of local consular cooperation, derogate from the 'main destination principle' as long as such a derogation is practicable and in the

	interests of both the consular posts concerned and the applicant.

Or. en

Justification

This recital seeks to introduce new ideas for facilitating the visa policy for applicants without rejecting the existing procedure for allocating which Member State is responsible for processing a visa application.

Amendment by Kinga Gál

Amendment 63
Recital 8

(8) Bilateral agreements concluded between the Community and third-countries aiming at facilitating the processing of applications for short-stay visas may derogate from the provisions set out in this Regulation.	(8) Bilateral agreements concluded between the Community and third countries aiming at facilitating the processing of applications for short-stay visas ***and at strengthening democracy and civil society*** may derogate from the provisions set out in this Regulation. ***Visa facilitation may include inter alia a reduction in or an exemption from visa costs, facilitation of parts of the visa procedure and a more frequent use of multiple-entry visas with a long period of validity. The Commission should provide early and clear information to the European Parliament on such bilateral agreements.***

Or. en

Justification

The aim of the visa facilitations is also to strengthen democracy and civil society thanks to increased exchanges and movement between the Union and third countries concerned.

Amendment by Michael Cashman

Amendment 64
Recital 10 a (new)

(10a) Member States should encourage all commercial entities involved in the provision of services connected directly or indirectly with visa applications to give serious consideration to the needs of the applicant. Member States and commercial entities should ensure that any requirements imposed on applicants are proportionate and objective.

Or. en

Amendment by Michael Cashman

Amendment 65
Recital 11 a (new)

(11a) Detailed guidelines concerning the implementation of this Regulation and the issue of local consular co-operation should include recommendations and suggestions as to how to exploit and use new technologies such as the internet, video conferencing for distance interviews, etc., in order to facilitate the visa application procedure for all applicants.

Or. en

Justification

It is important that we ensure coherence and on-going evaluation on important issues linked to the community visa policy such as internet and the use of new technologies.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 66
Article 4, paragraph 2, subparagraph 1

2. By way of derogation from paragraph 1, applications may be lodged by third country nationals, ***legally present in a third-country different from their country of residence in that*** third-country. ***Such applicants shall provide justification, for lodging the***	2. By way of derogation from paragraph 1, ***in exceptional and duly justified cases (e.g. for humanitarian reasons) visa*** applications may be lodged by third country nationals ***in another*** third-country.

application in that country and there must be no doubt as to the applicant's intention to return to the country of residence.

Or. de

Justification

It should not depend on the law of the third country in question whether an applicant requesting a visa e.g. for humanitarian reasons is deemed to be legally present in that country. At any rate be the consulate of the Member State should retain the power to decide whether to issue such a visa.

Amendment by Ewa Klamt

Amendment 67
Article 4, paragraph 2, subparagraph 2

In that case, the diplomatic mission or consular post ***located in*** the applicant's country of residence ***or the central authorities of the issuing Member State may be consulted***.	In that case, the ***consent of the*** diplomatic mission or consular post ***responsible for*** the applicant's country of residence ***must as a general rule be obtained before the visa is issued.***

Or. de

Justification

Consultation should be the rule and not the exception, since the diplomatic mission or consulate in the country of residence is normally better placed to judge the applicant's willingness to return from the country in question, better informed about local conditions, and thus better able to assess the application.

Amendment by Ewa Klamt

Amendment 68
Article 5, paragraph 1, subparagraph a

a) the diplomatic mission or consular post of the Member State in whose territory the sole or main destination of the visit is located***, or;***	a) the diplomatic mission or consular post of the Member State in whose territory the sole or main destination of the visit is located***; the diplomatic mission or consular post shall determine the country in which the***

main destination is located on the basis of individual destinations, routes and length of stay, as evidenced by supporting documents.

Or. de

Justification

Clarification: it needs to be defined who is ultimately responsible for determining the main destination. Cf. also provisions of the current CCI.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 69
Article 5, paragraph 1, point b

b) ***if the Member State of main destination cannot be determined***, the diplomatic mission or consular post of ***the*** Member State ***whose external border the applicant intends to cross in order to enter into the territory of the Member States.***	***b) the diplomatic mission or consular post of another Member State representing the Member State determined as the country of destination under the terms of an agreement pursuant to Article 7(2)a (new), where the journey to*** the diplomatic mission or consular post of ***that*** Member State ***from the applicant's ordinary place of residence would involve disproportionate effort. The decision as to whether the journey to a particular diplomatic mission or consular post would involve disproportionate effort shall be taken on the spot for each host country in the framework of consular cooperation. This information, together with the details of which Member States have concluded representation agreements pursuant to Article 7(2), shall be made available to the public.***

Or. de

Justification

The aim is to give the applicant an alternative if the journey to the diplomatic mission or consulate of the Member State of destination would be difficult for reasons of cost or distance, and thus represent an obstacle to his application.

The decision on whether disproportionate effort is involved varies a great deal from country

to country and can thus best be decided on the spot.

For reasons of transparency and to simplify the application, this information must be made public.

Amendment by Michael Cashman

Amendment 70
Article 5 a (new)

Article 5a

Conduct of staff during the processing of an application

The staff of the diplomatic mission or consular post responsible for processing an application for a short-stay visa shall, in the performance of their duties, fully respect human dignity.
Any measures taken in the performance of their duties shall be proportionate to the objectives pursued by those measures.
While processing an application, staff at diplomatic missions or consular posts shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Or. en

Justification

The amendment introduces the notion of non discrimination as an essential principle in the European Union and one which should be respected when it comes to the European Union's community code on visas.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 71
Article 7, paragraph 2 a (new)

2a. Where the journey to the diplomatic mission or consular post of a Member State would involve disproportionate effort, that Member State should conclude a

	representation agreement with another Member State whose diplomatic mission or consular post is more accessible.

Or. de

Justification

To enable applicants to take advantage of the option under Article 5(1), it is necessary for the Member States to have concluded representation agreements to that effect.

Amendment by Ewa Klamt

Amendment 72
Article 7, paragraph 3

3. The represented Member State shall inform the Commission about new arrangements on representation or the termination of such arrangements ***at the latest*** three months before the agreement enters into force or terminates.	3. The represented Member State shall inform the Commission about new arrangements on representation or the termination of such arrangements ***if possible*** three months before the agreement enters into force or terminates.

Or. de

Justification

In the interests both of the Member States and the applicants, representation arrangements at short notice may also be necessary.

Amendment by Ewa Klamt

Amendment 73
Article 8, paragraph 2

2. Such consultation ***shall*** be without prejudice to the time limit for examining visa applications, set out in Article 20(1).	2. Such consultation ***should*** be without prejudice to the time limit for examining visa applications, set out in Article 20(1). ***In exceptional cases this time limit may be extended in the light of information obtained from consultations so that further examinations can be carried out.***

Or. de

Justification

In the course of consultation, information may come to light which makes a more detailed investigation of the facts necessary.

Amendment by Ewa Klamt

Amendment 74
Article 9, paragraph 2

2. The central authorities consulted shall react within ***three*** working days of receiving the request. The absence of a reply from the consulted authorities within this deadline shall be deemed an authorisation for the consulting central authorities to allow their diplomatic mission or consular post to issue the visa.	2. The central authorities consulted shall react within ***seven*** working days of receiving the request. The absence of a reply from the consulted authorities within this deadline shall be deemed an authorisation for the consulting central authorities to allow their diplomatic mission or consular post to issue the visa. ***Should further examination prove necessary, this time limit may be extended in individual cases by a maximum of 15 working days, stating reasons.***

Or. de

Justification

In the course of consultation, information may come to light which means that a more detailed investigation of the facts, and thus a longer investigation time, are necessary. This should be confined to individual cases, but should not be completely ruled out.

Amendment by Ewa Klamt

Amendment 75
Article 10, paragraph 2

2. Applicants may be required to obtain an appointment for the submission of an application. This appointment may be arranged directly with the diplomatic mission or consular post or where applicable, via an intermediary. The appointment ***shall*** take place within two weeks.	2. Applicants may be required to obtain an appointment for the submission of an application. This appointment may be arranged directly with the diplomatic mission or consular post or where applicable, via an intermediary. The appointment ***should as a rule*** take place within two weeks.

Or. de

Justification

It is desirable for an appointment to be arranged rapidly, but in practice a rigid maximum of two weeks cannot be enforced.

Amendment by Ewa Klamt

Amendment 76
Article 10, paragraph 4

4. If the information supplied in support of the application is incomplete, the applicant shall be informed of what additional documentation is required. The applicant shall be invited to provide the additional information/documentation promptly and shall be informed that after 1 calendar month after the date of this invitation, the application will be declared inadmissible if the required information is not submitted.	***deleted***

Or. de

Justification

Particularly at the busier consulates the storage of the incomplete documentation would lead to major logistical problems.

The Commission proposal also fails to make clear whether fees will be due for the stored incomplete application.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 77
Article 11

Article 11	***deleted***
Capturing of biometric data	
1. Member States shall collect biometric identifiers comprising the facial image and ten fingerprints from the applicant in accordance with the safeguards laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the United	

Nations Convention on the Rights of the Child.

At the moment of submission of his/her first visa application each applicant shall be required to appear in person. At that time the following biometric identifiers shall be collected:

a) a photograph, scanned or taken at the time of application and

b) ten fingerprints taken flat and digitally captured.

2. For any subsequent application the biometric identifiers shall be copied from the first application, provided the last entry is not older than 48 months. After this period a subsequent application is to be considered as a "first application".

3. The technical requirements for the photograph and the fingerprints shall be in accordance with the international standards as set out in ICAO document 9303 part 1 (passports) 6th edition.

4. The biometric identifiers shall be taken by qualified and duly authorised staff of the diplomatic mission or consular post or, under their supervision, of the external service provider referred to in Article 37(1)(c).

The data shall be entered in the Visa Information System (VIS) only by duly authorised consular staff according to Articles 4(1), Article 5 and Article 6(5) and (6) of the VIS Regulation.

5. The following applicants shall be exempt from the requirement to give fingerprints:

a) Children under the age of 6;

b) Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken.

A Member State may provide for exceptions from the requirement of collecting

biometric identifiers for holders of diplomatic passports, service/official passports and special passports.

In each of these cases an entry "not applicable" shall be introduced in the VIS.

6. For each location, Member States shall either equip their consular office with the required material for capturing/collecting biometric identifiers or without prejudice to the options of representation provided for in Article 7, decide to use one of the forms of cooperation described in Article 37.

Or. de

Justification

The conditions and criteria for the collection of biometric data and on the forms of consular cooperation are regulated by the Common Consular Instructions (CCI) as amended. This topic should therefore be dealt with only in that framework, in order to avoid any possible disputes.

Amendment by Ewa Klamt

Amendment 78
Article 11 a (new)

Article 11a

Personal Interview

1. As a general rule the applicant must demonstrate to the diplomatic mission or consular post by means of a personal interview that the criteria for issue of a visa are met. Exemption from the requirement to appear in person at the diplomatic mission or consular post can be granted only in the cases referred to in paragraph 1b and in Article 40. This shall be without prejudice to Article 18(2).

2. If there are no doubts as to the bona fides of the applicant, a derogation may be granted in individual cases from the requirement for a personal interview. This shall be subject to the applicant's

furnishing a guarantee – on the grounds that his character is known to the diplomatic mission or consular post – that he does not pose a risk as regards willingness to return, possession of adequate means of support and legality of the purpose of his stay.

Or. de

Justification

The principle of the personal interview should be retained as a key element of the visa application procedure: if it is dropped, a vital checking tool will be lost. To make no provision for a personal interview, or to make it the exception (Article 18(2)), would be to reverse the existing rule/exception relationship in the current CCI. If we retain the personal interview as the rule, the exception must be granted for bona fide travellers.

Amendment by Ewa Klamt

Amendment 79
Article 11, paragraph 4 a (new)

4a. Where a visa is issued at the external border (Articles 32 and 33), the biometric data shall be collected by the authorities responsible for border control and entered into the VIS.

Or. de

Justification

Applicants issued with a visa at the external border must also have their biometric data collected and entered in the VIS, since otherwise there will be a gap in the biometric information system which invites abuses.

Amendment by Ewa Klamt

Amendment 80
Article 12, paragraph 1, point b

(b) present a valid travel document the expiry date of which ***must*** be at least three months after the intended departure from the	(b) present a valid travel document the expiry date of which ***should*** be at least three months after the intended departure from the

territory of the Member States, and which contains one or more free pages for affixing the visa,	territory of the Member States, and which contains one or more free pages for affixing the visa,

Or. de

Justification

Gives the visa issuing authority scope for flexibility in the interests of the applicant.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 81
Article 13, paragraph 3, point a

a) the official language(s) of the Member State for which a visa is requested,	***deleted***

Or. de

Justification

We need to rule out a situation in which a visa application is available only in the official language(s) of the Member State for which a visa is requested and has to be filled out in that language. At any rate an application in the language(s) of the host country must be an option.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 82
Article 13, paragraph 3, subparagraph 3

If the form is available only in the official languages of the Member State for which a visa is requested, a translation of the application form into the official language(s) of the host country shall be made available to visa applicants, separately.	***deleted.***

Or. de

Justification

See justification to Article 13(3)(a).

Amendment by Sylvia-Yvonne Kaufmann

Amendment 83
Article 13, paragraph 3, subparagraph 4

A translation of the application form ***into*** the official language(s) of the host country shall ***be produced*** under local consular cooperation arrangements**.**	***The drafting*** of the application form ***in*** the official language(s) of the host country shall ***take place*** under local consular cooperation arrangements.

Or. de

Amendment by Sylvia-Yvonne Kaufmann

Amendment 84
Article 13 paragraph 4

4. Applicants shall be informed of the language(s) which may be used when filling in the application form.	4. Applicants shall be informed of the language(s) which may be used when filling in the application form***: the official language(s) of the host country or also the official language(s) of the Member State concerned.***

Or. de

Amendment by Michael Cashman

Amendment 85
Article 14, paragraph 1, subparagraph 2 a (new)

	Applicants shall not be required to produce documents regarding accommodation or invitation before applying for a visa if they are able to prove that they have sufficient means to cover their subsistence and accommodation costs in the Schengen State or States that they intend to visit. This shall be without prejudice to the requirement for applicants to be able to supply the consular post with such documents prior to receipt of a visa and at the external border of the EU

if requested.

Or. en

Justification

This amendment ensures coherence with the Schengen Borders Code which allows Border guards to ask for these documents at the external border.

Amendment by Ewa Klamt

Amendment 86
Article 15, paragraph 4

4. Applicants shall, in principle, take out insurance in their State of residence. Where this is not possible, ***they should seek to obtain insurance in any other*** country.	4. Applicants shall, in principle, take out insurance in their State of residence. Where this is not possible, ***insurance shall be obtained in another*** in any other country***.***

Or. de

Justification

Clarification: insurance cover is a requirement. It is not enough simply to "seek to" obtain insurance.

Amendment by Kinga Gál

Amendment 87
Article 16, paragraph 4, point (a)

(a) children ***under 6 years***;	a) children ***up to and including 14 years;***

Or. en

Justification

Children are usually travelling with their parents. If a family is paying a separate visa fee for all their children the total cost of application becomes disproportionate..

Amendment by Sylvia-Yvonne Kaufmann

Amendment 88
Article 16, paragraph 4, point (a)

a) children ***under 6 years***,	a) children ***under 14 years***,

Or. de

Justification

See rapporteur's justification. In addition, the age limit should be linked to the age for the collection of biometric data, which in our view – on the basis of earlier experience with biometric data (cf. Eurodac, US-VISIT system) – should be 14.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 89
Article 16 paragraph 4 point (a) a (new)

	a a) If a family is travelling with more than two minor children who are not already exempted from the visa fee by virtue of paragraph 4, point (a), the visa fee shall be waived for all further children.

Or. de

Justification

This will facilitate travel for large families, or in many cases make it possible in the first place.

Amendment by Michael Cashman

Amendment 90
Article 16, paragraph 4, point (b)

(b) school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training; and	(b) school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training ***or sporting tournaments***; and

Or. en

Justification

The amendment seeks to facilitate cross border travel for persons involved in sporting activities.

Amendment by Kinga Gál

Amendment 91
Article 16, paragraph 4, point (c a) (new)

(ca) persons belonging to a traditional national minority who can prove strong cultural, linguistic and/or family relations in the Member State of destination;

Or. en

Justification

The visa facilitation is important in the cases when strong cultural and linguistic relations exist across the border - between minorities and kin state- , and families are separated and live in a member state and a neighbouring country.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 92
Article 16, paragraph 4a (new)

4a. In the case of subsequent applications within the meaning of Article 11(2), the processing fee shall be half the normal fee.

Or. de

Justification

Since the biometric data are copied from the previous application, there are fewer costs involved. This also boosts a positive image of a European Union in which third country nationals are generally welcome.

Amendment by Michael Cashman

Amendment 93
Article 16, paragraph 5

5. In individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.	5. In individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural ***and sporting*** interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.

Or. en

Justification

The amendment seeks to facilitate cross border travel for persons involved in sporting activities.

Amendment by Michael Cashman

Amendment 94
Article 16, paragraph 8

8. The fee ***shall*** be doubled in cases where the visa application is submitted by the visa applicant three days or less before the envisaged date of departure without justification.	8. The fee ***may*** be doubled in cases where the visa application is submitted by the visa applicant three days or less before the envisaged date of departure without justification***, unless there are extenuating circumstances***.

Or. en

Justification

The amendment seeks to introduce a measure of flexibility for both the applicants and the consular services when visas are submitted close to date of departure.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 95
Article 18, paragraph 2a (new)

2a. Where it is necessary to call an applicant for interview pursuant to paragraph 2, it should be possible to decide on the application in a one-stop procedure if the diplomatic mission or consular post is very remote from the applicant's ordinary place of residence or if there are other circumstances which make the journey particularly difficult. The decision as to when the conditions set out in sentence 1 of this paragraph are met, and the one-stop procedure should apply, shall be taken under local consular cooperation arrangements. This information shall be made public

Or. de

Justification

See rapporteur's justification to Article 18(2) point a (new) (Amendment 28). This information should be made public in the interests of transparency and of facilitating applications.

Amendment by Michael Cashman

Amendment 96
Article 19 a (new)

Article 19a

Notification of decision and right of appeal

Applicants shall be informed of decisions concerning their applications as soon as possible after such decisions are taken.

Any applicant who has been refused a visa shall have the right to appeal against such a decision. Such an appeal shall not have suspensive effect.

Applicants who are refused visas shall be informed in writing of their right to appeal against the decision.

In cases where applicants exercise their right to appeal, an in-depth review of the decision and reasons for refusal shall be

	undertaken. The applicant shall be informed of the results of the review as well as being provided with more detailed reasons as to why a visa was refused.
	In cases where an application has been deemed inadmissible in accordance with Article 19, applicants shall be given the opportunity to provide supplementary evidence in support of their appeal.

Or. en

Justification

The amendment strengthens the notion of a right to appeal for applicants who are refused a visa. Such a right is essential if the EU is to maintain and further a positive image of transparency and fairness in its visa procedures.

Amendment by Ewa Klamt

Amendment 97
Article 20, paragraph 3, subparagraph 1

3. ***Multiple-entry visas,*** entitling the holder to several entries, three month stays or several transits during any half-year, ***may be issued with a period of validity of maximum 5 years.***	3. ***Persons offering the necessary guarantees may be issued with visas valid for one year*** entitling the holder to several entries, three month stays or several transits during any half-year ***(multiple-entry visas).***
	In duly justified exceptional cases, a multiple-entry visa may be issued with a period of validity of more than one year, up to a maximum of 5 years.

Or. de

Justification

The issuance of multiple entry visas should not be taken for granted! Multiple-entry visas always involve a greater risk, so they should only be issued in special cases and only to reliable persons. However, the option of issuing a multiple-entry visa valid for five years should be retained, though it should be reserved for exceptional cases (cf. amendment to Article 29(3) (new)).

Amendment by Ewa Klamt

Amendment 98
Article 20, paragraph 3, subparagraph 2, point a

a) the applicant's need to travel frequently and/or regularly due to his/her occupational or family status, such as businessmen and women, civil servants engaged in regular official contacts with Member States and the Community institutions, family members of citizens of the Union, members of the family of third country nationals residing in Member States, seafarers,	a) the applicant's need to travel frequently and/or regularly due to his/her occupational or family status, such as businessmen and women, civil servants engaged in regular official contacts with Member States and the Community institutions, family members of citizens of the Union, members of the family of third country nationals residing in Member States, seafarers, ***and***

Or. de

Justification

Clarification: both conditions must be met, namely reliability and the wish for a multiple entry visa.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 99
Article 20, paragraph 3, subparagraph 2, point b

b) the integrity and reliability of the applicant, ***in particular the lawful use of previous Schengen visas,*** his economic situation in the country of origin and his genuine intention to return to that country.	b) the integrity and reliability of the applicant, his economic situation in the country of origin and his genuine intention to return to that country. ***The decision on this point, particularly the assessment of whether a person really intends to return to his country of origin, must be based on demonstrable facts relating to the individual case, e.g. the lawful use of previous Schengen visas.***

Or. de

Justification

Determining whether a person is reliable and whether he intends to return to his country of origin is a subjective decision based on an overall assessment. However, in order to prevent arbitrary decisions, it must be based on objective and demonstrable criteria relating to the individual case.

Amendment by Ewa Klamt

Amendment 100
Article 21, paragraph 1, introductory part

1. ***A*** visa with limited territorial validity (LTV) ***shall*** be issued exceptionally in the following cases:	***1. Where the conditions for the issuance of a visa pursuant to Article 18 are not all met, a visa shall as a general rule be refused. However, a*** visa with limited territorial validity (LTV) ***may*** be issued exceptionally in the following cases:

Or. de

Justification

Clarification: it needs to be ensured that these visas are exceptional, since in the absence of internal controls it will be virtually impossible to check on compliance with the territorial limitations.

Amendment by Ewa Klamt

Amendment 101
Article 21, paragraph 2

2. The central authorities of the Member State whose diplomatic mission or consular post has issued LTVs in the cases described in points (a) ***and*** (b) of the first subparagraph of paragraph 1 shall immediately circulate the relevant information to the central authorities of the other Member States.	2. The central authorities of the Member State whose diplomatic mission or consular post has issued LTVs in the cases described in points (a)***,*** (b) ***and (c)*** of the first subparagraph of paragraph 1 shall immediately circulate the relevant information to the central authorities of the other Member States. ***Where, in the case referred to in paragraph 1 point b, the Member State consulted under the prior consultation procedure has raised objections, the consulted Member State must be provided with the relevant information in adequate time before the visa is issued.***

Or. de

Justification

In cases covered by Article 5(1)(c), too, the applicant ought not to be permitted to re-enter the Schengen area. If the security services raise objections, consultations must be possible before the visa is issued.

Amendment by Ewa Klamt

Amendment 102
Article 22, paragraph 1

1. Nationals of the third countries included in the list set out in Annex VII , shall be required to hold an airport transit visa, when passing through the international transit areas of airports situated on the territory of Member States.	1. Nationals of the third countries included in the list set out in Annex VII , ***part 1,*** shall be required to hold an airport transit visa, when passing through the international transit areas of airports situated on the territory of Member States.

Or. de

Justification

The extent to which the individual Member States are affected by transit traffic varies enormously (Frankfurt airport, for example, is a major hub). Transit flows through particular airports also change very rapidly (cf. the statements of would-be immigrants in Ceuta and Melilla on transit and entry routes). The new Part 2 of Annex VII must (like Part II of Annex 3 to the CCI) must be capable of being amended informally, rapidly and flexibly by each Member State individually (cf. also Art. 44(2) and Art. 47(3)).
The existing rules to this effect in the current CCI (Annex 3, common list (part 1) and individual list for each Member State (part 2)) should therefore be retained.

Amendment by Ewa Klamt

Amendment 103
Article 22, paragraph 1 a (new)

	1a. Nationals of the third countries listed in Annex VII part 2 shall require to be in possession of an airport transit visa when passing through the international transit areas of the airports of those Member States which display signs to that effect in these areas.

Or. de

Justification

The extent to which the individual Member States are affected by transit traffic varies enormously, and transit flows through particular airports also change very rapidly It must be possible for each Member State individually to amend Part 2 of Annex VII (cf. part II of Annex 3 of the CCI) informally, rapidly and flexibly (cf. also Art. 44(2) and Art. 47(3)). The existing rules to this effect in the current CCI (Annex 3, common list (part 1) and individual list (part 2) for each Member State should therefore be retained.

Amendment by Ewa Klamt

Amendment 104
Article 22, paragraph 2, point a

a) holders of uniform short stay or transit visa issued by a Member State,	a) holders of ***a residence permit,*** uniform short stay or transit visa issued by a Member State,

Or. de

Justification

In the interest of consistency with the Convention applying the Schengen Agreement (Art. 21(1)).

Amendment by Ewa Klamt

Amendment 105
Article 23 paragraph 2

2. The decision stating the precise reasons for the refusal shall be given by means of the standard form set out in Annex IX. This form shall also be used when the visa is refused at the border.	2) The decision stating the precise reasons for the refusal shall be given by means of the standard form set out in Annex IX. This form shall also be used when the visa is refused at the border. ***There is no provision for details to be given over and above what is set out in Annex IX.***

Or. de

Justification

Clarification. There is no provision for details over and above the information set out in Annex IX. Accordingly Annex IX should be regarded as exhaustive.

Amendment by Michael Cashman

Amendment 106
Article 24

Mere possession of a short stay visa or a transit visa ***does not*** confer automatic right of entry.	Possession of a short stay visa or a transit visa ***shall*** confer automatic right of entry ***provided that, upon arrival at the external border, the traveller meets the requirements of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)[1] and unless an alert has been issued in the SIS system or in a national register or new information has come to light which proves the visa application to be fraudulent***.
	[1] OJ L 105, 13.4.2006, p. 1.

Or. en

Justification

If persons are in possession of a valid short stay visa or a transit visa the general rule should be that they have the right to entry as long has they fulfil the existing criteria in laid out in EU legislation.

Amendment by Ewa Klamt

Amendment 107
Article 31 paragraph 1

1. Border control authorities may decide to shorten the duration of stay authorised by a visa if it is established that the holder does not have adequate means of support for the initially intended duration of the stay.	1. Border control authorities ***and the competent administrative authorities of the Member States*** may decide to shorten the duration of stay authorised by a visa if it is established that the holder does not have adequate means of support for the initially intended duration of the stay.

Or. de

Justification

It is generally not the border control authorities but the authorities on the spot which establish these matters, so they should be enable to shorten the validity of a visa within their country.

Amendment by Ewa Klamt

Amendment 108
Article 32 paragraph 6a (new)

6a. The provisions on the collection of biometric data pursuant to Article 11 shall apply accordingly, except that the biometric data are to be collected by the national authorities responsible for border controls.

Or. de

Justification

Applicants issued with a visa at the external border must also have their biometric data collected and entered in the VIS, since otherwise there will be a gap in the biometric information system which invites abuses.

Amendment by Ewa Klamt

Amendment 109
Article 33 paragraph 3

3. This Article shall apply without prejudice to Article 32(3), (4) ***and*** (5).	3. This Article shall apply without prejudice to Article 32(3), (4)***,*** (5) ***and (7)***.

Or. de

Amendment by Sylvia-Yvonne Kaufmann

Amendment 110
Article 37

Article 37	***deleted***
Forms of cooperation in relation to the	

reception of visa applications

1. Member States may engage in the following forms of cooperation:

a) "co-location": staff from the diplomatic posts and consular missions of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic post and consular mission of another Member State and share the equipment of that Member State. The Member States concerned shall agree on the duration and conditions for the termination of the co-location as well as the part of the administrative fee to be received by the Member State whose diplomatic post or consular mission is being used.

b) "Common Application Centres": staff of diplomatic posts and consular missions of two or more Member States are pooled in one building in order to receive the visa applications (including biometric identifiers) addressed to them. Applicants shall be directed to the Member State responsible for the processing of the visa application. Member States shall agree on the duration and conditions for the termination of this co-operation 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.

c) Co-operation with external service providers: where for reasons relating to the local situation of the consular post it is not appropriate to equip the consular office for capturing/collecting biometric identifiers or to organise co-location or a Common Application Centre, a Member State or several Member States jointly may co-operate with an external service provider for the reception of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa

applications.

Or. de

Justification

The conditions and criteria for the collection of biometric data and for the forms of consular cooperation are regulated by the Common Consular Instructions (CCI) as amended. This topic should therefore be dealt with only in that framework, in order to avoid any possible disputes.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 111
Article 38

Article 38	***deleted***
Co-operation with external service providers	
1. Cooperation with external service providers shall take the following form:	
a) the external service provider acts as a call-centre providing general information on the requirements for applying for a visa and in charge of the appointment system; and/or	
b) the external service provider provides general information on the requirements for applying for a visa, collects applications, supporting documents and biometric data from visa applicants and collects the handling fee (as provided for in Article 16) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.	
2. The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organizational measures requested by the Member State(s) to protect personal data against accidental	

or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.

When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts and shall ensure there is no conflict of interests.

3. External service providers shall not have access to the VIS for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.

4. The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46/EC. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall within local consular cooperation inform the diplomatic missions and consular posts of other Member States and the Commission delegation why the contract is necessary.

5. In addition to the obligations set out in Article 17 of Directive 95/46/EC, the contract shall also contain provisions which,

a) define the exact responsibilities of the service provider,

b) require the service provider to act under the instructions of the responsible Member States and to process the data only for the purposes of processing of personal data of visa applications on behalf of the responsible Member States in compliance with Directive 95/46,

c) require the service provider to provide the applicants with the information required under the VIS Regulation,

d) provide for access by consular staff to the premises of the service provider at all times,

e) require the service provider to observe rules of confidentiality (including the protection of the data collected in relation to visa applications,

f) contain a suspension and termination clause.

6. The Member State(s) concerned shall monitor implementation of the contract, including

a) the general information provided by the service provider to visa applicants,

b) the technical and organisational security measures and appropriate technical and organizational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing as well as the reception and transmission of files and data to the consular post,

c) the capturing of biometric identifiers,

d) the measures taken to ensure compliance with data protection provisions.

7. The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Article 16.

8. The consular staff of the Member State(s) concerned shall give training to the service provider, corresponding to the knowledge needed to offer appropriate service and sufficient information to visa applicants.

Or. de

Justification

The conditions and criteria for the collection of biometric data and for the forms of consular cooperation are regulated by the Common Consular Instructions (CCI) as amended. This topic should therefore be dealt with only in that framework, in order to avoid any possible disputes.

Amendment by Ewa Klamt

Amendment 112
Article 38 paragraph 1 (new)

1. The requirement for the applicant to establish that the conditions for issuance of a visa are met, possibly by means of a personal interview at the competent diplomatic mission or consular post, shall not be affected (cf. Article 10(1a)).

Or. de

Justification

Cf. Art. 10(1)a (new):
To make no provision for a personal interview, or to make it the exception (Article 18(2)), would be to reverse the existing rule/exception relationship in the current CCI. The principle of the personal interview should be retained as a key element of the visa application procedure: if it is dropped, a vital checking tool will be lost.

Amendment by Michael Cashman

Amendment 113
Article 38, paragraph 2, subparagraph 1

2. The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organizational measures requested by the Member State(s) to protect personal data against accidental or unlawful destruction or accidental loss,	2. The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organizational measures requested by the Member State(s) to protect personal data against accidental or unlawful destruction or accidental loss,

alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.	***unlawful copying,*** alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.

Or. en

Justification

The amendment seeks to add a further safeguard to protect citizens' personal data against unlawful copying.

Amendment by Ewa Klamt

Amendment 114
Article 40, paragraph 1 a (new)

	1a. The reception of visa applications by commercial agencies shall not release the Member States' diplomatic missions and consular posts from the duty of carefully and independently checking that all conditions for issuance of a visa are met in accordance with Article 18 in each individual case. In the event of doubt, it may be necessary for the applicant to present himself in person at the diplomatic mission or consular post. (Article 18 (2)).

Or. de

Justification

It needs to be clarified that commercial agencies cannot take prior decisions about the success of a visa application.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 115
Article 41, title

Information of the general public	Information of the general public ***and information on the issuance of a visa***

Or. de

Amendment by Ewa Klamt

Amendment 116
Article 41, paragraph 2

2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 three months before such arrangements enter into force. This information shall contain details of possible categories of applicants who must apply directly at a diplomatic mission or consular post of the represented Member.	2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 ***where possible*** three months before such arrangements enter into force. This information shall contain details of possible categories of applicants who must apply directly at a diplomatic mission or consular post of the represented Member.

Or. de

Justification

Both in the interest of the Member States and of the applicant, representation arrangements may be necessary at short notice. In such cases it is not possible to provide information three months in advance.

Amendment by Ewa Klamt

Amendment 117
Article 41, paragraph 4

4. The general public shall be informed of the time limits for examining visa applications provided for in Article 20(1). It shall also be informed of the third countries whose nationals or specific categories of such nationals are subject to prior consultation as set out in Annexes I and II.	4. The general public shall be informed of the time limits for examining visa applications provided for in Article 20(1). It shall also be informed of the third countries whose nationals or specific categories of such nationals are subject to prior consultation as set out in Annexes I and II. ***However, no information shall be published on the nature of the consultation desired by a particular Member State.***

Or. de

Justification

Information on the existence of consultation may be of added value to the applicant. However, information on which Member States desire consultation on a particular third country provides no added value for the applicant and may lead to considerable political pressure and diplomatic complications between the applicant's country of origin and the Member State of destination.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 118
Article 41, paragraph 6

6. The general public shall be informed that mere possession of a visa does not confer automatic right of entry and that the holders of visa may be requested to present supporting documents at the border.	6. The general public shall be informed that mere possession of a visa does not confer automatic right of entry and that the holders of visa may be requested to present supporting documents at the border. ***At the time a visa is issued the visa holder shall be expressly reminded of this in writing.***

Or. de

Justification

This information is important for the visa holder in particular, and he must therefore be reminded of it expressly and in writing.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 119
Article 41, paragraph 7

7. The general public shall be informed about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency.	7. The general public shall be informed ***about the amount of the processing charge in the official currency of the host country and*** about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency.

Or. de

Justification

First of all it is important to let people know how much the processing fee is.

Amendment by Ewa Klamt

Amendment 120
Article 42 paragraph 1, last part

If regarding one or more of the points (a) to ***(d)***, the assessment within the local consular cooperation confirms the need for a local harmonised approach, measures on such a harmonised approach shall be adopted pursuant to the procedure provided by Article 46(2).	If regarding one or more of the points (a) to ***(e)***, the assessment within the local consular cooperation confirms the need for a local harmonised approach, measures on such a harmonised approach shall be adopted pursuant to the procedure provided by Article 46(2)

Or. de

Justification

Follows on from amendment to Article 42(1)(e).

Amendment by Ewa Klamt

Amendment 121
Article 42, paragraph 1, point e (new)

	e) a uniform procedure for return checks, including the type and duration of such checks (e.g. boarding card control, personal interview, spot checks).

Or. de

Justification

Practical needs may arise at specific locations.

Amendment by Sylvia-Yvonne Kaufmann

Amendment 122
Article 42, paragraph 5, subparagraph 2

On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council.	On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council ***and the European Parliament***.

Or. de

Justification

Since the codecision procedure is applicable here, the European Parliament must be informed about 'practical' experience on the spot in the same way as the Council.

Amendment by Michael Cashman

Amendment 123
Article 42 a (new)

	Article 42a
	Impact assessment
	The Commission shall, within two years of the entry into force of this Regulation, undertake an impact assessment of the implementation of this Regulation and of local consular cooperation agreements between Member States concerning visa procedures. Following that impact assessment, the Commission shall, if necessary, propose modifications to this Regulation. Particular attention shall be paid to the issues of biometrics and provisions aimed at facilitating and simplifying the visa procedure.

Or. en

Amendment by Kathalijne Maria Buitenweg

Amendment 124
Article 43 a (new)

	Article 43a
	The European Parliament and the Council, acting in accordance with Article 251 of the

Treaty, shall adopt any decisions concerning the timing of and methods for the introduction of requirements for biometric identifiers, for those countries which have been offered the prospect of EU membership via accession negotiations and for those countries which are subject to programmes under the European Neighbourhood Policy.

Or. en

Justification

In the spirit of the European Neighbourhood Policy and as the Visa Code should aim at simplifying visa procedures, the adoption of new measures introducing biometric identifiers in visas for citizens of countries participating in the European Neighbourhood Programs and of other countries with closer cooperation with the EU, should be decided with the assent of the European Parliament.