COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0074 (CNS)

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Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1683/95 laying down a uniform format for visas as regards the numbering of visas

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Context of the proposal

- **Grounds for and objectives of the proposal**

The visa number is an integral part of the uniform format for visa. It is inserted in order to identify the individual visa issued to a third country national by one of the Member States. The number is printed on the sticker during the production process before the personalisation in order to identify lost or stolen blank documents. It also serves to register visa stickers in order to control stocks and issued visas.

The visa numbering is currently set out partly in the Annex to Regulation (EC) No 1683/95 laying down a uniform format for visa[1] and partly in the technical specifications adopted by the Commission[2]. It consists of the number of the visa, preceded by the letter(s) of the issuing Member State as defined in number 3 of the annex to the Regulation. The letter(s) currently refer to the country codes used for car plates. The International Civil Aviation Organisation (ICAO) has set out standards, for machine readable travel documents and in particular a list of country codes. In accordance with the ICAO standards, the first line of the machine readable zone must include the 3 letter ICAO country code of the issuing State and the second line the visa number (using nine entry positions). The uniform format for visas has to be machine readable and therefore ICAO compliant, in order to speed up the control process at the border.

As the visa number used in the second line of the machine readable zone is limited to 9 characters, some problems occurred in the past with the current visa numbering: Firstly, Member States interpreted the numbering in their own way (some using more than 9 characters which could not fit into the machine readable zone and was therefore only partly filled in), which met the requirements of their own visa sticker production process, but was not fully compliant with both Regulation (EC) No 1683/95 and ICAO specifications. Consequently the visa could not be read by machines and had to be entered manually in the system or could even not be retrieved. Secondly, the current wording of the technical specifications for the uniform format for visas does not allow sufficient character spaces for visa sticker serial numbers for those countries, which issue large numbers of visas. Furthermore, certain incoherence occurred as the country code used in the machine readable zone corresponds to the ICAO code and the country code used in the visa sticker number followed the car plate system. Until now these differences were not that important as the visa is only visually inspected at the border or checked by reading the machine readable zone.

Once the Visa Information System (VIS) is in place, verification at external border crossing points will in principle be performed using the visa sticker number in combination with the fingerprints of the holder. The VIS will retrieve the relevant application file for this visa from the visa sticker number and will then verify whether the fingerprints of the person presenting the visa at the border match those entered by the consular post in the application file. In the majority of cases, the request to the VIS will be introduced by reading of the machine readable zone of the visa. The VIS has therefore to rely on a unique visa number, which is a coherent number printed on the

[1] OJ L 164, 14.07.1995, p. 1-4

[2] Decision 2/96 of 07.02.1996 and Decision COM(2000) 4332 of 27.12.2000, unpublished

visa sticker and in the machine readable zone.

Consequently, it is necessary to change the current numbering of the visa in order to have a unique visa sticker number thus avoiding several visa records coming up during the verification process, instead of the only relevant application file. At the same time, it seems appropriate to change for the ICAO country codes for the visa sticker number in order to be ICAO compliant.

As regards the country code in latent image, it would in principle be coherent to change it as well. However, as the country code in the latent image is printed in intaglio printing, it would be necessary to change the printing plates, which is very costly. The change of the latent image is not urgent as it doesn't relate to the numbering. It should be adapted at a later stage when other amendments of Regulation (EC) No 1683/95 will be prepared in order to avoid high costs now.

- **General context**

The introduction of the VIS as a system for the exchange of visa data represents one of the key initiatives within EU policies aimed at establishing an area of freedom and security. The VIS will improve the implementation of the common visa policy, consular cooperation and consultation between central visa authorities in order to facilitate the visa application procedure, to prevent "visa shopping", to facilitate the fight against fraud and checks at external border crossing points and within the territory of Member States, to assist in the identification and return of illegal immigrants and to facilitate the application of the "Dublin II Regulation" (EC) No 343/2003[3] and to prevent threats to internal security of any of the Member States.

In this context it is essential that border guards checking the VIS can use a unique visa sticker number in order to find the record which will be verified against the fingerprints of the person presenting him/herself at the border.

- **Existing provisions in the area of the proposal**

As the current wording of the provisions in Regulation (EC) No.1683/95 laying down a uniform format for visas and the additional technical specifications is insufficient to provide for consistent and unique visa sticker numbering to be used in the VIS, there is a need to change the way visa stickers are numbered before the VIS enters into force.

Main organisations/experts consulted

Member States experts and VIS experts were consulted in order to find the right system for the numbering of the visa sticker in a coherent way.

[3] OJ L 50, 25.2.2003, p. 1–10

- **Impact assessment**

In the event that the status quo as regards visa numbering was allowed to continue, biometric verifications would not reliably work in the Visa Information System. It is necessary therefore either to enforce the existing standard for visa numbering, and its uniform transfer into the Machine Readable Zone (MRZ), or to identify another alternative solution. The existing standard was not favoured due to the lack of character spaces permitted.

The technical Committee established by Article 6 of Regulation (EC) No.1683/95 evaluated several options:

Option 1

All Member States ensure they have 9 character visa sticker numbers, beginning with the country code as currently provided in the technical specifications, and that these are reproduced identically on line 2 of the MRZ.

Option 2

A new system would be introduced, still using 9 characters, but replacing the current prefixes with the recognised ICAO (ISO) codes, which consist of 3 letters (except for Germany using only letter "D"). In addition, 6 characters can be used. These can consist of letters and numbers which will give a maximum of 2.176.782.335 serial numbers.

Option 3

Print in MRZ line 2 the visa sticker number but without the country code. The country which issued the visa could then be identified from line 1 of the MRZ. This option will give 999.999.999.999 serial numbers. In the upper right corner, no country code would appear as it could be read out in the machine readable zone.

The experts considered that all these options would not be appropriate and found an agreement on the solution to separate the country code from the visa number. The visa number, which has nine numbers, will be printed in box 5 of the visa sticker (upper right corner). In order to identify blank visas and to generate a unique number, the country code, adapted to the code of ICAO used in the machine readable zone, will be printed in the background printing just underneath the number (new box 5a). The impact of the identified solution is not only that a unique visa sticker number will be created but also that additional character spaces will be made available, thereby assisting those Member States issuing large numbers of visas. Member States will need to make changes to their printing processes and to distribute the new visa stickers to Consulates before the VIS becomes operational. Once the VIS becomes operational, Member States will be able either to connect Consulates everywhere to the system or, as a minimum, to follow a regional roll-out schedule. Those that do not begin using VIS in locations ahead of the roll-out schedule will be able to use up stocks of old visas in those regions. Otherwise remaining stocks must be securely destroyed.

In order to implement this proposal, the technical specifications have to be modified accordingly once the present proposal is adopted as changes to the uniform format have to be made.

2. Legal elements of the proposal

- **Summary of the proposed action**

The numbering of the visa sticker, which is printed during the production process, must be adapted to the new requirements of the VIS and its legal basis. The visa sticker number in the system must be unique in order to identify the correct application file against which fingerprints are to be compared during verification.

- **Legal basis**

Article 62 2. (b) (iii) TEC

In relation to the participation of the United Kingdom and Ireland, it is considered that they participate in this measure. The basic Regulation (EC) No 1683/95 was based on the former Article 100c of the EC Treaty. After the entry into force of the Amsterdam Treaty, this wasn't changed or replaced as it happened with Regulation (EC) No 539/2001, which was entirely redrafted under the new legal basis. As a consequence it is assumed that the United Kingdom and Ireland still participate in measures which have been adopted under the first pillar already before the entry into force of the Amsterdam Treaty. Therefore no recitals have been added.

- **Proportionality principle**

The proposal complies with the proportionality principle as Member States cannot achieve the same result on their own, thus Community action is necessary.

- **Choice of instruments**

Proposed instrument: Modification of Regulation (EC) No 1683/95.

3. Budgetary implication

The proposal has no implication for the Community budget.

- **Detailed explanation of the proposal**

Article 1

Article 1 contains all necessary changes to be made to the Annex for the envisaged change of the serial numbering on the visa sticker.

The last two changes (in paragraph 5. and 6.) relate to the changes introduced by Regulation (EC) No 334/2002[4]. The Annex was not adapted at that time, because Member States at that stage had not yet produced the new visa sticker and therefore a new specimen model was not available. As a consequence, the Annex to the Regulation remained unchanged. Now it has to be brought in line with the new model which is inserted in the annex. As the security element referred to in Point 1 ("a sign consisting of nine ellipses") was replaced by the photograph in the new visa, the text of Point 1. has consequently to be replaced by the text of Point 2a and Point 2a has to be deleted.

[4] OJ L 53, 23.2.2002, p. 7–8

Article 2

This Article sets out the implementation framework.

It is envisaged that the VIS will be ready for operations in May 2009 and will go-live thereafter once Member States have confirmed they have made the necessary arrangements. It is essential that Member States use the visa stickers with the new numbering from the start of VIS becoming operational, at least in the first countries of the roll-out; the "old" visa stickers could be used in other regions not yet linked to the VIS. For this reason, the implementation framework is set for the 1 May 2009, notwithstanding that the stocks of visa stickers can be used up in regions not yet linked to the VIS. After the adoption of this Regulation, the Commission will proceed as soon as possible with the establishment of the required technical specifications so that the decision can be taken in due time. The technical specifications will adapt the uniform format as required by placing the country code in a space directly under the national visa number (see annex).

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) (b) (iii) thereof,

Having regard to the proposal from the Commission[5],

Having regard to the opinion of the European Parliament[6],

Whereas:

(1) The current legal framework provided for in Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas[7] and the additional technical specifications, adopted by the Commission on 07.02.1996 and 27.12.2000[8] do not allow for reliable searches in the Visa Information System established under Regulation (EC) No [ ] of the European Parliament and the Council of [ ] on the Visa Information System (VIS) and the exchange of data between Member States on short stay visas (VIS Regulation)[9].

(2) The numbering system in use does not allow in particular for sufficient characters to be indicated on the visas issued by Member States with large numbers of applications

(3) A consistent and unique visa sticker numbering system is therefore essential for the verification in the VIS.

(4) Regulation (EC) No 1683/95 should be amended accordingly.

(5) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*[10] which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC on certain arrangements for the application of that Agreement[11].

(6) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen acquis within the meaning of the Agreement signed between the European

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5 OJ C […], […], p. […].

6 OJ C […], […], p. […].

7 OJ L 164, 14.07.1995, p. 1-4; Regulation as last amended by Regulation (EC) No 334/2002 (OJ L 53, 23.2.2002, p.7

8 Decision 2/96 of 07.02.1996 and Decision COM(2000) 4332 of 27.12.2000, unpublished

9 OJ L (not yet formally adopted)

10 OJ L 176, 10.7.1999, p. 36.

11 OJ L 176, 10.7.1999, p. 31

Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 4(1) of Council Decisions 2004/849/EC[12] and 2004/860/EC[13].

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1683/95 is hereby amended as follows:

1) In Article 2 the following paragraph 3 is added:

"3. In accordance with the procedure referred to in Article 6 (2), it may be decided that the specifications referred to in Article 2 shall be secret and not be published. In that case they shall be made available only to the bodies designated by the Member States as responsible for the printing and to persons duly authorised by a Member State or the Commission. "

2) In Article 3 paragraph 1 is deleted.

3) The Annex is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Member States shall apply this Regulation at the latest on 1 May 2009. Member States may use up their remaining stocks in consular offices not connected to the Visa Information System (VIS).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

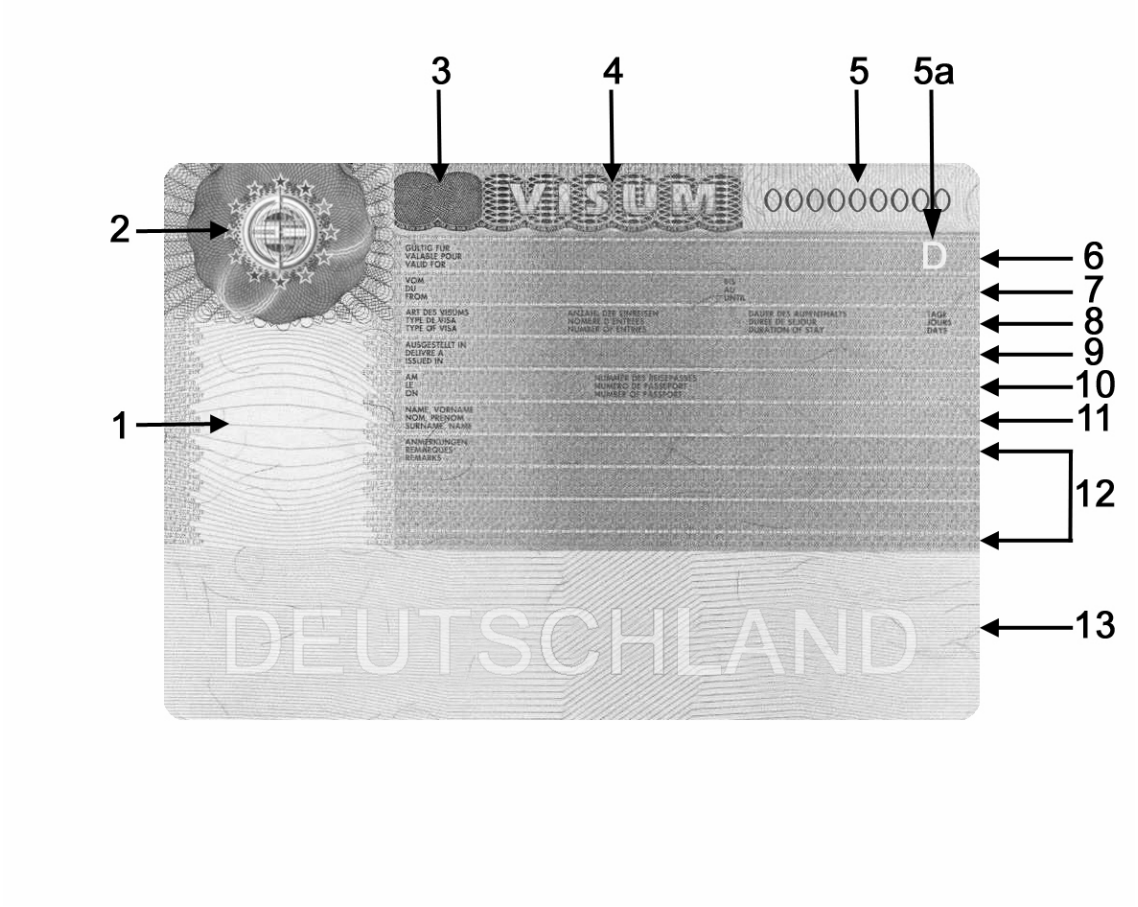
Done at Brussels,

For the Council
The President

[12] OJ L 368, 15.12.2004, p. 26-27
[13] OJ L 370, 17.12.2004, p.78-79

ANNEX

The following model is to be inserted:



Security features

1. An integrated photograph produced to high security standards.

2. An optically variable mark ('kinegram' or equivalent) shall appear in this space. Depending on the angle of view, 12 stars, the letter 'E' and a globe become visible in various sizes and colors.

3. The logo consisting of a letter or letters indicating the issuing Member State (or 'BNL' in the case of the Benelux countries, namely Belgium, Luxembourg and the Netherlands) with a latent image effect shall appear in this space. This logo shall appear light when held flat and dark when turned by 90°. The following logos shall be used: A for Austria, BG for Bulgaria, BNL for Benelux, CY for Cyprus, CZE for the Czech Republic, D for Germany, DK for Denmark, E for Spain, EST for Estonia, F for France, FIN for Finland, GR for Greece, H for Hungary, I for Italy, IRL for Ireland, LT for Lithuania, LVA for Latvia, M for Malta, P for Portugal, PL for Poland, ROU for Romania, S for Sweden, SK for Slovakia, SVN for Slovenia, UK for the United Kingdom.

4. The word 'visa' in capital letters shall appear in the middle of this space in optically variable coloring. Depending on the angle of view, it shall appear green or red.

5. This box shall contain the 9 digit national number of the visa sticker, which shall be pre-printed. A special type shall be used.

5a. This box shall contain the three-letter country code as set out in ICAO Document 9303 on Machine Readable Travel Documents[14], indicating the issuing Member State.

The "number of the visa sticker" is the three-letter country code as set out in box 5a and the national number as referred to in box 5.

Sections to be completed

6. This box shall begin with the words 'valid for'. The issuing authority shall indicate the territory or territories for which the visa is valid.

7. This box shall begin with the word 'from' and the word 'until' shall appear further along the line. The issuing authority shall indicate here the period of validity of the visa.

8. This box shall begin with the words 'type of visa'. The issuing authority shall indicate the category of visa in conformity with Articles 5 and 7 of this Regulation. Further along the line the words 'number of entries', 'duration of stay' (i.e. duration of applicants' intended stay) and again 'days' shall appear.

9. This box shall begin with the words 'issued in' and shall be used to indicate the place of issue.

10. This box shall begin with the word 'on' (after which the date of issue shall be filled in by the issuing authority) and further along the line the words 'number of passport' shall appear (after which the holder's passport number shall appear).

11. This box shall begin with the words 'Surname, Name'.

12. This box shall begin with the word 'remarks'. It shall be used by the issuing authority to indicate any further information which is considered necessary, provided that it complies with Article 4 of this Regulation. The following two and a half lines shall be left empty for such remarks.

13. This box shall contain the relevant machine-readable information to facilitate external border controls. The machine-readable area shall contain a printed text in the background printing, indicating the Member State issuing the document. This text shall not affect the technical features of the machine readable area or its ability to be read.

The paper shall have a natural colouring with red and blue markings

The words designating the boxes shall appear in English and French. The issuing State may add a third official Community language. However, the word 'visa' in the top line may appear in any one official language of the Community.

[14] Exception for Germany: ICAO document 9303 on machine readable travel documents provides for Germany the country code "D".