



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 22 April 2008**

**8601/08**

---

**Interinstitutional File:  
2006/0088 (COD)**

---

**LIMITE**

**VISA            145  
CODEC        489  
COMIX        324**

**NOTE**

---

|                 |   |
|-----------------|---|
| from:           | Presidency  |
| to:             | Visa Working Party  |
| No. prev. doc.: | 6962/08 VISA 71 CODEC 265 COMIX 163   |
| No. Cion prop.  | 10023/06 VISA 147 CODEC 573 COMIX 511 (COM(2006) 269 final)   |
| Subject:        | Draft Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications |

---

The Presidency has prepared the annexed compromise text with a view to the next Visa Working Party on 29-30 April 2008. The issues to be discussed are underlined in the document (text underlined is text proposed by the Presidency, differing from previous text in doc. 6962/08. Text in bold is aimed at indicating to the European Parliament the changes made by the Council to the initial proposal from the Commission). It is the intention of the Presidency to touch upon those issues for the last time at the level of the Visa Working Party and to put the draft Regulation on the agenda of the next SCIFA meeting on 20-21 May 2008 in order to get a clear common position from the Council before the political dialogue with the European Parliament.

Member States are invited to reflect on the issue with a view to establishing a common position.

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT  |
|--|--|--|
| <p data-bbox="98 204 734 261"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p data-bbox="98 268 734 418"><b>amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications</b></p> <p data-bbox="98 450 734 507">THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p data-bbox="98 545 734 603">Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p data-bbox="98 641 734 667">Having regard to the proposal from the Commission,</p> <p data-bbox="98 705 734 762">Acting in accordance with the procedure laid down in Article 251 of the Treaty,</p> <p data-bbox="98 801 734 826">Whereas:</p> <p data-bbox="98 858 734 1120">(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004 and to provide for a legal framework for the capturing of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p> | <p data-bbox="766 204 1406 261"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p data-bbox="766 268 1406 418"><b>amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications</b></p> <p data-bbox="766 450 1406 507">THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p data-bbox="766 545 1406 603">Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p data-bbox="766 641 1406 667">Having regard to the proposal from the Commission<sup>1</sup>,</p> <p data-bbox="766 705 1406 762">Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,</p> <p data-bbox="766 801 1406 826">Whereas:</p> <p data-bbox="766 858 1406 1120">(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004<sup>3</sup> and to provide for a legal framework for the <b>collecting</b> of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p> | <p data-bbox="1438 204 2078 261"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b></p> <p data-bbox="1438 268 2078 418"><b>amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications</b></p> <p data-bbox="1438 450 2078 507">THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p data-bbox="1438 545 2078 603">Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p data-bbox="1438 641 2078 667">Having regard to the proposal from the Commission<sup>4</sup>,</p> <p data-bbox="1438 705 2078 762">Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>5</sup>,</p> <p data-bbox="1438 801 2078 826">Whereas:</p> <p data-bbox="1438 858 2078 1120">(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004<sup>6</sup> and to provide for a legal framework for the capturing of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p> |

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ L 213, 15.6.2004, p.5.

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> OJ L 213, 15.6.2004, p.5.

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT   |
|---|--|---|
| <p>(2) The integration of biometric identifiers in the VIS is an important step towards the use of new elements, which establish a more reliable link between the visa holder and the passport in order to avoid the use of false identities. Therefore the personal appearance of the visa applicant –at least for the first application- should be one of the basic requirements for issuing a visa with the registration of biometric identifiers in the VIS.</p>  | <p>(2) The integration of biometric identifiers in the VIS is an important step towards the use of new elements, which establish a more reliable link between the visa holder and the passport in order to avoid the use of false identities. Therefore the personal appearance of the visa applicant –at least for the first application- should be one of the basic requirements for issuing a visa with the registration of biometric identifiers in the VIS.</p>   | <p>(2) The integration of biometric identifiers in the VIS is an important step towards the use of new elements, which establish a more reliable link between the visa holder and the passport in order to avoid the use of false identities. Therefore the personal appearance of the visa applicant –at least for the first application- should be one of the basic requirements for issuing a visa with the registration of biometric identifiers in the VIS.</p>  |
| <p>(3) The choice of the biometric identifiers is made in the [<i>Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas</i>]. This Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p> | <p>(3) The choice of the biometric identifiers is made in <i>Regulation (EC) No .../2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas</i><sup>7</sup>, <b>hereinafter referred to as "VIS Regulation"</b>. This Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p> | <p>(3) The [Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas] <b><i>provides that fingerprints and photographs of the applicant should be stored in the VIS. This</i></b> Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p> |
|   |  | <p>(3a) <b><i>The reception arrangements for applicants should be made with due respect for human dignity and integrity. The processing of visa applications should be conducted in a professional and respectful manner and be proportionate to the objectives pursued.</i></b></p>  |

<sup>7</sup> OJ L , p.

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| <p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the reception of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>   | <p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the collection of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>  | <p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the reception of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>   |
| <p>(5) Other options such as co-location, common application centres and outsourcing should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. Under the legal framework established Member States should be free to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission.</p> | <p>(5) Other options such as co-location, common application centres, <b>honorary consuls</b> and <b>cooperation with external service providers</b> should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. Under the legal framework established Member States should be free to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission.</p> | <p>(5) Other options such as co-location, common application centres and outsourcing should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. <b><i>In order to ensure the integrity of the visa issuing process, any activity related to the issuing of visas, including the collection of biometric data, should take place on the premises of a Member State which enjoy diplomatic or consular protection under international law or on European Commission premises recognised by the host State as inviolable.</i></b> Under the legal framework established Member States should be free <b><i>in accordance with the conditions laid down in this Regulation</i></b> to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission <b><i>on a common Schengen visa internet site.</i></b></p> |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| (6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.   | (6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.   | (6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.   |
| (7) It is necessary to make provisions for situations in which Member States' central authorities decide to outsource part of the visa handling process to an external service provider. Such arrangements should be established in strict compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data | (7) It is necessary to make provisions for situations in which Member States' central authorities decide to, <b>in order to facilitate the procedure, cooperate with an external service provider for the collection of visa applications. Such a decision may be taken if, due to particular local circumstances such as a high number of applications<sup>8</sup>, another way of organising the reception of visa applications is not considered appropriate by the Member State concerned.</b> Such arrangements should be established in compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. | (7) <b><i>Since the issuing of visas is by its very nature a public task, any decision taken by the central authorities of a Member State</i></b> to outsource part of the visa handling process to an external service provider <b><i>should only be taken if no other possibility exists and if it is duly justified.</i></b> Such arrangements should be established in strict compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. |

<sup>8</sup> HU entered a reservation.

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT   |
|--|--|---|
| <p>(8) Member States shall conclude contracts with external service providers which should contain provisions on their exact responsibilities, direct and total access to their premises; information of applicants, confidentiality and circumstances, conditions and procedures for suspending or terminating the contract.</p>  | <p>(8) Member States <b>should cooperate</b> with external service providers <b>on the basis of a legal instrument</b> which should contain provisions on their exact responsibilities, direct and total access to their premises; information of applicants, confidentiality and circumstances, conditions and procedures for suspending or terminating the <b>cooperation</b>.</p> | <p>(8) <i>Any contract that a Member State concludes</i> with an external service provider should contain provisions on <i>the provider's</i> exact responsibilities, direct and total access to <i>its</i> premises; information of applicants, confidentiality, <b>compliance with data protection rules</b> and circumstances, conditions and procedures for suspending or terminating the contract. <b>Member States should take appropriate measures to ensure that the contracts with external service providers are enforceable.</b></p> |
|  |  | <p>(8a) <i>Member States should aim to organise the receipt of visa applications, the enrolment of biometric identifiers and the interview in such a way that the visa applicant has to appear only once in person (one-stop-shop principle) in order to obtain a visa.</i></p>   |
| <p>(9) To ensure the compliance with data protection the working group created by Article 29 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the European Data Protection Supervisor have been consulted.</p> | <p>(9) To ensure the compliance with data protection the working group created by Article 29 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the European Data Protection Supervisor have been consulted.</p>       | <p>(9) <i>The European Data Protection Supervisor has issued an opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>1</sup> and the Article 29 Working Party in accordance with Article 30(1)(c) of Directive 95/46/EC.</i></p> <p><sup>1</sup> <i>OJ L 8, 12.1.2001, p. 1.</i></p>     |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|---|---|--|
|   |   | (9a) <i>Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data in application of this Regulation. However, certain points should be clarified, in particular in respect of the responsibility for the processing of data, of safeguarding the rights of the data subjects and of the supervision on data protection.</i> |
| (10) Member States should be able to allow certain categories of applicants or all applicants direct access to their consular offices or diplomatic missions for humanitarian or other reasons.   | (10) Member States should be able to <b>allow categories</b> of applicants or all applicants direct access to their consular offices or diplomatic missions (...).  | (10) Member States should be able to allow certain categories of applicants or all applicants direct access to their consular offices or diplomatic missions for humanitarian or other reasons.  |
| (11) In order to facilitate the procedure of any subsequent application, it should be possible to copy biometric data from the first application within a period of 48 months in accordance with the retention period laid down in the VIS Regulation. Once this period of time has elapsed, the biometric identifiers should be captured again | (11) In order to facilitate the procedure of any subsequent application, it should be possible to copy <b><u>fingerprints</u></b> from the first application within a period of <b>59 months for adults and 24 months for children between the age of 6 and 12 years old</b> <sup>9</sup> . Once this period of time has elapsed, the <b><u>fingerprints</u></b> should be <b><u>collected</u></b> again. | (11) In order to facilitate the procedure of any subsequent application, it should be possible to copy biometric data from the first application within a period of <b>59 months from the start of</b> the retention period <b><i>provided for in Article 23 of</i></b> the VIS Regulation. Once this period of time has elapsed, the biometric identifiers should be captured again.  |
| (12) Due to the requirement to capture biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.  | (12) Due to the requirement to <b><u>collect</u></b> biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.  | (12) Due to the requirement to capture biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.   |

<sup>9</sup> FR entered a reservation.

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|---|---|--|
| (13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.  | (13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.  | (13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.   |
| (14) The Commission should present a report on the implementation of this Regulation two years after its entry into force, covering the implementation of the enrolment of biometric identifiers, the principle of the "first application" and the organisation of the reception and the processing of visa applications. | (14) The Commission should present a report on the implementation of this Regulation two years after its entry into force, covering the implementation of the enrolment of biometric identifiers, the principle of the "first application" and the organisation of the reception and the processing of visa applications. | (14) The Commission should present a report on the implementation of this Regulation <b>three</b> years after <b>the VIS is brought into operation and every four years thereafter</b> , covering the implementation of the enrolment of biometric identifiers, <b>the appropriateness of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data</b> , the principle of the "first application" and the organisation of the reception and the processing of visa applications.<br><br><i>The report should also include, on the basis of Article 17 (12), (13) and (14) and Article 50(4) of the VIS Regulation, the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons compared with the cases in which fingerprints are taken. The report should include information on cases in which a person who could factually not provide fingerprints was refused a visa.</i><br><br><i>The report should be accompanied, where necessary, by appropriate proposals to amend this Regulation. The Commission should transmit the report to the European Parliament and the Council.</i> |



| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|--|---|--|
| <p>(15) The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.</p>   | <p>(15) <b>Since the objectives of this Regulation, namely the organisation of the reception and the processing of visa applications in respect of the insertion of biometric data in the VIS, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing common standards and interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve those objectives.</b></p> | <p>(15) <i>The objectives of this Regulation are the organisation of the receipt and processing of visa applications in respect of the insertion of biometric data in the VIS. Since these objectives cannot be sufficiently achieved by the Member States the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in the third paragraph of that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</i></p> |
| <p>(16) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing common standards and interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.</p> | <p><i>(deleted)</i></p>   | <p><i>(deleted)</i></p>  |
|  |   | <p>(16a) <i>This Regulation respects fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms, by the Charter of Fundamental Rights of the European Union and by the United Nations Convention on the Rights of the Child.</i></p>   |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| (17) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law. | (16) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law. | (17) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law. |
| (18) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> 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 association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.   | (17) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> 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 association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement <sup>10</sup> .  | (18) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> 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 association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.   |

<sup>10</sup> OJ L 176, 10.7.1999, p. 31.

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| (19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.   | (18) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.   | (19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.   |
| (20) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.  | (19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.  | (20) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.  |
| (21) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement. | (20) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement. | (21) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement. |

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT  |
|--|--|--|
|  | <b>(21) As regards Cyprus, this Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.</b> |  |
| (22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession, | (22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,                           | (22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession, |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| <p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In Point II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following paragraph is added:<br/>"A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The relevant provisions of 1.2 (c) and (e) shall apply. The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules."</p> | <p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In <b>Part</b> II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following <b>paragraphs</b> are added:<br/>"A Member State may also represent one or more other Member States <b>in a limited manner</b> solely for the collection of applications and the enrolment of biometric identifiers. The relevant provisions of 1.2 (c) and (e) shall apply. The <b>collection</b> and transmission of files and data to the represented <b>Member State</b> shall be carried out respecting the relevant data protection and security rules.</p> <p><b>Representation of one or more Member States in a limited manner may be carried out by a Member State to which this instrument does not apply. In such cases, the Member States represented in a limited manner shall ensure that all data protection principles for the processing of personal data as set out in Annex xy are respected by the representing Member State. The representation in a limited manner shall be based on a legal instrument. Member States represented in a limited manner shall ensure that the provisions on the fees as set out in point 1.B.2. d) of Part VII and Annex 12 shall apply."</b></p> | <p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In Point II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following paragraph is added:<br/>"A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The relevant provisions of 1.2 (c) and (e) shall apply. <b>Where it receives an application, the representing Member State shall create the application file in the VIS and insert the data referred to in Article 9 of the VIS Regulation. It shall then inform the consular post of the represented Member State of the application and the VIS entry through the VIS communication infrastructure as provided for in Article 16 of the VIS Regulation.</b> The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules."</p> |

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT  |
|--|--|--|
|  |  | <p><b>(1a) In Point III, point -1 shall be added:</b><br/> <b>"Conduct of staff involved in visa applications</b></p> <p><b>Member States shall ensure that applicants are received courteously by all staff involved in visa applications.</b></p> <p><b>All staff shall, in the performance of their duties, fully respect the human dignity and integrity of the applicant. Any measures taken shall be proportionate to the objectives pursued.</b></p> <p><b>While performing their tasks, staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."</b></p> |
| <p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p> | <p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p> | <p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p>   |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|---|---|--|
| <p>(2) In Point III, point 1 is replaced by the following:</p> <p>1.1 <u>Visa application forms-number of application forms</u></p> <p>Applicants shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. Member States may, insofar as national administrative procedures so require, request several copies of the application.</p> | <p>(2) In <b>Part III</b>, point 1 is replaced by the following:</p> <p><u>"1.1. Visa application forms-number of application forms</u></p> <p>Applicants shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. Member States may, insofar as national administrative procedures so require, request several copies of the application.</p> | <p>(2) In Point III, point 1 is replaced by the following:</p> <p>1.1 <u>Visa application forms-number of application forms</u></p> <p><i>Applicants</i> shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. The Contracting Parties may, insofar as national administrative procedures so require, request several copies of the application.</p> |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| <p>1.2. Biometric identifiers</p> <p>a) 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally captured.</li> </ul> <p>For any subsequent application the biometric identifiers shall be copied from the first application, providing the last entry is not older than 48 months. After this period a subsequent application is to be considered as a "first application".</p> | <p>1.2. <u>Biometric identifiers</u></p> <p>a) 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally <b>collected</b>.</li> </ul> <p><b>Where <u>fingerprints</u> collected from the applicant regarding an earlier application were entered for the first time in the <u>Visa Information system (VIS)</u>:</b></p> <ul style="list-style-type: none"> <li>– <b>less than 24 months before the date of the new application in cases where the applicant was a child from 6 to 12 years of age when the biometric identifiers were entered for the first time, and</b></li> <li>– <b>less than 59 months before the date of the new application in cases where the applicant was a person above 12 years of age when the biometric identifiers were entered for the first time,</b></li> </ul> <p><b><u>they</u> shall be copied to the subsequent application.</b></p> | <p>1.2. <u>Biometric identifiers</u></p> <p>a) Member States shall collect biometric identifiers comprising the facial image and ten fingerprints from the applicant <b>respecting the rights</b> laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms, <b>in the Charter of Fundamental Rights of the European Union</b> and in the United Nations Convention on the Rights of the Child.</p> <p>At the moment of submission of his/her first visa application each applicant <b>not subject to any of the exceptions referred to in point (b)</b> shall be required to appear in person. At that time the following biometric identifiers shall be collected:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally captured.</li> </ul> <p>For any subsequent application, <b>within 59 months from the start of the retention period provided for in Article 23 of the VIS Regulation</b>, the biometric identifiers shall be copied from the first application. After this period a subsequent application is to be considered as a "first application".</p> |



| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT |
|---------------------|--|---------------------|
|                     | <p>However, in case of doubts regarding the identity of the visa applicants, the diplomatic mission or consular post <u>shall collect</u> fingerprints within the period specified above. Furthermore, when the visa application is lodged at the external service provider or in the framework of limited representation provided for in <u>Part II, point 1.2, third subparagraph</u>, and there are doubts regarding compliance with the time requirements specified above, <u>the applicant may request his/her fingerprints to be collected</u><sup>11</sup>.</p> |                     |
|                     | <p>In accordance with <u>Article 9(5) of Regulation(EC) No .../2008 of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas</u> <u>the photograph attached to each application shall be entered in the VIS. The applicant shall not be required to appear in person for this purpose.</u></p>  |                     |

<sup>11</sup> **FR** wondered whether the applicant should not have the possibility, by crossing a box on the visa application form, to indicate she/he has already given her/his fingerprints.

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|---|---|---|
| <p>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.</p> <p>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 point 1.B.</p> <p>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.</p> | <p>The technical requirements for the photograph (...) shall be in accordance with the international standards as set out in ICAO Doc 9303 part 1 (...) 6th edition.</p> <p>The fingerprints shall be taken <b>in accordance with ICAO standards and the Commission Decision 2006/648/EC of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the VIS.</b></p> <p>The biometric identifiers shall be <b>collected</b> by qualified and duly authorised staff <b>of the visa authorities. Under supervision of the visa authorities, the biometric identifiers may also be collected by qualified and duly authorized staff of an honorary consul or of an external service provider referred to in Part VII, point 1.B.</b></p> <p>The data shall be entered in the VIS only by duly authorised consular staff according to Articles 4(1), Article 5 and Article 6(5) and (6) of the VIS Regulation.</p> | <p>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.</p> <p>The biometric identifiers shall be taken by qualified and duly authorised staff of the diplomatic mission or consular post or, under their supervision <b>and responsibility</b>, of the external service provider referred to in point 1.B.</p> <p>The data shall be entered in the Visa Information System (VIS) only by duly authorised consular staff <b>referred to in Article 4(1), in accordance with Article 5 of the VIS regulation.</b></p> <p><i>Member States shall ensure that full use is made of all search criteria under Article 13 of the VIS Regulation in order to avoid false rejections and identifications.</i></p> <p><i>The collection of biometric identifiers, including their transmission from the service provider to the responsible consular post, shall be supervised in accordance with Articles 41 and 43 of the VIS Regulation and Article 28 of Directive 1995/46.</i></p> |

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|--|---|--|
| <p>b) Exceptions<br/>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of 6;</li> <li>– Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken.</li> </ul> <p>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.</p> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p> | <p>b) Exceptions<br/>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of 6. <b>The use of fingerprints given by children aged between 6 and 12 at the time of collection is regulated in point ba);</b></li> <li>– Persons where fingerprinting is physically impossible. <b>However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. Visa authorities shall be entitled to ask for further clarification on the grounds of the temporary impossibility. If fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken;</b></li> <li>– <b>Heads of state or government and holders of diplomatic passports who accompany them in official delegation when they are invited by Member States' governments or international organisations, when visiting such international organisations.</b></li> </ul> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p> | <p>b) Exceptions<br/>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of <b>12</b></li> <li>– Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken. <i>Member States shall ensure that appropriate procedures guaranteeing the dignity of the person concerned are in place in the event of there being difficulties in enrolling. They shall also ensure that the decision as to whether fingerprinting is impossible is always taken by the duly authorised staff of the diplomatic mission or consular post of the Member State(s). Furthermore, should the impossibility be temporary, the applicant shall be required to give fingerprints at the following application. Consular staff shall be entitled to ask for further clarification of the reasons for the temporary impossibility.</i></li> <li>– Holders of diplomatic passports who accompany them in official delegation when they are invited by Member States' governments or international organisations, when visiting such international organisations.</li> </ul> <p>The fact that fingerprinting is physically impossible shall not influence the grant or refusal of a visa.</p> |

| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL | EUROPEAN PARLIAMENT   |
|---------------------|---------------------|---|
|                     |                     | <p>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.</p> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p> <p><i>Without prejudice to the provisions of Point III.4, for persons under the age of 12, scanned photographs shall be used which do not require them to appear in person.</i></p> <p><i>The exemption from the requirement to give fingerprints for children and the elderly, and in particular the age range for the taking of fingerprints, shall be reviewed three years after the start of operation of the VIS. To this end the Commission shall present a report which shall in particular cover the experience of the VIS with regard to the taking and use of fingerprints from children aged 12 and over and a detailed technical assessment of the reliability of taking and using the fingerprints of children under the age of 12 for identification and verification purposes in a large-scale database such as the VIS. The report shall incorporate an extended impact assessment of lower and higher age limits for requiring fingerprints, including social, ergonomic and financial aspects.</i></p> <p><i>The report shall make a similar assessment as regards the taking of fingerprints from the elderly. Should the report show significant problems with taking fingerprints of persons over a certain age, the Commission shall make a proposal to impose an upper age limit.</i></p> <p><i>The report shall be accompanied, where necessary, by suitable proposals to amend this Regulation.</i></p> |

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT   |
|--|---|---|
|  | <b>ba) fingerprints given by children aged between 6 and 12 at the time of collection may only be used for verification purposes<sup>12</sup>."</b>   |   |
| <p>(3) In Point VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>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 above mentioned options of representation, decide to cooperate with one or more other Member States. Any cooperation shall take the form of co-location or the establishment of a Common Application Centre or co-operation with external service providers.</p> | <p>(3) In <b>Part</b> VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>For each location Member States shall either equip their <b>visa authorities</b> with the required material for <b>collecting</b> biometric identifiers or <b>cooperate with one or more Member States and/or with an external service provider. Member States shall also equip the offices of their honorary consuls whenever they make use of them to collect biometric identifiers.</b></p> | <p>(3) In Point VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>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 above mentioned options of representation, decide to cooperate with one or more other Member States. Any cooperation shall take the form of co-location or the establishment of a Common Application Centre or, <b>where these are inappropriate</b>, co-operation with external service providers.</p> |

<sup>12</sup> **NL, BE, BG, DE, EE** entered a reservation because in their view it should be possible to use the fingerprints of children for identification purposes as well. The **Chair** and **COM** reminded delegations that the European Parliament (EP) is strongly opposed to the taking of fingerprints from children, in particular for identification purposes and has called for concrete figures based on scientific studies from the Member States regarding the reliability of the taking and using of fingerprints of children.

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT   |
|--|--|---|
|  | <p><b>Except for the payment of the fee to be charged (as provided for by Part VII, point 4 and Annex 12) and without prejudice <u>to the possibility to call the visa applicant for a personal interview (as provided for by Part III, point 4), the selection of a form of organisation shall not result in the need for the applicant to make personal appearances at more than one location.</u></b></p>   |   |
| <p>a) Where “co-location” is chosen, 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.</p> | <p>a) Where "co-location" is chosen, staff from the diplomatic <b>missions</b> or consular <b>posts</b> of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic <b>mission</b> or consular <b>post</b> 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 mission or consular post is being used.</p> | <p>a) Where “co-location” is chosen, 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><i>Applicants shall be directed to the Member State responsible for the processing of the visa application.</i></b></p> |

| COMMISSION PROPOSAL  | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT   |
|--|--|---|
| <p>b) Where "Common Application Centres": are established, 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.</p> | <p>b) Where "Common Application Centres" are established, staff of diplomatic <b>missions</b> or consular <b>posts</b> 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.</p> | <p>b) Where "Common Application Centres" are established, staff of diplomatic posts and consular missions of two or more Member States are pooled in <i>the building of one Member State enjoying diplomatic or consular protection under international law or in a European Commission building recognised by the host State as inviolable</i> 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.</p> |
|  | <p>c) <b>Honorary consuls may also be authorised to perform some or all of the tasks referred to in 1.B.1. <u>In this case, cooperation with honorary consuls shall be based on a legal instrument that shall comply with the requirements set out in Annex xy.</u></b></p>  |   |
| <p>c) Co-operation with external service providers in accordance with 1.B</p>  | <p>d) Co-operation with external service providers in accordance with 1.B</p>  | <p>c) Co-operation with external service providers in accordance with 1.B</p>   |

| COMMISSION PROPOSAL   | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT  |
|---|---|--|
| <p><i>1.B Co-operation with external service providers</i></p> <p>Where for reasons relating to the local situation of the consular post it is not appropriate to equip the diplomatic mission or 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.</p> | <p><i>1.B Co-operation with external service providers</i></p> <p><b><u>If, due to reasons</u></b> relating to the local situation of the consular post <b><u>or the diplomatic mission or for particular circumstances a Member State considers</u></b> it is not appropriate to equip <b><u>or to sufficiently equip</u></b> the diplomatic mission, the consular <b><u>post</u></b> or the <b><u>honorary consul</u></b> for <b><u>collecting visa applications or that it is not appropriate</u></b> to organise <b><u>or join</u></b> co-location or a Common Application Centre, a Member State or several Member States <b><u>may decide to</u></b> co-operate with an external service provider for the <b><u>collection</u></b> of visa applications (including biometric identifiers).</p> <p><u>In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of data.</u></p> <p><b><u>Reasons relating to the local situation justify cooperation with an external service provider in particular when:</u></b></p> <ul style="list-style-type: none"> <li>▪ <b><u>the high number of applicants makes it impossible to organise in any other way the reception of visa applications and the collecting of data in a timely manner and in decent conditions;</u></b></li> <li>▪ <b><u>it is not possible to ensure a good territorial coverage of the third country concerned in any other way;</u></b></li> <li>▪ <b><u>serious threats to the security in a given country make it necessary to exclude or limit the access of applicants to diplomatic or consular premises;</u></b></li> </ul> | <p><i>1.B Co-operation with external service providers</i></p> <p><b><i>If, due to particular circumstances or</i></b> 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 <b><i>responsible for the processing of the data and therefore</i></b> liable for <b><i>any breaches of contract and in particular</i></b> for compliance with data protection rules for the processing of visa applications. <b><i>Those Member State(s) shall ensure that an external service provider under Point VII, point 1.B.1b undertakes its activities on the premises of a Member State which enjoy diplomatic or consular protection under international law or on Commission premises recognised by the host state as inviolable and that qualified and duly authorised staff of the diplomatic mission or consular post of the Member State(s) are present to closely supervise the activities of the external service providers.</i></b></p> |



|   |   |   |
|---|---|---|
|   | <p><b><u>Particular circumstances justify cooperation with an external service provider in particular when cooperation between Member States would be enhanced and a better cooperation achieved by several Member States cooperating collectively with a single service provider.</u></b></p> <p><u>Irrespective of the type of cooperation chosen, Member States may <b>maintain the possibility</b> of allowing for applicants' direct access to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts.</u></p>   |   |
| <p>1.B.1 Types of co-operation with external service providers</p> <p>Cooperation with external service providers shall take [one of] the following form[s]:</p> <p>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;</p> | <p><b>1.B.1 Types of co-operation with external service providers</b></p> <p><b><u>The examination of visa applications, in-depth interviews, the authorisation process and the printing and affixing of visa stickers shall be carried out only by the diplomatic mission or consular post. Member States shall ensure that the external service provider complies with terms and conditions assigned to them in the legal instrument mentioned in point 1.B.2.</u></b></p> <p><u>Cooperation with external service providers shall take [one of] the following form[s]:</u></p> <p>a) <u>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;</u></p> | <p>1.B.1 Types of co-operation with external service providers</p> <p>Cooperation with external service providers shall take [one of] the following form[s]:</p> <p>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;</p> |

|  |  |   |
|--|--|---|
| <p>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 by Part VII, point 4 and Annex 12) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.</p> | <p>b) <u>the external service provider collects visa applications and can be entitled to perform one or more of the following tasks:</u></p> <ul style="list-style-type: none"> <li>• <b>Providing general information on visa requirements and application forms;</b></li> <li>• <b>Informing the applicant on documents required by the diplomatic mission or consular post on the basis of a checklist;</b></li> <li>• <b><u>capturing of data (including collection of biometric identifiers) and transmission of the application to the diplomatic mission or consular post;</u></b></li> <li>• <b><u>Collecting the fee to be charged;</u></b></li> <li>• <b><u>Managing of appointments for personal appearance at the diplomatic mission or consular post or at the external service provider;</u></b></li> <li>• <b>Collecting the travel documents (including a refusal notification if applicable) from the diplomatic mission or consular post and returning them to the applicant.</b></li> </ul> | <p>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 by Part VII, point 4 and Annex 12), transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application <i>and returns the passport to the applicant or to a legal representative at the end of the procedure.</i></p> |
|--|--|---|

|   |   |   |
|---|---|---|
| <p>1.B.2. Obligations of Member States</p> <p>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.</p> <p>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.</p> | <p>1.B.2. Obligations of Member States</p> <p><b>The cooperation with an external service provider shall be based on a legal instrument that shall comply with the requirements set out in Annex xy.</b></p> <p><b><u>The Member States concerned shall provide for the possibility to verify the biometric identifiers at the diplomatic mission or consular post in cases of doubts where the biometric identifiers have been taken at the external service provider.</u></b></p> | <p>1.B.2. Obligations of Member States</p> <p><i>In compliance with Directive 95/46/EC, the Member State(s) concerned shall select an external service provider <b>which</b> is able to ensure <b>a high quality of service and</b> all the technical and organisational security measures <b>necessary</b> 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.</i></p> <p>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.</p> <p><i>The diplomatic missions or consular posts of the Member States shall ensure that the company selected offers relevant professional expertise in information assurance and data security. Member States should follow best procurement practices in contracting external visa support services.</i></p> |
|---|---|---|

|   |  |  |
|---|--|--|
| <p>External service providers shall not have access to the Visa Information System (VIS) for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.</p> <p>The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46. 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.</p> | <p>External service providers shall not have access to the <b>VIS</b> for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.</p> <p><b>Before taking a decision to cooperate with the external service provider, 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 about such a decision to cooperate.</b></p> | <p>External service providers shall not have access to the Visa Information System (VIS) for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts <i>solely for the purposes laid down in the VIS Regulation.</i></p> <p>The Member State(s) concerned shall conclude a <i>written</i> contract with the external service provider in accordance with Article 17 of Directive 95/46. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall <i>justify, with reasons in accordance with Point VII, point 1.B, the need for the contract with</i> the diplomatic missions and consular posts of other Member States and the Commission delegation <i>within local consular cooperation.</i></p> |
| <p>In addition to the obligations set out in Article 17 of Directive 95/46, the contract shall also contain provisions which:</p> <p>a) define the exact responsibilities of the service provider;</p>  |  | <p>In addition to the obligations set out in Article 17 of Directive 95/46, the contract shall also contain provisions which:</p> <p>a) define the exact responsibilities of the service provider;</p>   |
| <p>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;</p>  |  | <p>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;</p>   |
| <p>c) require the service provider to provide the applicants with the information required under Regulation ..... [draft VIS regulation];</p>   |  | <p>c) require the service provider to provide the applicants with the information required under <i>Article 37 of the draft Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas;</i></p>  |

|  |  |   |
|--|--|---|
|  |  | <i>ca) require the service provider to ensure that its staff are appropriately trained and respects the rules laid down in Point III, point -1;</i>   |
|  |  | <i>cb) require the service provider to adopt appropriate anti-corruption measures;</i>  |
|  |  | <i>cc) require the service provider to report to the responsible Member State without delay any security breaches or any other problems;</i>  |
|  |  | <i>cd) require the service provider to record any complaints or notifications from applicants on data misuse or unauthorised access. The external service provider shall inform the responsible Member State's diplomatic mission or consular post without delay and coordinate with them in order to find a solution. Complaints should be handled in such a way so as to ensure that explanatory responses are given to visa applicants promptly;</i> |
| d) provide for access by consular staff to the premises of the service provider at all times;  |  | 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); |  | e) require the service provider <i>and its staff</i> to observe rules of confidentiality <i>which shall also apply once the staff have left the employ of the external service provider or after the suspension or termination of the contract;</i>   |

|   |  |  |
|---|--|--|
|   |  | <i>ea) ensure data protection compliance, including reporting obligations, external audits, regular spot checks by, inter alia, national data protection authorities and that mechanisms are in place for the apportionment of the liability of a contractor in the event of a breach of the regulations on privacy, including the obligation to compensate individuals where they have suffered damage resulting from an act or omission of the service provider;</i> |
|   |  | <i>eb) require the service provider to transmit without delay the completed file to the diplomatic mission or consular post of the Member State responsible for the processing of the application and not to copy, store, or otherwise retain any data collected after the transmission;</i>   |
|   |  | <i>ec) require the service provider to prevent any unauthorised reading, copying, modification or deletion of visa data during the transmission from the service provider to the diplomatic mission or consular post of the Member State responsible for the processing of the application, in particular by means of appropriate encryption techniques.</i>   |
| f) contain a suspension and termination clause. |  | f) contain a suspension and termination clause.  |
|   |  | <i>fa) contain a revision clause with a view to ensuring that contracts reflect best current practices;</i>  |

|  |  |  |
|--|--|--|
|  |  | <p><i>fb) lay down rules on the conduct of the staff responsible for handling visa applications and for collecting biometric data with maximum respect for human dignity. Any measure taken when carrying out those duties must be proportionate to the aims of that measure. In processing the application, staff shall avoid any discrimination among persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</i></p> <p><i>A model contract shall be established within local consular cooperation.</i></p> <p><i>Member States shall ensure that there is the least possible service disruption for visa applicants in the event of the external service provider suddenly ceasing to provide the services required under the contract.</i></p> |
| <p>The Member State(s) concerned shall monitor implementation of the contract, including:</p> <p>a) the general information provided by the service provider to visa applicants;</p> | <p>The Member State(s) concerned shall monitor implementation of the legal instrument, including:</p> <p>a) the general information <b>on visa requirements</b> provided by the service provider to visa applicants;</p> | <p>The Member State(s) concerned shall <i>cooperate closely with the external service provider and shall closely monitor the</i> implementation of the contract, including:</p> <p>a) the general information provided by the service provider to visa applicants;</p>   |

|   |   |  |
|---|---|--|
| <p>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;</p> | <p>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 <b>of personal data</b> involves the transmission of <b>this</b> data over a network, and against all other unlawful forms of processing of personal data as well as the <b>collection</b> and transmission of files and data to the <b>diplomatic mission or</b> consular post;</p> | <p>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 <b>diplomatic mission</b> or consular post;</p> |
| <p>c) the capturing of biometric identifiers;</p>   | <p>c) the <b>collecting</b> of biometric identifiers;</p>   | <p>c) the capturing <b>and transmission</b> of biometric identifiers;</p>  |
| <p>d) the measures taken to ensure compliance with data protection provisions.</p>  | <p>d) the measures taken to ensure compliance with data protection provisions.</p>  | <p>d) the measures taken to ensure compliance with data protection <b>and data security</b> provisions <b>as well as measures against corruption</b>.</p>  |



|  |  |  |
|--|--|--|
| <p>The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Annex 12.</p> <p>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.</p> | <p><b><u>1.B.3 Service Fee</u></b></p> <p><b><u>External service providers may charge a service fee in addition to the fee to be charged as set out in Annex 12. This service fee shall be specified in the legal instrument mentioned in point 1.B.2.</u></b></p> <p><b><u>In the context of local consular cooperation Member States shall monitor that the service fee charged to an applicant reflects a proper proportion to the services offered by an external service provider as well as the local circumstances. Furthermore they shall endeavour to harmonise the service fee, either in absolute figures or by determining one or more brackets taking into account the different tasks to be carried out by the external service providers.</u></b></p> <p><b><u>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.</u></b></p> | <p><i>The fee paid by the applicant shall not exceed the fee set out in annex 12 <b>irrespective of whether Member States cooperate with external service providers.</b></i></p> <p><i>Member States shall ensure that a procedure is in place allowing for the identification of the external service provider handling any visa application.</i></p> <p>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.</p> |
| <p>1.B.5 Information</p> <p>Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.</p>   | <p><b><u>1.B.4</u></b> Information</p> <p>Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.</p>   | <p>1.B.5 Information</p> <p><i>Member States and their diplomatic missions or consular posts shall provide the general public with all relevant information in relation to a visa application :</i></p> <p><i>(a) the criteria, conditions and procedures for applying for a visa;</i></p>   |
|  |  | <p><i>(b) the means of obtaining an appointment, if applicable;</i></p>  |

|  |  |  |
|--|--|--|
|  |  | <p><i>(c) where the application should be submitted (competent diplomatic mission or consular post, common application centre or external service provider).</i></p> <p><i>This information to the general public shall also be available through a common Schengen visa internet site.</i></p> <p><i>The latter shall be established in order to further support the application of the common visa policy and the handling of the visa procedure.</i></p>              |
|  |  | <p><b>1.B. Information Campaign</b></p> <p><i>Shortly before the VIS is brought into operation in a third country, the diplomatic missions or consular posts of Member States together with the delegation of the Commission shall launch a campaign informing the general public about the objectives pursued, the data stored in and the authorities having access to the VIS, and the rights of visa applicants. Such campaigns shall be conducted regularly.</i></p> |
|  |  |  |

|  |   |  |
|--|---|--|
| <p><i>1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts</i></p> <p>Irrespective of the type of cooperation chosen, Member States may decide to maintain the possibility of allowing for applicants' direct access to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts. Member States shall assure the continuity of reception and processing of visa application, in the event of sudden termination of cooperation with other Member States or any type of external service provider.</p> | <p><i>1.C <b><u>Continuity of service</u></b></i></p> <p><b><u>In the event of sudden termination of cooperation with other Member States or any type of external service provider, Member States shall assure the continuity of reception and processing of visa application.</u></b></p>  | <p><i>1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts</i></p> <p>Irrespective of the type of cooperation chosen, Member States may decide to maintain the possibility of allowing for applicants' direct access to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts. Member States shall assure the continuity of reception and processing of visa application, in the event of sudden termination of cooperation with other Member States or any type of external service provider.</p> |
| <p><i>1.D Decision and publication</i></p> <p>Member States shall inform the Commission of how they intend to organise the reception and processing of visa applications in each consular location. The Commission will ensure appropriate publication.</p> <p>Member States shall provide the Commission with the contracts they conclude.</p>  | <p><i>1.D Decision and publication</i></p> <p>Member States shall inform the Commission of how they intend to organise the reception and processing of visa applications in each consular location. The Commission will ensure appropriate publication.</p> <p>Member States shall provide the Commission with a <b>copy of the legal instrument referred to in point <u>1.B.2.</u></b></p> | <p><i>1.D Decision and publication</i></p> <p>Member States shall inform the Commission of how they intend to organise the reception and processing of visa applications in each consular location. The Commission will ensure appropriate publication <b><i>on the common Schengen visa internet site.</i></b></p> <p>Member States shall provide the Commission with the contracts they conclude.</p>  |

|  |   |  |
|--|---|--|
| <p>(4) In point VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>   | <p>(4) In <b>Part</b> VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>  | <p>(4) In point VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>   |
| <p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a):</p> <p>For repeated applications in the sense of point III 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p> | <p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a)<sup>13</sup>:</p> <p>For subsequent applications in the sense of <b>Part</b> III, <b>point</b> 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p> | <p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a):</p> <p>For repeated applications in the sense of point III 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p> |
|  |   | <p><b>1.E General Responsibilities</b></p>   |
|  |   | <p><b>1.E.1 Documents</b></p> <p><i>Any document, data or biometric identifier received by, or on behalf of, a Member State in the course of a visa application shall be considered a 'consular document' under the Vienna Convention on Consular Relations and shall be treated in an appropriate manner.</i></p>   |
|  |   | <p><b>1.E.2 Training</b></p> <p><i>Before being authorised to take biometric identifiers, the staff of the diplomatic mission or consular point shall receive appropriate training so as to ensure smooth and professional enrolment.</i></p>  |

<sup>13</sup> ES, BE, IT, AT: reservation.

|  |  |  |
|--|--|--|
|  |  | <p><b>1.E.3 Liability</b></p> <p><i>Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act in breach of this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That Member State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.</i></p> <p><i>Claims for compensation against a Member State for the damage referred to in the previous subparagraph shall be governed by the provisions of national law of the defendant Member State.</i></p> |
|  |  | <p><b>1.E.4 Penalties</b></p> <p><i>Member States shall take the necessary measures to ensure that any breach of this Regulation, in particular any misuse of data submitted for a visa application is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.</i></p>  |

|  |  |   |
|--|--|---|
| <p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present a report to the European Parliament and to the Council on the implementation of the present regulation two years after its entry into force.</p> | <p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present a report to the European Parliament and to the Council on the implementation of the present Regulation two years after its entry into force.</p> | <p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present, <b><i>three years after the VIS is brought into operation and every four years thereafter</i></b>, a report to the European Parliament and to the Council on the implementation of <b><i>this Regulation, including the implementation of the enrolment of biometric identifiers, the appropriateness of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data, the principle of the “first application” and the organisation of the reception and the processing of visa applications. The report shall also include, on the basis of Article 17 (12), (13) and (14) and of Article 50(4) of the VIS Regulation, the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons compared with the number of cases in which fingerprints are taken. The report shall include information on cases in which a person who could factually not provide fingerprints was refused a visa. The report shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</i></b></p> |
|--|--|---|

|  |  |  |
|--|--|--|
| <i>Article 3</i>   | <i>Article 3</i>   | <i>Article 3</i>   |
| This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i> . | This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i> . | This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i> . |
| This Regulation shall be binding in its entirety and directly applicable in all Member States.   | This Regulation shall be binding in its entirety and directly applicable in all Member States.   | This Regulation shall be binding in its entirety and directly applicable in all Member States.   |
| Done at Brussels,  | Done at Brussels,  | Done at Brussels,  |
| <i>For the European Parliament</i><br><i>The President</i>   | <i>For the European Parliament</i><br><i>The President</i>   | <i>For the European Parliament</i><br><i>The President</i>   |
| <i>For the Council</i><br><i>The President</i>   | <i>For the Council</i><br><i>The President</i>   | <i>For the Council</i><br><i>The President</i>   |

| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT |
|---------------------|--|---------------------|
|                     | <p style="text-align: center;"><b>ANNEX xy</b></p> <p style="text-align: center;"><b>List of minimum requirements to be included in legal instruments in the case of cooperation with external service providers or honorary consuls</b></p> <p><b>In executing its activities the external service provider or honorary consul shall:</b></p> <p><b>A) In relation to the execution of the activities</b></p> <p><b>I. Data protection</b></p> <p style="padding-left: 20px;"><b>a) refrain from any unauthorised reading, copying, modification or deletion of visa data, in particular during the transmission to the diplomatic mission or consular post of the Member State responsible for processing a visa application. The transmission of the data shall be made as soon as possible and at the latest at the end of the day of their collection. The only data that may be retained shall be the name and contact of the visa applicant for the purposes of the appointment arrangements;</b></p> |                     |
|                     | <p style="padding-left: 20px;"><b>b) ensure all the technical and organisational security measures required to protect personal data against accidental or unlawful destruction or accidental loss, alteration unauthorised disclosure or access, in particular where the cooperation involves the transmission of files and data to the diplomatic mission or the consular post and all other unlawful forms of processing the personal data;</b></p>   |                     |



| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL   | EUROPEAN PARLIAMENT |
|---------------------|---|---------------------|
|                     | <p>c) process the data only for the purposes of processing the personal data of visa applicants on behalf of the Member State concerned;</p>  |                     |
|                     | <p>d) apply data protection standards at least equivalent to those set out in Directive 95/46;</p>  |                     |
|                     | <p>e) provide the applicants with the information required under Article 37 of the VIS Regulation;</p>  |                     |
|                     | <p>II. <u>Staff</u></p> <p>a) ensure that its staff in the performance of their duties:</p> <ul style="list-style-type: none"> <li>- receive applicants courteously,</li> <li>- respect the human dignity and integrity of the applicant,</li> <li>- do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, age or sexual orientation, and</li> <li>- respect the rules of confidentiality which will also apply once the staff have left their job or after suspension or termination of a contract;</li> </ul> |                     |
|                     | <p>b) provide identification of the staff working in the company at all times;</p>  |                     |
|                     | <p>c) prove that the staff are reliable and have the requisite expertise;</p>   |                     |

| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT |
|---------------------|--|---------------------|
|                     | <p><b>B) In relation to the verification of the execution of the activities</b></p> <p><b>a) provide for access by staff entitled by the visa authorities to its premises at all times without previous notice, in particular for inspection purposes;</b></p> |                     |
|                     | <p><b>b) ensure the possibility of remote access to its appointment system for inspection purposes;</b></p>  |                     |
|                     | <p><b>c) ensure the use of monitoring methods (e.g. test applicants; Webcam);</b></p>  |                     |
|                     | <p><b>d) ensure access to proof of data protection compliance, including reporting obligations, external audits, regular spot checks;</b></p>  |                     |
|                     | <p><b>C) Miscellaneous</b></p> <p><b>a) act under the instructions of the Member State responsible for the processing of the application;</b></p>  |                     |
|                     | <p><b>b) adopt appropriate anti-corruption measures (e.g. provisions on staff remuneration; cooperation in the selection of staff members employed on the task; two-man-rule; rotation principle);</b></p>   |                     |
|                     | <p><b>c) provide appropriate compensation both to the Member State concerned and the visa applicant where any of points A) c), d) or e) are breached;</b></p>  |                     |

| COMMISSION PROPOSAL | PRESIDENCY PROPOSAL  | EUROPEAN PARLIAMENT |
|---------------------|--|---------------------|
|                     | <p>d) prove to be solvent and reliable (including having the necessary licences, commercial registration, company statutes, bank contracts and no conflict of interests);</p>          |                     |
|                     | <p>e) respect fully the provisions of the legal instrument, which shall contain a suspension or termination clause, in particular in the event of breach of the rules established.</p> |                     |