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THE EUROPEAN UNION**

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REV 2**

LIMITE

**VISA 47
CODEC 92
COMIX 143**

OUTCOME OF PROCEEDINGS

of: **Visa Working Party/Mixed Committee (EU-Iceland/Norway/Switzerland)**

dated: **9 January, 5 February and 2 March 2007**

No. Cion prop.: **11752/1/06 VISA 190 CODEC 771 COMIX 662 REV 1**

Subject: **Draft Regulation of the European Parliament and of the Council establishing a
Community Code on Visas**

The Visa Working Party has examined Articles 10 - 14 and Annexes III, IV and V on the basis of the Commission's proposal. The outcome of this examination is set out in the Annex to this note. In addition the below general issues were raised:

1) Legislative provisions vs. administrative Instructions

Some delegations found that the future Visa Code should contain only strictly legislative rules for the issuance of visa and as little as possible in relation to the procedures for issuing visas (cf. comments made to Article 10 in the annex to this note). The latter should be described in the Instructions on the practical application of the Visa Code (cf. Article 45). The **Commission representative (COM)** agreed on the principle but emphasised that one of the main purposes of drawing up this Regulation was to establish unambiguous rules which would be easier to apply by all Member States and result in equal treatment of visa applicants and therefore the general principles would have to be part of the legislative text as it was the case for the "Schengen Borders Code" (SBC). COM warned against the dangers of flexible rules being applied in an arbitrary manner.

2) Notion of "admissibility" (linked to Articles 10 (4) and 19)

Commenting on the remarks made by delegations in relation to Article 10 (cf. page 4), **COM** emphasised the distinction to be made between "admissibility" of an application and a substantial decision on issuing or refusing a visa. In the latter case a motivation would be required and appeal should be possible, whereas, according to the Commission's Legal Service, declaring an application "inadmissible" is to be considered as an administrative decision which should not give the right to appeal (and should by no means affect any future applications). Currently, the cases where an applicant does not submit a complete file are treated differently by Member States and some count applications rejected on the basis of material grounds as "refusals". COM recalled that the draft VIS Regulation under examination does not contain any references to the notion of "inadmissibility", as it is based on the current acquis but as indicated at a number of occasions, the VIS Regulation would have to be amended once the Visa Code had been adopted.

BE suggested that rather than referring to "inadmissibility" in Article 19, a definition of "admissibility" should be introduced as a peculiar aspect of the visa policy and suggested that the Council Legal Service (CLS) consider whether it would be necessary to introduce a right of appeal of "declarations on inadmissibility". By way of a preliminary remark, CLS noted that as a general principle any administrative decision rejecting an application should give right to appeal as such rejection on material grounds could mask a substantial refusal. **IT** found that the introduction of this new principle would create more disorder than order in relation to short stay visa.

Chapter II

The application

Article 10

Practical modalities for submission of the application

1. Applications shall be submitted no more than three months before the start of the planned visit¹².

2. Applicants³ may be required to obtain an appointment for the submission of an application. This appointment may be arranged directly with the diplomatic mission or consular post or where applicable, via an intermediary. The appointment shall⁴ take place within two weeks⁵.

¹ **FR** suggested the following addition: "or before the expiry date of a multiple entry visa with a long validity."

² **AT** was of the opinion that the following formulation of paragraph 1 would be more appropriate: "Visas shall be issued no more than three months before the start of the planned visit"

³ **NL** wished to replace this word by "Foreigners subject to visa requirements", but **COM** found that the definition in Article 2(1) was sufficient.

⁴ **HU** wished to replace this word by "should".

⁵ A number of delegations (**AT, IT, BE, ES, LT, BG, PL**) found this deadline too short, particularly in peak seasons. **AT** added that this type of provision should go into the Instructions on how to apply the Code. Further to the general comments made about the contents of the Code and the practical Instructions (see introduction), **COM** emphasised that the length of the deadline could be reviewed but that a fixed deadline was not to be considered merely as a practical detail. **COM** reminded delegations that Member States were obliged to establish decent procedures and fair treatment of applicants.

BE was of the opinion that if a fixed deadline was introduced, the consequences of failure to meet that deadline would have to be established. **BE** suggested that the text be worded as follows: "within a reasonable deadline", and then the deadline could be quantified in the Instructions.

FR and **IT** supported this suggestion given the enormous diversity of situations/third countries/circumstances under which visas are issued, meaning that a fixed deadline could never be applied throughout the world.

- 3.¹ In appropriately justified cases or in justified cases of urgency, applicants shall be allowed to submit their application either without prior appointment or an appointment shall be given immediately².
4. If the information supplied in support of the application is incomplete, the applicant shall be informed of what additional documentation is required³. The applicant shall be invited to provide the additional information/documentation promptly⁴ and shall be informed that after 1⁵ calendar month after the date of this invitation, the application will be declared inadmissible if the required information is not submitted.⁶

¹ **LU** found that this provision should be transferred to the future Instructions.

Explaining the link between paragraphs (2) and (3), **COM** noted that the purpose was to allow Member States to cooperate with an external service provider for receiving applications, while maintaining the possibility for applicants to apply directly at the consulate.

EE found that the wording of paragraphs 2 and 3 was too imprecise. **COM** recalled that - as stated by several delegations - this was the current practice and the Commission had merely translated that practice into a general rule.

² **FR** and **NL** wondered what this word implied.

³ **COM** would consider the suggestion made by **HU** and **LV** to draw up a uniform form for the request for additional documents.

⁴ **DK** and **LV** wondered what this word implied.

⁵ **SE**, **IT** and **LV** found that 2 weeks would be more appropriate to avoid that consulates had to store large numbers of incomplete files, whereas **BE** and **LU** found 1 month appropriate. **COM** maintained that a universal deadline was necessary.

⁶ **NL** was of the opinion that a distinction should be made between essential documents (i.e. passport) and additional documents and entered a scrutiny reservation on this paragraph. **COM** was willing to consider the idea of such a distinction in relation to Article 12.

NO entered a reservation because according to national Norwegian law as all decisions taken in relation to visa applications, including declaring them "inadmissible" (Article 19 (1)), had to be motivated and could be appealed.

*Article 11****Capturing of biometric data**

¹ **FR** wondered whether the chronology of events in Article 10 was logic: Paragraphs 1-3 concerned "access to the counters" whereas paragraph 4 dealt with "certain aspects of the examination". **FR** suggested that if the concept of a "complete file" was introduced, an exhaustive list of necessary supporting documents should be drawn up in order to have a clear definition of "conditions for admissibility". **HU** shared this point of view. **COM** suggested that the possible moving of Article 10 (4) to another Article be discussed when Articles 12 and 19 were examined. **COM** drew delegations' attention to the fact that Article 12 listed the criteria of admissibility (necessary documentation) which were then presented one by one in Articles 13-15. However, **COM** would consider the French suggestions. **AT** found that the expression "declared inadmissible" was not accurate enough. Currently a visa is either issued or the application is refused on the basis of material or formal grounds. **CZ** agreed with **FR** and **AT**.

* This Article was not examined as it is part of the draft Regulation amending the CCI (13610/2/06).

Article 12

Submission of a visa application¹

- 1.² When applying for a visa, the applicant shall:
- (a) complete the application form referred to in Article 13;
 - (b) present a valid travel document the expiry date of which must³ be at least three months after the intended departure from the territory of the Member States, and which contains one⁴ or more free pages for affixing the visa⁵;
 - (c) provide supporting documents, in accordance with Article 14 and Annex IV⁶, proving the purpose and the duration of the stay;

¹ **DE** noted that the general principle of the necessity of a personal interview with each applicant (as well as possible exemptions) should be stated explicitly in the Regulation.

DE also found that restructuring of Articles 12,14,15,18 and 23 was called for in order to introduce a clear distinction between a) material requirements b) procedural requirements, and c) legal rights of appeal. **EE, NL, FR** and **AT** supported the points raised by **DE**, **FR** adding that the basic conditions of "admissibility" should be presentation of a filled in application form, a valid travel document and payment of the administrative fee. Then the second part of the supporting documents should prove fulfilment of the entry conditions as referred to in the SBC; means of subsistence; appropriate TMI; means of repatriation; socio-economic situation in the country of residence.

COM drew delegations' attention to Article 11 (to be taken on board once the amendment of the CCI had been agreed upon) which contained the key to the issue of personal appearance (upon first application).

² **FR** found it peculiar that this paragraph listed a number of requirements and supporting documents without substantiating these. **COM** would reconsider this paragraph but in principle these elements constituted the "conditions of admissibility".

³ **DK** suggested adding "in principle" as other deadlines might apply. **COM** recalled that 3 months was the validity period applied in current legislation but if Member States require longer periods in practice, account could be taken of that.

⁴ **FR** was of the opinion that at least 2 pages must be free in order to allow for affixing the sticker and stamps (the latter at the border).

⁵ **LT** preferred the current version of this provision in the CCI, finding this formulation too restrictive.

⁶ **COM** emphasised that this structure was identical to the one contained in the SBC.

- (d) provide evidence of the possession of sufficient means of subsistence, in accordance with Article 5(3) of the Schengen Borders Code¹;
 - (e) allow the capturing of his/her biometric data in accordance with Article 11(2);
 - (f) pay the handling fee as provided for in Article 16.
2. Where applicable, the applicant shall present proof of possession of adequate travel medical insurance as provided for in Article 15². Member States' diplomatic missions and consular posts may under local consular cooperation arrangements agree that this proof is to be presented only when the visa is issued³.

¹ **NL** found that the reference to the SBC should be left out as the situation at the borders is different from the situation when a person applies for a visa at the consular post. **DK** supported this suggestion, adding that it should not be compulsory for all applicants to prove that they had sufficient means of subsistence, i.e. for instance bona fide business travellers. In reaction to a comment made by **BE**, the **Chair** reminded delegations that the previous Annex 7 to the CCI had been repealed the SBC and the means of subsistence necessary for entering the Schengen area were now referred to in Article 5(1) of that Regulation. **COM** reminded delegations that proof of sufficient means of subsistence was one of the conditions for entry and thus for obtaining a visa.

² **FR**, supported by **AT**, wished that exemptions from this requirement be allowed for and preferred the formulation in the CCI (Part V, 1.4, 9th paragraph, page 30 (12357/1/05)). **COM** emphasised that entry conditions, conditions for obtaining a visa and conditions for circulating within the Schengen area were identical, whereas the means of proving that the person concerned were in possession of sufficient means of subsistence differed. **LU** agreed with this and drew delegations attention to the fact that even bona fide applicants could be requested to present proof of sufficient means of subsistence at the border, cf. also Article 41 of the draft Regulation. **COM** noted that Article 12 (2) and Article 15 were based on the revised Guidelines drawn up in 2005 and updated in 2006 after the introduction of TMI (9654/06 VISA 137 COMIX 482) but would be open to amending this text.

³ **EE** and **LV** were of the opinion that TMI should be part of the supporting documents and presented upon application and never when the visa is issued. **BE** and **FR** supported this point of view, arguing that it caused problems for consular authorities when the TMI was presented upon issuance only. **NO** found that it was difficult to require the applicant to pay for an insurance before he/she knew whether a visa would be granted, and suggested that text be added referring to "prior confirmation".

3. Where applicable, a stamp as described in Article 17 shall be affixed to the passport of the applicant¹.

Article 13

The application form

1. Visa applicants shall complete and sign the application form², set out in Annex III. Accompanying persons included in the applicant's travel document shall complete separate application forms.
2. The diplomatic mission or consular post shall make the application form available to applicants free of charge and it shall be widely available and easily accessible in hard copy and electronic form.
3. The form shall be available in the following languages^{3 4}:
 - (a) the official language(s) of the Member State for which a visa is requested,
 - (b) the official language(s) of the host country, or
 - (c) the official language(s) of the host country and the official language(s) of the Member State for which a visa is requested.

¹ **IT** and **AT** noted that this was not worth while as all information would be stored in VIS. **COM** drew delegations' attention to Article 17 (5), whereby this provision would be abolished once data is being transmitted to the VIS.

² **AT** and **FR** found this formulation more appropriate: "the applicant shall submit a filled in and signed application form" and a provision should be added indicating that in the case of minors this should be done by the parental authority. **COM** found that it was necessary to differentiate between filling in, signature and category of applicant. **IT** was of the opinion that the application form should be signed in the presence of consular staff. **COM** noted that this would be the ideal solution but wondered how this would work in practice when applications are handed in via travel agencies etc.

³ **NL** and **CZ** suggested the deletion of subparagraphs (b) and (c).

⁴ **COM** emphasised that it was important not to mix up the form and the filling in of the form and what might seem to be a simple procedural issue (availability of the application form in various relevant languages) is problematic, as can be seen from the many complaints from visa applicants that the Commission receives.

In addition to the languages referred to in the first subparagraph, the form may be made available in another of the official languages of the European Union.

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

A translation of the application form into the official language(s) of the host country shall be produced under local consular cooperation arrangements.¹

4. Applicants shall be informed of the language(s) which may be used when filling in the application form.¹

¹ HU found that these provisions should be contained in the practical Instructions.

Article 14

Supporting documents

1. The visa applicant shall¹ produce the following documents:
 - (a) documents indicating the purpose² of the journey³;
 - (b) documents in relation to accommodation;
 - (c) documents indicating the financial means available to cover subsistence costs;⁴
 - (d) documents indicating the applicant's intention to return to the country of departure.⁵

¹ **SE** and **IT** wished to replace this word by "may" or "should". **FR** supported this, noting that bona fide applicants (for instance business men) should be exempted from providing all documentation. This would also free consular staff to focus on more problematic applicants. **FR** preferred the wording used in the CCI. **COM** recalled that all applicants were obliged to present these documents. Bona fide persons could then possibly be granted multiple entry visa with a long validity. But when such person applied another time, their bona fide "status" would have to be proved again.

² **FR** noted that this should be translated into "motif de voyage".

³ Responding to a query from **ES**, **COM** drew delegations' attention to Article 18 (6), from which it could be deduced that persons applying for an airport transit visa would for obvious reasons not have to provide proof of journey/stay. **COM** could accept adding "without prejudice to Article 18 (6)". **ES** suggested that the heading of (1) be reformulated: "Persons applying for a uniform visa."

⁴ **NL** was of the opinion that the financial means should also cover the travel costs. According to **COM**, the means of subsistence covered both the costs of travel and of stay. This could be spelt out but coherence with the SBC should be maintained.

⁵ **FR** suggested the following formulation: "documents allowing to assess the applicant's intention to return to the country of departure." **COM** could accept this.

The form providing proof of invitation, sponsorship and accommodation is set out in Annex V.²

2. A non-exhaustive list of supporting documents which the diplomatic mission or consular post may request from the visa applicant in order to verify the fulfilment of the conditions set out in Article 12(1)(c) and (d), is set out in Annex IV.
3. Within local consular cooperation, shall be assessed the need to complete and harmonise the lists of supporting documents contained in Annex IV, within each jurisdiction so as to take account of local circumstances.

¹ **FR** wished to add "(e) proof of travel medical insurance". **COM** was not in favour of this suggestion, emphasising that presenting proof of TMI was could not be considered as presenting a supporting document, but rather as one of the conditions to be fulfilled before a visa could be issued.

FI wondered whether the photograph ought not to be mentioned somewhere. **COM** noted that the photo was to be attached to the application form and therefore there was no need to mention it specifically.

² **DK** and **NO** wished to continue to use national forms. **COM** noted that the purpose of introducing a harmonised form was precisely to avoid that everybody used different forms.



Photo

ANNEX III: HARMONISED APPLICATION FORM

Application for Schengen Visa

This application form is free

Stamp Embassy or
Consulate

1. Surname(s) (family name(s))			FOR EMBASSY/ CONSULATE USE ONLY
2. Surname(s) at birth (earlier family name(s))			
3. First names (given names)			
4. Date of birth (year-month-day)	5. Place and country of birth	6. Nationality	Date of application :
7. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	8. Marital status : <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widow(er) <input type="checkbox"/> Other		Application submitted at <input type="checkbox"/> embassy/consulate <input type="checkbox"/> CAC <input type="checkbox"/> travel agency
9. Type of travel document: <input type="checkbox"/> Ordinary passport <input type="checkbox"/> Diplomatic passport <input type="checkbox"/> Service passport <input type="checkbox"/> Official passport <input type="checkbox"/> Special passport <input type="checkbox"/> Other travel document (please specify):			Name: <input type="checkbox"/> service provider <input type="checkbox"/> Other
10. Number of travel document	11. Issued by Valid until		Name:
12. If you reside in a country other than your country of origin, do you have permission to return to that country? <input type="checkbox"/> No <input type="checkbox"/> Yes, (number and validity)			File handled by :
* 13. Current occupation			<input type="checkbox"/> Invitation <input type="checkbox"/> Means of transport <input type="checkbox"/> Link with other application <input type="checkbox"/> Other :
* 14. Employer and employer's address and telephone number. For students, name and address of educational establishment.			Visa : <input type="checkbox"/> Refused <input type="checkbox"/> Granted <input type="checkbox"/> LTV <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D
15. Member State of main destination			
16. Number of entries requested <input type="checkbox"/> Single entry <input type="checkbox"/> Two entries <input type="checkbox"/> Multiple entries	17. Duration of stay or transit Visa is requested for: <input type="checkbox"/> stay , indicate number of days _____ <input type="checkbox"/> airport transit		
18. Previous visas (issued during the past three years)			Number of entries : <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> Multiple
19. Entry permit for the final country of destination (in the case of application for a transit or airport transit visa Issued by: _____ Valid until: _____			Valid from To

* The fields marked with * do not have to be filled in by family members of EU or EEA citizens (spouse, child or dependent ascendant). Family members of EU or EEA citizens have to present documents to prove this relationship and fill in field no XX.

20. Purpose of travel Tourism Business Visit of family or friends Cultural Sports Official visit Medical reasons Other (please specify):		FOR EMBASSY / CONSULATE USE ONLY					
* 21. Intended date of arrival	* 22. Intended date of departure						
* 23. Name of host in the Member States. If not applicable, give name of hotel or temporary address in the Member States							
Address (and e-mail address) of host	Telephone (and telefax)						
24. Name and address (and of inviting company/organisation)	Telephone (and telefax) of company/organisation						
Name, address, Telephone (and telefax) (and e-mail address) of contact person in company/organisation:							
* 25. Cost of travelling and living during the applicant's stay is covered by the applicant himself/herself <input type="checkbox"/> Other sponsor <input type="checkbox"/> Means of support during stay Cash Traveller's cheques Credit cards Accommodation Other:							
* 26. If the cost of travelling and living during the applicant's stay is covered by a host/a company/an organisation Means of support during your stay Cash Traveller's cheques Credit cards Accommodation Other:							
Proof of invitation, sponsorship and accommodation submitted <input type="checkbox"/> 27. Travel and/or health insurance. <input type="checkbox"/> Not applicable Name of insurance company <input type="checkbox"/> No of policy: No of policy: Valid until:							
28. Personal data of the family member who is a EU or EEA citizen <table border="1" style="width: 100%;"> <tr> <td colspan="2">Name</td> <td>First Name</td> </tr> <tr> <td>Date of birth</td> <td>Nationality</td> <td>Number of passport</td> </tr> </table> Family relationship with an EU or EEA citizen <input type="checkbox"/> spouse <input type="checkbox"/> child <input type="checkbox"/> dependent ascendant			Name		First Name	Date of birth	Nationality
Name		First Name					
Date of birth	Nationality	Number of passport					
29. Applicant's home address /and e-mail address	Telephone number						
30. Place and date	31. Signature (for minors, signature of custodian/guardian)						

Statement to be signed in case a multiple entry visa is applied for (cf. field no 16)

I am aware of the need to have an adequate travel medical insurance for my first stay and in connection with subsequent visits to the area of Member States.

Signature

COMMENTS MADE TO ANNEX III:

COM recalled that the uniform application form had been introduced only in 2002 and that no revolutionary changes had been introduced as the original version seemed on the whole to be satisfactory. However, a few amendments had been made in order to

- take account of certain choices made in the draft Regulation: i.e. the reference to D+C visas and group visa had been deleted, and a statement in relation to TMI (to be signed in case a multiple entry visas had been issued) had been added;
- anticipate the amendment of Regulation 539/2001: change of wording in field no 9 making them match the wording of Regulation 1932/2006;
- anticipate the VIS: a number of fields in the current application form had been deleted, as they concerned information judged less pertinent when certainty about the applicant's identity would be ensured by the collection of biometric identifiers and the final data protection statement had been adapted to take account of the storage of data in the VIS.

NL, supported by **FR**, suggested that for practical reasons the layout of the application form be changed so that the photo would be placed to the right and the embassy stamp to the left. **COM** could accept this change. **COM** would reflect further on the lay out (incl. the electronic presentation) and possible changes to be made for the purpose of on-line filling in of the form.

IT suggested that the title be reformulated in this manner: "Application for a visa for a Schengen State" as the form should be used both for applications for Schengen visas and national visas. **COM** could accept a deletion of the reference to "Schengen".

Responding to a query from **EE**, **COM** emphasised that this was a harmonised form, which among other things served as a means of exchange of information among Member States (and would in future be the basis of the entry of data into the VIS), and therefore any "national" deviation is unacceptable.

Ad Fields 1-3: **FR** drew delegations' attention to the problems in relation to the filling in of these fields in countries where the Latin alphabet was not used, meaning that the entries in the application form did not correspond to what was in the passport, noting that it had to be ensured that the entries in the application form corresponded to the information contained in the applicant's travel document.

Ad Field 4: DK wished to the date of birth to be indicated in this manner: "day-month-year". Although current order was copied from the CCI and did not seem to have given rise to problems, **COM** could accept this.

Ad Field 6: BE wished to maintain a reference to "original nationality"(field 8 of Annex16 to the CCI). **COM** was of the opinion that information on original nationality was only of interest in a limited number of cases and ought therefore not to be part of standard form.

COM repeated that the fact that reference was made to this entry in the draft VIS Regulation was not an argument for keeping it in the draft Visa Code. The changes to the acquis made in the Visa Code would later be reflected in an amendment to the VIS Regulation.

SE wished to add a field on "current residence address" as well as additional information on spouse and children of the applicant. **COM** failed to see the purpose of such addition, given that all applicants would have to submit individual applications. Moreover a link between applications would be provided for in the VIS.

EL wished to reinsert a reference to the name of the applicant's father as this information was essential for the verification of the applicant's identity. **NL** and **HU** supported this suggestion.

Ad Field 10-11: FR was not in favour of the deletion of the "date of issue" of the travel document, given certain practices of issuing several travel documents simultaneously. **COM** acknowledged the problem but was of the opinion that the solution would not be to amend the application form but rather to add a provision establishing that the travel document presented with the application should have been issued within the last five years.

Ad Field 12: Although this text had been taken over from the current application form, **IT** was of the opinion that it should be clarified that the applicant would have to declare by some means that he/she had the right to return to his/her country of residence.

Ad Field 14: IT found that indication of "student, name and address of educational establishment" did not add much. **COM** noted that this was essential information on the applicant's "status".

Ad Field 15: IT and **HU** wished to add information on Member State of first entry. Noting that expressions like "destination of first entry" and "main destination" were often confusing for applicants, **FR** wondered whether clearer formulations could be found. **COM** suggested: ""Member State (s) visited".

Ad Fields 16 and 17: **FR** found these acceptable but wished to add a reference to "length of validity" as requested by the applicant. **ES** did not agree, noting that a reference to multiple entry was sufficient. **NL** wished a reference to "long stay" to remain in. **SE** suggested that fields 21-22 be moved to follow immediately after 17.

Ad Field 18: **HU** and **FR** wondered why this was in and whether it only concerned previous Schengen visa. **COM** noted that it covered all previous visas, adding that the formulation should maybe be clarified although such visas would often still be in the applicant's travel document. Once the VIS became operational the information in relation to Schengen visa would be recorded there.

DK wished to reintroduce a reference to "previous stays in a Schengen State" (Field 28 of current application form). **COM** found this superfluous as information on previous visas issued would in future be recorded in the VIS.

Ad Field 20: **HU** wished to add "study". **IT** and **FR** found that this field should be moved to the top of the form. **BE** suggested that the title be in plural ("Purpose(s) of travel"). Although all formulations had been taken over from the CCI, **COM** could accept **HU** and **BE** suggestions.

Ad Fields 21 and 22: **NL**, **HU**, **IT** and **FR** found that family members of EU citizens should also fill in these fields. **HU** wondered what should be indicated in field 22 in the case of an application for a multiple entry visa. **COM** recalled why there had to be a reference (in the form of "fields not to be filled in") to the rights enjoyed by family members of EU citizens under Directive 38/2004/EC, but **COM** understood delegations' concern in relation to the intentions of stay of family members and would consider removing the *.

Ad Field 23: **NL** wished to add date of birth of the host. **DE** agreed, wishing to add also sex and address. **COM** could accept adding date of birth and address but wondered what would be the added value of indication of the person's sex, recalling that applicants would have to submit a number of supporting documents together with the application form and that in order to meet Member States' public order and other security concerns a number of instruments and procedures were already in place (i.e. "prior consultation", Vision. SIS).

IT wished to formulate field 23 as follows: "Name and **first name** of host in the Member States. If not applicable, give name of hotel **and/or** temporary address in the Member States."

FR found that this field should also be filled in by family members of EU citizens. **COM** emphasised that this request went beyond purely operational concerns and that prior control of the right to free movement enjoyed by this category of persons was unacceptable and contrary to the above mentioned Directive, adding that family members of EU citizens could not be considered to present illegal immigration risk, and therefore the * in relation to fields 23, 25 and 26 should remain. In relation to fields 23-25, **COM** noted that the formulations could be clarified in order to distinguish between "private" and "public" matters.

Ad Field 27: **BE** wondered whether the applicant could be requested to fill this in. **FR** suggested that "not applicable" be deleted but that "expiry date" had to be maintained as it would square with a requirement that the TMI should always be presented upon application and not room for manoeuvre should be allowed for in LSC (cf. Article 15 (8)). **COM** understood the concerns and suggested that in cases where the proof of TMI was only presented upon issuance of the visa, the expiry date of the TMI could be added in the vertical column by consular staff.

Ad Field 28: **DK** suggested the addition of ID card number. **COM** could accept this.

Responding to a query from **IT**, **COM** noted that only the categories of persons covered by Directive 38/2004/EC were mentioned.

Ad Field 28: "*Family relationship with an EU or EEA citizen*": some delegations questioned the meaning of "dependent ascendant". **COM** noted that the terminology should correspond to the one used in Directive 38/2004/EC. **COM** took upon himself to clarify this matter.

Ad Field 29: **NL** suggested that this field follow directly after field no 11.

Ad Field 31: **FR** suggested the addition of "parental authority" as "custodian/guardian" does not cover all cases.

DK wished to reintroduce fields 36 and 42 of the current application form

Statement related to TMI: **NL** found that it was inconvenient that persons applying for a multiple-entry visa had to sign twice (i.e. field 31 statement) and suggested that the two be combined.

VERTICAL COLUMN: "For Embassy/Consulate use only":

IT found that generally the previous lay out and formulation was clearer.

BE, supported by **NL** and **HU**, was not in favour of indicating in the form where the application has been submitted and travel agencies ought not to be associated with CACs and service providers. **ES**, on the contrary, wished the reference to travel agencies to remain in.

COM found that information on the circumstances (via which intermediary) under which the application had been submitted was important but would consider deleting the option "embassy/consulate".

Commenting on a point raised by **IT**, **COM** noted that it could be considered to distinguish between the person who "handled" and the one who "processed/examined" the application.

COM would consider reinserting the same references to supporting documents as in the current CCI version.

HU suggested that reference be made to situations of "representation" in case the application is eventually handed over to the Member State of destination.

IT found that reference to "D" visa should be maintained. **NL** regretted the deletion of both D and D+C visas.

COM would consider reinserting the entry "valid for: ..."

STATEMENT TO BE SIGNED BY THE APPLICANT:¹

I am aware of and consent² to the following: the taking of my photograph and, if applicable, the taking of fingerprints, are mandatory for the examination of the visa application. Any personal data concerning me which appear on the visa application form, as well as my fingerprints and my photograph will be supplied to the relevant authorities of the Member States and processed by those authorities, for the purposes of a decision on my visa application.

Such data as well as the decision taken on my application or a decision whether to annul, revoke or extend a visa issued will be input into, and stored in the VIS for a period of five years, accessible to the authorities competent for carrying out checks on visas at external borders and within the Member States, immigration and asylum authorities in the Member States for the purposes to verify whether the conditions for the legal entry, stay and residence on the territory of the Member States are fulfilled, to identify persons, who do not, or who no longer fulfil these conditions, to examine an asylum application and to determine the responsibility for such examination. Under certain conditions the data will be also available to authorities responsible for the internal security of the Member States. The authority responsible for processing the data is: [*the Ministry of the Interior/of Foreign Affairs of the MS concerned and contact details*].

Any I am aware that I have the right to obtain in any of the Member States communication of the data related to me recorded in the VIS and of the Member State which transmitted it to it, and to request that data relating to me which is inaccurate be corrected and that data recorded unlawfully be deleted. At my express request³, the consular authority processing my application will inform me of the manner in which I may exercise my right to check the personal data concerning me and have them corrected or deleted, including the related remedies according to the national law of the State concerned. The national supervisory authority of this Member State [*contact details*], which will assist and advise me to exercise these rights

¹ **NL** and **FR**: Scrutiny reservation. **IT** found the statement should be made simpler and clearer. **COM** emphasised that the wording of the statement had mainly been taken over from the current application form, but that certain parts had been added for the purpose of storage of data in the VIS and for the access by border control authorities to this data because the visa applicant/holder would have to address those who had entered the data.

² **DE** wished to delete the word "consent" as it gives the impression that consent is sufficient. According to data protection experts a reference to a legal provision must be in (i.e. Article 2 (h) of the Data Protection Directive). **PT** found that "consent" was not the appropriate word as the taking of fingerprints and a digital photo is mandatory for the submission of an application.

³ **BE** found that the statement gave the impression that the applicant/holder of a visa could only complain or ask for the correction of data at the consulate. According to this delegation it had to be specified which authorities are responsible. **COM** noted that it would not be possible to list all the authorities responsible in all Member States. The applicant/holder of a visa could seek information at the consulate who might then guide him/her elsewhere.

I declare that to the best of my knowledge all particulars supplied by me are correct and complete. I am aware that any false statements will lead to my application being rejected or to the annulment of a visa already granted and may also render me liable to prosecution under the law of the Member State which deals with the application.

I undertake to leave the territory of the Member States upon the expiry of the visa, if granted. I have been informed that possession of a visa is only one of the prerequisites for entry into the European territory of the Member States. The mere fact that a visa has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5(1) of the Schengen Borders' Code and am thus refused entry. The prerequisites for entry will be checked again on entry into the European territory of the Member States.

ANNEX IV: NON-EXHAUSTIVE LIST OF SUPPORTING DOCUMENTS¹

The supporting documents, referred to in Article 14, to be submitted by visa applicants may include the following:

A. DOCUMENTATION RELATED TO THE PURPOSE OF THE JOURNEY

(1) for business trips:

- (i) an invitation from a firm or an authority to attend meetings, conferences or events connected with trade, industry or work;
- (ii) other documents which show the existence of trade relations or relations for work purposes;
- (iii) entry tickets for fairs and congresses, if appropriate;
- (iv) documents proving the business activities of the company;
- (v) documents proving the applicants employment [status][situation] in the company.

(2) for journeys undertaken for the purposes of study or other types of training:

- (i) a certificate of enrolment at a teaching institute for the purposes of attending vocational or theoretical courses in the framework of basic and further training;
- (ii) student card or certificates for the courses attended to;

¹ By way of presentation, COM noted that this non-exhaustive list had been drawn up in order to structure the supporting documents necessary for different purposes better. In addition, account had been taken of the analogue list set out in Annex I to the SBC, as the entry conditions to be fulfilled by visa applicants and by persons wishing to cross the external borders are identical. COM emphasised that the non-exhaustive list corresponded to the approach followed in the SBC and according to Article 14(3), the list could be adapted to local circumstances

- (3) for journeys undertaken for the purposes of tourism or for private reasons:
- (i) documents as regards lodging:
 - an invitation from the host if staying with one;
 - a document from the establishment providing lodging or any other appropriate document indicating the accommodation envisaged;
 - (ii) documents as regards the itinerary:
 - confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;
- (4) for journeys undertaken for political, scientific, cultural, sports or religious events or other reasons¹:
- invitations, entry tickets, enrolments or programmes stating wherever possible the name of the host organisation and the length of stay or any other appropriate document indicating the purpose of the visit.

¹ **EE** wished to add a reference to "humanitarian reasons", "funerals", "pilgrimage" either in this paragraph or in a separate point (5). **PL** and **PT** were not in favour of this addition, **PT** drawing the attention to point (3) : ".. for private reasons" which could cover such travel purposes.

B. DOCUMENTATION ALLOWING FOR THE ASSESSMENT OF THE APPLICANT'S INTENTION OF RETURN¹

- 1) return or round ticket;
- 2) proof of financial means;²
- 3) proof of employment: bank statements;
- 4) proof of real estate property;
- 5) proof of integration into the country of residence: family ties; professional status.

C. DOCUMENTATION IN RELATION TO THE APPLICANTS FAMILY SITUATION

- 1) parental consent (when minor does not travel with parents);
- 2) proof of family ties with the inviting person.

3

¹ **IT** suggested that a reference to "hotel reservation" be added. **COM** found this unnecessary as presentation of the return ticket would prove the applicant's intention to return.

² **LU** wondered why this should be requested when the applicant was also asked to present proof of bearing of costs, adding that the proof of return would maybe sufficient. **COM** stressed that the purpose of this requirement was to assess the applicant's financial situation in the place of residence. However, **COM** recalled that the same supporting documents might serve several purposes and would thus be repeated.

³ **FR** suggested the addition of "family member of an EU citizen". **COM** would consider this, noting that overlapping with the application form should be avoided.

**ANNEX V: HARMONISED FORM FOR PROOF OF ACCOMMODATION AND/OR
BEARING OF COSTS**

[Member State]

**Proof of accommodation* bearing of costs*
in accordance with Article 14.1 of the Visa Code
for the purpose of inviting a third-country national subject to the visa obligation**

(This form is issued and processed by the competent authority free of charge)

I, the undersigned		
Surname	Name	
Date of birth	Place of birth	
Nationality		
Identity card no.	Passport no.	
Residence permit no.:		
Date of issue	Place of issue	
Address:		
<input type="checkbox"/> Owner	<input type="checkbox"/> Tenant	
Occupation:		
 <input type="checkbox"/> declare being able to accommodate* :		
1. Surname	Name	Nationality
Date of birth	Place of birth	
Address		
Relationship to the invitee		
Passport no.		
2. Surname	Name	Nationality
Date of birth	Place of birth	
Address		
Relationship to the invitee		
Passport no.		
3. From	Until	
<input type="checkbox"/> at my abovementioned address.		
<input type="checkbox"/> at the following secondary address:		
<input type="checkbox"/> declare being able to bear living costs and repatriation *		
- for the person(s) mentioned under* 1. <input type="checkbox"/> 2. <input type="checkbox"/>		
- during the period of stay indicated under 3.		

* Please tick the appropriate box(es)

Additional information:

the person(s) mentioned * under 1. under 2. subscribe(s) to their own travel medical insurance for the duration of stay, as required by Article 15 of the Code on Visas.

I subscribe to health insurance on their behalf during the period of stay.

I am aware that the personal data contained in this form are stored and handled by the services receiving this form, that they are stored in the Visa Information System (VIS) and made accessible to the authorities of the other Member States and I have right to have them altered or deleted, in particular, should they be inaccurate.

I am aware that *[list of national provisions to be added by the Member State concerned]*:

- reference to penalties for giving false data;
- reference to penalties for facilitating irregular stay.
-
- the original of the present statement, duly stamped by the competent authority, must be presented in original within six months to the consular authorities competent for examining the visa application of the person(s) invited

I declare, on my word of honour, that the information provided above is true

Read and approved

Witnessed for certification of the signature
of

Date and signature of the inviting person

Date Stamp of the competent authority

Documents to be attached:

- **copy of the invitee's ID card or of the biodata page of his/her passport;**
- **proof of residence (ex.: property title deeds, rental agreements, electricity/water/gas bills)**
- **proof of income (salary slip, receipt of pension, official document stating the amount of income);**
- **if, applicable, health insurance policy for the invited person(s).**

This section is for use by the competent authorities only

Proof of accommodation

The accommodation conditions

- have not been verified
- have been judged compatible with the intended invitation

Proof of bearing of costs

The level of financial means of the invitee

- has not been verified
- has been judged sufficient in relation to the applicable reference amounts and the duration of stay of the invited person(s)

Date:

Place:

Stamp of the competent authority:

- **GENERAL COMMENTS MADE TO ANNEX V**

COM recalled that the existing Annex 15 to the CCI on "*Specimen of harmonised forms providing proof of invitation, sponsorship and accommodation*" only contained specimen of such forms drawn up by four Member States, despite the fact that according to information provided on the websites of a number of Member States' MFA, such forms (albeit not notified) are used. This is not satisfactory, and is moreover problematic for border guards, and therefore the Commission had judged necessary to draw up a harmonised form.

NL wondered whether it was useful to have one form for two purposes. **COM** recognised that the two issues were legally distinct and that the consequences were different, but found that given the clearly distinct purposes this should not be a problem.

LV, supported by **EE** and **LT**, suggested that use of electronic versions of this form be provided for in order to allow for the storage of the information in the national database.

COM would not be opposed to this option.

EE, **SI** and **LT** wondered whether the form could be used both when the inviting party was a natural person and a legal person.

LT, supported by **DE**, **FR** and **HU**, was of the opinion that the form should contain security features.

NO was in favour of introducing a harmonised form but emphasised that the use should not be mandatory, i.e. not systematic use for all applicants. **DK**, **ES**, **HU** and **SE** were also in favour of optional use of the form.

EE wondered whether the document would be handed over to the applicant, so that he/she could show it at the border.

LV, **CZ**, **SK**, **HU**, **DE** and **FR** were of the opinion that a fee should be charged for this form.

COM was categorically against this as there was a growing tendency to charge applicants with all sorts of additional fees.

LU and **BE** noted that there is no legal basis for retrieving the money from an inviting person in case the applicant went to a Schengen State different from the one where the inviting person lived. **BE** was of the opinion that that this issue should be covered in general terms and maybe only in an article. **COM** recognised the problem of retrieving coverage of costs of living if the inviting person lived in another country. As far as the concerns in relation to the use of this form in the case of "representation", **COM** recalled that the system of representation was based on mutual confidence which should be "*élargie*". to local authorities.

- **COMMENTS ON SPECIFIC POINTS**

HU suggested the addition of "original surname" in the form.

FR wished to add the following information in the form:

- gender of the host and the invitee,
- passport number of the invitee and a copy of this passport or identity card,
- possibility of adding details of more than two invitees,
- reference to previous proof-of-accommodation forms,
- indication that the prospective host must fill in the form personally,
- reference to a specific amount (e.g. in France: the guaranteed minimum wage (SMIC)),
- reference to the evidence to be produced of the host's means,
- box for the stamps of the consular authorities or border control (entry) evidencing that they have carried out their checks.
- a "reply-coupon" system in order for the consular services to inform mayors whether or not visas have been issued,
- the entry "date and signature of the invitee" should read "date and signature of the applicant".
- reference to a home visit to check on the state of the accommodation in order to avoid abuses on the part of hosts.
- specific reference to the accommodation (surface area, number of rooms, number of occupants, sanitary arrangements, etc.).

In addition, **FR** noted that while the form contains the line "declare being able to bear living costs and repatriation [costs]", repatriation costs are covered by insurance and there is no mention of the requisite EUR 30 000 cover and therefore **FR** suggested that provision be made for the host's explicit undertaking to meet the foreigner's living expenses should he default, unless the host's declaration on page 1 of the form that he can bear the living and repatriation costs is to be considered an equivalent undertaking. Reference should be made to the documents that the host must produce as evidence of his means. Finally, **FR** wondered which proof of accommodation form should be used in the case of nationals from third countries not subject to visa requirements.

PL suggested the following formulation under "Additional information" (top of 2nd page of form): "...subscribe(s) to their own travel medical insurance for the duration of the stay **and for repatriation for health reasons**, as required by...".

DE, supported by **PL**, were of the opinion that declarations in points 1 and 3 of the form were ambiguous and the aspect of obligation ought to be strengthened.

PL suggested that addition in the last indent of "Documents to be attached" of a reference to **travel health insurance policy**...".
