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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

Discussions on the draft Regulation in the European Parliament

a) Briefing by the Presidency

The **Chair** informed delegations of concerns raised during proceedings in the European Parliament:

- the absence of impact assessment of the proposed measures;
- the lack of coordination with the proposal on the Visa code;
- the inappropriateness of storing the fingerprints of children under 14 years (age of 14 is the one used in EURODAC) and of persons older than 79 years;
- outsourcing as a general possibility given to Member States when it should be a last resort solution only;
- the absence of the drawing up of detailed measures about personal data.

b) Discussion within the Working Party (WP)

The **Commission representative** (COM) recalled that studies have already been carried out and that the most important for the moment was to take action. Moreover, in relation to the link with the Visa code, **COM** is of the opinion that the latter is a very comprehensive text on which discussions are likely to be protracted in the Council.

The **Chair** reminded delegations that LIBE Committee had not yet adopted a final report and that the existing draft report could still be modified. The **Presidency** and **COM** stressed they had expressed observations to the draft report during the LIBE Committee meeting in July in order to bring positions closer towards each other.

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The Visa Working Party re-examined Article 1 (1), (2) and (3) of the annexed Commission's proposal (until page 15).

The draft Regulation is set out in the Annex to this note with delegations' comments set out in footnotes, including those made on the rest of the text in previous meetings.

Draft

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
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 applications¹**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

- (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 2004⁴ 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.

¹ **FR** proposed to split the Regulation into two different regulations. One would be a normative one covering the taking of biometrics. The other would be of administrative nature covering the applications for visas. Above all the splitting would ease the adoption of the first Regulation. **IT** maintains its reservation. **COM** could not agree about the splitting because the proposal constitutes a legal framework on the taking of biometrics together with the cooperation between MS and it would slow down the adoption of important documents in view of the implementation of the VIS system. The **Chair** noted that no conclusion could be drawn up at this stage of the discussion.

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ L 213, 15.6.2004, p.5.

- (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.
- (3) The choice of the biometric identifiers is made in 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*]. 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.¹
- (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.
- (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.
- (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.

¹ DE suggested that a reference be made to the involvement of the "Article 6 Committee".

- (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.
- (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.
- (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.
- (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.¹
- (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
- (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.

¹ As some MS wanted to add a wording about outsourcing in this Recital, **COM** mentioned that the Recital could possibly be amended after the linked Article would have been modified.

- (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.
- (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.
- (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.
- (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 *acquis* 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 *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* 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 Agreement¹.
- (19) This Regulation constitutes a development of provisions of the Schengen *acquis* 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 *acquis*. 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 *acquis* 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 *acquis*). 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 *acquis* 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 *acquis* 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.
- (22) This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

¹ OJ L 176, 10.7.1999, p. 31.

HAVE ADOPTED THIS REGULATION:

Article 1

The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:

(1) In Point II, point 1.2 is amended as follows:

(a) In (b) the following paragraph is added:

"A Member State may also represent¹ 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 rules²".

¹ **FR** explained that its reservation concerns Article 1(3)(c) 1.B, page 17 of the document primarily. Furthermore, **FR** advised to use another verb than "represent" here since this word, in the SCH context, refers to the case where a MS issues a visa for the account of another MS. **IT** raised the issue of representation by Schengen (SCH) States and non-SCH States. **COM** explained there is a need to distinguish between :

- "Full representation": fully applicable between SCH States because a SCH State has all the information to do so. On the contrary a non-SCH State may not represent a SCH State because, for instance, SIS consultation is not allowed in that case;
- "Limited representation": e.g. the collection of applications including biometrics is possible because the non-SCH State would not process the applications but simply collect and forward them.

² **DE** suggested adding a reference to the transmission of data from the central VIS by for instance a PKI infrastructure in order to make the possible transmission as secure as possible and found that this should be expressed concretely. **DE** has still to inform by the German authorities as the reservation can be raised. **COM** noted that the proposal from DE could give rise to technical difficulties. The **Chair** concluded that this point a) could be considered as being adopted subject to further agreement on the whole document.

(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."

(2) In Point III, point 1 is replaced by the following:

1.1. Visa application forms-number of application forms

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.

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.

1.2. Biometric identifiers

- 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.

At the moment of submission of his/her first visa application¹ each applicant shall be required to appear in person. At that time the following biometric identifiers shall be collected:

- a photograph, scanned or taken at the time of application and
- ten fingerprints taken flat and digitally captured.

For any subsequent application the biometric identifiers shall² be copied from the first application, providing the last entry is not older than 48³ months. After this period a subsequent application is to be considered as a "first application".

¹ **FR** and **PL** were of the opinion that biometric data should be collected at each application (cf. also 13758/06 VISA 247 CODEC 1059 COMIX 815, page 2). Moreover, **FR** opposed the system where the applicant were to appear in person at her/his first application only. To facilitate the application of a system where the applicant would see her/his biometrics taken at each visa application, **FR** would like to see the period during which the visa remains valid expanded. **COM** agreed with **FR** concerning the duration of the visa validity but reminded, on the one hand, that its proposal aims to ease the applicant's obligations, namely not to be obliged to appear in person each time she/he applies for a new visa and, on the other hand, that security requirements would be met given a **VIS** consultation is to be operated by authorities at the border. The **Chair** indicated that the taking of biometrics at each application will be a very difficult position to defend to the EP. The point is left aside for the moment.

² **LT** suggested this alternative wording: "For any subsequent application **the most recent biometric data may** be copied ..."

³ The **Chair** mentioned that **EP** proposes to extend the retention period up to 59 months. Furthermore, as far as the requirements for photographs are concerned, the practice differs in the MS. The **Chair** added that the photo should give full identification (veil, scarf) and be recent although the fingerprints could be taken only once as they were not supposed to change. **COM** recalled that the **CCI** and the **Visa Regulation** already contain conditions in relation to photographs and fingerprints. Concerning the minimum age limit, the **Chair** noted that **EP** proposes to adopt the same as in **Eurodac** (14 years) because there would be no scientific reliability for fingerprints of teenagers younger than 14. **UK** confirmed it already takes fingerprints of children aged 5 years without any problem. **NL** referred to a Dutch study into the use of biometrics with children, which it shall circulate to the participants to the group. **COM** stressed on the difference between the simple check of fingerprints (1-1 match) and the identification of them (matching with **DB**).

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.¹

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.²

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.

¹ **DE** suggested that the current text be replaced by the following:
"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. The fingerprints shall be taken in accordance with ICAO standards, the technical requirements set out for the VIS and the passports delivered by Member States to their nationals in accordance with Regulation 2252/2004."

DE also noted that the "Article 6 Committee" should be involved to ensure uniformity of approach in relation to the technical aspects, cf. footnote 1), page 4). **COM** drew delegations' attention to Decision 512/2004/EC on VIS (OJ L 213, 15.6.2004), where the SIS II Committee is given these tasks.

² **DE** proposed to add a reference to "Honorary Consuls". After a short discussion following which it appeared that some MS are totally opposed (**LU, ES, BE**) to that proposal whereas some others considered it was to be examined more deeply (**NL, EE, FI, FR**) the Chair concluded the question would be left pending for the time being.

b) Exceptions¹

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

- Children under the age of 6²;
- Persons where fingerprinting is physically impossible³. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken.

A Member State may provide for exceptions from the requirement of collecting biometric identifiers for holders of diplomatic passports, service/official passports and special passports.⁴

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

¹ **FR:** cf. 13758/06 VISA 247 CODEC 1059 COMIX 815, page 3.

² The **Chair** recalled that EP wants to raise the age for children to 14 and insert a upper age limit (79 years) because EP is of the opinion that elderly people are not a security risk. **PT** entered a scrutiny reservation on the question to know the reason for EP to put an age limit. All delegations agreed there should not be one.

³ The **Chair** recalled that it be specified in the text whether this "impossibility" referred to a permanent or a temporary situation. **COM** confirmed that the distinction was accurate and that it would propose a new wording accordingly. **PT** entered a scrutiny reservation.

⁴ **FR:** cf. 13758/06 VISA 247 CODEC 1059 COMIX 815, page 3. The **Chair** asked whether the MS were favourable to extend these exceptions. The majority of MS want to restrain the beneficiaries of the exemption from the collection of biometrics. Since a compromise text had been adopted during the DE Presidency, the Chair proposed to insert it here.

(3) In Point VII, point 1 is replaced by the following text:

1 A Organisation of the reception and processing of visa applications

Each Member State shall be responsible for organising the reception and processing of visa applications¹.

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.

- 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.

¹ **FR:** cf. 13758/06 VISA 247 CODEC 1059 COMIX 815. **HU** was not in favour of limiting the ways of cooperation. **NL** recalled its proposal of having a list of the tasks which cannot be outsourced. On the request of several MS for having more flexibility, **COM** noted that only a "limited representation" was concerned: reception of the application and taking of biometrics. **COM** added that this limited cooperation is the new framework the proposal has created as "full representation" already exists. **HU, IT, LU, FR, FI** could not agree with **COM**: what already exists in practice is something else. **HU** stressed that the legal framework has to be clearer; therefore the forms of cooperation shouldn't be limited but the definition of cooperation should be better defined. The Chair indicated the question is left pending for the moment as there is no agreement among the MS.

- b) Where "Common Application Centres"¹: 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.

¹ **COM** is not of the opinion that CAC should be created under Vienna Convention status. **COM** explained that CAC would operate with staff from different consulates pooled in one building whereas external service providers are private operators working under the supervision of the consulate. As several MS expressed doubts about the application or not of the Vienna Convention, the **Chair** decided to leave the point aside for further discussion.

c) Co-operation with external service providers in accordance with 1.B

1.B Co-operation with external service providers¹

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)². In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa applications.

¹ **FR**: cf. 13758/06 VISA 247 CODEC 1059 COMIX 815, page 4.

DE and **SE** reserved their position in relation to the cooperation with external service providers. **SE**, **NL** and **DE** maintained their reservation. **DE** added that cooperation for instance via a call-centre is acceptable but if the external service provider was to intervene further, security measures should be compulsory. **DE** will give more information in writing. **PL** is of the opinion that the biometrics be taken only by consular staff.

² Several MS opposed to the principle of ranking the options, which entails that outsourcing may only be used when the other options cannot be organised. The **Chair** proposed to put outsourcing on the same level than the other options. **PL** and **LU** opposed that proposal. **FR** and **BE** agreed with the proposal as the CAC system has been discussing for ten years without any progress; the outsourcing is then the only pragmatic solution. **COM** recalled that the ranking of the options had been introduced because there is a risk of fraudulent use of the collected data. The reception of the visa applications and the collection of biometrics are typical consular tasks. Moreover, **COM** recalled that the Hague Programme provides for the organisation of CAC. As the **Chair** could not get an agreement from the MS, it will simply be stated to the EP that the Council's position thereon is not yet adopted. Moreover, the Chair asked the Legal Service Representative (LS) to give an opinion on the question of whether the Community is competent to legislate on questions relating to the organisation of Consulates.

1.B.1 - Types of co-operation with external service providers¹

Cooperation with external service providers shall take [one of] the following form[s]:

- 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 system²;
- b) the external service provider provides³ 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.⁴

¹ **IT**, supported by **ES**, found the distinction between 1.B.1 a) and b) artificial and extremely fragile from a legal point of view (cf. 10540/1/06 REV 1, p. 7) and both foresaw considerable practical problems because of this distinction.

² **IT** found the lists in a) and b) too restrictive as many different formulas are used.

³ **HU** suggested the following formulation: "the external service provider **may inter alia provide** general information on the requirements for applying for a visa, collect applications, supporting documents and, **if agreed**, biometric data from visa applicants...".

⁴ **DE**: scrutiny reservation.

FR was not in favour of allowing external service providers to collect biometric data from applicants. **PT** expressed doubt in relation to this issue.

NL shared the concerns of **IT** and **FR** and suggested that a list of the tasks which cannot be outsourced be included.

IT supported both this and the above suggestion by **HU**.

1.B.2. Obligations of Member States

The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organizational measures requested by the Member State(s) to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.

When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts and shall ensure there is no conflict of interests¹.

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.

The Member State(s) concerned shall conclude a contract² 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 inform³ the diplomatic missions and consular posts of other Member States and the Commission delegation why the contract is necessary⁴.

¹ **DE** suggested the addition of the following text:

"and that the technical and organisational measures for the protection of personal data are respected. The Member States shall seek to harmonise the use of these criteria at local level." **HU** supported this suggestion. **COM**: reservation. **COM** wondered whether this would be possible or even necessary.

² **DK** suggested that the Commission draws up a standard contract.

³ **IT** could not accept this provision. **NL** and **BE** were in favour of sharing information in LCC but there should be no need to justify using outsourcing.

⁴ **NL, IT, FR, PT** and **HU** were in favour of deleting the last 5 words. **LU** noted that this formulation did not link up with the "appropriate" in the heading of 1.B.

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

- a) define the exact responsibilities of the service provider;
- b) require the service provider to act under the instructions of the responsible Member States and to process the data only for the purposes of processing of personal data of visa applications on behalf of the responsible Member States in compliance with Directive 95/46;
- c) require the service provider to provide the applicants with the information required under Regulation [draft VIS regulation];¹
- d) provide for access by consular staff to the premises of the service provider at all times;
- e) require the service provider to observe rules of confidentiality (including the protection of the data collected in relation to visa applications);
- f) contain a suspension and termination clause.²

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

- a) the general information provided by the service provider to visa applicants;
- b) the technical and organisational security measures and appropriate technical and organizational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing as well as the reception and transmission of files and data to the consular post;
- c) the capturing of biometric identifiers;
- d) the measures taken to ensure compliance with data protection provisions.

The total amount of fees charged by the external service provider for processing the visa application shall not exceed³ the fee set out in Annex 12¹.

¹ **FR**: reservation.

² **DE** could accept this provision, provided that it be defined what it covers.

³ **EL** and **PL** found this formulation incomprehensible as the fee set out in Annex 12 was fixed.

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.

1.B.5 - Information

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.

1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts

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.

Responding to a query from PT, **COM** noted that there is no link between the negotiation mandates on Community visa facilitation agreements recently agreed upon and outsourcing.

¹ **FR, IT, ES, DE** and **BE** were opposed to this provision, **IT** noting that the fee charged by the service provider was to cover the service offered and not the processing of the application which was the responsibility of the consular post. **NL** stressed the necessity of making a clear distinction between the tasks of the consulate and the service provider, and suggested the addition of a point (e) covering these issues related to integrity. **COM** maintained that if part of Member States' usual tasks were outsourced, the applicant should not be obliged to pay an additional fee, and wondered whether a call centre, where the applicant had to obtain an appointment could be considered as an additional service. **COM** emphasised that the Community imposed visa requirements on a number of third countries and Member States was therefore obliged to organise the reception of applications properly.

Some delegations (**IT, NL, AT, CZ**) noted that the applicant would always be able to submit the application directly at the consular post.

1.D Decision and publication

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.

Member States shall provide the Commission with the contracts they conclude.

(4) In point VIII, point 5.2 is amended as follows:

a) the title is replaced by the following:

5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries

b) the following sentence is inserted between the title and point 5.2 (a):

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)).

Article 2

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.

Article 3

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President
