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OUTCOME OF PROCEEDINGS

From: Visa Working Party/Mixed Committee
EU-Iceland/Liechtenstein/Norway/Switzerland)

On: 11 and 12 May 2015

Subject: Draft Regulation of the European Parliament and of the Council on the
Union Code on Visas (Visa Code) (recast)

1. At its meeting on 12 May 2015, the Working Party examined the drafting suggestions made by the Presidency in 8458/15 + COR 1 concerning the definition of and facilitation granted to "VIS registered applicants" and "VIS registered regular travellers", the examination of and decision on an application, the issuing of visas, deadlines regarding prior consultation and the decision on the application, the visa fee as well as Travel Medical Insurance (TMI).
2. The outcome of the discussions during that meeting is to be found in the Annex attached. Comments in relation to the text are set out in the footnotes to the Annex. The text of the draft Regulation as amended by the Working Party appears in **bold** (new text or (...)) when text has been deleted). The changes suggested by the Presidency, which have not yet been agreed, are underlined.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union Code on Visas (Visa Code)¹

(recast)

Definitions and facilitations

TITLE I

GENERAL PROVISIONS

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

8. "VIS registered applicant" means a **visa** applicant whose data are registered in the Visa Information System;²

¹ **ES, HU, PL** and **PT** entered a scrutiny reservation on all suggestions made by the Presidency in 8458/15.

² **FR, BG** agreed. **PL, IT**: even if biometrics are registered in the VIS, the taking of fingerprints should not be ruled out as a matter of principle (poor quality of fingerprints, failure in the system). **COM** supported the wording. **COM** also stated that fingerprints could be taken again in accordance with Article 12.

9. "VIS registered regular traveller" means a visa applicant **whose data are** registered in the Visa Information System and who has obtained at least three uniform visas¹ or visas with limited territorial validity issued in accordance with Article 22(3) within the 24 months prior to the application or one multiple-entry uniform visa or visa with limited territorial validity issued in accordance with Article 22(3) valid for at least one year within the 36 months prior to the application²;

¹ **BE** suggested adding a condition that one of the uniform visas be granted within the 12 months prior to the application.

² **FR, PT** entered a scrutiny reservation since it was of the opinion that visas with limited territorial validity (LTV) referred to in this article constitute an exception and should remain as such. **COM** said that the reference to LTV had to be maintained since it was the only possibility for third-country nationals, whose travel documents are not recognised by all Member States. **FI** entered a scrutiny reservation. **SI** supported the changes and suggested adding the condition that the visas have been lawfully used. The **Chair** indicated that it was not appropriate to refer to that condition here and that this was covered elsewhere in the text, such as in Article 13(2).

CHAPTER II

APPLICATION

Article 9

General rules for lodging an application

2. Except in the case of an applicant for whom the fingerprinting was temporary impossible at a previous application as referred to in Article 12(7)(b)^{1 2}, VIS registered applicants shall not be required to appear in person when lodging an application, where their fingerprints have been entered into the VIS less than 59 months before.

Article 13

Supporting documents

1. When applying for a uniform visa, the applicant shall present:
 - (a) documents indicating the purpose of the journey;
 - (b) documents in relation to accommodation, or proof of sufficient means to cover his accommodation;

¹ Article 12(7)(b) reads as follows:

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

(b) persons for whom fingerprinting is physically impossible. If the fingerprinting of fewer than 10 fingers is possible, the maximum number of fingerprints shall be taken. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling."

² **COM** agreed. **DE**: points (a), (c) and (d) of Article 12(7) should be included as well. **PL** wondered what the consulate could do if, for technical reasons, the quality of the fingerprinting was not good enough. The **Chair** said that further consideration would be given with a view to finding a solution to those concerns.

(c) documents indicating that the applicant possesses sufficient means of subsistence both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or that he is in a position to acquire such means lawfully, in accordance with Article 5(1)(c) and (3) of Regulation (EC) No 562/2006 of the European Parliament and of the Council¹ ;

(d) information enabling an assessment of the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for.

2. Points (b), (c) and (d) of paragraph 1 shall not apply to applicants who are VIS registered regular travellers and who have lawfully used the previously obtained visas as referred to in Article 2(9).²

¹ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

² **FR** agreed but wondered if it was useful to have the addition "as referred to in Article 2(9)". **BE, PT, SE, PL**: reference to point (d) to be deleted. Member States should in all cases be in a position to check the applicant's intention to leave their territory. **CZ**: reference to points (c) and (d) to be deleted. **MT**: points (b) and (c) to be deleted. **AT**: points (b), (c) and (d) to be deleted. **DE**, supported by **PL, CZ** and **AT**, agreed but suggested adding that the presumption would not apply in case of reasonable doubt, as applicable in Article 18(3). **COM** stressed that a reference to points (b), (c) and (d) should be kept and agreed with **FR** that the addition was not useful.

6. The consulate shall start processing the visa application on the basis of (...) copies of the supporting documents. Applicants **whose data** are not yet registered in the VIS or VIS registered applicants who have not obtained any visa while their data are being registered in the VIS¹ shall provide the original. The consulate may ask for original documents from applicants who are VIS registered applicants (...), (...) where there is doubt about the authenticity of a specific document **or where the requirement to submit original documents stems from the harmonised list of supporting documents referred to in Article 46(1)(a).**²

¹ **FR, ES, BE, DE** considered the last part to be redundant (data of "VIS-registered applicants" are per definition registered in the VIS). The **Chair** explained that this wording had been added to prevent a VIS-registered applicant who had been refused a visa from being allowed to lodge copies of the supporting documents. **SE** supported that point of view. **COM** disagreed since it wondered how the applicant would know about that situation.

² **SE, PT, MT, AT** agreed. **NO**: the requirement should be best included in the Handbook. **COM** entered a reservation and requested this last part to be deleted since, in accordance with Article 46(1)(a), harmonised lists should be prepared at local level but should not be decided on. However, the **Chair** advocated that the spirit of the local Schengen cooperation (LSC) was to support consulates in difficult jurisdictions. The **Council Legal Service** (CLS) considered that a better formulation could be found in order to reflect the scope of the mandate of the LSC, while keeping the substance, i.e. the possibility to differentiate between cases where originals are required and where copies of the originals suffice.

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

Article 18

Verification of entry conditions and risk assessment

2. In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who has lawfully used the previously obtained visas as referred to in Article 2(9), it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration, (...) and the possession of sufficient means of subsistence.

3. The presumption referred to in paragraph 2 shall not apply where the consulate has reasonable doubts about the fulfilment of these entry conditions based on information stored in the VIS, such as decisions annulling a previous visa, or in the passport, such as entry and exit stamps or **any other relevant** information. In such cases, the consulates may carry out an interview and request additional documents **as referred to in paragraph 10**.

10. During the examination of an application, consulates may in justified cases carry out an interview and request additional documents and information specified in Article 13(1)¹.

¹ **COM** suggested deleting the added text since it considered that it was superfluous. The **Chair** justified the reference to the information specified in Article 13(1) by referring to the cases in which consulates have to carry out additional checks on the application as explained in Article 18(3), when the presumption set out in Article 18(2) cannot be applied. **CLS** stated that the reference to "information specified in Article 13(1)" was perfectly clear.

CHAPTER IV

ISSUING OF THE VISA

Article 21¹

Issuing of a uniform visa

3. VIS registered regular travellers who have lawfully used the previously obtained visas as referred to in Article 2(9), shall be issued a multiple-entry visa valid for at least three years.

4. Applicants referred to in paragraph 3 who have lawfully used the multiple-entry visa valid for **at least** three years shall be issued a multiple-entry visa valid for five years provided that the application is lodged no later than one year from the expiry date of the multiple-entry visa valid for **at least** three years.

4a. However, in the cases referred to in Article 18(3), the applicants referred to in paragraphs 3 and 4 may be issued a multiple-entry visa valid for, respectively, less than three or five years.²

¹ **PL, PT** welcomed the overall substance of the suggested wording, but found it messy.

² **BE, SE, FR, PT**: VIS-registered regular traveller facilities should be granted only if the consulate has no "reasonable doubts", as referred to in Article 18(3). Furthermore, **SE, NL, FR** considered that a multiple-entry visa (MEV) should only be granted if the applicant so wishes (no automaticity). **COM** disagreed because if the consulate had reasonable doubts, it can invite the applicant for an interview or ask for additional documentation. Furthermore, if reasonable doubts still exist, the visa can be refused. The **Chair** said that further consideration need to be given to the issue.

Deadlines

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

Article 19

Prior consultation of central authorities of other Member States

2. The central authorities consulted shall reply definitively within five¹ calendar days after being consulted. The absence of a reply within this deadline shall mean that they have no grounds for objecting to the issuing of the visa.

2a. If the central authorities consulted need more time to reply to a specific application, they shall without delay, but within five calendar days after being consulted, inform the central authorities of the consulting Member State and reply definitively within seven calendar days after being consulted. The absence of a reply within this deadline shall mean that the central authorities consulted have no grounds for objecting to the issuing of the visa.

¹ **BE, DE, DK, LT, FR, AT, PT, PL, IT** did not like the two-stage procedure and favoured a deadline of seven calendar days for replies, with an invitation to the consulted Member State to reply as soon as possible. **CZ** explained that the reason for having such a two-stage procedure was to accelerate the prior consultation process. **COM** wanted to revert to the original proposal. The **Chair** concluded that the previous wording would be reintegrated (see 8573/15).

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

Article 20

Decision on the application¹

1. Applications shall be decided on within 15 calendar days of the date of the lodging of an application which is admissible in accordance with Article 17².
2. That period may be extended up to a maximum of 45 calendar days in individual cases, notably when further scrutiny of the application is needed³.

¹ **FR, HR, IT, ES, DE, NL, BG, EL, AT** agreed with the suggested deadlines. **COM** wanted the original proposal to be maintained.

² **PL** agreed.

³ **BE, PT, DK** and **CZ** wanted to keep a deadline of 60 days, as currently applicable, as this was in the interests of the applicant, in particular of the VIS-registered regular traveller, who would need more time to submit supporting documents. **PL** entered a scrutiny reservation.

Visa fee

Article 14

Visa fee

1. Applicants shall pay a visa fee (...).
2. Within 6 months after the date set out in Article 55(2) and not less than every 3 years thereafter, the Commission shall by means of implementing acts revise the amount of the visa fee in order to reflect the administrative costs. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

Article 53

Repeal

2. A visa fee of EUR 60 as referred to in Article 16 of Regulation (EC) 810/2009 shall continue to apply until the Commission has adopted an implementing act as referred to in Article 14(2) of this Regulation.

Travel Medical Insurance

Article 14a

Travel medical insurance

1. Applicants for a uniform visa for one entry shall prove that they are in possession of adequate and valid travel medical insurance to cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment or death, during their stay on the territory of the Member States.

2. Without prejudice to paragraph 3, applicants for a uniform visa for more than one entry (multiple entries) shall prove that they are in possession of adequate and valid travel medical insurance covering the period of their first intended visit.

In addition, such applicants shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance for subsequent stays.

3. The applicants for a uniform visa who are holders of diplomatic passports and VIS registered regular travellers shall not prove that they are in possession of adequate and valid travel medical insurance.

VIS registered regular travellers shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance.

4. The insurance requirement may be considered to have been met where it is established that an adequate level of insurance may be presumed in the light of the applicant's professional situation. The exemption from presenting proof of travel medical insurance may concern particular professional groups, such as seafarers, who are already covered by travel medical insurance as a result of their professional activities.

5. The insurance shall be valid throughout the territory of the Member States and cover the entire period of the person's intended stay or transit. The minimum coverage shall be EUR 30000.

When a visa with limited territorial validity covering the territory of more than one Member State is issued, the insurance cover shall be valid at least in the Member States concerned.

6. Applicants shall, in principle, take out insurance in their country of residence. Where this is not possible, they shall seek to obtain insurance in any other country.

When another person takes out insurance in the name of the applicant, the conditions set out in paragraph 5 shall apply.

7. When assessing whether the insurance cover is adequate, consulates shall ascertain whether claims against the insurance company would be recoverable in a Member State.
