



COMMISSION OF THE EUROPEAN COMMUNITIES

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2001/0232 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 1683/95 laying down a uniform format for visas

(presented by the Commission)

EXPLANATORY MEMORANDUM

In aiming to establish progressively an area of freedom, security and justice, the Amsterdam Treaty marked a major advance in European integration. Building upon the Maastricht Treaty, new competences for adopting measures have also been given to the European Community in relation to measures on immigration policy such as the conditions of entry and residence of third country nationals. The conclusions of the special European Council in Tampere on the creation of this area of freedom, security and justice within the European Union have underlined the importance of ensuring fair treatment for third country nationals who reside legally on the territory of Member States. The need for more efficient management of migration flows and illegal immigration and the importance of effective controls at external borders as a necessary complement to the implementation of these policies were also emphasised.

Following on from the Vienna Action Plan for the implementation of the Amsterdam Treaty and the Tampere guidelines, the Commission now proposes measures within the new institutional framework aiming to render travel and residence documents more secure.

The adoption of the Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas represented a step forward towards the total harmonisation of visa policy.

Article 2 of this Regulation (which was based on the former Article 100 C (3) EC Treaty) sets out that "Further technical specifications which render the visa difficult to counterfeit or falsify shall be laid down in accordance with the procedure set out in Article 6". The Commission has already executed this competence in adopting decisions related to the complementary technical specifications for the uniform format for visas on 07.02.1996¹ and later on 27.12.2000².

With the entry into force of the Amsterdam Treaty and the integration of the Schengen Acquis into the framework of the Treaty, the Commission considers it necessary to adopt additional measures for security reasons such as common rules related to the technical methods and standards to be used for filling in the uniform format for visas.

The harmonised system of security features will provide further guarantees against counterfeiting and falsification as well as enable the rapid adoption of new security features should the necessity occur. By preventing forgery and counterfeiting of travel and residence documents the Commission intends to enhance further the high level of security, a target set out both by the Treaty and the European Council of Tampere.

Following the terrorist attacks in the United States, the Council (JAI) of 20.09.2001 as well as the European Council on 21.09.2001 emphasised the necessity for the European Union to take immediate action.

Member States consider that the existing security standards should be improved even further and that a strategy developed introducing modern technologies to combat not only document fraud, but also fraudulent use by the establishment of a more reliable link between the holder and the visa format.

¹ Decision 2/96, unpublished.

² Decision COM(2000) 4332, unpublished.

With this proposal, the Commission is seeking to take concrete action, proposing to give powers to the Committee on a uniform format for visas to adopt technical measures for:

- the integration of a photograph produced according to high security standards, in order to establish a more reliable link between the holder and the visa format,
- the possibility to change the colours of the visa format, if an urgent need occurs to counteract forgeries.

This is only the first concrete step towards the integration of further high security measures, which should be developed using new technologies. To this end the Commission will, in collaboration with the Committee, follow closely future developments and consider any proposal for legislative changes which is deemed necessary.

The integration of the photograph will also open the way to storage in a future visa information system, with search possibilities.

The powers to implement the proposal at the technical level in relation to the proposal will be delegated to the Commission with the assistance of the Committee created by Article 6 of Regulation 1683/95 laying down the uniform format for visas, in line with the procedure set out in Article 5 of Decision 1999/468/EC³ in compliance with Article 7 thereof. Under this procedure the technical specifications to render the documents compatible with the required security standards will be established. This mechanism will also ensure a continuous peer control and adaptation to new situations as the need arises.

This proposal modifies the proposal of the Commission amending Regulation 1683/95 laying down a uniform format for visas of 23.03.2001 (2001/0080 (CNS)) and presents a consolidated version of all modifications to be introduced. It also takes into account the wishes expressed by Member States during the negotiation process in the Council.

Comments on the Articles

Article 1

This Article sets out the changes, which have to be introduced to Regulation (EC) 1683/95; it confers the implementing powers as regards the Regulation on the Committee established by Article 6 of the Regulation laying down a uniform format for visas in compliance with the regulatory procedure set out in Article 5 of Decision 1999/468/EC and in compliance with Article 7 thereof.

The Committee should establish the necessary technical specifications, but also the technical methods and standards to be used for filling in the forms, linked to the security of the uniform format.

A second paragraph will enable the Committee to change the colours of the uniform format due to urgent circumstances.

A new paragraph has been added to the Annex in order to introduce the photograph produced according to high security standards on the left side of the sticker. The provisions set out in ICAO document on machine readable visas should be taken into account.

³ OJ L 184, 17.7.1999, p. 23.

A new paragraph is added to Article 8 in order to give to the Member States a reasonable period for the implementation of the security measures, as budgetary and technical reasons would render it impossible to implement the integration of the photograph at the same time in every consular office.

Article 2

Standard final provisions.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission⁴,

Having regard to the opinion of the European Parliament⁵,

Whereas:

- (1) Council Regulation (EC) No 1683/95⁶ laid down a uniform format for visas .
- (2) It is necessary to make provision for the establishment of common standards relating to the implementation of the format in particular common rules on the technical methods and standards to be used for filling in the form.
- (3) The integration of a photograph produced according to high security standards is a first step towards the use of elements establishing a more reliable link between the holder and the visa format as an important contribution to ensuring that the uniform format for visas is protected even against fraudulent use. The specifications set out in the ICAO (International Civil Aviation Organization) document on machine readable visas will be taken into account.
- (4) Common standards relating to the implementation of the uniform format of visas are essential to achieve a high technical standard and to facilitate detection of forged or falsified visa stickers.
- (5) The powers to adopt such common standards should be conferred on the Committee established by Article 6 of Regulation (EC) No 1683/95 which should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁷.
- (6) Regulation (EC) No 1683/95 should therefore be amended accordingly.

⁴ OJ C ...

⁵ OJ C ...

⁶ OJ L 164, 14.7.1995, p. 1.

⁷ OJ L 184, 17.7.1999, p. 23.

- (7) The measures provided for in this Regulation to make the uniform format for visas more secure do not affect the rules currently governing recognition of the validity of travel documents.
- (8) This Regulation should not affect the competence of Member States with regard to the recognition of States and territorial units and passports, travel and identity documents issued by their authorities.
- (9) This Regulation constitutes in relation to the implementation of the Agreement on the association of Norway and Iceland a development of the Schengen acquis in the sense of the Protocol integrating the Schengen acquis into the framework of the European Union,

HAS ADOPTED THIS REGULATION:

Article 1

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

- (1) Article 2 is replaced by the following

“Article 2

- 1. Further technical specifications for the uniform format for visas relating to the following shall be established in accordance with the procedure referred to in Article 6 (2):
 - (a) additional elements and security requirements including enhanced anti-forgery, counterfeiting and falsification standards;
 - (b) technical methods and standards to be used for the filling in of the uniform visa;
- 2. The colours of the paper may be changed in accordance with the procedure referred to in Article 6(2)”.

- (2) Article 6 is replaced by the following:

“Article 6

- (1) The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by a representative of the Commission.
- (2) Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply in compliance with Article 7 thereof.
- (3) The period provided for in Article 5(6) shall be of two months."

(3) In Article 8 the following paragraph is added:

“The integration of the photograph provided for in point (2a) of the Annex shall be implemented at the latest five years after the adoption of the measures referred to in Article 2.”

(4) In the Annex the following point is inserted:

“2a. An integrated photograph produced according to high security standards, which will be placed on the left side of the sticker.”

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the EC Treaty.

Done at Brussels,

For the Council
The President