



COMMISSION OF THE EUROPEAN COMMUNITIES

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Draft proposal for a

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

**establishing a Community Code on Visas**

(presented by the Commission)

{SEC(2006) 957}

{SEC(2006) 958}

## EXPLANATORY MEMORANDUM

### 1) CONTEXT OF THE PROPOSAL

#### • Grounds for and objectives of the proposal

Within the closer Schengen cooperation, a common visa policy was identified as a fundamental component of the creation of a common area without internal border controls.

The Schengen acquis on visa policy, including the Common Consular Instructions (CCI), which were drawn up in the framework of the Schengen intergovernmental cooperation, was incorporated into the institutional and legal framework of the European Union following the entry into force of the Treaty of Amsterdam. The Schengen provisions on visa policy have been allocated a legal basis<sup>1</sup> (Article 62(2)(b)) and are therefore full part of Community law). The CCI are currently the basic instrument governing the procedures and conditions for the issuance of short-stay visas, transit visas and airport transit visas, although certain principles also appear in the Schengen Convention itself and a number of provisions feature in other separate decisions.

The Hague Programme "underlines the need for further development of the common visa policy as part of a multi-layered system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions." To this end, among other measures, the Commission was invited "to review the Common Consular Instructions". In order to meet the objectives of the Hague Programme and reinforce the coherence of the common visa policy on the issuance of the above-mentioned types of visas, the proposed Regulation:

- incorporates all legal instruments governing decisions in relation to visas into one Code on Visas,
- develops certain parts of the current legislation in order to take account of recent developments and new dimensions of the visa issuance process and to fill in existing gaps;
- enhances transparency and legal certainty by clarifying the legal status of the provisions of the CCI and its annexes by removing provisions that are redundant or of a practical operational nature from the legal instrument;
- strengthens procedural guarantees by laying down rules on the mandatory motivation of refusals of visa applications;
- reinforces the equal treatment of visa applicants by clarifying a number of issues in order to enhance the harmonised application of the legislative provisions.

#### • General context

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<sup>1</sup> Council Decision 1999/436/CE (OJ L 176, 10.7.1999).

The issuance of short-stay visas is currently governed by various legal instruments, as set out in the chapter below. Thus the "reviewing" exercise will simplify the legal framework, as the common visa policy will henceforth be governed by the four legal instruments listed below:

- Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (legal basis: TEC 62(2)(b)(i));
- Council Regulation (EC) No 1683/95 of 29 May 1995 laying down the uniform format for visas (legal basis: TEC 62(2)(b)(iii));
- Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (legal basis: TEC 62(2)(b)(iii));
- the present Regulation establishing a Code on Visas (legal basis: TEC 62(2)(a), (b)(ii) and (iv) and 62(3)).

It is recalled that due to the difference in legal basis, and the "variable geometry" linked to the legal basis, the maintenance of four separate instruments is necessary.

• **Existing provisions in the area of the proposal**

- Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement;
- Council Regulation (EC) No 1683/95 of 29 May 1995 laying down the uniform format for visas;
- the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders (in particular articles 9-18, which lay down common and uniform principles in that field);
- Council Regulation No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit;
- the Common Consular Instructions on visas for the diplomatic missions and consular posts (CCI) which set out detailed rules for implementing these principles and bring together nearly all provisions related to the issuance of short-stay visas;
- Council Regulation (EC) No 1091/2001 of 28 May 2001 on the freedom of movement with a long-stay visa;
- Decisions of the Schengen Executive Committee (SCH/Com-ex (93) 21, SCH/Com-ex (93) 24, SCH/Com-ex (94) 25, SCH/Com-ex (98) 12 and SCH/Com-ex (98) 57;
- Joint Action 96/197/JHA of 4 March 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union sets out arrangements for airport transit visas.

• **Consistency with the other policies and objectives of the Union**

In the review and amendment of current rules on the issuance of visas, account has been taken of the recently adopted Schengen Borders Code in order to ensure coherence in legislation.

Processing of visa applications should be conducted in a professional and respectful manner and be proportionate to the objectives pursued. While performing their tasks, consular staff shall not discriminate against persons on any of the following grounds: sex, racial origin, religion or belief, disability, age or sexual orientation.

## **2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **• Consultation of interested parties**

Due account have been taken to problems raised by the authorities of third countries in relation to Member States treatment of visa applicants and to complaints submitted by individual visa applicants or their relatives.

### **• Collection and use of expertise**

Account has been taken of discussion among Member States delegates in the Council Visa Working Party on problems in relation to the issuance of visa, as well as of findings of experts in both the Targeted Missions on local consular cooperation, the Schengen evaluation missions.

### **• Impact assessment**

The Commission carried out an impact assessment which analysed six options for action: maintaining "status quo", establishment of common training of Member States' consular staff, reinforcement of local consular cooperation, minimal revision of current legislation, recast of current legislation, creation of common consular offices. The latter option of reviewing has been chosen as the solution to establish a coherent and exhaustive legislation and enhancing harmonisation in the most satisfactory and comprehensive manner. The impact assessment is attached to this proposal.

## **3) LEGAL ELEMENTS OF THE PROPOSAL**

### **• Summary of the proposed action**

By incorporating all legal instruments governing the conditions and procedures for issuing visas into one Code on Visas, enhancing transparency and clarifying existing rules, introducing measures intended to increase the harmonisation of procedures, strengthen legal certainty and procedural guarantees, a full common policy with equal treatment of visa applicants is ensured.

### **• Legal basis**

The proposed legal basis for this regulation are the following:

- basically, Articles 62(2)(b)(ii) of the EC Treaty (TEC) because the proposed legislation establishes common "rules on visas for intended stays of no more than three months";

- also Article 62(2)(a) of the TEC on "standards and procedures to be followed by Member States in carrying out checks on persons at such external borders", in order to integrate provisions on airport transit visa (ATV) into the unique Code on Visas. The ATV is not a "proper" visa intended for a stay in the territory of the Member States and, thus, does not fall under the notion of visa as per Article 62(2)(b). It is an authorisation given prior to a third country national's transit through the international area of Member States' airports, in order to prevent illegal entries. It can thus be considered as "standards and procedures" relating to border control and prevention of illegal immigration.

### **Subsidiarity principle**

Under Article 62(1) and (2)(b) of the EC Treaty, the Community has the power – and even the obligation - to adopt measures relating to rules on visas for intended stays of no more than three months. Such measures must be adopted within five years of the entry into force of the Treaty of Amsterdam.

The current Community provisions on short-stay and transit visas form part of the Schengen acquis that has been integrated into the framework of the European Union. However, the existing acquis needs to be clarified, developed and supplemented. This is also the case for the current provisions on airport transit visas. Obviously, the existing acquis on short-stay and transit visas and airport transit visas can only be developed by adopting Community measures based on the EC Treaty.

Given that the proposed initiative - the creation of a Community Code on Visas - the instrument is to be in the form of a regulation, in order to ensure that it is applied in the same way in all the Member States that apply the Schengen acquis.

The objective of this exercise is to review existing legislation on the common visa policy and to enhance harmonisation. Thus, individual action on the part of Member States would be impossible for legal reasons.

Community action is the only possible way to achieve the objectives of the proposal for the following reason(s):

Only EU action is possible given the legal basis and the objectives of the proposal.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

Article 5 of the EC Treaty states that "action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty".

The form chosen for this Community action must enable the proposal to achieve its objective and be implemented as effectively as possible.

The proposed Regulation has no financial impact on Member States' diplomatic missions or consular offices and the administrative impact of the new requirement is proportionate to the objective pursued.

- **Choice of instruments**

Proposed instruments: Regulation.

The provisions on the procedures for all decisions in relation to visas are mandatory for all Member States applying the Schengen acquis in full and thus a regulation is the only adequate legal instrument.

#### 4) **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

#### 5) **ADDITIONAL INFORMATION**

- **Simplification**

The proposal provides for simplification of legislation.

Various legal instruments governing the procedures and conditions for issuing visas are put into one Code on Visas.

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

- **Reviewing**

The proposal involves reviewing.

- **Correlation table**

A correlation table indicating the provisions taken on board from CCI and Schengen agreement is attached to this proposal.

- **Detailed explanation of the proposal**

### **1. Incorporation into one Code on Visas of all provisions governing the issuance of visas and decisions in relation to refusal, extension, annulment, revocation and shortening of visas issued**

#### 1.1. Airport Transit Visa (ATV)

The provisions of the Joint Action, mentioned above, are contained in the CCI, to which the lists of nationals who are subject to this requirement are annexed. In order to enhance transparency and harmonisation the large number of - generally identical - "unilateral" exemptions of certain categories of persons from this requirement have been harmonised.

In order to achieve the general objective of harmonisation of all aspects of visa policy, the possibility for individual Member States to impose an ATV requirement on certain nationalities has been abandoned.

## 1.2. The issuance of visas at the border

Council Regulation (EC) No 415/2003 on the exceptional issuance of visas at the border, including the issuance of such visas to seamen in transit has been integrated into this Regulation.

## 1.3. Annulment and revocation of the validity of a visa

Currently the rules on annulment and revocation of the validity of an issued visa are contained in SCH/Com-ex (93) 24 and in the CCI, Annex 14, section 2. All of these provisions have been merged into two separate articles, which clearly define which authorities are responsible for these tasks.

## 1.4. Extension of an issued visa

A third-country national present in the territory of the Member States on the basis of a valid visa, may have justified reasons for remaining beyond the date of expiration of his/her initial visa. The rules governing such situations (SCH Com-ex (93) 21) have been rendered more visible and a harmonised approach has been proposed, i.e. extensions should only take the form of a stamp, corresponding to the model contained in an annex to the Regulation, as such extensions are in most cases granted by Member States' national authorities, who are unlikely for reasons of security to hold stocks of the highly secured visa stickers.

## 1.5. Exchange of statistics

Given the fact that analysis of statistics in relation to the number of visas issued and of refusals is a valuable management tool at both local and central level the regulation establishes that such information shall be exchanged in a common format shall be notified to the Commission twice a year (the Commission will be responsible for publishing the data) and within each jurisdiction every month. Despite the existence of two SCH/Com-ex decisions on the exchange of statistics ((94) 25 and (98) 12) useful and comparative data on the number of visas issued and refused do not exist currently.

## 2. New dimensions of the visa issuance procedure

The establishment of the Visa Information System on the exchange of data between Member States on short-stay visas (VIS) will fundamentally change the processing of visa applications. On the one hand, Member States will automatically gain access to information on all persons having applied for a visa (within the 5-year period of retention of data) which will facilitate the examination of subsequent visa applications. On the other hand, the introduction of biometric identifiers as a requirement for applying for a visa will have a considerable impact on the practical aspects of receiving applications.

As the VIS should become operational already 2007, the Commission has chosen to update the CCI in a separate legal proposal, which sets the standards for the biometric identifiers to be collected and provides for a series of options for the practical organisation of Member States' diplomatic missions and consular posts for the enrolment of visa applicants as well as for a legal framework for Member States' cooperation with external service providers.

The contents of that proposal are inserted into and adapted to the structure of the present proposal, which will be amended once negotiations on the separate proposal have been finalised.

The provisions for the cooperation with commercial intermediaries, such as travel agencies and tour operators, have been strengthened, in order to take account of this new situation (see below).

### **3. Developing certain parts of the acquis**

#### **3.1. Enhanced transparency and reinforcement of the equal treatment of visa applicants**

Specific provisions on Member States' obligation to provide the general public with all relevant information in relation to the issuance of visas have been introduced. Moreover, provisions have been added, introducing:

- a) a maximum issuing time
- b) a clear distinction between inadmissible applications and formally refused applications
- c) full transparency as to the list of third countries whose nationals are subject to prior consultation
- d) shorter deadlines for the response time in the case of prior consultation
- e) a harmonised form providing proof of invitation, sponsorship and accommodation
- f) an obligation for Member States to notify and motivate negative decisions
- g) a legal framework to assure a harmonised approach to cooperation both between Member States' diplomatic missions and consular posts and with external commercial service providers
- h) mandatory rules for the cooperation between Member States' diplomatic missions and consular posts with commercial intermediaries.

##### **3.1.1. Prior consultation**

While acknowledging that Member States' central authorities may have legitimate reasons for wishing to be consulted before visas are issued to nationals of certain third countries or to specific categories of these nationals, the Commission proposes speeding up the current procedure for prior consultation in the light of technical developments (faster access to and exchange of information) and in order to avoid prolonging the processing of visa applications unnecessarily and prevent adverse side effects such as "visa shopping".

It should be recalled that the designation of additional third countries for such compulsory prior consultation has on numerous occasions given rise to political discontent on the part of the third country concerned. Given that in most cases only one or a few Member States require to be consulted, this penalises the remaining Member States as they have to await replies from the consulted Member State before a final decision can be taken on the visa applications. Finally, certain Member States have provided proof that the added value of the prior consultation procedure in terms of objection to the issuance of a visa is very limited.

In order to avoid some of these adverse effects, the Commission suggests substantially shortening the deadlines for responding to consultations, and introducing the possibility for a Member State to request to merely be informed of visas issued to nationals of certain third



countries or specific categories of these nationals, as some Member States have stated that the primary objective of consultation is for their central authorities to be informed of issuances rather than requesting refusals.

In order to enhance transparency, the Commission favours declassifying the lists of third countries subject to prior consultation, which are currently classified as "EU RESTREINT". The confidentiality of this annex to the CCI is only relative, as in practical terms the length of the processing time for applications by certain categories of persons reveals which third countries are listed. Furthermore the contents of these classified Annexes are already available to the public via websites of Member States' diplomatic missions or consular posts.

Finally, it could be questioned whether once the VIS is operational, and despite the fact that the VIS is not equipped with an alert function, there will be the same need for maintaining the consultation procedure, as central authorities of individual Member States will have access to information on all visas issued by all other Member States.

### 3.1.2. Inadmissibility

Currently, there is no clear distinction between those visa applications that have been formally refused after full examination of the file and cases where such in-depth examination was not carried out because the applicant failed to provide additional information. The Regulation introduces the notion of "inadmissibility", to be indicated in the VIS as distinct from a formal refusal.

### 3.1.3. Harmonised rules in relation to refusals

Currently the notification and motivation of refusals are governed by Member States' national legislation with the result that some neither notify nor motivate grounds for refusal to the applicant, whereas others only motivate refusals of certain categories of applicants. The recently adopted Schengen Borders Code introduces provisions requiring the relevant authorities to substantiate decisions on refusal of entry, stating the precise reasons by means of a standard form to be given to the refused third-country national.

For reasons of transparency and equal treatment of visa applicants and in order ensure coherence in related legislation, the common visa policy must also cover this crucial issue. To this end, provisions have been introduced rendering it mandatory for Member States' diplomatic missions and consular posts both to notify and indicate grounds for refusal in all cases.

### 3.2. Harmonisation of practices at operational level

#### 3.2.1. Stamp indicating that an application has been lodged

Despite the existence of common rules on the use of the stamp indicating that an application has been lodged as well as on the content of this stamp, practices vary significantly. Thus, provisions have been introduced to cover both aspects, thereby ensuring a harmonised implementation.

#### 3.2.2. Harmonised form providing proof of invitation, sponsorship and accommodation

The CCI, Annex 15, contains "harmonised" forms, but only three Member States have forwarded specimens, the contents of which differ. This Regulation introduces a harmonised form to be used by all Member States.

### 3.3 Local Consular Cooperation - strengthening of the harmonised application of the common visa policy

While acknowledging that the core legislation is directly applicable by Member States, the Commission is also aware that the diversity of individual cases and local conditions makes it very difficult to draw up detailed rules valid in all circumstances and covering all situations. This is why the current acquis already acknowledges the essential role played by diplomatic and consular posts, in particular in assessing migratory risk (it should be noted that this particular aspect of the current acquis was reinforced by a legislative amendment in 2003).

On the basis of the findings of the targeted missions on local consular cooperation (2004-2005) in particular, a proper legal framework for local consular cooperation has been drawn up establishing the tasks to be carried out at local level and ensuring the essential link to the relevant central authorities and Council and to guarantee transparency. This new organisation of LCC also takes into account the Community institutional framework.

## **4. Clarification of certain issues in order to enhance the harmonised application of legislative provisions**

### - Visa with Limited Territorial Validity (LTV)

Currently the provisions concerning LTV visas are split between different articles in various legal instruments (the Schengen Convention and the CCI). This has led to uncertainty as to the conditions for issuing this type of visa and to a certain degree of misuse and varying practices among Member States. Furthermore, it appears that both at operational and at central level there is little awareness of the scope of the obligation to inform other States of LTV visas issued. All provisions concerning the issuance of LTV visas have been integrated into one article, and the requirement to inform other Member States of the issuance of LTV visas has been restricted to those cases where the reason for issuing a visa with limited territorial validity is the negative response from a Member State within the procedure for prior consultation or when a visa is issued to a third-country national who does not meet the entry conditions laid down in the Schengen Borders Code.

- Travel Medical Insurance (TMI)

Council Decision 2004/17/EC as regards the inclusion of the requirement to be in possession of a travel medical insurance as one of the mandatory supporting documents for the grant of a uniform visa entered into force on 1 June 2004. As the application of this new measure was rather problematic in a number of locations, among other things because of loopholes and ambiguities in the original Decision, additional guidelines for the application of the Decision were drawn up in October 2004. This Regulation clarifies the ambiguities of the original text and turns some of the additional guidelines into binding rules. Based on the analysis of Member States' replies to a questionnaire on the application of the travel medical insurance requirement (circulated in October 2005), the Commission proposes a streamlining and clarification of the provisions on this matter. Moreover, persons being - exceptionally - granted a visa at the border, seafarers, when exercising their profession, as well as persons holding diplomatic passports and person applying for airport transit visa are systematically exempted from this requirement. In the first case the urgent circumstances in which such persons apply for a visa render it disproportionate to require them to contract a travel medical insurance. As far as seafarers are concerned they are generally sufficiently covered by means of their work contract to comply with the Community provisions.

## **5. Clarification of the legal status of the annexes to the CCI**

The current Common Consular Instructions contain eighteen annexes including a number of legal provisions and various pieces of information, based on other legal sources or notifications by Member States: lists of third-country nationals subject to visa requirements, exemptions for holders of certain types of travel documents, table of representation, documents entitling the holder to entry without a visa, technical specifications (specimen of visa stickers, harmonised forms providing proof of invitation etc.), practical operational information (guidelines for filling in the visa sticker), information on individual "practices" (reference amounts, information to be entered into the "comments" section).

In order to clarify the legal status of these annexes, the Commission has decided, as was the case with the recent recast of the Common Manual, only to keep those annexes that are directly linked to the implementation of the provisions contained in the body of the text, namely annexes I-XIII to the Regulation. These annexes will, in future, be subject to amendment via a committee procedure, in accordance with Article 202 of the EC Treaty and Council Decision 1999/468/EC, as the Commission considers that these practical provisions are in fact measures implementing the principles set out in Title V of the Regulation.

## **6. Deletions**

### **6.1. National visas**

As the Regulation concerns the issuance of Schengen short-stay and transit visas as well as airport transit visas, all reference to national visas ("D" visas) has been deleted.

### **6.1.2. Long-stay national visa valid concurrently as a short-stay Schengen visa ("D+C" visas)**

This type of visa was introduced on the basis of a Member State's initiative in 2001 (Regulation (EC) No 1091/2001. The "D+C" visa is valid concurrently as a uniform short-stay visa for a period of not more than three months from its initial date of validity. On the basis of

available information, it appears that most Member States either do not issue D+C visas at all or only issue very small numbers<sup>2</sup>. It has also been noted on numerous occasions that there is little or no knowledge at all among consular staff of this type of visa or the conditions under which it can be issued, and thus applicants are not informed of this possibility. Moreover, it has been established that in many case the national visa registration and processing programmes do not even allow for the possibility of considering applications for such a visa or the printing of the visa sticker. At the same time a number of Member States allow their diplomatic missions and consular posts to issue residence permits, thus rendering the D+C visa superfluous. Moreover, once the period of three months from the initial date of validity of the D+C visa has expired, the holders - by then legally present on the territory of the Member State that has issued the visa - are no longer allowed to circulate within the entire territory of the Member States.

Therefore, the Commission proposes to abolish this type of visa in order to simplify matters and require Member States to speed up the issuance of residence permits to those third-country nationals entitled to receive them.

#### 6.2. Abolishment of group visas

With the introduction of biometric identifiers as part of the data to be provided by visa applicants and the registration of individual applicants in the VIS, it is not possible to maintain the possibility of a group visa. Each applicant, even spouses and children travelling on the same passport, must fill in individual application forms and individual visa stickers must be issued by means of the separate sheet for affixing visas.

#### 6.3. "Removal" of Annex 2 to the CCI

It is recalled that Annex 2 of the CCI contains the list of third countries, listed in Annex I to Regulation (EC) No 539/2001, whose nationals are exempt from visa requirements when holding "diplomatic, official and service passports" and the list of third countries, listed in Annex II to Regulation (EC) No 539/2001, whose nationals are subject of visa requirements when holding "diplomatic passports, service/official and special passports". Currently Regulation (EC) No 789/2001 governs the procedures for Member States' notification of amendments to Annex 2 despite the fact that the legal basis for Member States' unilateral exemptions is Regulation (EC) No 539/2001, which states that information on the exemptions pursuant to Article 4 of that Regulation shall be notified to the Commission (who is responsible for timely and regular publication of this information). In order to avoid the overlapping of procedures and as there is no legal link between the exceptions form the visa requirement under (EC) Regulation No 539/2001 and the Regulation on the Code governing the conditions and procedures for issuing visas this information is not be annexed to the Code on Visas.

#### 6.4. Deletion of Annex 6

According to the rules proposed for access to data in the VIS regulation, honorary consuls shall no longer be authorised to issue visas.

### **7. Harmonised application at operational level of the "Code on Visas"**

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<sup>2</sup> According to visas statistics for 2004 (doc. 9749/05), Member States issued 1 017 348 "D" visas and only 20 938 "D+C" visas.

As mentioned above, the Code on Visas shall only contain legal provisions on the issuance of short-stay and transit visas as well as airport transit visas. In order to ensure that Member States henceforth refrain from their current practice of drawing up national instructions to "superimpose" the common rules, one single common set of instructions on the practical application of the legislation shall be drawn up.

While preparing the proposal on the Code on Visas, the Commission in parallel considered the format and content of the practical "Instructions on the practical application of the Code on Visas" establishing the harmonised practices and procedures to be followed by Member States' diplomatic missions and consular posts when processing visa applications.

These Instructions, which will be drawn up within the procedure provided for in Title V of the Regulation, will by no means add any legal obligations to the Visa Code but be of a purely operational nature. They shall be finalised by the date of entry into force of the Code.

## **6) CONSEQUENCES OF THE VARIOUS PROTOCOLS ANNEXED TO THE TREATIES**

The legal bases for the proposals on measures relating to the rules on short-stay and transit visas are to be found in Title IV of the EC Treaty, with the result that the system of "variable geometry", provided for in the protocols on the position of the United Kingdom, Ireland and Denmark and the Schengen protocol, applies.

This proposal builds upon the Schengen *acquis*. Therefore the following consequences in relation to the various protocols have to be considered:

### **Iceland and Norway:**

The procedures laid down in the Association Agreement<sup>3</sup> concluded by the Council and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* are applicable, since the present proposal builds on the Schengen *acquis* as defined in Annex A of this Agreement.

### **Denmark:**

Pursuant to the Protocol on the position of Denmark annexed to the TEU and the TEC, Denmark will not participate in the adoption of the Regulation and is therefore not bound by it or subject to its application. Given the fact that the Regulation is an act which aims to build upon the Schengen *acquis* in accordance with the provisions of Title IV of the TEC, Article 5 of the above-mentioned Protocol applies.

### **United Kingdom and Ireland:**

According to Articles 4 and 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union and Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland<sup>4</sup>, and Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part

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<sup>3</sup> OJ L 176, 10.7.1999, p. 36.

<sup>4</sup> OJ L 131, 1.6.2000, p. 43.

in some of the provisions of the Schengen *acquis*<sup>5</sup>, the United Kingdom and Ireland are not taking part in the adoption of the Regulation and are not bound by it or subject to its application.

### **Switzerland:**

As regards Switzerland, this proposal 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 2004/860/EC<sup>6</sup> on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.

The Agreement with Switzerland, signed on 26 October 2004, provides for the provisional application of certain provisions upon signature, in particular the participation of Switzerland in the Mixed Committee dealing with the development of the Schengen *acquis*.

## **7) CONSEQUENCES FOR THE NEW MEMBER STATES OF THE TWO-STAGE PROCEDURE FOR IMPLEMENTING INSTRUMENTS BUILDING ON THE SCHENGEN ACQUIS**

Article 3(1) of the Act of Accession states that the provisions of the Schengen *acquis* and the acts building upon it or otherwise related to it, listed in Annex I to the Act, will be binding on and applicable in the new Member States from the date of accession<sup>7</sup>. Provisions and acts not referred to in the Annex, while binding on the new Member States from the date of accession, will only apply in a new Member State pursuant to a Council decision to that effect taken in accordance with the article (Article 3(2) of the Act of Accession).

This is the two-stage implementation procedure, whereby certain provisions of the Schengen *acquis* are binding and applicable from the date of accession to the Union whereas others, specifically those linked intrinsically to the removal of checks at the internal borders, are binding from the date of accession but applicable in the new Member States only after the Council decision referred to above.

The Schengen provisions on visa policy (Articles 9 to 17 of the Schengen Convention and their implementing decisions, in particular the Common Consular Instructions, except for its annexes 1, 7, 8 and 15) are not listed in the Annex.

As a result, this proposal, which replaces and builds on the Common Consular Instructions and certain provisions of the Schengen Convention with a view to establishing a Community Code on the rules on Visas, when adopted, will not be applicable to the new Member State, except for the provisions in relation to the issuance of airport transit visa.

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<sup>5</sup> OJ L 64, 7.3.2002, p. 20.

<sup>6</sup> OJ L 370, 17.12.2004, p. 78.

<sup>7</sup> OJ L 236, 23.9.2003, p. 33.

## 8) COMMENTS ON THE ARTICLES

### General comment

In order to take account of the Community framework and terminology the term "Contracting Party(ies)" has been replaced by "Member State(s)" in the definitions and throughout the proposal. Obviously, references to "Member State(s)" should be read in the light of, firstly, the Schengen Protocol, as regards the application of the Schengen acquis by the United Kingdom and Ireland (see point 6 above) and, secondly, Article 3 of the Treaty of Accession providing for the application of the Schengen acquis by the new Member States in two stages (see point 7 above). In addition, the special position of Norway, Iceland and Switzerland with respect to the Schengen acquis must also be taken into account, as explained in point 6 of the explanatory memorandum.

### Title I: General provisions

#### Article 1: Objective and scope

Paragraph 1 of this article defines the objective of the regulation, namely to lay down conditions and procedures for the processing of visa applications for stays not exceeding 3 months in a 6 months period.

Paragraph 2 establishes that the regulation applies to third country nationals subject to this requirement in accordance with Council Regulation (EC) No 539/2001. Moreover, a general reference is made to the rights of free movement enjoyed by specific categories of third-country nationals under Community legislation.

Paragraph (3) covers the lists of third countries whose nationals are subject to airport transit visas. The common list (Annex VII) is defined in the present regulation (and not Council Regulation (EC) No 539/2001).

#### Article 2: Definitions

Most of the definitions set out in this article are essentially taken from the Schengen Convention and the Common Consular Instructions (CCI), although account has been taken of the need to clarify and develop some of these definitions and add a few. The definitions listed in the regulation correspond to the definitions used in Regulation (EC) No 539/2001 and in the Schengen Borders Code.

The concept of "third-country national" is defined by default, by excluding citizens of the European Union within the meaning of Article 17(1) of the EC Treaty. It therefore also includes refugees and stateless persons.

The definition of a "visa" corresponds to the definition in Regulation (EC) No 539/2001 with the addition of the reference to airport transit, which is distinct from "stay" and the ordinary meaning of "transit". This addition has also been necessary because of the integration of the Joint Action on airport transit into the Community legislative framework.

The notion "uniform" in the meaning of one visa allowing the holder, once given entry, to circulate in/transit through several or all Member States has been maintained as opposed to the visa with "limited territorial validity" (LTV) allowing the holder to stay in only one or a number of Member States and the "airport transit visa", which is needed for certain third

country nationals in order to transit through the international transit areas of Member States' airports.

As one of the conditions for the issuing of “uniform” visas is that all Member States recognise the travel document presented by the applicant, it has been judged necessary to specify what is meant by a “recognised travel document” means. In the current formulations in the Schengen Convention and the CCI, the term “valid” is used to describe both authenticity, temporal validity and recognition, giving rise to some confusion. In order for Member States' diplomatic missions and consular posts to know whether a uniform visa can be issued or whether an LTV visa must be issued, this notion is important. Given the legal basis of the present proposal, it is not possible to cover the decisions of the Schengen Executive Committee SCH/Com-ex (98) 56 and (99)14 setting out the provisions for the compilation of the Manual of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa.

However, it would only seem logical to integrate this fundamental document into the Community legislative framework.

The definition of “visa sticker” refers to the definitions set out in Regulation (EC) No 1683/95 and the wording is the one used in the VIS Regulation.

The “separate sheet for affixing a visa” is defined referring to Regulation (EC) No 333/2002 on the uniform format for forms for affixing visas issued by Member States to persons holding travel document not recognised by the Member State drawing up the form.

## Title II: Receipt and processing of the visa application

### Chapter I: Authorities taking part in the processing visa applications

#### Article 3: Authorities competent for processing visa applications

These provisions have been taken over from the CCI as well as the Schengen Convention, however, specifying the notion of processing, in the sense of examining visa applications, which should always be carried out by Member States' diplomatic missions and consular posts. As a result of recent developments (increasing numbers of visa applications, security risks for consular staff etc.) and the forthcoming introduction of the collection of biometric identifiers as one of the requirements for applying for a visa, Member States' diplomatic missions and consular posts are no longer exclusively receiving visa applications.

However, Annex 6 to the CCI has been repealed in order to exclude honorary consuls from being involved in the processing of visa applications.

The provisions of Council Regulation (EC) No 415/2003 on the issuance of visa at the border have been taken on board in the Regulation (paragraph 2)

#### Article 4: Territorial competence

In the CCI it is indicated that “when” non-residents apply, their applications should be dealt with in a certain manner. As Member States' practice differ on this point, the Regulation establishes clearly that third-country nationals must apply for visas in their country of origin (paragraph 1) and only non-residents legally present in a country different from their country of residence, and who have justified reasons for applying, may do so (paragraph 2).



Generally, Member States' diplomatic missions or consular posts shall contact in such cases their colleagues in the country of residence of the applicant or their central authorities before issuing a visa (paragraph 3).

Article 5: Member State responsible for processing the visa application

These provisions have been carried over from the CCI and set out the criteria for determining which diplomatic mission or consular post is responsible for processing a visa application. Applications for multiple entry visas shall be submitted to the consular post of the Member State where the applicant usually goes (which is the justification for applying for a multiple entry visa), although the holder would be allowed to travel to other destinations within the Member States. The reason why such visas can only be issued in the applicant's country of residence is that only the consular post situated there will be able to fully assess the integrity of the applicant.

Article 6: Competence in relation to issuance of visas to third country nationals legally present within a Member State's territory

Currently a fairly high number of visas are issued within the territory of Member States despite the fact that such persons will not cross the external borders. However, explicit rules should be introduced to cover situations where third country nationals, legally present on the territory of one Member State, and having justified reasons for travelling to another Member State but without holding the documents allowing them to circulate.

Article 7: Arrangements on representation

Most of the content of this article has been taken from the CCI. However, efforts have been made to restructure the provisions to make them clearer and specific rules have been added ensuring timely information of applicants and other Member States both locally and centrally about the entry into force or interruption of agreements on representation. Member States taking the initiative to outsource part of the visa handling procedure must inform the Member State(s) they represent before starting such cooperation.

Paragraph 6 clarifies the situation in cases where the diplomatic mission or consular post of the representing Member States envisages refusing a visa applicant. In such case the entire file shall be submitted to the central authorities of the represented Member State in order for them to take the final decision on refusal and Article 23(3) on information of the refused applicant shall apply. In this manner, it is ensured that a final decision is taken on the application, and the applicant is not, as it is currently often the case, just asked to submit the application again to the nearest consular office of the represented Member State.

Paragraph 2 shall be amended in order to take account of the outcome of negotiations on the Proposal amending the CCI in relation to the introduction of biometrics including the setting up of Common Application Centres.

Article 8: Prior consultation of the Member State's own central authorities

The procedure of prior consultation of the central authorities of the issuing diplomatic mission or consular post before visas to specific categories of persons or nationals of specific third countries already exists and the list of third countries for which such consultation is required

is set out in Annex 5 to the CCI (classified “EU RESTREINT”). Paragraph 2 establishes that such consultation must not prolong the processing of the visa application.

Paragraph 3 establishes that within the framework of representation arrangements, it is the central authorities of the representing Member State that must consult the control authorities of the represented Member States (for third countries listed in Annex I).

#### Article 9: Prior consultation and information of central authorities of other Member States

Paragraph 1 sets out provisions on a Member States’ central authorities request for being consulted before other Member States’ diplomatic missions or consular posts issue visas to specific categories of persons or to nationals of specific third countries.

Paragraph 2 sets the deadlines for response by the consulted Member State which shall be three working days. In the absence of a reply within the deadline, the consulting Member State may allow its diplomatic mission or consular post to issue the visa for which the consultation had been launched.

In paragraph 3 a procedure for simple information is introduced, thus responding to the wish of a number of Member States expressed during discussions in 2002-2003: rather than being consulted Member States’ central authorities wish to be informed about the issuance of visa to nationals of specific third countries or to specific categories of these nationals.

Paragraph 5 establishes that within the framework of representation arrangements, it is the central authorities of the representing Member State that must consult other Member States’ central authorities (for third countries listed in Annex II).

#### Chapter II: The application

##### Article 10: Practical modalities for submission of the application

This article is new, in the sense that it sets out the general principles for the “material” submission of application and is linked to Article 11, where the concept of “admissibility” is introduced. Paragraph 1 indicating that applications can not be applied for earlier than three months ahead of the planned journey is currently only mentioned at a note on 1 of Annex 13 to the CCI. It is important that visas are not issued too long before the journey is to take place to avoid that the applicant’s situation on the basis of which a visa has been issued does not change.

Paragraph 2 refers to the requirement of all first time applicants to submit their application in person for the purpose of capturing biometric data, which must happen at the moment of the submission of the application.

Paragraphs 3 and 4 are necessary, as an increasing number of Member States diplomatic missions and consular offices have introduced appointment systems. Paragraph 5 shall be read in conjunction with Articles 11 and 19.

##### Article 11: Capturing of biometric data

This article sets out the requirements for the capturing of biometric data, the categories of persons exempted. The content of this Article corresponds to the proposal for a 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 applications presented by the Commission on 31 May 2006 [COM(2006) 269].

#### Article 12: Submission of a visa application

This article lists the requirements in terms of the documentation that an applicant must present in order for his/her application to be considered admissible. Establishing such rules will make it easier for applicants to prepare their application and expedite the examination as the diplomatic mission or consular post will receive complete files. In addition, as Member States are increasingly allowing diplomatic missions and consular posts to cooperate with external service providers, it is essential – given this intermediary between the applicant and the staff that examines the application - that precise information is obtained from the outset, thus saving the applicant from having to provide additional information. By doing so, this Article defines when a visa application can be considered as being submitted. If all the elements listed in Article 12 are present, the visa application is "admissible".

This is also important in order to distinguish “rejections” of applications before proper examination has started from formally refused applications. The introduction of this distinction will moreover bring about more realistic statistics as formal refusals will be distinguished from cases where examination has not been completed, and thus the refusal rates will give the true picture of the situation. Comparison of refusal rates is an important management tool for Member States’ diplomatic missions and consular posts within the same jurisdiction.

#### Article 13: The application form

Paragraph 1 has been taken over from the CCI, but with the addition of requiring accompanying persons included in the passport of the applicant to fill in individual application forms. Subsequently individual visa stickers will be issued (Article 26) and group visas will cease to exist.

Paragraph 2 settles a number of practical issues which were not covered so far. Paragraph 3 sets out rules for the possible translation of the application form into the language of the host country and how to present such translations. In order to ensure harmonisation and cost-saving, Member States’ diplomatic missions within the same jurisdiction shall use the same translated version. Paragraphs 2 and 3 are mainly based on the Commission Staff Paper JAI/723/2003.

Finally paragraph 4 requires Member States’ diplomatic missions and consular posts to make sure that applicants are informed about the languages they can use for filling in the application form.

#### Article 14: Supporting documents

The contents of this article, as well as Annex IV, establishing a non-exhaustive list of required supporting documents to be submitted by applicants, has been taken over from the CCI, and both have been structured in a more user-friendly manner. Moreover the supporting documents have been listed in such a manner as to taking account of the purpose of the intended stay/transit. A new harmonised form providing proof of invitation, sponsorship and

accommodation has been drawn up, in order to fill in the gap in the existing legislation. Although the CCI contained an annex of the so-called harmonised forms used by individual Member States, only three have submitted such rather diverging forms so far. This Article is in line with the Schengen Borders Code.

There may be a need to differentiate the types of documentation that applicants must and can provide due to local circumstances. Within local consular cooperation the need for drawing up lists of the documents to be provided for the purposes set out in this Article and the corresponding Annex shall be assessed, as an element which is essential to avoid visa shopping.

#### Article 15: Travel medical insurance (TMI)

This article has been taken over from the CCI, but the provisions have been amended to clarify a number of loopholes and ambiguities in the original Decision and account has been taken both of the guidelines for the application of this measure drawn up in 2004 and of the evaluation of the application of the measure carried out on the basis of a questionnaire circulated to Member States diplomatic missions and consular posts in 2005.

General exemption from the TMI requirement has been introduced for holders of diplomatic passports and seafarers as it is judged that within their professional context they are sufficiently covered. Moreover, third country nationals applying for a visa at the border – which should be an exceptional occurrence – for reasons of emergency – have been exempted as well, as it would seem disproportionate and often impossible for such persons to contact a TMI.

#### Article 16: The handling fee

This article sets out the rules for the fee to be paid by applicants. The fee is to cover the administrative costs of processing a visa application. The amount of the fee corresponds to the amount provided for by Council Decision 2006/440/EC of 1 June 2006<sup>8</sup>. The remaining part of paragraph 1 stating that it is to be charged in EUR or the currency of the host country and that the handling fee is not refundable, remain valid. Paragraph 2 ensures that applicants receive both a receipt and are informed in writing that the fee is not refundable. Paragraph 3 refers to the problems occurring when the handling fee is charged in local currency. In order to avoid the negative effects for applicants of that Member States' differences in calculations of exchange rates with different intervals, it is proposed to use the same exchange rate, the euro foreign exchange reference rate (ECB). Paragraph 4 lists categories of persons for which the handling fee is waived as provided for in Council decision 2006/440/EC. Paragraph 5 enables Member States to waive or reduce the handling fee on a case by case basis. This already existing possibility was confirmed by Council Decision 2006/444/EC. Paragraph 6 maintains the existing fee during a provisional period for nationals of third countries in respect of which a mandate to negotiate a visa facilitation agreement has been given by 1 January 2007.

Paragraph 7 has been added to avoid penalising a third country national holding a travel document not recognised by a Member State, and who have been issued a visa with limited territorial validity, is obliged to pay a second handling fee, because he/she has to apply for a

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<sup>8</sup> OJ L 175, 29.6.2006, p. 77.

second visa in order to travel to a Member State whose territory is not covered by the first visa.

Paragraph 8 introduces an urgency fee: the handling fee is doubled for applications lodged at a very late stage without justification.

#### Article 17: Stamp indicating that an application has been lodged

The requirement of Member States' diplomatic missions and consular posts to stamp applicants' travel document when an application has been lodged has been taken over from the CCI. The purpose of this measure is to prevent the same person from lodging applications with several Member States at the same time. Given the considerable problems with applying this measure in practice, the Regulation clarifies the rules for the use of the stamp and a harmonised model of the stamp has been created. The latter has been deemed necessary, as numerous examples of both incorrect stamps and additional irregular codes have been detected over the years. Account has been taken in paragraph 1 of the changes in the reception of visa applications (see Article 33), as it shall be the diplomatic mission or consular post that shall stamp the applicant's travel document.

The CCI allow Member States to decide unilaterally not to put this stamp into diplomatic passports. In order to ensure a harmonised approach, this exemption has been made general, whereas Member States diplomatic missions and consular post must agree within local consular cooperation on the exemption of other specific categories of persons.

To avoid that applicants or local authorities misunderstand the purpose of the stamp, Member States' diplomatic missions and consular posts shall inform the general public that the stamp has no legal implications and that it merely serves as an indication that a visa has been applied for.

Once Member States start transmitting data to the VIS, this stamp becomes redundant, as other Member States' diplomatic missions and consular posts will have access to information on the applicant's possible simultaneous submission of an application at another consulate.

### Chapter III: Examination and processing visa applications

#### Article 18: Examination of the application

Paragraphs 1 and 2 of this crucial article have been taken over from the CCI and establish the basic criteria for examining visa applications: the two main issues to be borne in mind by consular staff when examining visa applications, namely the migratory risk and security risks. Given the new forms of submitting visa applications via various types of intermediaries, it is emphasised that in case the written documentation submitted is not sufficient to prove the purpose of stay and intention of return, the applicant can be called for a personal interview

The contents of paragraph 4 have been taken over from the CCI, but more detail are listed as to the types of verifications to be carried out. Particular attention is drawn to sub-paragraph (e), where reference is made to the means of subsistence indicating that the assessment of this shall take into account the reference amounts as referred to in the Schengen Borders Code as well as the statement on accommodation/bearing of costs (Annex IV).

The reference amounts established by Member States were previously set out in Annex 7 to the CCI. Since the Schengen Borders Code imposes on Member States the obligation to notify

thee reference amounts, there is no need to include an annex on reference amounts in the Visa Code itself. However, for practical reasons, these reference amounts will be included in the "Instructions on the practical application of the Visa Code" (Article 43) to be drawn up later.

Given the fact that holders of airport transit visas do not enter into the territory of Member States paragraph 6 establishes that the verification of such application should only cover the requirements set out in paragraph 2(a) (valid and authentic travel document), (b) (no danger to public order, public security, public health, internal relations) and (d) (use of previous uniform visas), although the purpose of the onwards journey must be verified.

Paragraph 7 has been taken over from the CCI, and can be summarised to "in case of doubt, do not issue a visa".

#### Article 19: Inadmissibility

This article is directly linked to Article 10(4). In case the applicant fails to provide the additional information requested, his/her application will be declared inadmissible and recorded in the VIS as such. The notion of inadmissibility have been introduced in order to distinguish between formal refusals based on the examination of the visa application and cases where such examination has not been carried out because the applicant has failed to provide the information requested. Currently, formal refusals and examinations that have not been completed are often counted in statistics as "refusals/rejection" and thus the true number of refusals and effective refusal rate is hidden.

As inadmissibility is not a formal refusal of an application, the applicant can not claim any right of appeal. Therefore an application can also be declared inadmissible by the diplomatic mission or consular post of a representing Member State.

#### Article 20: Decision on the visa application

In order to enhance the equal treatment of visa applicants, a fixed maximum issuing times have been introduced in paragraph 1.

Paragraph 2 sets out the general principle for the determination of the adequate visa to issue and the calculation of the period of validity and duration of stay to grant. In order to allow for unexpected changes of the timing of the planned journey for reasons beyond the control of the applicant (for instance cancellation of flights, postponement of commercial or cultural events, business meetings), a reasonable number of additional days, i.e. a period of grace, shall be added to the number of days needed for the visit/transit or passage through the international transit area of airports.

It should be noted that the current Annex 13 to the CCI, giving practical examples of filled in visa stickers will be updated and be part of the "Instructions on the practical application of the Visa Code" to accompany the final version of the Code on Visa.

Paragraph (3) on the issuance of multiple entry visas has been carried over from the CCI, but a profile of applicants to who such visas may be issued has been set up in detail (i.e. need for frequent travel to the Member States and integrity).

## Article 21: Visas with Limited Territorial Validity (LTV)

This article covers all the aspects of the issuance of LTVs which are currently scattered around in various instruments that also often repeat the same provisions (the Schengen Convention, Articles 11(2), 14(1) and 16, CCI, Part V, 3 and Annex 14).

Paragraph 1 in detail lists the cases, where an LTV shall be issued.

In paragraph 2 it is clarified when information of other Member States is necessary. Despite the fact that information on issued visas will be stored in the VIS, it is necessary actively to inform central authorities about the individual cases in order for them to check the details in the VIS.

As the issuance of LTVs on the grounds set out in sub-paragraphs (a) and (b) allows persons, who do not fulfil the usual conditions for entry into the territory of the Member States, to enter the territory of the issuing Member State, the central authorities of the issuing Member State must inform the central authorities of other Member States about this.

On the contrary, in the case referred to in the second alinea of paragraph 1, the holder of the travel document not recognised by one or the other Member States fulfils the entry conditions, and thus information on the issuance an LTV is not relevant.

Since the necessity of issuing LTVs valid only for the issuing Member State in the cases referred to in the second alinea of paragraph 1 is not linked to any of the reasons given in (a) and (b), and that the person concerned who have been issued short-stay visas previously, have not misused them, information of other Member States is not necessary either.

## Article 22: Airport Transit Visas

This article establishes a harmonised approach on Airport Transit Visas. It takes on board the provisions of the CCI and in order to enhance transparency, Member States' individual exemptions (mainly of holders of diplomatic passports) from this requirement have been made general in relation to the nationals of third countries on the common list.

Paragraph (2)(a)–(d) lists the different categories exempted. In addition to those covered in the CCI, family members of EU citizens have been added.

## Article 23: Refusal of a visa

The current CCI refers to national legislation on notification and motivation of refusals and only if such legislation requires visa refusals to be notified and motivated, a harmonised general text of such notification should be used. In order to enhance the Community approach and equal treatment of applicants, this article renders these aspects mandatory.

Paragraph 1 lists a number of precise criteria for refusing a visa, which is in line with the Schengen Borders Code. The current CCI does not contain such a specific list.

Paragraph 2 specifies that refusals must be notified in writing by means of the form set out in Annex IX. The harmonised forms shall also be used when visa applications are refused at the border (cf. Articles 32 and 33).

Paragraph 3 makes clear that appeals against visa refusals remain within the Member States' competence.

Paragraph 4 refers to the cases where one Member State is representing another for issuing visas, and where the represented Member State takes the final decision on refusing an applicant. The representing Member State's diplomatic mission shall inform the applicant about the refusal decided by the represented Member State

Paragraph 5 is meant as a formal guarantee that each application is assessed on its own merit and that due consideration is given to the applicant's situation at the moment of application.

#### Article 24: Rights flowing from an issued visa

It is important to give visibility to the basic and essential principle that possession of a visa merely allows the holder to present himself at the external border. It has been judged useful to express this in this Article, and thus recalling that border control authorities check that entry conditions are fulfilled when the holder of the visa presents himself at the border.

#### Article 25: Filling in the visa sticker

This article has been taken over from the CCI and additional provisions are set out in Annex X. Although the Code on Visas does not cover national long-stay visas, a reference has been made in Annex X, point 7, to the code to enter on the visa sticker for such visas. In accordance with Article 18 of the Schengen Convention, national long stay visas, "D" visas, allow the holder, provided the additional conditions listed in that Article are fulfilled, to transit through the territories of other Member States in order to reach the territory of the Member State which issued the "D" visa. The Commission therefore finds that this reference to the code is appropriate.

#### Article 26: Invalidation of completed visa stickers

This article has been taken over from the CCI and provisions have been added to make sure that such invalidation of stickers is recorded in the VIS.

#### Article 27: Affixing visa stickers to travel documents

This article has been taken over from the CCI. Paragraphs 1–3 cover the most commonplace situation, where the visa issuing Member State recognises the applicant's travel document. The second subparagraph of paragraph 1 has been taken over from Annex 10 (otherwise deleted), as it has often been seen in practice that consular staff affix the sticker in such a manner that it can not be machine-read. Paragraph (4) refers to the situation where the visa issuing Member State does not recognise the applicant's travel document. In such cases the separate sheet for affixing a visa should be used.

#### Chapter IV: Modifying the period of validity of an issued visa

##### Article 28: Extension

The SCH/Com-ex (93) 21 decision on the extension of the validity of a visa is not covered by the CCI, and is herewith taken on board in the Regulation and more detailed provisions are introduced.



The title indicates that extension of visas take place within the territory of the Member States. In case the holder's situation has changed before he or she uses the issued visa, the diplomatic mission or consular post that issued the visa will be responsible for cancelling the first visa and issuing a new one, if need be.

Paragraph 1 establishes the reasons that may warrant for an extension of the period of validity and/or the duration of stay of an issued short stay or transit visa to be extended, without the type of visa being changed or the duration of stay being more than 90 days (paragraph 2). The maximum duration of transit in the case of extension a transit visa is not regulated by current legislation. By allowing for a maximum duration of a transit to 10 days, which may seem exaggerated because it doubles the maximum set for transit, common standards have been introduced.

The administrative authority may decide to change the territorial validity of the visa issued by limiting its validity to the territory of the Member States where the request for extension is submitted (paragraph 3) or only to a number of Member States.

Paragraph 4 is partly taken over from the Com-ex decision and establishes that information on the relevant competent authorities (currently listed in the Com-ex and not updated since 2000) must be notified to the Commission who will then publish the list (cf. Article 46).

In order to introduce a harmonised approach, a mandatory fee of 30 EUR to be charged for extending a visa is introduced in paragraph 5. As extension will not introduce the capturing of biometric identifiers this fee does not need to correspond to the fee charged for the issuance of a visa.

Currently, Member States may extend a visa either by issuing a new visa sticker or by putting a stamp on the original one. Paragraph 6 establishes that extension shall only take the form of a uniform stamp set out in Annex XI. By introducing one method clarity about the authenticity of extensions is ensured and the local authorities (often police authorities) competent for extending visa are not required permanently to keep stocks of highly secured visa stickers.

Information on extension of visa shall be entered into the VIS as stated in paragraph 7.

#### Article 29: Annulment

The provisions of Article 28, 29 and 30 of the Regulation are currently "hidden" in Annex 14 to the CCI which mainly reproduces the content of the SCH/Com-ex decision (93) 24 . In order to clarify matters, the three issues have been separated in individual articles to distinguish between the different purposes of the actions.

The purpose of annulment is to prevent the holder of the visa to enter into the territory of the Member States. Article 29(1) establishes which authorities may annul a visa at what point in time. Sub-paragraph (a) covers the case where the holder of the visa has not used the issued visa yet, and thus the diplomatic mission or consular post that issued the visa may annul it.

Border control authorities (sub-paragraph (b)) may, if the holder of the visa does not fulfil entry conditions, annul the visa, or finally law enforcement authorities on the territory of the Member States may annul the visa if the holder no longer fulfils the conditions for staying, although the visa is still valid.

In case a visa is annulled by the competent authorities of a Member States different from the one whose diplomatic mission or consular post issued the visa, the issuing Member State shall be informed about the annulment.

#### Article 30: Revocation of a visa

Revocation means annulment the remaining period of stay after the holder of the visa has entered the territory of the Member States. Paragraph 1 establishes two cases where an issued visa may be revoked: (a) in case the holder requests that the visa be revoked or (b) if the competent authorities judges that the holder no longer fulfils the entry conditions after he/she has entered the territory of the Member States.

In case a visa is revoked by the competent authorities of a Member States different from the one whose diplomatic mission or consular post issued the visa, the issuing Member State shall be informed about the revocation.

#### Article 31: Shortening the duration of stay authorised by a visa

In case border authorities judge that the holder of the visa does not have enough means to support himself/herself during the intended stay, they may shorten the duration of stay authorised by the visa in order to adapt the duration of stay to the means of subsistence that the visa holder effectively possess.

### Chapter V: Visas issued at the external borders

#### Article 32: Visas issued at the external borders

Articles 32 and 33 take on board the content of Council Regulation (EC) No 415/2003 while dividing it in to two articles to separate the general provisions on the issuance of visas at the border from the particular issues related to seafarers in transit.

In Article 32(6) it is specified that the general provisions on notification and motivation of refusals as well as the information on the possibilities of appeal apply when visas are applied for – and refused - at the border.

#### Article 33: Visas issued to seamen at the external borders

This article contains the specific provisions governing the issuance of visas at the border to seafarers in transit. The two annexes to Council Regulation (EC) No 415/2003 (“operational instructions” and the “form for seafarers in transit” are contained in Annex XII, Parts 1 and 2 to the Regulation.

### TITLE III: Administrative management and organisation

#### Article 34: Organisation of visa sections

This article has mainly been taken over from the CCI, Part VII. Despite the possible changes in the reception of visa applicants as provided for in Article 37, Member States’ diplomatic missions and consular posts will remain responsible for the processing of visa applications and the eventual decision on these applications.

The retention period for individual files (hard copy) set out in the second paragraph of paragraph 3 corresponds to the retention period set out in the VIS Regulation.

Article 35: Resources for processing visa applications and monitoring of diplomatic missions and consular posts

This article corresponds to an article on the same issues in the Schengen Borders Code.

Article 36: Conduct of staff processing visa applications

This article has been introduced in order to ensure that staff of the Member States' diplomatic missions and consular posts respect of the European Charter of Fundamental Rights when dealing with visa applicants and applications.

Articles 37, 38 and 39: Forms of cooperation in relation to the reception and processing of visa applications

The purpose of these articles is to provide for a legal framework for the Member States to choose among a number of organisational options in order to be able to collect biometric data from visa applicants.

Article 38 set out specific rules to be respected, if Member States decide to cooperate with external service providers.

Article 39 deals with certain organisational aspects in particular in order to ensure transparency on the forms of cooperation chosen. Paragraph 2 allows a Member State to decide that despite the choice of a form of cooperation, visa applicants can have direct access to its consular posts.

These articles shall be amended in order to take account of the outcome of negotiations on the Proposal amending the CCI in relation to the introduction of biometrics including the setting up of Common Application Centres.

Article 40: Submission of visa applications by commercial intermediaries

This article takes on board the contents of Part VIII, section 5, which in its original wording is somewhat unclear and outdated.

Paragraph 1 defines the tasks that such commercial intermediaries may carry out rather than trying, as it is the case in the CCI, to define the various types of intermediaries as it is bound to be very imprecise. It should be noted that they can not collect biometric data from applicants and thus first time applicants can not be submitted via commercial intermediaries.

Paragraph 2 lists the various aspects to be verified before accreditation is granted.

Paragraph 3 sets out provisions on the constant monitoring of these intermediaries and paragraph 4 establishes the negative results of such monitoring must be communicated to the diplomatic missions and consular posts of other Member States within local consular cooperation. In general, lists of accredited commercial intermediaries shall both be communicated to other diplomatic missions and consular posts and to the general public (paragraph 5).

#### Article 41: Information of the general public

It is essential that applicants are well informed primarily of the criteria and procedures for applying for a visa. Given recent developments, where call centres, appointment systems and outsourcing is introduced, efforts must be made to ensure that applicants are well informed about where and how to submit their application.

Paragraph 2 recalls the need for Member States concluding agreements on representation to inform the general public at least 3 months before the start of such cooperation, and to specify the categories of applications that such representation covers. The deadline of three months corresponds to the maximum deadline for submitting applications ahead of the planned visit (as set out in Article 10(1)).

Given the problems encountered in practice, a provision is introduced in paragraph 3 indicating that the general public must be informed that the stamp indicating that an application has been lodged has no legal implications.

Paragraph 4 states that clear information must be given about issuance times and about the requirement of prior consultation for nationals of certain third countries or specific categories of these nationals.

Paragraph 5 sets out requirements for informing the general public about their rights in case of refusal.

Paragraph 6 underlines the need to inform the general public that mere possession of a visa does not confer automatic right of entry and that they may be requested to present supporting documents at the border, when the fulfilment of entry conditions is checked. The latter is not mentioned in the current acquis.

#### TITLE IV: Local Consular Cooperation

#### Article 42: Member States' diplomatic missions and consular posts' application of Local Consular Cooperation

The CCI contains a chapter on local consular cooperation, which in general terms sets out the framework of consular cooperation at local level as well as a number of issues to be adapted to local circumstances. However, since the practical implementation of local consular cooperation in relation the issuance of visa has been rather unsatisfactory so far, as demonstrated in the Targeted missions' (TM) reports, the Regulation, on the basis of the conclusions drawn on the TM reports and endorsed by the relevant Council bodies, in clear terms establishes which tasks are to be carried out by whom and with what frequency. Moreover, the organisation of local consular cooperation is adapted to the Community institutional framework. It is not compatible with this framework that Member States' diplomatic missions and consular posts would take decisions that create legally binding rights and obligations for visa applicants. Therefore, LCC should assess the need to adapt certain provisions to local circumstances. In case of a positive assessment, the common "local" rules have to be decided in accordance with the comitology procedure, of course, based on an input from the LCC.

Paragraph 1 concerns provisions aiming at assessing the need for harmonising practices among Member States' diplomatic missions and consular posts in the same jurisdiction in

relation to the information of applicants before they submit their application and equal treatment of applicants once they lodge the application (a)–(c). Such equal treatment will also contribute to preventing visa shopping. Sub-paragraph (c) refers to the travel documents issued by third countries as it is important both locally and centrally that updated lists on the actual travel documents issued by third countries are available. The last sentence of this sub-paragraph refers to the fact that currently some Member States require certain types of official travel documents to be accompanied by verbal notes whereas others do not.

Also the need for a harmonised approach on the involvement of either external service providers or commercial intermediaries in order to avoid visa shopping must be assessed locally (paragraph d).

Paragraph 2 states that for reasons of ensuring full transparency and equal treatment, a common information sheet should be established within the framework of LCC.

Paragraph 3 sets out the list of information to be exchanged either monthly (statistics (a)) or regularly (specific information linked to individual jurisdictions (b)).

By exchanging and examining statistics monthly, the local diplomatic missions and consular posts have a constantly updated picture of the trends and sudden changes of them within their jurisdiction and solutions can be found immediately to possible negative effects of such changes. By compiling general information on the host country/location (socio-economic structures, sources of information at local level, use of false and falsified documents, illegal immigration routes etc.), this essential “collective” knowledge will not be lost even if consular staff change regularly, and it will help new expatriate staff to become operational and familiar with local circumstances more quickly.

Paragraph 4 sets out provisions on how to render the consular cooperation in relation to the common visa policy more efficient taking also into account the institutional framework of the EC. As consular cooperation in general covers a large variety of issues, it is important to dedicate specific meetings to the technical issues related to the issuing of visas with the participation of representatives of Member States applying Community acquis in full and involved in the processing of visa applications.

Paragraph 5 introduces the mandatory requirement of drawing up reports for each meeting and for each diplomatic mission and consular post to forward these reports to their central authorities. This would bring about the link between the operation level and central authorities and eventually the legislative level [in the relevant Council bodies], covered in paragraph 7.

Paragraph 6 opens for the possibility of inviting on an ad hoc basis, representatives of Member States not applying the Community acquis in full or of third countries to contribute to discussions on specific issues related to the issuance of visas in the jurisdiction.

Title V: Final provisions

Article 43: Exceptional arrangements

In 2004, a Member State applying the Schengen acquis, hosted the Olympic Games and the Paralympic Games for the first time. In order for that Member State on the one hand to respect the requirements of the Schengen acquis while fulfilling the commitments arising for the Olympic Charter and on the other hand to avoid undermining future bids to organise these

events by another Member State applying the Schengen acquis, it was agreed that the most appropriate solution was to draw up special measures to facilitate the issuance of visas and the crossing of external borders. The Regulation was successfully implemented by Greece in 2004 and appropriate amendments were made in 2005, in order to allow Italy to follow the same procedure for issuing visas to members of the Olympic Family. In order to facilitate, in future, this aspect of the organisation of the Olympic Games by a Member State applying the Schengen acquis in full, the specific procedures and conditions to be used are attached to the Visa Code, which could be swiftly used avoiding lengthy legislative procedures.

#### Article 44: Amendments to the annexes

This article provides that Annexes III, IV, V, VI, VIII, IX, X and XI to the Regulation are to be amended in accordance with the committee procedure referred to in Article 46(2). The reason for proposing the use of a committee procedure is that the Annexes contain measures implementing the general rules on the receipt and processing of the visa application laid down by Title II of this Regulation.

#### Article 45: “Instructions on the practical application of the Visa Code”

This article stipulates that the “Visa Committee” shall draw up the accompanying “operational instructions” on the practical application of the Visa Code. Such practical instructions are necessary to ensure the harmonised application of the legislation at operational level and to avoid that Member States draw up national parallel instructions. The Instructions shall be finalised by the time that the Regulation on the Community Code on Visas enter into force.

#### Article 46: Committee

This is the standard article on committee procedures to be followed for the adoption of measures implementing the Regulation in accordance with Decision 1999/468/EC. The regulatory procedure is provided for as measures of general scope within the meaning of Article 2 of the Decision are involved; Articles 5 and 7 of the Decision apply.

The time-limit under Article 5(6) of Decision 1999/468/EC for the Council to give its qualified-majority decision on the Commission's proposal for measures to be adopted where they are not in conformity with the Committee's opinion is set at two months.

#### Article 47: Notification

Member States shall notify the information listed in paragraph 1 to the Commission, who shall be in charge of publishing the information.

Member States shall also notify to the Commission the envisaged changes of annexes I and II (prior consultation). Because of the fact that these changes directly affect the rights and obligations of visa applicants, a simple notification procedure is not sufficient in the institutional context of the EC. Therefore, the changes of these annexes have to decide pursuant to the comitology procedure.

#### Article 48: Repeals

This article sets out the legal instruments repealed by the Regulation.

Given the fact that the VIS Regulation has been based on the current acquis, it must be adapted to the amended acquis as provided for in the Code on Visas. Such a proposal will have to be based on the appropriate legal basis (Article 66 TCE). Moreover, the VIS Regulation not having been adopted yet, it is impossible at this stage to provide the exact modifications that will be required.

Article 49: Entry into force

This is the standard clause on entry into force and direct applicability.

The application of the Regulation is deferred for six months following entry into force, [given the scale of the exercise] and the need to finalise the Instructions on the practical application of the Visa Code. However, Member States are to start notifying the Commission of the various issues listed in Article 46 immediately after the entry into force. Also the Committee should be able to prepare the implementing measures and therefore, also Article 44 should apply from the date of entry into force.

Annexes

Annexes have been listed in “order of appearance” in the Regulation.

The corresponding reference in the CCI for each of the deleted provisions can be found in the following table.

**Provisions of the Common Consular Instructions not taken over**

<b>Provisions of the Common Consular Instructions not taken over</b>	<b>Ground(s)</b>
Part I, Point 2.1.4 Group visas	For reasons of security and given the fact that all individual visa applicants must submit individual application forms and all first time applicants must provide biometric identifiers upon submission, group visas are not longer acceptable.
Part I, 2.2 Long-stay visas	The Community Code on visa does not cover the issuance of visas for stays exceeding 3 months (Article 1(1)) and long stay visas concurrently valid as uniform short stay visas have been abolished.
Part IV Legal basis	This part merely reproduces provisions of the Schengen Convention (Articles 5, 11(2), 14(1), 15 and 16 and is redundant
Part V, 2.3 Procedure to be followed in cases of prior	This part mainly contains guidelines of a practical rather than a legal

consultation with the central authorities of the other Contracting Parties	nature
ANNEXES	
<p>Annex 1</p> <p>Joint list of third countries whose citizens are required to have a visa by Member States bound by Regulation (EC) No 539/2001<sup>*</sup>, as amended by Regulation (EC) No 2414/2001<sup>**</sup> and Regulation (EC) No 453/2003<sup>***</sup>.</p> <p>Joint list of third countries whose citizens are exempted from the visa requirement by Member States bound by Regulation (EC) No 539/2001<sup>*</sup>, as amended by Regulation (EC) No 2414/2001<sup>**</sup> and Regulation (EC) No 453/2003<sup>***</sup>.</p>	This Annex merely reproduces the lists contained in the Regulation referred to.
<p>Annex 2</p> <p>Regulations governing the movement of holders of diplomatic, official and service passports and holders of laissez-passers issued by certain International Intergovernmental Organisations to their officials. Schedule A and B</p>	Since exemptions from visa requirements of holders of diplomatic passports, service/official passports and special passports are governed by Regulation (EC) No 539/2001 – and amending Regulations – this annex should not be attached to the Visa Code
<p>Annex 3, Part II</p>	Complete harmonization of the list of third countries whose nationals are required to be in possession of an Airport Transit Visa. No more possibility of Member State to submit third country nationals to this requirement.
<p>Annex 4</p> <p>List of documents entitling holders to entry without a visa</p>	According to the Schengen Borders Code, Article 5(1)(b) establishes that third country nationals possessing a valid residence permit can enter the territory of the Member States and according to Article 34 (1) (a) of the

\* OJ L 81, 21.3.2001, p. 1-7.

\*\* OJ L 327, 12.12.2001, p. 1-2.

\*\*\* OJ L 69, 13.3.2003, p. 10-11.



	<p>Schengen Borders Code the list of such residence permits shall be notified to the Commission. This list should therefore not be duplicated in the Code on Visas</p>
<p>Annex 6</p> <p>List of honorary consuls authorised to issue uniform visas in exceptional cases and on a temporary basis</p>	<p>Since Article 3 of this Regulation establishes that only Member States' diplomatic missions and consular posts as well as, exceptionally, border control authorities are entitled to process visa application, this Annex has not been taken over.</p>
<p>Annex 7</p> <p>Reference amounts determined annually by the national authorities for the crossing of borders.</p>	<p>As indicated in the title, the provisions on reference amounts are linked to the crossing of borders, and thus governed by the Schengen Borders Code (Article 5(3)).</p>
<p>Annex 8</p> <p>Uniform format for visa stickers and information on their technical specifications and security features</p>	<p>This annex merely reproduces Council Regulation (EC) No 1683/95 and Regulation (EC) No 334/2002 and thus it is inappropriate in the Code on Visas</p>
<p>Annex 9</p> <p>Information to be entered by the Contracting Parties, if necessary, in the "comments" section</p>	<p>These national comments should be notified to the Commission in conformity with Article 46(1)(d), who shall be in charge of publishing them</p>

<p>Annex 10</p> <p>Instructions on inserting information in the optical reading area</p>	<p>The definitions (1) contained in this annex are superfluous and the descriptions of the automatic reading area is outdated as it was meant as information to consular posts without "computer facilities".</p>
<p>Annex 11</p> <p>Criteria for determining whether a travel document may bear a visa.</p>	<p>The contents of this Annex are not covered by the legal basis of the Code on Visas and thus it has not been taken over.</p> <p>The subjects are linked to SCH/Comex (98) 57 which should be brought into the Community legislative framework.</p>
<p>Annex 12</p> <p>Fees to be charged in EURO corresponding to the administrative costs of processing the visa application</p>	<p>Since a flat rate for the handling fee to be charged for the processing of applications for all types of visa was introduced in 2003, there is not need for reproducing the table. Moreover, the Code on visas does not cover "D" visas, "D+C" visas have been abolished and no general exemption should be granted for visas applied for at the external borders.</p> <p>The three "rules" set out in the Annex have been integrated into the body of the Regulation (Article 16).</p>
<p>Annex 13</p> <p>Filling in visa stickers</p>	<p>This Annex reproduces examples of filled in visa stickers. Such practical instructions should not be part of a legislative instrument. Therefore, an updated version of this annex should be attached to the Instructions on the practical application of the Visa Code (Article 43).</p>

	<p>The provision set out on page 1 of this Annex in relation to the maximum deadline for applying for a visa has been inserted into Article 10(1).</p>
<p>Annex 14</p> <p>Obligations as regards information to be sent by Contracting Parties when visas with limited territorial validity are issued, when the period of validity of uniform visas is cancelled, revoked or reduced and when national residence permits are issued</p>	<p>This annex contains a number of issues which are not connected.</p> <p>All provisions on</p> <ul style="list-style-type: none"> <li>- LTVs have been inserted into Article 21</li> <li>- annulment of a visa have been inserted into Article 29</li> <li>- revocation of a visa have been inserted into Article 30</li> <li>- shortening the length of duration of stay authorised by a visa have been inserted into Article 31</li> </ul> <p>Part 3 of the current Annex 14 dealing with residence permits is not relevant in the Code on Visas.</p>
<p>Annex 17</p> <p>Facilitated Transit Document (FTD) and Facilitated Rail Transit Document (FRTD)</p>	<p>This annex merely reproduces Council Regulations (EC) No 693/2003 and (EC) No 694/2003 thus it is inappropriate in the Code on Visas</p>
<p>Annex 18</p> <p>Table of representation for issuing uniform visas</p>	<p>These situations of representation should be notified to the Commission in conformity with Article 46(1)(a), who shall be in charge of publishing them</p>

Draft proposal for a

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

**establishing a Community Code on Visas**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission<sup>9</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>10</sup>,

Whereas:

- (1) In accordance with Article 61 of the Treaty, the creation of an area in which persons may move freely should be accompanied by measures with respect to external border controls, asylum and immigration.
- (2) Under Article 62(2) of the Treaty, measures on the crossing of the external borders of the Member States must establish rules on visas for intended stays of no more than three months, for example the procedures and conditions for issuing visas by Member States.
- (3) As regards visa policy, the establishment of a “common corpus” of legislation, particularly via consolidation and development of the *acquis* (the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985<sup>11</sup> and the Common Consular Instructions<sup>12</sup>), is one of the fundamental components of “further development of the common visa policy as part of a multi-layer system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions”, as defined in the Hague Programme: strengthening freedom, security and justice in the European Union<sup>13</sup>.
- (4) Member States should be represented for visa purposes in all third countries whose nationals are subject to visa requirements. They may decide that visa applications from nationals of specific third countries or applications for a particular type of visa must be

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<sup>9</sup> OJ C , , p. .

<sup>10</sup> OJ C , , p. .

<sup>11</sup> OJ L 230, 22.9.2000, p. 19.

<sup>12</sup> OJ C 326, 22.12.2005.

<sup>13</sup> OJ C 53, 3.3.2005.

submitted directly at a permanent consular post or diplomatic mission of the State that is the applicant's main destination.

- (5) Local consular cooperation is crucial for the harmonised application of the common visa policy and for proper assessment of migratory risk. Given the differences in local circumstances, the operational application of particular legislative provisions should be assessed among the Member States' diplomatic missions and consular posts in individual locations as differences in their application of the legal provisions may not only give rise to "visa shopping" but also lead to different treatment of visa applicants.
- (6) It is necessary to set out rules on the transit through international areas of airports in order to combat illegal immigration. Thus nationals from a common list of third countries should be required to hold airport transit visas, while putting an end to the possibility for Member States to require this type of visa from nationals of additional third countries.
- (7) When a Member State hosts the Olympic Games and the Paralympic Games, a particular scheme facilitating the issuance of visas to members of the Olympic Family should apply.
- (8) Bilateral agreements concluded between the Community and third-countries aiming at facilitating the processing of applications for short-stay visas may derogate from the provisions set out in this Regulation.
- (9) The reception arrangements for applicants should be made with due respect for human dignity. Processing of visa applications should be conducted in a professional and respectful manner and be proportionate to the objectives pursued.
- (10) Member States should ensure that the quality of the service offered to the public is reasonable and follows good administrative practices. To this end they should allocate appropriate numbers of trained staff as well as sufficient resources.
- (11) The integration of biometric identifiers 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 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 Visa Information System (VIS); first time applicants should not be allowed to submit applications via commercial intermediaries, such as travel agencies.
- (12) New options for the organisation of consular offices such as co-location, common application centres and outsourcing should be introduced for receiving visa applications and capturing biometrics. An appropriate legal framework for these options should be established, in particular with regard to data protection. These forms of consular cooperation and outsourcing 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.

- (13) The applicant should appear in person for the first enrolment of biometric identifiers. In order to facilitate the procedure of any subsequent application, it should be possible to copy the biometric data from the first application within a time frame of 48 months taking into account the retention period laid down in the VIS. After this period the biometric identifiers should be captured again.
- (14) Statistical data is an important means of monitoring migratory movements and can serve as an efficient management tool. Therefore, such data should be compiled regularly in a common format.
- (15) Provision should be made for a procedure enabling the Commission to adapt certain detailed practical rules governing the issuance of short-stay visas. In these cases, the measures needed to implement this Regulation should be taken pursuant to Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>14</sup>.
- (16) In order to assure the harmonised application of the Regulation at operational level, instructions should be drawn up on the practice and procedures to be followed by Member States' diplomatic missions and consular posts when processing visa applications.
- (17) As the Regulation of the European Parliament and of the Council concerning the Visa Information System and the exchange of data between Member States on short-stay visas (hereinafter: the "VIS Regulation") is based on the current legislation, it should be amended in order to take account of the changes made to the legislation relevant for the VIS.
- (18) As regards the objectives of the proposed action, it should be recalled that under Article 62(1) and (2)(b) of the ECT, the Community has the power – and even the obligation – to adopt measures relating to rules on visas for intended stays of no more than three months; in accordance with the principle of proportionality, as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary in order to achieve these objectives.
- (19) This Regulation respects fundamental rights and observes the principles recognised in particular by the European Convention on Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union.
- (20) By way of derogation from Article 299 of the Treaty, the only territories of France and the Netherlands to which this Regulation applies are those in Europe as the overseas territories do not form part of the area without internal borders.
- (21) The conditions governing entry into the territory of the Member States or the issue of visas do not affect the rules currently governing recognition of the validity of travel documents.

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<sup>14</sup> OJ L 184, 17.9.1999, p. 23.

- (22) In order to allow Member States' authorities to prepare for the implementation of this Regulation, the application of this Regulation should only start six months after the day of its entry into force, except for the Articles 46 (Comitology) and 47 (notifications by Member States).
- (23) 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 should, in accordance with Article 5 of the said Protocol, decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law or not.
- (24) 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<sup>15</sup> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement<sup>16</sup>.
- (25) An arrangement has to be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers as will be the case under the present Regulation. Such an arrangement has been contemplated in the Exchange of Letters between the Community and Iceland and Norway<sup>17</sup>, annexed to the abovementioned Agreement. The Commission has submitted to the Council a draft recommendation in view of negotiating this arrangement.
- (26) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement signed between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen acquis<sup>18</sup>, which fall in the area referred to in Article 4(1) of Council Decision 2004/860/EC<sup>19</sup> on the signing on behalf of the European Union, and on the signing on behalf of the European Community, and on the provisional application of certain provisions of that Agreement<sup>20</sup>.

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<sup>15</sup> OJ L 176, 10.7.1999, p. 36.

<sup>16</sup> OJ L 176, 10.7.1999, p. 31.

<sup>17</sup> OJ L 176, 10.7.1999, p. 53.

<sup>18</sup> Council doc. 13054/04 accessible on <http://register.consilium.eu.int>

<sup>19</sup> OJ L 370 of 17.12.2004, p. 78.

<sup>20</sup> OJ L 368, 15.12.2004, p. 26 and OJ L 370, 17.12.2004, p. 78.

- (27) This Regulation constitutes a development of the provisions of the Schengen acquis in which the United Kingdom is not participating, in accordance with Council Decision 2000/365/EC of 29 May 2000 on the request by the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis.<sup>21</sup> The United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (28) This Regulation constitutes a development of the 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<sup>22</sup>. Ireland is therefore not taking part in the adoption of the Regulation and is not bound by it or subject to its application.
- (29) This Regulation constitutes provisions, except for Article 22, building on the Schengen acquis or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.

HAVE ADOPTED THIS REGULATION:

## **TITLE I: General provisions**

### *Article 1*

#### **Objective and scope**

1. This Regulation establishes the rules for processing visa applications for intended stays in the territory of the Member States, not exceeding three months in any six month period.
2. Those rules shall apply to any third country national, who must be in possession of a visa when crossing the external borders pursuant to Council Regulation (EC) No 539/2001<sup>23</sup>, without prejudice to
  - (a) the rights of free movement enjoyed by third country nationals who are family members of citizens of the Union,
  - (b) the equivalent rights enjoyed by third-country nationals, who, under agreements between the Community and its Member States, on the one hand, and these third-countries, on the other, enjoy rights of free movement equivalent to those of Union citizens and members of their families.
3. This Regulation also defines the list of third countries whose nationals require an airport transit visa and establishes the rules for processing visa applications for transit through the international transit areas of Member States' airports.

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<sup>21</sup> OJ L 131, 1.6.2000, p. 43.

<sup>22</sup> OJ L 64, 7.3.2002, p. 20.

<sup>23</sup> OJ L 81, 21.3.2001, p. 1.



## Article 2

### Definitions

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

- (1) “third-country national” means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty;
- (2) “a visa” shall mean an authorisation issued by a Member State with a view to:
  - (a) entry for an intended stay in that Member State or in several Member States of a duration of no more than three months in total,
  - (b) entry for transit through the territory of that Member State or several Member States, or
  - (c) transit through the international transit areas of the airports of a Member State.
- (3) A “uniform visa” means a visa valid for the entire territory of the Member States, and is either:
  - (a) a “short-stay visa” (type “C” visa) entitling the holder to stay for a period not exceeding three months in any six months period from the first date of entry in the territories of the Member States;;
  - or
  - (b) a “transit visa” (type “B” visa) entitling the holder, travelling from one third country to another, to pass through the territories of the Member States once, twice or exceptionally several times, each transit not exceeding five days;
- (4) “visa with limited territorial validity” (type “LTV B” or “LTV C” visa) means a short-stay visa entitling the holder only to stay in or transit through the territory of the issuing Member State or several Member States.
- (5) “airport transit visa” (type “A” visa) means a visa required with a view to a transit through the international transit areas of the airports of Member States by nationals from certain third countries, as an exception to the principle of free transit laid down in annex 9 to the Chicago Convention on International Civil Aviation.
- (6) “recognised travel document” means a travel document issued by a third country, whose nationals must be in possession of a visa when crossing the external borders pursuant to Regulation (EC) No 539/2001, and recognised by Member States for the purpose of affixing visas;
- (7) “visa sticker” means the uniform format for visas as defined by Regulation (EC) No 1683/95 and is the physical form of the visas defined in paragraphs 3, 4 and 5.
- (8) “separate sheet for affixing a visa” means the uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised

by the Member State drawing up to form as defined by Regulation (EC) No 333/2002.

## **TITLE II: Receipt and processing of visa applications**

### **Chapter I**

#### **Authorities taking part in the processing of visa applications**

##### *Article 3*

#### **Authorities competent for processing visa applications**

1. Without prejudice to Article 37, only diplomatic missions or consular posts of Member States shall be entitled to process visa applications.
2. By way of derogation from paragraph 1, short-stay and transit visas may, in exceptional cases, be issued at the border by the authorities responsible for checks on persons, including the issue of such visas to seamen.

##### *Article 4*

#### **“Territorial” competence**

1. Third country nationals shall apply for a visa at the diplomatic mission or consular post of a Member State in their country of residence.
2. By way of derogation from paragraph 1, applications may be lodged by third country nationals, legally present in a third-country different from their country of residence in that third-country. Such applicants shall provide justification, for lodging the application in that country and there must be no doubt as to the applicant’s intention to return to the country of residence.

In that case, the diplomatic mission or consular post located in the applicant's country of residence or the central authorities of the issuing Member State may be consulted.

##### *Article 5*

#### **Member State responsible for processing a visa application**

1. The diplomatic mission or consular post responsible for processing an application for a short-stay visa shall be :
  - (a) the diplomatic mission or consular post of the Member State in whose territory the sole or main destination of the visit is located, or
  - (b) if the Member State of main destination cannot be determined, the diplomatic mission or consular post of the Member State whose external border the

applicant intends to cross in order to enter into the territory of the Member States.

When a visa with multiple entries is applied for, the Member State of usual destination shall be responsible for processing the application. Such visas shall be issued only in the applicant's country of residence.

2. The diplomatic mission or consular post responsible for processing an application for a transit visa shall be :
  - (a) in the case of transit through only one Member State, the diplomatic mission or consular post of the Member State concerned, or
  - (b) in the case of transit through several Member States, the diplomatic mission or consular post of the Member State whose external border the applicant intends to cross to start the transit.
3. The diplomatic mission or consular post responsible for processing an application for an airport transit visa shall be :
  - (a) in the case of a single airport transit, the diplomatic mission or consular post of the Member States on whose territory the transit airport is situated, or
  - (b) in the case of double or multiple airport transit, the diplomatic mission or consular post of the Member State on whose territory the first transit airport is situated.

#### *Article 6*

### **Competence in relation to issuance of visas to third country nationals legally present within a Member State's territory**

Third country nationals who are legally staying in the territory of a Member State, without holding a residence permit of that Member State, allowing them to travel without holding a visa as provided for in Article 5(1)(b) and Article 34(1)(a) of the Schengen Borders Code, and who have justified reasons for travelling to another Member State, shall apply for a visa at the diplomatic mission or consular post of the Member State of destination.

#### *Article 7*

### **Arrangements on representation**

1. Without prejudice to Article 5, the diplomatic mission or consular post of a Member State may agree to represent another Member State for processing applications for short stay visas, transit visas and airport transit visas. The arrangement shall specify the duration, if only temporary, and procedures for termination of such representation, as well as arrangements in relation to possible provision of premises, staff and payments by the represented Member State.

Such bilateral arrangements may stipulate that visa applications from certain categories of third country nationals are to be transmitted by the representing Member State to the authorities of the represented Member State for prior consultation, as provided for in Article 9(3).

2. A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules.
3. The represented Member State shall inform the Commission about new arrangements on representation or the termination of such arrangements at the latest three months before the agreement enters into force or terminates.
4. Simultaneously, the representing Member State shall inform both the diplomatic missions and consular posts of other Member States and the delegation of the European Commission in the jurisdiction concerned when arrangements on representation have been concluded and when they enter into force.
5. The diplomatic mission or consular post of the representing Member State shall, when acting on behalf of another Member State, comply with all the rules on the processing of applications for short stay visas, transit visas and airport transit visas set out in this Regulation and the issuing times set out in Article 20(1) shall apply.
6. When a diplomatic mission or consular post of the representing Member State envisages refusing an application, the complete file shall be submitted to the central authorities of the represented Member State in order for them to take the final decision on the application within the time limit set out in Article 20(1).
7. If the diplomatic mission or consular post of the representing Member State decides to cooperate with commercial intermediaries or to outsource part of the visa handling process, such procedures shall also cover applications handled by way of representation. However, the central authorities of the represented Member State shall be duly informed in advance.

#### *Article 8*

##### **Prior consultation of the Member States' own central authorities**

1. A Member State may require its diplomatic missions or consular posts to consult its central authorities before issuing visas to nationals of certain third countries or specific categories of such nationals.  
  
The third countries in respect of whose nationals or specific categories of nationals such consultation is required shall be as set out in Annex I.
2. Such consultation shall be without prejudice to the time limit for examining visa applications, set out in Article 20(1).

3. If a Member State represents another Member State pursuant to Article 7(1), the central authorities of the representing Member State shall carry out the consultation provided in paragraph 1.

#### *Article 9*

##### **Prior consultation and information of central authorities of other Member States**

1. A Member State may require the central authorities of other Member States to consult its central authorities before issuing visas to nationals of specific third countries or specific categories of such nationals.

The third countries in respect of whose nationals or specific categories of nationals such consultation is required shall be as set out in Annex II.

2. The central authorities consulted shall react within three working days of receiving the request. The absence of a reply from the consulted authorities within this deadline shall be deemed an authorisation for the consulting central authorities to allow their diplomatic mission or consular post to issue the visa.

3. A Member State may require that its central authorities be informed only of visas issued by diplomatic missions or consular posts of other Member States to nationals of specific third countries or to specific categories of such nationals.

The third countries for whose nationals such information is required are marked by (\*) in Annexe II.

4. Prior consultation and information shall be carried out in accordance with Article 14 (2) of the VIS Regulation n°....

5. If a Member State represents another Member State pursuant to Article 7(1), the central authorities of the representing Member State shall carry out the consultation provided for in paragraph 1 and/or the information provided for in paragraph 3.

## **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 visit.
2. Applicants 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 shall take place within two weeks.

3. 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 immediately.
4. If the information supplied in support of the application is incomplete, the applicant shall be informed of what additional documentation is required. The applicant shall be invited to provide the additional information/documentation promptly and shall be informed that after 1 calendar month after the date of this invitation, the application will be declared inadmissible if the required information is not submitted.

## *Article 11*

### **Capturing of biometric data**

1. 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 application each applicant shall be required to appear in person. At that time the following biometric identifiers shall be collected:

- (a) a photograph, scanned or taken at the time of application and
  - (b) ten fingerprints taken flat and digitally captured.
2. For any subsequent application the biometric identifiers shall be copied from the first application, provided the last entry is not older than 48 months. After this period a subsequent application is to be considered as a “first application”.
  3. 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<sup>24</sup>.
  4. 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 Article 37(1)(c).

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.

5. The following applicants shall be exempt from the requirement to give fingerprints:
  - (a) Children under the age of 6;

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<sup>24</sup> The technical requirements are the same as for the passports delivered by Member States to their nationals in accordance with Regulation (EC) No 2252/2004.

- (b) Persons where fingerprinting is physically impossible. 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.

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

- 6. 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 options of representation provided for in Article 7, decide to use one of the forms of cooperation described in Article 37.

## *Article 12*

### **Submission of a visa application**

- 1. 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 must be at least three months after the intended departure from the territory of the Member States, and which contains one or more free pages for affixing the visa;
  - (c) provide supporting documents, in accordance with Article 14 and Annex IV, proving the purpose and the duration of the stay;
  - (d) provide evidence of the possession of sufficient means of subsistence, in accordance with Article 5(3) of the Schengen Borders Code;
  - (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 15. 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 issued.
- 3. Where applicable, a stamp as described in Article 17 shall be affixed to the passport of the applicant.

### *Article 13*

#### **The application form**

1. Visa applicants shall complete and sign the application form, 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:
  - (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.

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.

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

### *Article 14*

#### **Supporting documents**

1. The visa applicant shall produce the following documents:
  - (a) documents indicating the purpose of the journey
  - (b) documents in relation to accommodation
  - (c) documents indicating the financial means available to cover subsistence costs.
  - (d) documents indicating the applicant's intention to return to the country of departure



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

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.

### *Article 15*

#### **Travel medical insurance**

1. Applicants for short-stay visas and transit visas shall prove that they are in possession of adequate and valid travel insurance to cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment.

Without prejudice to Article 12(2) last sentence, proof of travel insurance shall be presented when the application is lodged.

2. Applicants applying for multiple entry visas with a long validity shall prove that they are in possession of adequate travel medical insurance covering the period of the 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 insurance must be valid throughout the territory of the Member States and cover the entire period of the person's stay or transit. The minimum coverage shall be EUR 30 000.

When a visa with limited territorial validity or a transit visa is issued, the insurance cover may be confined to the Member State(s) concerned.

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

The person subscribing the form provided in Annex V may take out insurance for the applicant, in which case, the conditions set out in paragraph 3 shall apply.

5. Holders of diplomatic passports, seafarers as covered by the ILO Conventions n° 108 and 185, and third-country nationals applying for a visa at the border shall be exempt from the requirement to hold adequate and valid travel insurance.
6. The need for further exemptions may be assessed within local consular cooperation.

7. The insurance requirement may be considered to have been met where it is established that an adequate level of insurance may be assumed in the light of the applicant's professional situation. This exemption may concern particular professional groups already covered by travel medical insurance as a result of their professional activities.
8. Within local consular cooperation in a given jurisdiction shall be assessed whether it is possible to acquire appropriate travel medical insurance.
9. When assessing whether insurance is adequate, diplomatic missions or consular posts shall ascertain whether claims against the insurance company would be recoverable in a Member State.
10. When the requirement to be in possession of travel medical insurance has been waived, the relevant authority shall affix the following code, "N-INS", in the "comments" section of the visa sticker.

#### *Article 16*

#### **The handling fee**

1. When lodging a visa application, applicants shall pay a handling fee of 60 EUR, corresponding to the administrative costs of processing the visa application. The fee shall be charged in EURO or in the national currency of the third country where the application is made and shall not be refundable.
2. Applicants shall be given a receipt for the fee paid. The receipt shall indicate that the handling fee is not refundable.
3. If the handling fee is charged in the national currency of the third country where the application is made, Member States' diplomatic missions and consular posts shall apply the Euro foreign exchange reference rate established by the European Central Bank. They ensure under local consular cooperation that all Member States adapt the amount of the handling fee in national currency at the same time.
4. The handling fee shall be waived for visa applicants belonging to one of the following categories:
  - (a) children under 6 years;
  - (b) school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training; and
  - (c) researchers from third countries travelling within the Community for the purpose of carrying out scientific research as defined in the Recommendation (No. 2005/761/EC) of the European Parliament and of the Council of 28 September 2005.
5. In individual cases, the amount of the fee to be charged may be waived or reduced in accordance with national law when this measure serves to promote cultural interests

as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.

6. Until 1 January 2008, nationals of third countries in respect of which the Council has given the Commission a mandate to negotiate a visa facilitation agreement by 1 January 2007 shall pay a handling fee of 35 Euro.
7. When the holder of an LTV issued in accordance with Article 21(1)(c) needs to travel – within the period of validity of that visa - to a Member State not included in the territorial validity of the LTV, no handling fee shall be charged for the processing of the second visa application.
8. The fee shall be doubled in cases where the visa application is submitted by the visa applicant three days or less before the envisaged date of departure without justification.

#### *Article 17*

#### **Stamp indicating that an application has been lodged**

1. In order to avoid the simultaneous lodging of multiple applications, the Member State's diplomatic mission or consular post to which an application is made shall stamp the applicant's travel document indicating that a visa has been applied for. The stamp shall be placed on the first available page that contains no entries or stamps in the travel document, when the diplomatic mission or consular post receives the application.
2. The stamp shall have no legal implication for future applications.
3. The stamp shall be as set out in the model in Annex VI and shall be affixed in accordance with that annex.
4. Diplomatic passports shall not be stamped. A harmonised approach as to whether to derogate from the requirement for other specified categories of persons shall be agreed upon within local consular cooperation.
5. The provisions of this Article shall cease to apply to Member States' diplomatic missions and consular posts from the date they transmit the visa data to the VIS.

### **Chapter III Examination and processing of visa applications**

#### *Article 18*

#### **Examination of the application**

1. In the examination of a visa applications and supporting documents, particular consideration shall be given to the risk of illegal immigration and the security of Member States and the applicant's intention of returning.

2. If there is any doubt as to the purpose of the applicant's stay or intention of return, or the documentation submitted, the applicant may be called for interview at the diplomatic mission or consular post of the Member State responsible for examining the application to provide additional information.
3. In respect of each visa application the VIS shall be consulted in accordance with Articles 5 and 13 of the VIS Regulation.
4. The examination of the visa application shall ascertain whether the applicant fulfils the entry conditions set out in Article 5(1) of the Schengen Borders Code and verify:
  - (a) the validity and authenticity of the travel document presented by the applicant;
  - (b) that the person does not constitute a danger to public order, internal security, public health or the international relations of any Member States by consulting the SIS and national databases;
  - (c) the points of departure and destination of the third country national concerned and the purpose of the intended stay, by checking the supporting documents referred to in Article 14 and Annex IV;
  - (d) where appropriate, previously issued uniform visas on the travel document of the third country national concerned, in order to verify that the person has not exceeded the maximum duration of authorised stay in the territory of the Member States;
  - (e) that the applicant has sufficient means of subsistence for the duration and purpose of the intended stay, for his or her return to the country of origin or transit to a third country into which he or she is certain to be admitted, or that he or she is in a position to acquire these means lawfully. In this verification account shall be taken of the reference amounts, as referred to in Article 5(3) of the Schengen Borders Code, and of the proof of accommodation or bearing of cost, as stated in form set out in Annex V.
  - (f) that the applicant is in possession of adequate travel medical insurance, where applicable.
5. If the applicant is a national of a third country listed in Annexes I or II, the central authorities of the Member State(s) concerned shall be consulted in accordance with Article 14(1) and (2) of the VIS Regulation.
6. Only the checks referred to in paragraph 4(a), (b) and (d) shall be carried out on third- country nationals applying for an airport transit visa. In such cases the purpose of the onward journey shall be verified.
7. If there is any doubt as to the authenticity of the documents submitted or the veracity of their contents, the reliability of the statements recorded during the interview or the purpose of the applicant's stay or his intention to return, the diplomatic mission or consular post shall not issue the visa.

## *Article 19*

### **Inadmissibility**

1. Where the applicant does not provide the additional information required pursuant to Article 10(4) within one calendar month from the date of the invitation to submit additional information/documentation, the application shall be declared inadmissible.
2. In the cases referred to in paragraph 1, the diplomatic mission or consular post shall replace the status information in the VIS, as referred to in Article 8(2) of the VIS Regulation.
3. Where the application has been declared inadmissible, the applicant shall have no right to appeal.

## *Article 20*

### **Decision on the visa application**

1. Member States' diplomatic missions and consular posts shall decide upon visa applications within 10 working days of the date of submission of the application, or after the date of the completion of the file. This period may be extended to a maximum of 30 days in individual cases, notably when further scrutiny of the application is needed, including the situation referred to in Article 7(6).
2. The diplomatic missions or consular posts shall decide on the period of validity of the visa and the length of the authorised stay on the basis of all the information available to them concerning the purpose and duration of the intended stay or transit and bearing in mind the specific situation of the applicant. For single entry transit visas and ATVs the additional "period of grace" granted shall be seven days and for single entry "C" visas fifteen days.
3. Multiple-entry visas, entitling the holder to several entries, three month stays or several transits during any half-year, may be issued with a period of validity of maximum 5 years

The following criteria are in particular relevant for taking the decision to issue such visas:

- (a) the applicant's need to travel frequently and/or regularly due to his/her occupational or family status, such as businessmen and women, civil servants engaged in regular official contacts with Member States and the Community institutions, family members of citizens of the Union, members of the family of third country nationals residing in Member States, seafarers,
- (b) the integrity and reliability of the applicant, in particular the lawful use of previous Schengen visas, his economic situation in the country of origin and his genuine intention to return to that country.

4. Member States' diplomatic missions and consular posts shall enter the data set out in Article 8 (1) of the VIS Regulation into the VIS when a decision on issuing a visa has been taken.

#### *Article 21*

#### **Visa with Limited Territorial Validity**

1. A visa with limited territorial validity (LTV) shall be issued exceptionally in the following cases:
  - (a) when a diplomatic mission or consular post considers it necessary, on humanitarian grounds, for reasons of national interest or because of international obligations, to derogate from the principle that the entry conditions laid down in Article 5(1) of the Schengen Borders Code, must be fulfilled;
  - (b) when a diplomatic mission or consular post considers it necessary, on humanitarian grounds, for reasons of national interest or because of international obligations, to issue a visa, although the prior consultation procedure has given rise to objections on the part of the consulted Member State or if prior consultation has not been carried out for reasons of urgency (on humanitarian grounds, reasons of national interest or because of international obligations);
  - (c) when a diplomatic mission or consular post for urgent reasons, justified by the applicant, issues a new visa for a stay during the same six-month period to an applicant who, over this six-month period, has already used a visa allowing for a stay of three months.

In the cases referred to in the first subparagraph, the visa issued shall be valid only for the territory of the issuing Member State.

If the applicant holds a travel document that is not recognised by one or more, but not all, Member States, a visa valid for the territories of the Member States recognising the travel document shall be issued. If the visa issuing Member State does not recognise the applicant's travel document, the visa issued shall only be valid for that Member State.

2. The central authorities of the Member State whose diplomatic mission or consular post has issued LTVs in the cases described in points (a) and (b) of the first subparagraph of paragraph 1 shall immediately circulate the relevant information to the central authorities of the other Member States.

## *Article 22*

### **Airport transit visas**

1. Nationals of the third countries included in the list set out in Annex VII , shall be required to hold an airport transit visa, when passing through the international transit areas of airports situated on the territory of Member States.
2. The following categories of persons shall be exempt from this requirement to hold an airport transit visa provided for in paragraph 1:
  - (a) holders of uniform short stay or transit visa issued by a Member State,
  - (b) third-country nationals holding residence permits issued by Andorra, Japan, Canada, Monaco, San Marino, or the United States of America guaranteeing the holder's unqualified return, and listed in Annex VIII;
  - (c) family members of citizens of the Union;
  - (d) holders of diplomatic passports;
  - (e) flight crew who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation.

## *Article 23*

### **Refusal of a visa**

1. Without prejudice to Article 21(1), a visa shall be refused if the applicant:
  - (a) presents a false, counterfeited or forged travel document;
  - (b) does not prove that he has sufficient means of subsistence for the whole duration of the stay, and for return to his country of origin or departure, or that he is in a position to acquire such means lawfully;
  - (c) does not provide sufficient evidence justifying the purpose and duration of the stay;
  - (d) does not provide proof of holding adequate travel medical insurance, where applicable;
  - (e) has already stayed for three months during a six-month period on the territory of the Member States;
  - (f) is a person for whom an alert has been issued in the SIS or in a national register for the purposes of refusing entry;
  - (g) is considered to be a threat to public order, internal security, public health or the international relations of the European Union or its Member States.

2. The decision stating the precise reasons for the refusal shall be given by means of the standard form set out in Annex IX. This form shall also be used when the visa is refused at the border.
3. Applicants refused visa shall have the rights to appeal. Appeals shall be conducted in accordance with national law. A written indication of contact points able to provide information on representatives competent to act on behalf of the applicants in accordance with national law shall be given to the applicants.
4. If cases referred to in Article 7(6), the diplomatic mission or consular post of the representing Member State shall inform the applicant of the decision taken by the represented Member State.
5. A refusal shall not affect any future visa application, which shall be assessed on its own merits.

#### *Article 24*

#### **Rights flowing from an issued visa**

Mere possession of a short stay visa or a transit visa does not confer automatic right of entry.

#### *Article 25*

#### **Filling in the visa sticker**

1. When filling in the visa sticker, Member States' diplomatic missions and consular posts shall insert the mandatory entries set out in Annex X and fill in the machine readable zone, as provided for in ICAO document 9303, Part 1n 6<sup>th</sup> edition (June 2006).
2. Member States may add national entries in the "comments" section of the visa sticker, which shall not duplicate the mandatory entries in Annex X.
3. All entries on the visa sticker shall be printed. Visa stickers may be filled in manually only in case of technical force majeure.

#### *Article 26*

#### **Invalidation of completed visa stickers**

1. No manual changes shall be made to a printed visa sticker.
2. If an error is detected on a sticker which has not yet been affixed to the passport, the sticker shall be destroyed.
3. If an error is detected after the sticker has been affixed to the passport, the sticker shall be invalidated by drawing a red cross on the sticker and a new sticker shall be affixed.



4. If an error is detected after the relevant data have been introduced into the VIS in accordance with Article 8 of the VIS Regulation, the error shall be corrected in accordance with Article 21(1) of the VIS Regulation.

#### *Article 27*

#### **Affixing visa stickers**

1. The printed visa sticker containing the data provided for in Article 25 and Annex X shall be affixed to the first page of the passport that contains no entries or stamps - other than the stamp indicating that an application has been lodged.

The sticker shall be aligned with and affixed to the edge of the page of the travel document. The machine-readable zone of the sticker shall be aligned with the edge of the page.

2. The stamp of the issuing diplomatic mission or consular post shall be placed in the “COMMENTS” section in such a manner that it extends beyond the sticker onto the page of the travel document.

Only in cases where it is necessary to dispense with the completion of the section to be scanned electronically may the stamp be placed in this section to render it unusable. The size and content of the stamp and the ink to be used shall be determined by the national rules of the Member State.

3. To prevent re-use of a visa sticker affixed to a uniform format form, the seal of the issuing diplomatic mission or consular office shall be stamped to the right, straddling the sticker and the form, in such a way as neither to impede reading of the headings and the comments nor to enter the machine readable zone, if completed.
4. Where the visa-issuing Member State does not recognise the applicant’s travel document, the separate sheet for affixing a visa shall be used.
5. Individual visas issued to accompanying persons according to Article 13(1) who are included in the travel document of the applicant shall be affixed in that travel document.

Where the travel document in which accompanying persons are included is not recognised by the visa-issuing Member State, the individual visas shall be affixed to the separate sheet for affixing visas.

## **Chapter IV**

### **Modifying the period of validity of an issued visa**

#### *Article 28*

##### **Extension**

1. The period of validity and/or the duration of stay of an issued short stay or transit visa shall be extended, at the request of the holder if he can provide proof of force majeure, humanitarian reasons, serious occupational reasons and/or personal reasons.
2. An extension of a visa, as provided for in paragraph 1, shall not, under any circumstances, result in the type of the visa being changed or in the duration of the stay exceeding three months (short stay) or 10 days (transit).
3. Unless otherwise decided by the administrative authority extending the visa, the territorial validity of the extended visa shall remain the same as the original visa.
4. The administrative authority competent to extend the visa shall be that of the Member State on whose territory the third country national is present at the moment of applying for an extension.

Member States shall notify to the Commission the authorities competent for extending visas.

5. A fee of 30 EUR shall be charged for extending a visa.
6. Extension of uniform visas shall take the form of a stamp, corresponding to the model set out in Annex XI. The competent authority shall also affix its seal.
7. Information on extended visas shall be entered into the VIS in accordance with Article 12 of the VIS Regulation.

#### *Article 29*

##### **Annulment**

1. A visa may be annulled :
  - (a) by the issuing diplomatic mission or consular post in order to prevent the holder from entering the territory of the Member States, if it becomes evident after the visa has been issued that the holder does not fulfil the conditions justifying the issue of the visa.
  - (b) by border control authorities in conformity with the provisions of Article 13(1) and Annex V, Part A, (2) of the Schengen Borders Code.
2. Information on annulled visas shall be entered into the VIS, in accordance with Article 11 of the VIS Regulation.

3. If a visa is annulled pursuant to paragraph 1(b) by the border control authorities of a Member State other than the issuing Member State, the issuing Member State shall be informed of the annulment of its visas.

#### *Article 30*

#### **Revocation of a visa**

1. A visa may be revoked in the following cases:
  - (a) by the issuing diplomatic mission or consular post at the request of the holder in which case a stamp must be affixed to the visa sticker indicating that the visa has been revoked at the request of the holder.
  - (b) by the competent authorities after the holder has entered the territory of the Member States, if the holder no longer fulfils the entry conditions as set out in Article 5(1) of the Schengen Borders Code.
2. Information on revoked visas shall be entered into the VIS in accordance with Article 11 of the VIS Regulation.
3. If the visa is revoked pursuant to paragraph 1(b) by the competent authorities of a Member State other than the issuing Member State, the issuing Member State shall be informed of the revocation of its visas.

#### *Article 31*

#### **Shortening the length of duration of stay authorised by a visa**

1. Border control authorities may decide to shorten the duration of stay authorised by a visa if it is established that the holder does not have adequate means of support for the initially intended duration of the stay.
2. Information on the shortening of the duration of stay authorised by a visa shall be entered into the VIS, in accordance with Article 11 of the VIS Regulation.

### **Chapter V**

#### **Visas issued at the external borders**

#### *Article 32*

#### **Visas issued at the external borders**

1. Short-stay visas or transit visas may only be issued at the external borders if the following conditions are satisfied:
  - (a) the applicant fulfils the conditions laid down in Article 5(1) of the Schengen Borders Code;

- (b) the applicant has not been in a position to apply for a visa in advance,
  - (c) the applicant submits supporting documents substantiating unforeseeable and imperative reasons for entry, and
  - (d) the applicant's return to his country of origin or transit through States other than Member States fully implementing the Schengen acquis is assessed as certain.
2. Where a visa is applied for at the external border, the requirement that the applicant be in possession of travel medical insurance shall be waived.
  3. A visa issued at the external border may, as appropriate, be either
    - (a) a single entry short-stay visa, entitling the holder to stay for a maximum period of 15 days in all Member States, or
    - (b) a single entry transit visa, entitling the holder to a transit of a maximum duration of 5 days, valid for all Member States.
  4. Where the conditions laid down in Article 5(1) of the Schengen Borders Code are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity for the territory of the issuing Member State only, in accordance with Article 21(1)(a).
  5. A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article 9 shall, in principle, not be issued with a visa at the border.

However, a visa with limited territorial validity only for the territory of the visa issuing Member State, may be issued at the border for such persons in exceptional cases, in accordance with Article 21(1)(b).

6. The provisions on justification and notification of refusals and possibilities of appeal set out in Article 23 and Annex IX shall apply.

### *Article 33*

#### **Visas issued to seafarers in transit at the border**

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a transit visa at the border where:
  - (a) he fulfils the conditions set out in Article 32(1) and
  - (b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.
2. Before issuing a visa at the border to a seafarer in transit, the competent national authorities shall comply with the rules set out in Annex XII, Part 1, and make sure that the necessary information concerning the seaman in question has been

exchanged by means of a duly completed form for seamen in transit, as set out in Annex XII, Part 2.

3. This Article shall apply without prejudice to Article 32(3), (4) and (5).

### **TITLE III: Administrative management and organisation**

#### *Article 34*

##### **Organisation of visa sections**

1. Member States shall be responsible for organising the visa sections of their diplomatic missions and consular posts.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up. Without prejudice to the quality of services or knowledge of tasks, the staff shall be rotated at least every six months. Particular attention shall be attached to clear work structures and distinct allocation/division of responsibilities in relation to the taking of final decisions on visa applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised expatriate permanent staff members. Appropriate measures shall be taken to prevent unauthorised access to such databases.

2. The storage and handling of visa stickers shall be subject to stringent security measures to avoid fraud or loss. Both issued visa stickers and cancelled visa stickers shall be registered.
3. Member States' diplomatic missions and consular posts shall keep archives of paper copies of visa applications. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and a copy of the visa issued, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.

Individual files shall be kept for five years both when a visa has been issued and when it has been refused.

#### *Article 35*

##### **Resources for processing visa applications and monitoring of diplomatic missions and consular posts**

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the processing of visa applications, in such a way as to ensure an efficient and harmonised level of treatment of applications and applicants in their diplomatic missions and consular posts. Premises should meet appropriate functional requirements of adequacy and allow for appropriate security measures.

2. Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and updated information on the relevant Community and national law.
3. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of processing of visa applications and take corrective measures when deviations from provisions are detected.

#### *Article 36*

#### **Conduct of staff processing visa applications**

1. Member States' diplomatic missions and consular post shall ensure that applicants are received courteously.
2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

#### *Article 37*

#### **Forms of cooperation in relation to the reception of visa applications**

1. Member States may engage in the following forms of cooperation:
  - (a) “co-location”: staff from the diplomatic posts and consular missions of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic post and consular mission of another Member State and share the equipment of that Member State. The Member States concerned shall agree on the duration and conditions for the termination of the co-location as well as the part of the administrative fee to be received by the Member State whose diplomatic post or consular mission is being used.
  - (b) “Common Application Centres”: 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.
  - (c) Co-operation with external service providers: where for reasons relating to the local situation of the consular post it is not appropriate to equip the consular

office for capturing/collecting biometric identifiers or to organise co-location or a Common Application Centre, a Member State or several Member States jointly may co-operate with an external service provider for the reception of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa applications.

#### *Article 38*

### **Co-operation with external service providers**

1. Cooperation with external service providers shall take the following form:
  - (a) the external service provider acts as a call-centre providing general information on the requirements for applying for a visa and in charge of the appointment system; and/or,
  - (b) the external service provider provides general information on the requirements for applying for a visa, collects applications, supporting documents and biometric data from visa applicants and collects the handling fee (as provided for in Article 16) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.
2. 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 interests.
3. External service providers shall not have access to the VIS for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.
4. The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46/EC. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall within local consular cooperation inform the diplomatic missions and consular posts of other Member States and the Commission delegation why the contract is necessary.

5. In addition to the obligations set out in Article 17 of Directive 95/46/EC, 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 the VIS Regulation;
  - (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.
6. 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.
7. The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Article 16.
8. 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.

#### *Article 39*

#### **Organisational aspects**

1. 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.



2. 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.
3. 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.

#### *Article 40*

##### **Submission of visa applications by commercial intermediaries**

1. For repeated applications within the meaning of Article 11(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); hereinafter: "commercial intermediaries") for the collection of applications, supporting documents and the handling fee and the transmission of completed files to the diplomatic mission or consular post of the Member State competent for the processing of the application.
2. Before granting accreditation to commercial intermediaries carrying out the tasks described in paragraph 1, Member States' diplomatic missions and consular posts shall, in particular, verify the following aspects:
  - (a) the current status of the intermediary: current licence, the commercial register, contracts with banks;
  - (b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;
  - (c) contracts with airlines, which must include outward and guaranteed, fixed return journeys.
3. Accredited commercial intermediaries shall be monitored constantly by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation, verification that the travel medical insurance provided is adequate and covers individual travellers, and wherever possible, verification of the documents relating to group return.
4. Within local consular cooperation, information shall be exchanged on irregularities detected, refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to effect scheduled trips.
5. Within local consular cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each diplomatic mission or

consular post or from which accreditation has been withdrawn, together with the reasons for any such withdrawal.

Each diplomatic mission or consular post shall make sure that the public is informed about the list of accredited intermediaries with which it cooperates.

#### *Article 41*

##### **Information of the general public**

1. Member States and their diplomatic missions or consular posts shall provide the general public with all relevant information in relation to the application for a visa:
  - (a) the criteria, conditions and procedures for applying for a visa;
  - (b) the means of obtaining an appointment, if applicable;
  - (c) where the application should be submitted (competent diplomatic mission or consular post, common application centre or external service provider).
2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 three months before such arrangements enter into force. This information shall contain details of possible categories of applicants who must apply directly at a diplomatic mission or consular post of the represented Member.
3. The general public as well as the host country's authorities shall be informed that the stamp as provided for by Article 17 has no legal implications.
4. The general public shall be informed of the time limits for examining visa applications provided for in Article 20(1). It shall also be informed of the third countries whose nationals or specific categories of such nationals are subject to prior consultation as set out in Annexes I and II.
5. The general public shall be informed that negative decisions on visa applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal. Information shall be given on the possibilities of appeal, the competent legal instance, as well as the time-limit for lodging an appeal.
6. The general public shall be informed that mere possession of a visa does not confer automatic right of entry and that the holders of visa may be requested to present supporting documents at the border.
7. The general public shall be informed about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency.

## TITLE IV: Local Consular Cooperation

### *Article 42*

#### **Member States' diplomatic missions and consular posts' local consular cooperation**

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' diplomatic missions and consular posts and the Commission shall cooperate within each jurisdiction and assess the need to establish in particular:
  - (a) a harmonised list of supporting documents to be submitted by applicants, taking into account Article 14 and Annex IV;
  - (b) common criteria for examining visa applications, in particular in relation to the requirement that the applicant hold travel medical insurance (including the exemptions and the impossibility to acquire locally appropriate travel medical insurance), the handling fee, the use of the stamp indicating that a visa has been applied for and matters relating to the application form.
  - (c) common criteria for treating the different types of travel documents and an exhaustive list of travel documents issued by the host country, which shall be updated regularly.
  - (d) a harmonised approach in relation to cooperation with external service providers and commercial intermediaries.

If regarding one or more of the points (a) to (d), the assessment within the local consular cooperation confirms the need for a local harmonised approach, measures on such a harmonised approach shall be adopted pursuant to the procedure provided by Article 46(2).

2. Within local consular cooperation shall be established a common information sheet on short-stay visa, transit and airport transit visas (the rights that it implies, the conditions for applying for it).
3. The following information shall be exchanged within local consular cooperation:
  - (a) monthly statistics on short-stay visas, visas with limited territorial validity, transit visas and airport transit visas issued, as well as the number of rejected visa applications,
  - (b) information on
    - (i) the socio-economic structure of the host country;
    - (ii) sources of information at local level (on social security, health insurance, fiscal registers, entry-exit registrations etc.);
    - (iii) the use of false and falsified documents;

- (iv) illegal immigration routes;
  - (v) refusals;
  - (vi) cooperation with airline companies;
  - (vii) insurance companies providing adequate travel medical insurance (including verification of type of coverage, possible excess amount).
4. Local consular cooperation meetings among Member States and Commission to deal specifically with operational issues in relation to the application of the common visa policy shall be organised once a month. These meetings shall be convened by the Commission, unless otherwise agreed at the request of the Commission within the jurisdiction.
- Single-topic meetings may be organised and sub-groups set up to study specific issues within local consular cooperation.
5. Summary reports of local consular cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of reports to a Member State. The diplomatic mission or consular post of each Member State shall forward the reports to their central authorities.
- On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council.
6. Representatives of diplomatic missions or consular posts of Member States not applying the community acquis in relation to visas, or of third countries, may, on an ad hoc bases, be invited to participate in meetings for the exchange of information on specific issues relating to the issuance of visa.
7. Issues of particular general interest or which cannot be solved locally shall be submitted by the Commission to the Council for examination.

## **TITLE V: Final provisions**

### *Article 43*

#### **Exceptional arrangements**

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuance of visa set out in Annex XIII.

### *Article 44*

#### **Amendments to the Annexes**

- (1) Annexes III, IV, V, VI, VIII, IX, X and XI shall be amended in accordance with the procedure referred to in Article 46(2).

- (2) Without prejudice to Article 47(2) the changes of Annexes I and II shall be decided in accordance with the procedure set out in Article 46(2).

#### *Article 45*

### **Instructions on the practical application of the Visa Code**

Operational instructions establishing the harmonised practices and procedures to be followed by Member States' diplomatic posts and consular missions when processing visa applications shall be drawn up in accordance with the procedure referred to in Article 46(2).

#### *Article 46*

### **Committee**

1. The Commission shall be assisted by a committee, hereinafter "the Visa Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.

3. The Visa Committee shall adopt its rules of procedure.

#### *Article 47*

### **Notification**

1. Member States shall notify the Commission of:
  - (a) Situations of representation referred to in Article 7;
  - (b) the list of third countries for which information procedures referred to in Article 9(3) are required;
  - (c) the additional national entries in the "comments" section of the visa sticker as referred to in Article 25(2);
  - (d) authorities competent for extending visas, referred to in Article 28(3);
  - (e) the situations of cooperation referred to in Article 37;
  - (f) statistics on all types of visas issued every six months (1<sup>st</sup> March and 1<sup>st</sup> September of each calendar year) using the uniform table for exchanging statistics.

The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via a constantly updated electronic publication.

2. Member States shall also notify the Commission of envisaged changes of the lists of third countries for which the prior consultation or information procedures referred to in Articles 8 and 9 are required.

#### *Article 48*

##### **Repeals**

1. Articles 9 to 17 of the Convention implementing the Schengen Agreement of 14 June 1985 are replaced.
2. The following shall be repealed:
  - (a) The Common Consular Instructions, including the annexes.
  - (b) The decisions of the Schengen Executive Committee of 14 December 1993 (SCH/Com-ex (93) 21), (SCH/Com-ex (93)24) (SCH/Com-ex (94) 25), (SCH/Com-ex (98)12) SCH/Com-ex (98)57.
  - (c) Joint Action 96/197/JHA of 4 March 1996 adopted by the Council on the basis of Article K.3 of the TEU on airport transit arrangements.
  - (d) Regulation (EC) No 789/2001.
  - (e) Regulation (EC) No 1091/2001.
  - (f) Regulation (EC) No 415/2003.
3. References to repealed instruments shall be construed as references to this Regulation and read in accordance with the correlation table in Annex XIV.

#### *Article 49*

##### **Entry into force**

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

It shall apply 6 months after that day of its entry into force. Articles 46 and 47 shall apply from the date of entry into force.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

**ANNEX I: LIST OF THIRD COUNTRIES FOR WHICH PRIOR CONSULTATION  
OF MEMBER STATES' OWN CENTRAL AUTHORITIES IS REQUESTED,  
PURSUANT TO ARTICLE 8 OF THE COMMUNITY CODE ON VISAS**

Within the framework of agreements on representation the central authorities of the representing Member State shall consult the authorities of the represented Member State, pursuant to Article 9(2) of the Community Code on Visas.



**ANNEX II: LIST OF THIRD COUNTRIES FOR WHICH PRIOR CONSULTATION  
OR INFORMATION OF THE CENTRAL AUTHORITIES OF OTHER MEMBER  
STATES' IS REQUESTED, PURSUANT TO ARTICLE 9 OF THE COMMUNITY  
CODE ON VISAS**

The indication (\*) means that only information on issued visas is requested, pursuant to Article 9(3) of the Community Code on Visas

**ANNEX III: HARMONISED APPLICATION FORM**



Photo

Stamp Embassy or  
Consulate

**Application for Schengen Visa**

This application form is free

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

\* 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.



Statement to be signed by the applicant:

I am aware of and consent to the following: the taking of my photograph and, if applicable, the of finger prints, 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]*.

At my express request, 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 altered or deleted, in particular, should they be inaccurate, in accordance with the national law of the state concerned.

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 request, 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

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 DOCUMENTS**

**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;
- (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 reasons:
  - 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.

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

- 1) return or roundticket;
- 2) proof of financial means;
- 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.

**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 13(1) of the Visas 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"/> <b>declare being able to accommodate* :</b>		
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"/> <b>declare being able to bear living costs and repatriation *</b>		
- 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 12 (1)(b) 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 is stored and handled by the services receiving this form, that it is 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 buy the Member State concerned] :

- reference to penalties for giving false data;
- reference to penalties for facilitating irregular stay.

- ....

- the original 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 invitee

Date..... Stamp of the competent authority

Documents to be attached:

- **copy the invitee's ID card or of the biodata-page of his/her passport;**
- **proof of residence (ex.: property title deeds, rental agreement, 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 ad the duration of stay of the invited person(s)

Date:

Place:

Stamp of the competent authority:



**ANNEX VI: UNIFORM FORMAT OF STAMP INDICATING THAT AN APPLICATION FOR A VISA HAS BEEN LODGED**

... <sup>25</sup> visa	... <sup>26</sup>	R/ ... <sup>27</sup>
xx/xx/xxxx <sup>28</sup>	..... <sup>29</sup>	

Example :

C visa	FR	R/ IT
22/04/2006	Consulat de France	
	Djibouti	

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<sup>25</sup> Code of the visa applied for.

<sup>26</sup> Code of the Member State processing the application.

<sup>27</sup> If applicable, code of the Member State represented by the Member State processing the visa application.

<sup>28</sup> Date of application (six digits: xx day, xx month, xxxx year)

<sup>29</sup> Authority processing the visa application

**ANNEX VII: COMMON LIST OF THIRD COUNTRIES, LISTED IN REGULATION  
(EC) No 539/2001, ANNEX I, WHOSE NATIONALS ARE REQUIRED TO BE IN  
POSSESSION OF AN AIRPORT TRANSIT VISA WHEN PASSING THROUGH THE  
INTERNATIONAL TRANSIT AREA OF AIRPORTS SITUATED IN THE  
TERRITORY OF THE MEMBER STATES**

AFGHANISTAN

BANGLADESH

CONGO (Democratic Republic)

ERITREA

ETHIOPIA

GHANA

IRAN

IRAQ

NIGERIA

PAKISTAN

SOMALIA

SRI LANKA

**ANNEX VIII: LIST OF THE RESIDENCE PERMITS ENTITLING THEIR  
HOLDERS TO TRANSIT THROUGH THE AIRPORTS OF MEMBER STATES  
WITHOUT REQUIRING AN AIRPORT TRANSIT VISA**

ANDORRA:

- *Tarjeta provisional de estancia y de trabajo* (provisional residence and work permit) (white). These are issued to seasonal workers; the period of validity depends on the duration of employment, but never exceeds 6 months. This permit is not renewable
- *Tarjeta de estancia y de trabajo* (residence and work permit) (white). This permit is issued for 6 months and may be renewed for another year
- *Tarjeta de estancia* (residence permit) (white). This permit is issued for 6 months and may be renewed for another year
- *Tarjeta temporal de residencia* (temporary residence permit) (pink). This permit is issued for 1 year and may be renewed twice, each time for another year
- *Tarjeta ordinaria de residencia* (ordinary residence permit) (yellow). This permit is issued for 3 years and may be renewed for another 3 years
- *Tarjeta privilegiada de residencia* (special residence permit) (green). This permit is issued for 5 years and is renewable, each time for another 5 years
- *Autorización de residencia* (residence authorisation) (green). This permit is issued for one year and is renewable, each time for another 3 years
- *Autorización temporal de residencia y de trabajo* (temporary residence and work authorisation) (pink). This permit is issued for 2 years and may be renewed for another 2 years
- *Autorización ordinaria de residencia y de trabajo* (ordinary residence and work authorisation) (yellow). This permit is issued for 5 years
- *Autorización privilegiada de residencia y de trabajo* (special residence and work authorisation) (green). This permit is issued for 10 years and is renewable, each time for another 10 years

CANADA:

- Permanent resident card (plastic card)

JAPAN:

- Re-entry permit to Japan

MONACO:

- *Carte de séjour de résident temporaire* de Monaco (temporary resident's permit)

- *Carte de séjour de résident ordinaire* de Monaco (ordinary resident's permit)
- *Carte de séjour de résident privilégié* (privileged resident's permit)
- *Carte de séjour de conjoint de ressortissant monégasque* (residence permit for the spouse of a Monegasque national)

SAN MARINO:

- *Permesso di soggiorno ordinario (validità illimitata)* [ordinary residence permit (no expiry date)]
- *Permesso di soggiorno continuativo speciale (validità illimitata)* [special permanent residence permit (no expiry date)]
- *Carta d'identità de San Marino (validità illimitata)* [San Marino identity card (no expiry date)]

UNITED STATES OF AMERICA:

- Form I-551 permanent resident card (valid for 2 to 10 years)
- Form I-551 Alien registration receipt card (valid for 2 to 10 years)
- Form I-551 Alien registration receipt card (no expiry date)
- Form I-327 Re-entry document (valid for 2 years – issued to holders of a I-551)
- Resident alien card (valid for 2 or 10 years or no expiry date. This document guarantees the holder's return only if his or her stay outside the USA has not exceeded one year.)
- Permit to re-enter (valid for 2 years. This document guarantees the holder's return only if his or her stay outside the USA has not exceeded two years.)
- Valid temporary residence stamp in a valid passport (valid for one year from the date of issue)

**ANNEX IX: STANDARD FORM FOR NOTIFYING AND MOTIVATING REFUSAL  
OF A VISA**

**DIPLOMATIC MISSION OR  
CONSULAR POST OF MEMBER STATE**

\_\_\_\_\_



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**REFUSAL OF VISA,**

**in accordance with Article 23 of the Community Code on visas**

Dear Mr/Ms \_\_\_\_\_,

The \_\_\_\_\_ Embassy/Consulate-General/Consulate in \_\_\_\_\_ has [on behalf of (*name of represented Member State*)] examined your visa application dated xx Month 200x. The visa has been refused.

The refusal of your visa is based on one or several of the following reasons (marked with a tick) which prevent the issue of a visa:

- a false/counterfeit/forged travel document was submitted
- the purpose and conditions of your stay could not be ascertained
- your intention of return to your country of origin could not be ascertained
- proof of sufficient means of subsistence in relation to the period and form of stay, or the means to return to the country of origin or transit, was not provided
- you have already stayed for three months during a 6-month period on the territory of the Member States
- an alert has been issued for the purposes of refusing entry
  - in the SIS by .....(*indication of Member State*)
  - in the national register
- one or more Member State(s) consider you to be a threat to public policy, internal security, public health or the international relations of one or more of the Member States of the European Union (*each Member State must indicate the references to national legislation relating to such cases of refusal of entry*).
- you did not provide sufficient proof of urgency justifying application for a visa at the border

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<sup>30</sup> No logo is required for Norway, Iceland and Switzerland.

Date and Stamp of diplomatic mission or consular post

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Signature of person concerned

## ANNEX X: FILLING IN THE VISA STICKER

### I. Common entries section

#### 1.1. "VALID FOR" heading:

This heading indicates the territory in which the visa holder is entitled to travel.

This heading may be completed in one of the following ways only:

- (a) Schengen States;
- (b) Schengen State or Schengen States to whose territory the validity of the visa is limited (in this case the following abbreviations are used):

A = Austria

BNL = Belgium, the Netherlands and Luxembourg

CY=Cyprus

CZE=the Czech Republic

D = Germany

DK= Denmark

E = Spain

EST=Estonia

F= France

FIN = Finland

GR = Greece

H= Hungary

I = Italy

L T= Lithuania

LVA=Lativa

M=Malta

P= Portugal

PL=Poland

P = Portugal,

S = Sweden

SK=Slovakia

SVN=Slovenia

IS = Iceland

N = Norway

- (c) Member State (using the abbreviations in (b)) which issued the national long-stay visa

1.2. When the sticker is used to issue the uniform short-stay or transit visa the heading "valid for" is filled in using the words "Schengen States", in the language of the Member State which issued the visa.

1.3. When the sticker is used to issue visas which restrict entry, stay and exit to the territory of one Member State, this heading shall be filled in with the name of the Member State to which the visa holder's entry, stay and exit are limited, in the language of that Member State.

1.4. When the sticker is used to issue visas with limited territorial validity pursuant to Article 21(1)(c) of this Regulation, the following options for the codes to be entered may be used:

- (a) entry of the codes for the Member States concerned;
- (b) entry of the words "Schengen States", followed in brackets by the minus sign and the codes of the Member States for whose territory the visa is not valid.

2. "FROM ... TO" heading:

This heading indicates the period of the holder's stay as authorised by the visa.

The date from which the visa holder may enter the territory for which the visa is valid is written as below, following the word "FROM":

- the day is written using two digits, the first of which is a zero if the day in question is a single digit.
- horizontal dash.
- the month is written using two digits, the first of which is a zero if the month in question is a single digit.
- horizontal dash.
- the year is written using two digits, which correspond with the last two digits of the year.
- For example: 05-12-07 = 5 December 2007.

The date of the last day of the period of the visa holder's authorised stay is entered after the word "TO". The visa holder must have left the territory for which the visa is valid by midnight on this date

This date is written in the same way as the first date above.

3. "NUMBER OF ENTRIES" heading:

This heading shows the number of times the visa holder may enter the territory for which the visa is valid, i.e. it refers to the number of periods of stay which may be spread over the entire period of validity, see 4.

The number of entries may be one, two or more. This number is written to the right hand-side of the pre-printed part, using "01", "02" or the abbreviation "MULT", where the visa authorises more than two entries.

For a transit visa, only one or two entries may be authorised ("01" or "02" is entered). Multiple entries shall be indicated as "MULT".

The visa is no longer valid when the total number of exits made by the holder equals the number of authorised entries, even if the holder has not used up the number of days authorised by the visa.



4. "DURATION OF VISIT ... DAYS" heading

This heading indicates the number of days during which the holder may stay in the territory for which the visa is valid. This stay may be continuous or, depending on the number of days authorised, spread over several periods between the dates mentioned under 2, bearing in mind the number of entries authorised under 3.

The number of days authorised is written in the blank space between "DURATION OF VISIT" and "DAYS", in the form of two digits, the first of which is a zero if the number of days is less than 10.

The maximum number of days that can be entered under this heading is 90 in any half-year.

When a visa valid for more than six months is issued, the mention of 90 days means 90 days within every 6 months.

5. "ISSUED IN ... ON ..." heading

This heading gives the name of the town in which the diplomatic mission or consular post which is issuing the visa is situated. The date of issue is indicated after "ON".

The date of issue is written in the same way as the date referred to in 2.

6. "PASSPORT NUMBER" heading:

This heading indicates the number of the travel document to which the visa sticker is affixed.

In case the person to which the visa is issued is included in the passport of spouse, mother or father, the number of the travel document of that person shall be indicated.

When the applicants' travel document is not recognised by the visa-issuing Member State, the uniform format for the separate sheet for affixing visas shall be used for affixing the visa.

The number to be entered under this heading, in the case of the visa sticker is affixed to the separate sheet, is not the passport number but the same typographical number as appears on the form, made up of six digits.

7. "TYPE OF VISA" heading:

In order to facilitate matters for the control authorities, this heading shall specify the type of visa using the letters A, B, C and D as follows:

A: airport transit visa

B: transit visa

LTV B: transit visa with limited territorial validity

C: short-stay visa

LTV C: short-stay visa with limited territorial validity

D: long-stay national visa

8. "SURNAME AND FIRST NAME" heading:

The first word in the "surname" box followed by the first word in the "first name" box of the visa holder's travel document shall be written in that order. The diplomatic mission or consular post shall verify that the name and first name which appear in the travel document and which are to be entered under this heading and in the section to be electronically scanned are the same as those appearing in the visa application.

9. Mandatory entries to be added in the "COMMENTS" section

a) Code indicating "No Insurance Required"

In case the holder of the visa has been exempted from the requirement of being in possession of a travel medical insurance, as set out in Article 15, the code "N-INS" shall be entered in this section.

b) Code indicating that proof of accommodation and/or bearing of costs by the invitee has been submitted

In case the applicant has submitted

- proof of accommodation, when applying for a visa, the code "Annex IV-H", shall be added
- proof of bearing of costs, when applying for a visa, the code "Annex IV-G", shall be added

When proof of both has been submitted, the code "Annex IV-H+G" shall be added.

II. National entries in "COMMENTS" section

This section shall also contain the comments in the language of the visa-issuing Member State relating to national provisions. However, such comments may not duplicate the mandatory comments referred to in part I of this Annex.

III. Section for the photograph

The visa-holder's photograph, in colour, shall be integrated in the space reserved for that purpose. The following rules shall be observed with respect to the photograph to be integrated into the visa sticker.

The size of the head from chin to crown shall be between 70% and 80% of the vertical dimension of the surface of the photograph.

The minimum resolution requirements shall be:

- 300 pixels per inch (ppi), uncompressed, for scanning,
- 720 dots per inch (dpi) for colour printing of photos.

IV. Machine-readable zone

This section is made up of two lines of 36 characters (OCR B-10 cpi).

**ANNEX XI: UNIFORM FORMAT FOR THE STAMP FOR EXTENDING THE  
DURATION OF STAY AUTHORISED BY A VISA**

VISA n°	
7.3.06 <sup>31</sup>	15.3.06 <sup>32</sup>
30 <sup>33</sup>	35 <sup>34</sup>
Ausländeramt <sup>35</sup>	20.2.06 <sup>36</sup>

- 
- <sup>31</sup> Date of expiration of the period of validity.  
<sup>32</sup> Length of initial authorised period of stay.  
<sup>33</sup> New date of expiration of the period of validity.  
<sup>34</sup> New length of authorised stay.  
<sup>35</sup> Authority taking the decision on the extension.  
<sup>36</sup> Date of the decision of the extension.

**ANNEX XII Part 1: OPERATIONAL INSTRUCTIONS FOR ISSUING VISAS AT  
THE BORDER TO SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA  
REQUIREMENTS**

The objective of these operational instructions is to provide rules for the exchange of information between the competent authorities of the Member States applying the Community acquis with respect to seamen in transit subject to visa requirements. Insofar as a visa is issued at the border on the basis of the information that has been exchanged, the responsibility lies with the Member State issuing the visa.

For the purposes of these operational instructions:

"Member State port": means a port constituting an external border of a Member State

"Member State airport": means an airport constituting an external border of a Member State;  
and

I. Signing on a vessel berthed or expected at a Member State port

- (a) entry into the Member States' territory via an airport situated in another Member State
  - the shipping company or its agent shall inform the competent authorities at the Member State port where the ship is berthed or expected that seamen subject to visa requirements are due to enter via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;
  - the said competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member State territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
  - the competent authorities at the Member State port shall inform the competent authorities at the Member State airport of entry, by means of a duly completed form for seamen in transit who are subject to visa requirements (as set out in Annex XIII, Part 2), sent by fax, electronic mail or other means, of the results of the verification and indicate whether a visa can in principle be issued at the border;
  - where the verification of the available data is positive and the outcome clearly concurs with the seaman's declaration or documents, the competent authorities at the Member State airport of entry or exit can issue a transit visa at the border with a maximum validity of five days. Furthermore, in such cases the seaman's travel document referred to above shall be stamped with a Member State entry or exit stamp and given to the seaman concerned.
- (b) entry into the Member States' territory via a land or sea border situated in another Member State

- the procedure is the same as that for entry via a Member State airport except that the competent authorities at the border post via which the seaman concerned enters the Member State territory shall be informed.

## II. Leaving service from a vessel that has entered a Member State port

### (a) exit from the Member States' territory via an airport situated in another Member State

- the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;
- the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
- where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.

### (b) exit from the Member States' territory via a land or sea border situated in another Member State

- the procedure is the same as that for exit via a Member State airport.

## III. Transferring from a vessel that entered a Member State port to a vessel that will sail from a port situated in another Member State

- the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via another Member State port. The shipping company or its agent shall sign a guarantee in respect of those seamen;
- the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The competent authorities at the Member State port from which the seamen will leave the Member States' territory by ship shall be contacted for the examination. A check shall be carried out to establish whether the ship they are joining is berthed or expected there. The travel route within the Member States' territory shall also be verified;
- where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.

**ANNEX XII: Part 2**

<b>FORM FOR SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS</b>			
<b>FOR OFFICIAL USE:</b>			
ISSUER:          (STAMP)    SURNAME/CODE OF OFFICIAL:	RECIPIENT: AUTHORITY		
DATA ON SEAMAN:			
SURNAME(S):	1A	FORENAME(S):	1B
NATIONALITY:	1C	RANK/GRADE:	1D
PLACE OF BIRTH:	2A	DATE OF BIRTH:	2B
PASSPORT NUMBER:	3A	SEAMAN'S BOOK NUMBER:	4A
DATE OF ISSUE:	3B	DATE OF ISSUE:	4B
PERIOD OF VALIDITY:	3C	PERIOD OF VALIDITY:	4C
DATA ON VESSEL AND SHIPPING AGENT:			
NAME OF SHIPPING AGENT:			5
NAME OF VESSEL:	6A	FLAG:	6B
DATE OF ARRIVAL:	7A	ORIGIN OF VESSEL:	7B
DATE OF DEPARTURE:	8A	DESTINATION OF VESSEL:	8B
DATA ON MOVEMENT OF SEAMAN:			
FINAL DESTINATION OF SEAMAN:			9
REASONS FOR APPLICATION: SIGNING ON <input type="checkbox"/>	FOR TRANSFER <input type="checkbox"/>	LEAVING SERVICE <input type="checkbox"/>	10
MEANS OF TRANSPORT: CAR <input type="checkbox"/>	TRAIN <input type="checkbox"/>	AEROPLANE <input type="checkbox"/>	11
DATE OF: ARRIVAL:	TRANSIT:	DEPARTURE:	12
FLIGHT INFORMATION: DATE:	CAR* <input type="checkbox"/> REGISTRATION N° :	TRAIN* <input type="checkbox"/> JOURNEY ROUTE:	TIME: FLIGHT NUMBER:
Formal declaration signed by the shipping agent or the ship-owner confirming his responsibility for the stay and, if <sup>13</sup> necessary, for the repatriation costs of the seaman.			

\* = to be completed only if data available

## DETAILED DESCRIPTION OF FORM

The first four points deal with the identity of the seaman.

- (1) A. Surname(s)<sup>37</sup>  
B. Forename(s)  
C. Nationality  
D. Rank/Grade
- (2) A. Place of birth  
B. Date of birth
- (3) A. Passport number  
B. Date of issue  
C. Period of validity
- (4) A. Seaman's book number  
B. Date of issue  
C. Period of validity

Points 3 and 4 have been shown separately for clarity since, depending on the nationality of the seaman and the Member State being entered, a passport or a seaman's book can be used for identification purposes.

The next four points deal with the shipping agent and the vessel concerned.

- (5) Name of shipping agent (the individual or corporation who represents the ship-owner on the spot in all matters relating to the ship-owner's duties in fitting out the vessel).
- (6) A. Name of vessel  
B. Flag (under which the merchant vessel is sailing)
- (7) A. Date of arrival of vessel  
B. Origin (port) of vessel  
Letter "A" refers to the vessel's date of arrival in the port where the seaman is to sign on.
- (8) A. Date of departure of vessel  
B. Destination of vessel (next port)

Points 7A and 8A give indications regarding the length of time for which the seaman may travel in order to sign on. It should be remembered that the route followed is very much subject to unexpected interferences and external factors such as storms, breakdowns, etc.

The next four points clarify the reason for the seaman's journey and his destination.

- (9) The "final destination" is the end of the seaman's journey. This may be either the port at which he is to sign on or the country to which he is heading if he is leaving service.
- (10) Reasons for application

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<sup>37</sup> Please give the surname(s) that appear in the passport.

- (a) In the case of signing on, the final destination is the port at which the seaman is to sign on.
- (b) In the case of transfer to another vessel within the Member States' territory, it is also the port at which the seaman is to sign on. Transfer to a vessel situated outside the Member States' territory must be regarded as leaving service.
- (c) In the case of leaving service, this can occur for various reasons, such as end of contract, accident at work, urgent family reasons, etc.

(11) Means of transport

List of means used within the Member States' territory by the seaman in transit who is subject to a visa requirement to reach his final destination. On the form, the following three possibilities are envisaged:

- (a) Car (or coach)
- (b) Train
- (c) Aeroplane

(12) Date of arrival (on the Member States' territory)

Applies primarily to a seaman at the first Member State airport or border-crossing point (since it may not always be an airport) at the external border via which he wishes to enter the Member States' territory.

Date of transit

This is the date on which the seaman signs off at a port in the Member States' territory and heads towards another port also situated in the Member States' territory.

Date of departure

This is the date on which the seaman signs off at a port in the Member States' territory to transfer to another vessel at a port situated outside the Member States' territory or the date on which the seaman signs off at a port in the Member States' territory to return to his home (outside the Member States' territory).

After determining the three means of travel, available information should also be provided concerning those means:

- (a) car, coach: registration
- (b) train: name, number, etc.
- (c) flight data: date, time, number

(13) Formal declaration signed by the shipping agent or the ship- owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seaman

If the seamen are travelling in a group, each one has to fill in the data for points 1A to 4C.



**ANNEX XIII: SPECIFIC PROCEDURES AND CONDITIONS FACILITATING THE  
ISSUANCE OF VISAS TO MEMBER OF THE OLYMPIC FAMILY  
PARTICIPATING IN THE OLYMPIC GAMES AND PARLYMPIC GAMES**

**Chapter I**

PURPOSE AND DEFINITIONS

*Article 1*

*Purpose*

The following specific procedures and conditions facilitating the application for visas and issuing of uniform short-stay visas to members of the Olympic family for the duration of the [year] Olympic and Paralympic Games.

In addition, the relevant provisions of the Community *acquis* concerning procedures for applying for and issuing the uniform visa apply.

*Article 2*

*Definitions*

For the purposes of this Regulation:

- 1) "Responsible organisations" relating to measures envisaged to facilitate the procedures for applying for and issuing visas for members of the Olympic family taking part in the [year] Olympic and/or Paralympic Games means the official organisations, in terms of the Olympic Charter, which are entitled to submit lists of members of the Olympic family to the Organising Committee of the [year] Olympic and Paralympic Games with a view to the issue of accreditation cards for the Games;
- 2) "Member of the Olympic family" means any person who is a member of the International Olympic Committee, the International Paralympic Committee, International Federations, the National Olympic and Paralympic Committees, the Organising Committees of the Olympic Games and the national associations, such as athletes, judges/referees, coaches and other sports technicians, medical personnel attached to teams or individual sportsmen/women and media-accredited journalists, senior executives, donors, sponsors or other official invitees, who agree to be guided by the Olympic Charter, act under the control and supreme authority of the International Olympic Committee, are included on the lists of the responsible organisations and are accredited by the Organising Committee of the [year] Olympic and Paralympic Games as participants in the [year] Olympics and/or Paralympic Games;
- 3) "Olympic accreditation cards" issued by the Organising Committee of the [year] Olympic and Paralympic Games, in accordance with [reference to national legislation] means one of two secure documents, one for the Olympic Games and one for the Paralympic Games, each bearing a photograph of its holder, establishing the identity of the member of the Olympic family and authorising access to the

facilities at which competitions are held and to other events scheduled throughout the duration of the Games;

- 4) "Duration of the Olympic Games and Paralympic Games" means the period from .... To ..... for the [year] Winter Olympic Games and the period from ..... to ..... for the [year] Paralympic Games;
- 5) "Organising Committee of the [year] Olympic and Paralympic Games" means the Committee set up on [reference to national provisions] to organise the [year] Olympic and Paralympic Games in.... , which decides on accreditation of members of the Olympic family taking part in those Games;
- 6) "Services responsible for issuing visas" means the services designated in [the Member State hosting the Olympic Games and Paralympic Games] to examine applications and issue visas to members of the Olympic family.

## Chapter II

### ISSUE OF VISAS

#### *Article 3*

#### *Conditions*

A visa may be issued pursuant to this Regulation only where the person concerned:

- (a) has been designated by one of the responsible organisations and accredited by the Organising Committee of the [year] Olympic and Paralympic Games as a participant in the [year] Olympic and/or Paralympic Games;
- (b) holds a valid travel document authorising the crossing of the external borders, as referred to in Article 5 of the Schengen Borders Code<sup>38</sup>;
- (c) is not a person for whom an alert has been issued for the purposes of refusing entry;
- (d) is not considered to be a threat to public policy, national security or the international relations of any of the Member States.

#### *Article 4*

#### *Filing of the application*

1. Where a responsible organisation draws up a list of the persons selected to take part in the [year] Olympic and/or Paralympic Games, it may, together with the application for an Olympic accreditation card for the persons selected, file a collective application for visas for those persons selected who are required to be in possession of a visa in accordance with Regulation (EC) No 539/2001, except where those persons hold a residence permit issued by a Member State, or a residence

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<sup>38</sup> OJ L 105, 13.4.2006.

permit, issued by United Kingdom or Ireland, in accordance with Directive 2004/38/EC.

2. Collective applications for visas for the persons concerned shall be forwarded at the same time as applications for the issue of an Olympic accreditation card to the Organising Committee of the [year] Olympic and Paralympic Games in accordance with the procedure established by it.
3. A single visa application per person shall be filed for persons taking part in the [year] Olympic and/or Paralympic Games.
4. The Organising Committee of the [year] Olympic and Paralympic Games shall forward to the services responsible for issuing visas, collective applications for visas as quickly as possible, together with copies of applications for the issue of an Olympic accreditation card for the persons concerned, bearing their full name, nationality, sex and date and place of birth and the number, type and expiry date of their passport.

#### *Article 5*

##### *Examination of the collective application for visas and type of the visa issued*

1. The visa shall be issued by the services responsible for issuing visas following an examination designed to ensure that the conditions set out in Article 3 are met.
2. The visa issued shall be a uniform short-stay, multiple entry visa authorising a stay of not more than 3 months for the duration of the [year] Olympics and/or Paralympic Games.
3. Where the member of the Olympic family concerned does not meet the conditions set out in point (c) or (d) of Article 3, the services responsible for issuing visas may issue a visa with limited territorial validity in accordance with Article of the Code on Visas.

#### *Article 6*

##### *Form of the visa*

1. The visa shall take the form of two numbers entered on the Olympic accreditation card. The first number shall be the visa number. In the case of a uniform visa, that number shall be made up of seven (7) characters comprising six (6) digits preceded by the letter "C". In the case of a visa with limited territorial validity, that number shall be made up of eight (8) characters comprising six (6) digits preceded by the letters "IT". The second number shall be the number of the passport of the person concerned.
2. The services responsible for issuing visas shall forward the visa numbers to the Organising Committee of the [year] Olympic and Paralympic Games for the purposes of issuing accreditation cards.

## *Article 7*

### *Waiver of fees*

The processing of visa applications and the issue of visas shall not give rise to any fees being charged by the services responsible for issuing visas.

## **Chapter III**

### GENERAL AND FINAL PROVISIONS

## *Article 8*

### *Cancellation of a visa*

Where the list of persons put forward as participants in the [year] Olympic and/or Paralympic Games is amended before the Games begin, the responsible organisations shall inform without any delay the Organising Committee of the [year] Olympic and Paralympic Games thereof so that the accreditation cards of the persons removed from the list may be revoked. The Organising Committee shall notify the services responsible for issuing visas thereof and shall inform them of the numbers of the visas in question.

The services responsible for issuing visas shall cancel the visas of the persons concerned. They shall immediately inform the authorities responsible for border checks thereof, and the latter shall without delay forward that information to the competent authorities of the other Member States.

## *Article 9*

### *External border checks*

1. The entry checks carried out on members of the Olympic family who have been issued visas in accordance with this Regulation shall, when such members cross the external borders of the Member States, be limited to checking compliance with the conditions set out in Article 3.
2. For the duration of the Olympic and/or Paralympic Games:
  - (a) entry and exit stamps shall be affixed to the first free page of the passport of those members of the Olympic family for whom it is necessary to affix such stamps in accordance with Article 10(1) of the Schengen Borders Code . Upon first entry, the visa number shall be indicated on that same page;
  - (b) the conditions for entry provided in Article 5(1)(c) of the Schengen Borders Code shall be presumed to be fulfilled once a member of the Olympic family has been duly accredited.
3. Paragraph 2 shall apply to members of the Olympic family who are third-country nationals, whether or not they are subject to the visa requirement under Regulation (EC) No 539/2001.

**ANNEX XIV: CORRELATION TABLE**

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
<b>Title I</b>  <b>General provisions</b>	
Article 1 Objective and scope	CCI, I.1. Scope (CSA Articles 9 and 10)
Article 2 Definitions (1)-(4)	CCI: I. 2. Definitions and types of visas (p.10)  CCI: Part IV “Legal basis”  CSA: Articles 11(2), 14(1), 15, 16
Article 2(5) Airport transit visa	Joint Action 96/197/JHA (L 63/1996), CCI 2.1.1
Article 2(6), (7) and (8) Recognised travel document  Visa sticker  Separate sheet for affixing a visa	     Regulation 333/2002, Article 1 (1)
<b>Title II</b>  <b>Receipt and processing of the visa application</b>  <b>Chapter I</b>  <b>Authorities taking part in the processing of visa applications</b>	
Article 3 Authorities competent for processing visa applications	CCI, II 1.1(a) (b) & II. 4. Annex 6=deleted  CSA, Art. 12(1)(2)
Article 4 Territorial competence	CCI, II, 1.1 & 3

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
Article 5 Criteria for determining the Member State responsible for processing the visa application	CCI, II 1.1(a) (b) & II. 4. Annex 6=deleted CSA, Art. 12(1)(2)
Article 6(1) Competence in relation to issuance of visas to 3 <sup>rd</sup> country nationals legally present within a Member State's territory	-
Article 6(2)	Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3(2)(b) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State
Article 7 Agreements on representation	CCI, II, 1.2
Articles 8 Prior consultation of the Member State's own central authorities	CCI, II, 2.1
Article 9 Prior consultation of the central authorities of other Member States	CCI, II, 2.3 & V, 2.3(a)-(d)
<b>Chapter II</b> <b>The application</b>	
Article 10 Submission of an application	-
Article 11 Capturing of biometric data	-

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
Article 12 Admissibility of an application	-
Article 13 The application form	CCI, III .1
Article 14 Supporting documents	CCI, III.2 and V. 1.4
Article 15 Travel medical insurance	CCI, V, 1.4
Article 16 The handling fee	CCI VII, 4. and Annex 12
Article 17 Stamp indicating that an application has been lodged	Part VIII, 2
<b>Chapter III</b>	
<b>Examination and processing of visa applications</b>	
Article 18 Examination of the application	CCI, III .4, V.1, CSA 13(2)
Article 19 Inadmissibility	-
Article 20 Decision on the visa application	CCI, V. 2.1 (2 <sup>nd</sup> indent), 2.2, CCI
Article 21 Visas with limited territorial validity	CCI, V, 3 & Annex 14, CSA 11(2), 14(1) & 16

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
Article 22 Airport Transit Visa	CCI, I, 2.1.1 – Joint Action 96/197/JHA (L 63/1996)
Article 23 Refusal to issue a visa	CCI, 2.4,
Article 24 (& Annex X) Filling in the visa sticker	CCI, VI; 1-2-3-4
Article 25 Invalidating completed stickers	CCI, VI, 5.2
Article 26 Affixing visa stickers	CCI, VI, 5.3
Article 27 Uniform format for separate sheet for affixing visa	Regulation (EC) No 333/2002
<b>Chapter IV</b> <b>Modifying the period of validity of an issued visa</b>	
Article 28 Extension of visas	Com-ex (93) 21
Article 29 Annulment of a visa	Com-ex (93) 24 and Annex 14 to the CCI
Article 30 Revocation of a visa	
Article 31 Shortening of the length of duration of stay authorised by a visa	



<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
<b>Chapter V</b> <b>Visas issued at the external borders</b>	
Article 32 Visas issued at the external border	Regulation (EC) No 415/2003
Article 33 Visas issued to seafarers in transit at the external border	
<b>Title III</b> <b>Administrative management and organisation</b>	
Article 34 Organisation of visa sections	CCI , VII, 1-2-3
Article 35 Resources for processing visa applications and monitoring of diplomatic missions and consular posts	-
Article 36 Conduct of processing	-
Article 37 Forms of cooperation in relation to the reception of visa applications	-
Article 38 Cooperation with commercial intermediaries	CCI, VIII, 5.2
Article 39 Information to the general public	-

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
<b>Title IV</b>	
<b>Local consular cooperation</b>	
Article 40 Member States' diplomatic missions and consular posts' local consular cooperation	CCI, VIII, 1-3-4
<b>Title V</b>	
<b>Final provisions</b>	
Article 41 Exceptional arrangements	-
Articles 42	Regulation (EC) No 789/2001
Article 43	-
Articles 44 and 45 Committee	Regulation (EC) No 789/2001, Article 1 Regulation (EC) No 333/2002, Article 6
Article 46 Notification	Regulation (EC) No 789/2001, Article 2
Article 46(1)(f)	SCH Com-ex (94) 25 and (98) 12
Article 47 Amendment of the VIS Regulation	-
Article 48 Repeals	-
Article 49 Entry into force	-
<b>ANNEXES</b>	
Annex I Prior consultation of own central authorities	CCI Annex 5 A and C
Annex II Prior consultation or information of central authorities of central authorities of other MS	CCI Annex 5 B

<i>Provision of this Regulation</i>	<i>Provision of the Schengen Convention (CSA), Common Consular Instruction (CCI) or of the Schengen Executive Committee (SCH/Com-ex) replaced</i>
Annex III Harmonised application form	CCI, Annex 16
Annex IV Non-exhaustive list of supporting documents	Partially CCI, V, 1.4
Annex V Harmonised form for proof of sponsorship	CCI, Annex 15 Com-ex (98) 57
Annex VI Uniform format of stamp indicating that an application has been lodged	CCI, VIII, 2
Annex VII common list of third countries, whose nationals are required to be in possession of an airport transit visa	CCI, Annex 3, Part I
Annex VIII : list of the residence permits entitling their holders to transit through the airports of member states without requiring an airport transit visa	CCI, Annex 3, Part III
Annex IX Harmonised form for motivation of refusal	-
Annex X Filling in the visa sticker	CCI, Part VI, Section 1-4
Annex XI Uniform format for the stamp for extending the duration of the stay	Partially Com-ex (93) 21
Annex XII Part 1: Operational instructions for issuing visas at the border to seamen in transit Part 2: form to be filled in for seamen in transit	Regulation (EC) No 415/2003, Annex I and II