



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 October 2001 (17.10)  
(OR. fr)**

**12708/01**

**LIMITE**

**VISA 114  
COMIX 664**

**NOTE**

---

from :	Belgian delegation
to :	Visa Working Party
Subject :	Draft Council Decision on the adaptation of Part VIII of the Common Consular Instructions

---

Delegations will find attached the draft text of the above Decision.

\_\_\_\_\_

**Draft**  
**COUNCIL DECISION**  
**of**

**on the adaptation of Part VIII of the Common Consular Instructions**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications,

Having regard to the initiative of Belgium,

Whereas:

- (1) It is necessary to ensure the maximum possible harmonisation of the processing of visa applications lodged through travel agencies with the diplomatic and consular representations of the Member States in order to reduce the risks of visa shopping and abuse of procedure.
- (2) It is necessary to ensure harmonised control in conformity with the prescriptions of the Common Consular Instructions on visa applications lodged through travel agencies.

- (3) 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 participating in the adoption of this Decision and is therefore not bound by it or subject to its application. Since this instrument aims to build upon the Schengen acquis under the provisions of Title IV of the Treaty establishing the European Community, in accordance with Article 5 of the said Protocol, Denmark shall decide within a period of six months after the Council has adopted this decision whether it will transpose it into its national law.
- (4) As regards the Republic of Iceland and the Kingdom of Norway, this Decision constitutes a development of the provisions of the Schengen acquis falling within the area referred to in Article 1, point B, of Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application 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.
- (5) Pursuant to Article 1 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, Ireland and the United Kingdom are not participating in the adoption of this Regulation. Consequently, and without prejudice to Article 4 of the aforementioned Protocol, the provisions of this Regulation apply neither to Ireland nor to the United Kingdom.

HAS ADOPTED THIS DECISION:

Article 1

A paragraph 5 is added to Part VIII of the Common Consular Instructions, to read as follows:

**"5. Processing of visa applications lodged through travel agencies:**

The term "travel agency" in this paragraph means any commercial organisation providing a service assisting its clients in obtaining a visa while also selling tickets for transport and making hotel reservations as necessary. This definition therefore excludes "tour operators" in Europe organising tours during which travellers are looked after and assisted over the entire duration of their stay, normally always arranged as a group.

Services as described above are common practice. However, experience gained in this area suggests that diplomatic and consular representations of the Member States should exercise great vigilance in assessing and monitoring applications lodged by travel agencies. They must accordingly adhere to the instructions set out below:

**For all diplomatic and consular representations of the Member States existing in the same locality:**

All representations in the same locality must establish a common working procedure and common procedures for processing visa applications lodged through travel agencies.

Where difficulties appear at local level, the representation of the Member State holding the Presidency of the Council will draw up a report for the attention of its central authority, which will submit it to the Member States through the General Secretariat of the Council.

Representations within the same locality may of course take the decision not to work with travel agencies where local circumstances permit this.

Although this is not desirable, the possibility exists for one or more representations in the same locality to decide not to work with travel agencies, on instructions from its/their national authorities and/or for reasons of special circumstances.

Where a representation decides to work with travel agencies, it must comply with the common practices and procedures laid down by consular cooperation.

**For representations situated in India, South Africa, Russia, China, Ukraine, etc.:**

**Procedures adopted with regard to the applicant**

On travelling for the first time to the Schengen area, the applicant must appear in person (even if his application has already been lodged by the travel agency together with other applications). Where the applicant is known, he may, however, be exempted from this rule (see Ch. III.4 of the CCI).

Where the applicant has already obtained one or more visas from a Schengen representation in the course of the preceding three years, the requirement of making the application in person may be waived on the grounds that there is no reason to doubt the applicant's sincerity (see Ch. V. 1.5 of the CCI). The decision to waive this requirement must be taken in consular cooperation and applied by all the representations of Member States concerned.

The applicant's dossier must of course be complete and the applicant must fulfil the conditions set out in the provisions of Article 5(1)(a), (c) and (d) of the Convention applying the Schengen Agreement (see Ch. IV of the CCI).

Procedures adopted with regard to the travel agency:

1. Representations shall endeavour to draw up a common list of bona fide/suspicious agencies on the basis of criteria to be defined within the framework of consular cooperation. If need be, modifications to this list are always possible. An agency's inclusion on the list or removal from it must be preceded by the reaching of a consensus in consular cooperation.
2. The bona fide character of a new agency must be examined in consular cooperation.
3. It must be possible to examine and verify the company's status once per year, taking account of local legislation. On doing so, representations may assess the past year together with each agency.
4. Travel agencies assume liability in a document drawn up in consular cooperation which lays down the procedure and arrangements for working with all local partners, to which they must adhere.
5. Submission of a false application will result in a written notification. If there is any repetition of this the agency will automatically be put on the "suspicious" list.
6. Travel agencies are asked to make known to all the representations the names of one or two operatives solely designated to work with them (submission to representations of applications and all related correspondence) under the terms laid down at (4) above, as well as specimens of their signatures."

Article 2

This decision shall apply from .....

### Article 3

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at            ,

For the Council  
The President

=====