



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 18 November 1999**

**12973/99**

**LIMITE**

**VISA 88  
COMIX 432**

**NOTE**

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from :	Finnish delegation
to :	Visa Working Party
Subject :	Draft Presidency initiative relating to the updating of the Common Consular Instruction

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Delegations will find attached a draft initiative from the Finnish delegation relating to the updating of the Common Consular Instruction.

**DRAFT INITIATIVE**

of the Republic of Finland

[reserving to the Council implementing powers

with regard to certain detailed provisions and practical procedures for examining visa applications]

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62(2)(a) and (b) and Article 62(3) thereof,

Having regard to the initiative of the Republic of Finland,<sup>1</sup>

Having regard to the Opinion of the European Parliament,<sup>2</sup>

Whereas:

- (1) the Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts (CCI), listed under reference SCH/Com-ex (99) 13 in Annex A to Council Decision 1999/435/EC of 20 May 1999<sup>3</sup> have been established with a view to implementing the provisions of Title II, Chapter 3 of the Convention, signed in Schengen on 19 June 1990, implementing the Schengen Agreement of 14 June 1985 between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, hereinafter referred to as “the Convention”;

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<sup>1</sup> OJ.....

<sup>2</sup> OJ.....

<sup>3</sup> OJ L 176, 10.7.1999, p. 1.

- (2) certain detailed provisions and practical procedures for examining visa applications in the diplomatic missions and consular posts of Member States participating in the closer cooperation referred to in Article 1 of the Schengen Protocol, contained in the CCI and the Annexes thereto, must be adopted and regularly amended and updated to meet the operational requirements of the relevant consular authorities;
- (3) in addition, a Manual of documents to which a visa may be affixed, listed under reference SCH/Com-ex (98) 56 and SCH/Com-ex (99) 14 in Annex A to Council Decision 1999/435/EC of 20 May 1999<sup>1</sup>, has been established pursuant to Annex 11 of the CCI; whereas it is necessary that the provisions of this Manual be regularly adopted, amended and updated to meet the operational requirements of those authorities;
- (4) furthermore, a Manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented, has been established as Document SCH/II (95) 16, 19<sup>th</sup> revision, listed under reference SCH/ Com-ex (99) 13 in Annex A to Council Decision 1999/435/EC of 20 May 1999<sup>2</sup>, whereas it is also necessary that the provisions of this Manual be regularly adopted, amended and updated;
- (5) various provisions of Title II, Chapter 3 of the Convention, and in particular Article 17 thereof, and of the CCI, provide for implementing decisions to be taken by the Executive Committee, established by the Schengen agreements adopted before 1 May 1999, for which the Council has now been substituted, pursuant to Article 2 of the Schengen Protocol; whereas, pursuant to Article 1 of that Protocol, cooperation in the context of the Schengen *acquis* shall be conducted within the institutional and legal framework of the European Union and with respect for the relevant provisions of the Treaty on European Union and of the Treaty establishing the European Community;
- (6) whereas it is therefore appropriate to set out in a Community act the procedure by which such implementing decisions should be taken;

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<sup>1</sup> See footnote 3 above.

<sup>2</sup> See footnote 3 above.

- (7) [in light of the transitional period of five years referred to in Article 67(1) of the Treaty establishing the European Community, during which the Member States have a right of initiative with respect to measures to be taken with respect to visas, reflecting the enhanced role of the Member States in this policy area, and in view of the need to meet the operational requirements of the relevant consular authorities with the requisite degree of urgency, the Council reserves the right to adopt, amend and update the detailed provisions and practical procedures referred to above, pending a review by the Council of the feasibility of conferring such implementing powers on the Commission after the end of this transitional period;]
- (8) some of those provisions and procedures require confidential treatment in order to prevent risk of abuse;
- (9) it is also necessary to provide for a procedure whereby the members of the Council and the Commission are informed without delay of all amendments to the Manual of documents to which a visa may be affixed, to the Manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented, and to those Annexes of the CCI which consist, in whole or in part, of lists of factual information which must be provided by each Member State in accordance with the rules which it currently applies, and which therefore do not fall to be adopted, amended or updated by an act of the Council;
- (10) those elements of the CCI and the Annexes thereto which are not subject to amendment by either of the procedures provided in this Regulation shall be amended in accordance with the provisions of Title IV of the Treaty establishing the European Community, and in particular Articles 62(2)(a) and (b), 62(3) and 67 thereof;

HAS ADOPTED THIS REGULATION:

*Article 1*

The Council, acting unanimously, [at the initiative of one of its members or on a proposal from the Commission], shall amend, as necessary, [Parts II, III, V, VI, VII and VIII of the CCI, as well as Annex 2 (with the exception of Schedule B and excepting the visa requirements relating to those countries mentioned in Schedule A which do not need to be the subject of prior consultation), Parts I and III of Annex 3, 6, 10, 11, 12, 13, 14 and 15] thereto.

To the extent that such amendments concern confidential provisions and procedures, the information contained therein shall be made available only to authorities designated by the Member States and to persons duly authorised by each Member State or by the institutions of the European Union, or otherwise entitled to obtain access to such information.

*Article 2*

Each Member State shall communicate to the Secretary-General of the Council such amendments as it wishes to make to [Part III of Annex 1, Schedule A of Annex 2 (with the exception of the visa requirements relating to the countries mentioned in that Schedule which must be the subject of prior consultation) and Schedule B of Annex 2, Part II of Annex 3, and to Annexes 4, 5, 7 and 9] of the CCI, to the Manual of documents to which a visa may be affixed, and to the Manual concerning the issuance of Schengen visas in third States where all the Schengen States are not represented<sup>1</sup>.

Such amendments shall be deemed to take effect as of the date on which the Secretary-General communicates these amendments to the members of the Council and to the Commission.

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<sup>1</sup> [Once this Manual is updated pursuant to the procedure provided for in this Regulation, it should be renamed “Manual concerning the issuance of uniform visas in third States where the Member States concerned are not represented”].

*Article 3*

The Secretariat General of the Council shall be responsible for the preparation of revised versions of the CCI and the Annexes thereto, in order to incorporate amendments made pursuant to the provisions of Articles 1 and 2 of this Regulation.

*Article 4*

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

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