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## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
establishing a Community Code on Visas  
(COM(2006)0403 – C6-0254/2006 – 2006/0142(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Henrik Lax

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council  
establishing a Community Code on Visas  
(COM(2006)0403 – C6-0254/2006 – 2006/0142(COD))

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0403),
  - having regard to Article 251(2) and Article 62(2)(a) and (b) (ii) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0254/2006),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0161/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

Text proposed by the Commission

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Amendments by Parliament

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Amendment 1  
Recital 5 a (new)

***(5a) Member States should ensure that they provide as much assistance as possible to all applicants when it comes to facilitating the visa application process. Particular attention should be paid to applicants whose place of residence is at a considerable distance from the diplomatic mission or consular post which is dealing with their request. The diplomatic mission or consular post of the responsible Member State should endeavour to ensure that 'one-stop' procedures are possible for as many applicants as possible.***

### *Justification*

*This recital seeks to introduce new ideas for facilitating the visa policy for applicants without rejecting the existing procedure for allocating which Member State is responsible for processing a visa application.*

### Amendment 2

#### Recital 8

(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.

(8) Bilateral agreements concluded between the Community and third countries aiming at facilitating the processing of applications for short-stay visas ***and at strengthening democracy and civil society*** may derogate from the provisions set out in this Regulation. ***Visa facilitation may include inter alia a reduction in or an exemption from visa costs, facilitation of parts of the visa procedure, exemption from the use of biometric data and a more frequent use of multiple-entry visas with a long period of validity. The Commission should provide early and clear information to the European Parliament on such bilateral agreements.***

### Amendment 3

#### Recital 10

(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.

(10) Member States should ensure that the quality of the service offered to the public is ***of a high standard, applicant-oriented*** and follows good administrative practices. To this end they should allocate appropriate numbers of trained staff as well as sufficient resources.

### Amendment 4

#### Recital 10 a (new)

***(10a) Member States should encourage all commercial entities involved in the provision of services connected directly or indirectly with visa applications to give serious consideration to the needs of the***

*applicant. Member States and commercial entities should ensure that any requirements imposed on applicants are proportionate and objective.*

Amendment 5  
Recital 11

**(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.***

**(11) *Biometric identifiers*** establish a more reliable link between the visa holder and the passport in order to avoid false identities.

*Justification*

*The Rapporteur would like to avoid having an absolute statement in the Resolution, since for example in the bilateral agreements the application of biometric identifiers could be waived.*

Amendment 6  
Recital 11 a (new)

***(11a) Detailed guidelines concerning the implementation of this Regulation and the issue of local consular co-operation should include recommendations and suggestions as to how to exploit and use new technologies such as the internet, video conferencing for distance interviews, etc., in order to facilitate the visa application procedure for all applicants.***

*Justification*

*It is important that we ensure coherence and on-going evaluation on important issues linked to the community visa policy such as internet and the use of new technologies.*

Amendment 7  
Recital 13

(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.

(13) ***First time applicants should not be allowed to submit applications via commercial intermediaries, such as travel agencies.*** 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 **59 months** taking into account the retention period laid down in the VIS. After this period the biometric identifiers should be captured again.

Amendment 8  
Recital 15 a (new)

***(15a) Since part of those measures are of general scope and are designed to amend non-essential elements of this Regulation or to supplement this Regulation, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.***

*Justification*

*Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced the regulatory procedure with scrutiny for measures of general scope intended to amend non-essential elements of a basic instrument adopted in accordance with the co-decision procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing them by the addition of new non-essential elements. It should therefore apply where needed throughout this Regulation. Also see amendments 53, 55 and 56.*



Amendment 9  
Article 4, paragraph 2, subparagraph 1

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.***

2. By way of derogation from paragraph 1, ***in exceptional and duly justified cases (e.g. for humanitarian reasons) visa*** applications may be lodged by *third-country* nationals ***in another third country.***

*Justification*

*It should not depend on the law of the third country in question whether an applicant requesting a visa e.g. for humanitarian reasons is deemed to be legally present in that country. At any rate be the consulate of the Member State should retain the power to decide whether to issue such a visa.*

Amendment 10  
Article 4, paragraph 2, subparagraph 2

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.***

In that case, the ***consent of the responsible*** diplomatic mission or consular post in the applicant's country of residence ***must, as a general rule, be obtained before the visa is issued.***

*Justification*

*Consultation should be the rule and not the exception, since the diplomatic mission or consulate in the country of residence is normally better placed to judge the applicant's willingness to return from the country in question, better informed about local conditions, and thus better able to assess the application.*

Amendment 11  
Article 4, paragraph 2 a (new)

***2a. A multiple-entry visa shall be issued only in the applicant's country of residence unless the applicant can demonstrate that an exception is necessary. In such exceptional cases, the visa may also be issued in another third***

*country with the prior consent of the responsible diplomatic mission or consular post in the applicant's country of residence.*

Amendment 12

Article 5, paragraph 1, subparagraph 1, point a

(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*

(a) the diplomatic mission or consular post of the *sole* Member State *of destination or, where several Member States are to be visited, the diplomatic mission or consular post of any of the Member States of destination. An airport transit shall not qualify as a visit or as a reason to submit a visa application at the diplomatic mission or consular post of the Member State in whose territory the transit is taking place; or*

Amendment 13

Article 5, paragraph 1, subparagraph 1, point b

(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.*

(b) the diplomatic mission or consular post of *another* Member State *representing the Member State of destination or any of the Member States of destination under the terms of an arrangement pursuant to Article 7(2a) or (2b).*

Amendment 14

Article 5, paragraph 1, subparagraph 2

*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.*

*deleted*

Amendment 15  
Article 7, paragraph 2 a (new)

***2a. Member States lacking their own representation in a third country shall conclude arrangements on representation with other Member States that do have diplomatic missions or consular posts in that country.***

Amendment 16  
Article 7, paragraph 2 b (new)

***2b. With a view to ensuring that poor transport infrastructure or long distances in a specific region or geographical area does not require a disproportionate effort on the part of visa applicants to have access to a diplomatic mission or consular post, Member States lacking their own representation in that region or area shall conclude arrangements on representation with other Member States that do have diplomatic missions or consular posts in that region or area.***

***Guidelines as to whether a journey to a diplomatic mission or consular post would involve disproportionate effort shall be drawn up for each host country within the framework of local consular cooperation. Those guidelines shall take into account, inter alia, distances and transport infrastructure and shall be made public.***

Amendment 17  
Article 7, paragraph 3

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.

3. The represented Member State shall inform the Commission about new arrangements on representation or the termination of such arrangements ***if possible*** three months before the agreement enters into force or terminates.

*Justification*

*In the interests both of the Member States and the applicants, representation arrangements at short notice may also be necessary.*

Amendment 18  
Article 8, paragraph 2

2. Such consultation shall be without prejudice to the time limit for examining visa applications, set out in Article 20(1).

2. Such consultation shall be without prejudice to the time limit for examining visa applications, set out in Article 20(1).  
***In exceptional cases that time limit may be extended in the light of information obtained from the consultation so that further enquiries can be made.***

Amendment 19  
Article 9, paragraph 2

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.

2. The central authorities consulted shall react within ***five*** 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.

Amendment 20  
Article 10, paragraph 1

1. Applications shall be submitted no more than ***three months*** before the start of the planned visit.

1. Applications shall be submitted no more than ***six months*** before the start of the planned visit.

*Justification*

*It is important to enable the submission of application at an earlier stage since, e.g. large groups or tourists usually start the planning of a trip early.*

Amendment 21  
Article 10, paragraph 2

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.

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, **as a rule**, take place within two weeks.

## Amendment 22

### Article 11

#### 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***

#### Article 11

##### Capturing of biometric data

***These provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty.***

*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>1</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(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;*

*(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.*

Amendment 23  
Article 11 a (new)

*Article 11a*

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<sup>1</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.

### *Personal interview*

*1. As a general rule the applicant must demonstrate to the diplomatic mission or consular post by means of a personal interview that the criteria for issue of a visa are met. Exemption from the requirement to appear in person at the diplomatic mission or consular post may be granted only in the cases referred to in paragraph 2 of this Article and in Article 40. This exemption shall be without prejudice to Article 18(2).*

*2. If there are no doubts as to the bona fides of the applicant, a derogation may be granted in individual cases from the requirement for a personal interview. Such derogation shall be subject to the applicant's providing a guarantee – on the grounds that his character is known to the diplomatic mission or consular post – that he does not pose a risk in terms of his willingness to return, his possession of adequate means of support and the legality of the purpose of his stay.*

### *Justification*

*The principle of the personal interview should be retained as a key element of the visa application procedure: if it is dropped, a vital checking tool will be lost. To make no provision for a personal interview, or to make it the exception (Article 18(2)), would be to reverse the existing rule/exception relationship in the current CCI. If we retain the personal interview as the rule, the exception must be granted for bona fide travellers.*

### Amendment 24

#### Article 12, paragraph 1, point b

(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;

(b) present a valid travel document the expiry date of which **shall** 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;

Amendment 25

Article 14, paragraph 1, subparagraph 1, introductory part

1. The visa applicant shall **produce** the following documents:

1. The visa applicant shall **provide** the following documents:

*Justification*

*The word 'provide' corresponds better to the accurate act of the applicant.*

Amendment 26

Article 14, paragraph 1, subparagraph 2 a (new)

***Applicants shall not be required to provide documents regarding accommodation or invitation before applying for a visa if they are able to prove that they have sufficient means to cover their subsistence and accommodation costs in the Member State or States that they intend to visit. Applicants shall be informed that this derogation is without prejudice to the requirement for applicants to be able to supply such documents at the external borders of the Union if requested.***

Amendment 27

Article 14, paragraph 3 a (new)

***3a. If translations of the supporting documents are required by the diplomatic mission or consular post, the applicant shall be entitled to provide them either in the official language(s) of the host country or in English, French or German.***

Amendment 28

Article 15, paragraph 3, subparagraph 1

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**.

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 **20 000**.



*Justification*

*Having a minimum coverage of 30 000EUR is too excessive. A minimum coverage of 20 000EUR is sufficient to cover expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment.*

Amendment 29

Article 15, paragraph 4

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.

4. Applicants shall, in principle, take out insurance in their *country* of residence. Where this is not possible, ***insurance shall be obtained in another*** country.

*Justification*

*Clarification: insurance cover is a requirement. It is not enough simply to "seek to" obtain insurance.*

Amendment 30

Article 15, paragraph 10 a (new)

***10a. The diplomatic missions or consular posts shall approve such travel medical insurances only where the insurance company in question allows the applicant to cancel the insurance without any extra costs if the visa application is refused.***

*Justification*

*In case of refusal the applicant shall have the right to cancel the unnecessary insurance without any extra costs.*

Amendment 31

Article 16, paragraph 1

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

1. When lodging a visa application, applicants shall pay a handling fee of ***EUR 35***. 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.

be refundable.

*Justification*

*The new visa fee of 60 EUR hurts the image of the European Union since this is perceived as contradictory to the frequently voiced declarations of friendly relations with third countries. Furthermore real visa costs are higher than the visa fee, costs of travel medical insurances, as well as costs of all necessary activities to get a visa.*

*The European Union can also not in this context be compared to the United States, which is geographically distant. The European Union has common borders to the countries from which the European Union is receiving most of its tourists and visitors. For the EU it is thus of importance to have a relatively low and proportionate fee on visas.*

Amendment 32

Article 16, paragraph 4, point a

a) children ***under 6 years***;

a) children ***up to 12 years***;

*Justification*

*Children are usually travelling with their parents. If a family is paying a separate visa fee for all their children the total cost of application becomes disproportionate.*

Amendment 33

Article 16, paragraph 4, point b a (new)

***(ba) participants in student exchange programmes;***

Amendment 34

Article 16, paragraph 4, point c a (new)

***(ca) participants aged 25 and under in not-for-profit sports, cultural or civil society events;***

Amendment 35

Article 16, paragraph 4, point c b (new)

*(cb) persons proving their need to travel on humanitarian grounds, inter alia when their life is at risk and their country of residence cannot provide the necessary medical treatment, and the persons accompanying them.*

Amendment 36

Article 16, paragraph 4 a (new)

*4a. Without prejudice to paragraph 4(a), families travelling with more than two children shall not be required to pay the handling fee in respect of more than two children.*

Amendment 37

Article 16, paragraph 4 b (new)

*4b. The handling fee shall be half the normal fee in respect of subsequent applications within the period referred to in Article 11.*

Amendment 38

Article 16, paragraph 5

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.

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

*Justification*

*The amendment seeks to facilitate cross border travel for persons involved in sporting activities.*

Amendment 39  
Article 16, paragraph 8

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.

8. The fee **may** 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, ***unless there are extenuating circumstances.***

*Justification*

*The amendment seeks to introduce a measure of flexibility for both the applicants and the consular services when visas are submitted close to date of departure.*

Amendment 40  
Article 18, paragraph 2, point a (new)

***(a) When it is considered necessary to call an applicant for an interview, the decision on the application shall be based on a one-stop procedure where the journey to the diplomatic mission or consular post from the applicant's ordinary place of residence would involve disproportionate effort in accordance with the guidelines referred to in Article 7(2b).***

Amendment 41  
Article 18, paragraph 2, point b (new)

***(b) Telephone interviews and video calls may be allowed in certain cases, inter alia, where the applicant has a positive visa history in accordance with Article 42c or where the journey to the diplomatic mission or consular post from the applicant's ordinary place of residence would involve disproportionate effort in accordance with the guidelines referred to in Article 7(2b).***

Amendment 42

Article 18, paragraph 4, point b

(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;

(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, ***where allowed under national law***, national databases;

Amendment 43

Article 20, paragraph 3, subparagraph 1 and subparagraph 2, introductory part

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***

3. ***The diplomatic missions or consular posts shall issue a multiple-entry visa***, entitling the holder to several entries, three month stays or several transits during any half-year, ***with a period of validity of 12 months where the application is approved.***

***In duly justified cases, a multiple-entry visa with a period of validity of more than 12 months up to a maximum of 5 years may be issued.***

***In duly justified cases, where issuing a multiple-entry visa is not appropriate, a single-entry visa with a period of validity of 6 months may be issued.***

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

The following criteria are in particular relevant for taking the decision to issue ***multiple-entry visas with a validity of more than 12 months***:

Amendment 44

Article 20, paragraph 3, subparagraph 2, point a

(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,

(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,

members of the family of third country nationals residing in Member States, seafarers, ***professional drivers who regularly cross borders and participants in exchange programmes and in other regular civil society activities,***

Amendment 45  
Article 21, paragraph 2

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.

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. ***Where, in the case referred to in point (b) of the first subparagraph of paragraph 1, the Member State consulted under the prior consultation procedure has raised objections, the central authorities of the consulted Member State shall be provided with the relevant information in sufficient time before the visa is issued.***

Amendment 46  
Article 22, paragraph 2, point a

(a) holders of uniform short stay or transit visa issued by a Member State,

(a) holders of ***a residence permit***, uniform short stay or transit visa issued by a Member State,

*Justification*

*In the interest of consistency with the Convention applying the Schengen Agreement (Art. 21(1)).*

Amendment 47  
Article 23, paragraph 3

3. Applicants refused visa shall have the rights to appeal. Appeals shall be

3. Applicants refused visa shall have the rights to appeal. ***Where applicants exercise***

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.

***their right to appeal, an in-depth review of the decision and of the reasons for refusal shall be undertaken. The applicant shall be informed of the results of the review as well as be provided with more detailed reasons as to why the visa was refused.***

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.

Amendment 48  
Article 24

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

Possession of a short stay visa or a transit visa ***shall*** confer automatic right of entry ***provided that, on arrival at the external border, the traveller meets the requirements of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)<sup>1</sup> and unless an alert has been issued in the SIS or in a national register or new information has come to light which proves the visa application to be fraudulent.***

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<sup>1</sup> OJ L 105, 13.4.2006, p. 1.

*Justification*

*If persons are in possession of a valid short stay visa or a transit visa the general rule should be that they have the right to entry as long as they fulfil the existing criteria in laid out in EU legislation.*

Amendment 49  
Article 28, paragraph 5

5. A fee of **30 EUR** shall be charged for

5. A fee of **EUR 17.5** shall be charged for

extending a visa.

extending a visa.

Amendment 50  
Article 31, paragraph 1

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.

1. Border control authorities **and the responsible administrative authorities of the Member States** 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.

*Justification*

*In most cases it is not the border control authorities that ascertain this kind of thing but the authorities on the spot who should therefore also be in a position to shorten the duration of a visa locally.*

Amendment 51  
Article 32, paragraph 6 a (new)

***6a. The provisions on the collection of biometric data pursuant to Article 11 shall apply accordingly, except that the biometric data shall be collected and entered into the VIS by the authorities responsible for issuing visas at the border.***

Amendment 52  
Article 33, paragraph 3

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

3. This Article shall apply without prejudice to Article 32(3), (4), (5) **and (6a)**.

Amendment 53  
Article 35, paragraph 2

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

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.

complete, precise and updated information **and education** on the relevant Community and national law **as well as the Schengen visa policy**.

*Justification*

*It is important to underline the need of a proper education of the staff. Consuls and consular staff lack surprisingly often knowledge of visa policy issues, which leads to an unclear Schengen policy.*

Amendment 54  
Article 36

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 36

Conduct of staff **involved in** visa applications

1. Member States shall ensure that applicants are received courteously **by all staff involved in visa applications**.

2. **All** staff shall, in the performance of their duties, fully respect **the** human dignity **and integrity of the applicant**. Any measures taken shall be proportionate to the objectives pursued.

3. While performing their tasks, staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Justification*

*Text adopted in CCI*

Amendment 55  
Article 37

Article 37

Forms of cooperation in relation to the

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**

reception of visa applications

***These provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty.***

*protection rules for the processing of visa applications.*

Amendment 56

Article 38

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***

Article 38

Co-operation with external service providers

***These provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty.***

*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.*

Amendment 57  
Article 39

Article 39

Organisational aspects

*1. Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by*

Article 39

Organisational aspects

*These provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty.*

***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.***

Amendment 58  
Article 40, paragraph 1 a (new)

***1a. The reception of visa applications by commercial intermediaries shall not release the Member States' diplomatic missions and consular posts from the duty of carefully and independently checking that all conditions for the issuance of a visa are met in accordance with Article 18 in each individual case. If there is any doubt, it may be necessary for the applicant to present himself in person at the diplomatic mission or consular post in accordance with Article 18(2).***

*Justification*

*It needs to be clarified that commercial agencies cannot take prior decisions about the*

*success of a visa application.*

Amendment 59  
Article 40, paragraph 2, point c

***(c) contracts with airlines, which must include outward and guaranteed, fixed return journeys.***

***(c) credible arrangements for the outward and return journeys.***

Amendment 60  
Article 40, paragraph 2 a (new)

***2a. Commercial intermediaries shall be treated in a fair and just way. They shall be able to carry out their commercial activities in an appropriate and effective way.***

*Justification*

*The commercial intermediaries shall not be subjected to any unfair restrictions which might disturb their commercial activities.*

Amendment 61  
Article 41, paragraph 2

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.

2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 ***as far as possible*** 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.

*Justification*

*Short-term arrangements concerning representation may also be necessary both in the interests of the Member States and of applicants.*

*Providing information three months in advance is not then possible.*

Amendment 62  
Article 41, paragraph 6

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.

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. ***At the time when a visa is issued the visa holder shall be expressly reminded of this in writing.***

*Justification*

*This information is important for the visa holder in particular, and he must therefore be reminded of it expressly and in writing.*

Amendment 63  
Article 41, paragraph 7

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.

7. The general public shall be informed ***about the amount of the processing charge in the official currency of the host country and*** about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency.

*Justification*

*First of all it is important to let people know how much the processing fee is.*

Amendment 64  
Article 41, paragraph 7 a (new)

***7a. A common Schengen visa internet site shall be established in order to further support the application of the common visa policy. This internet site shall also support the handling of the visa procedure.***

***Information to the general public in accordance with paragraphs 1 to 7 shall***



*also be available through the common Schengen visa internet site.*

Amendment 65

Article 42, paragraph 1, subparagraph 2

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)*.

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 *referred to in Article 46(2a)*.

Amendment 66

Article 42, paragraph 2 a (new)

***2a. Within local consular cooperation, coherent procedures shall be established enabling the applicants to set up an appointment for the submission of an application by telephone, internet, or by other methods.***

Amendment 67

Article 42, paragraph 5, subparagraph 2

On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council.

On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council ***and the European Parliament.***

*Justification*

*Since the codecision procedure is applicable here, the European Parliament must be informed about 'practical' experience on the spot in the same way as the Council.*

Amendment 68

Title V

TITLE V: ***Final provisions***

TITLE V: ***Visa facilitations***

*Justification*

*There is a need for a new title for visa facilitations.*

Amendment 69  
Article 42 a (new)

***Article 42a***  
***Evaluation***

***The Commission shall, within two years of the entry into force of this Regulation, undertake an evaluation of its implementation and of local consular cooperation arrangements between Member States concerning visa procedures. Particular attention shall be paid to the special needs of passenger ferry companies and tourist companies performing and delivering services in the border regions of the Schengen area, the issues of biometrics and provisions aimed at facilitating and simplifying the visa procedure. Following that evaluation, the Commission shall, if necessary, propose amendments to this Regulation.***

Amendment 70  
Article 42 b (new)

***Article 42b***

***Bilateral agreements concerning visa facilitations***

***Bilateral agreements seeking to facilitate the processing of applications for short-stay visas may be concluded between the Community and third countries. Such agreements shall be concluded after the assent of the European Parliament has been obtained in accordance with the procedure in Article 300(3), second subparagraph, of the Treaty. States which are part of the Union's neighbourhood and partnership policy and who have committed themselves to***

**Community standards shall have priority in concluding these agreements. The bilateral visa facilitation agreements shall follow the basic guidelines set out by this Regulation.**

**The impact of facilitation agreements shall be assessed every second year in order to establish the need for further facilitating measures and the inclusion of new categories of applicants.**

*Justification*

*Third-countries with close cooperation with the Schengen Member States shall have the possibility to achieve preferential treatment by visa facilitation agreements. It is however, important that these agreements follow the general principles of the visa code and the main facilitation ideas are set out in the visa code. Parliament should be fully informed and where necessary called on to give its assent*

Amendment 71  
Article 42 c (new)

**Article 42c**  
**Frequent travellers**

***If the applicant has fully complied with the visa conditions during three consecutive visa periods in the Member States within a five year period (positive visa history), and if the applicant applies for a visa within five years of the expiry of the last of the three required visas, the applicant shall be entitled to benefit from a simplified procedure.***

***The simplified procedure may include the granting of a multiple-entry visa with a longer period of validity, no requirement for an interview, fewer supporting documents and parts of the visa application procedure being made possible through the internet.***

***This simplified procedure shall be further outlined in the instructions on the practical application of the Visa Code referred to in Article 45.***

Amendment 72  
Article 42 d (new)

**Article 42d**

***Procedure for waiving the visa regime***

***When a third country fulfils conditions such as low rejection rates, application of a readmission agreement, a low percentage of nationals overstaying their visas and a small number of individuals deported for illegal employment, the Commission shall consider whether or not to propose lifting the visa obligation for nationals of that third country in accordance with the relevant provisions of Council Regulation (EC) No 539/2001.***

Amendment 73  
Article 43 a (new)

**Article 43a**

***The European Parliament and the Council, acting in accordance with Article 251 of the Treaty, shall adopt any decisions concerning the timing of and methods for the introduction of requirements for biometric identifiers, for those countries which have been offered the prospect of EU membership via accession negotiations and for those countries which benefit from programmes under the European Neighbourhood Policy.***

*Justification*

*In the spirit of the European Neighbourhood Policy and as the Visa Code should aim at simplifying visa procedures, the adoption of new measures introducing biometric identifiers in visas for citizens of countries participating in the European Neighbourhood Programs and of other countries with closer cooperation with the EU, should be decided with the assent of the European Parliament.*

Amendment 74  
Title Va (new)

**TITLE Va: Final provisions**

Amendment 75  
Article 44, paragraph 1

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)**.

1. Annexes VI and XI shall be amended in accordance with the procedure referred to in **Article 46(2a)**.

*Justification*

*See justification to amendment 5.*

Amendment 76  
Article 44, paragraph 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)**.

2. Without prejudice to Article 47(2) the changes of **other** Annexes shall be decided in accordance with the procedure **laid down in Article 251 of the Treaty**.

*Justification*

*Essential elements of the Regulation should only be amended according to the legislative procedure as it is already the case in the Schengen Borders Code (Regulation (EC) N°562/2006).*

Amendment 77  
Article 45

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)**.

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(2a)**.

*Justification*

*See justification to amendment 5.*

Amendment 78

Article 46, paragraph 2 a (new)

**2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.**

*Justification*

*See justification to amendment 5.*

Amendment 79  
Annex III, point 15

15. **Member State of main destination**                      15. **Destination State(s)**

*Justification*

*As proposed there will be an extended possibility to apply for a visa at one of the diplomatic missions or consular posts representing the countries the applicant intends to visit. (See proposed Article 5.1(a)). Thus the information of the countries the applicant intends to visit needs to be stated in the application.*

Amendment 80  
Annex III, point 20

20. Purpose of travel	20. Purpose of travel ( <b>mark the one(s) applicable for the visa application</b> )
Tourism Business Visit of family <b>or</b> friends Cultural Sports Official visit Medical reasons Other (please specify):	Tourism Business Visit of family <b>Visit of</b> friends Cultural Sports Official visit Medical reasons Other (please specify):

*Justification*

*There ought to be a possibility to mark several purposes of travel, since it corresponds better to reality.*

*There is a difference in processing visa applications for friends and family members. It is therefore motivated to divide this point into two different points.*

Amendment 81  
Annex III, point 23

23. Name of host in the Member States. If not applicable, give name of hotel or temporary address in the Member States.  
address (and e-mail address of host)  
telephone (and fax)

23. Name of host in the Member States. If not applicable, give name of hotel or temporary address in the Member States.  
address (and e-mail address of host)  
telephone (and fax)

***(No need to fill in if adequate proof exists of sufficient means to cover subsistence and accommodation costs in the Schengen State or States planned to be visited.)***

*Justification*

*It is not proportionate to require that trips are planned in every detail beforehand. The applicant is in many cases required to know all the accommodations and itineraries in detail before the departure. It should be enough if the applicant can present sufficient means of subsistence and accommodation where there is no doubt about the good faith of the applicant. It should also be possible that a part of the trip is without confirmed host, hotel or temporary address.*

Amendment 82

Annex X, paragraph 4, subparagraph 4 a (new)

***If the days are fewer than 90, the number of days means that number of days within every period of 6 months.***

*Justification*

*Clarification of the rules. This practise is already applied by most Schengen Member States, however not by all, which has caused some confusion.*

## EXPLANATORY STATEMENT

### I. Background to the proposal

The Committee on Civil Liberties, Justice and Home Affairs is currently dealing with several legislative proposals which shall have a significant impact on the visa policy of the Schengen countries:

- the Visa Information System (VIS)<sup>1</sup>;
- an adaptation of the current Common Consular Instructions (CCI) introducing i.a. biometrics<sup>2</sup>;
- the current legislative proposal which aims at reforming the Common Consular Instructions and changing them into a new Community Code on Visas.

The Common Consular Instructions (CCI) are currently the basic instrument governing the procedures and conditions for the issuance of short-stay visas, transit visas and airport transit visas.

### II. Commission proposal

The Commission presents this proposal in the context of the Hague Programme, which underlines the need for further development of the common visa policy as part of a system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions.

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 deals with the following:

- *Incorporating 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*

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<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council concerning the Visa Information System (VIS) and the exchange of data between Member States on short stay-visas (COM/2005/0835 final - COD 2005/0287).

Proposal for a Council decision concerning access for consultation of the Visa Information System (VIS) by the authorities of Member States responsible for internal security and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences (COM/2005/0600 final - CNS 2005/0232 ).

<sup>2</sup> 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. (COM (2006)0269).



*issued* : this covers Airport Transit Visas (ATV), the issuance of visas at the border, annulment and revocation of the validity of a visa, extension of an issued visa, and exchange of statistics. With regard to ATVs, 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.

- *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 is expected to become operational soon, 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<sup>(1)</sup> (for which Baroness LUDFORD is the rapporteur). 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.

- *Development of certain parts of the acquis*: the Commission discusses the introduction of provisions on a maximum issuing time; a clear distinction between inadmissible applications and formally refused applications; full transparency as to the list of third countries whose nationals are subject to prior consultation; a harmonised form providing proof of invitation, sponsorship and accommodation; an obligation for Member States to notify and motivate negative decisions; 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; and mandatory rules for the cooperation between Member States' diplomatic missions and consular posts with commercial intermediaries.

- *Clarification of certain issues in order to enhance the harmonised application of legislative provisions*: this relates in particular to Visas with Limited Territorial Validity (LTV), and Travel Medical Insurance (TMI).

- *Enhancing 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*: the current Common Consular Instructions contain eighteen annexes including a number of legal provisions and various pieces of information: 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 etc. In order to clarify the legal status of these annexes, the Commission has decided 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. Furthermore, the Commission proposes deleting references to the following: national visas ("D" visas); long-stay national visa valid concurrently as a

short-stay Schengen visa ("D+C" visas); group visas; Annex 2 and Annex 6 to the CCI

- *Harmonised application at operational level of the "Code on Visas"*: 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, should 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.

Finally, the Commission proposal discusses consequences of the various protocols annexed to the Treaties, since this Regulation will build upon the Schengen acquis. It also discusses the consequences for the new Member States of the two stage procedures for implanting instruments building on the Schengen acquis.

### III. Position of rapporteur

The rapporteur considers that on most points the Commission has succeeded in identifying the real problems with the visa practice of the Schengen area. The need for better coordination at local level, the importance of continuous further training for consulate employees and the significance of easily accessible information as to the requirements an applicant must satisfy in order to obtain a visa were some of the issues which the rapporteur was able to confirm on the spot in Algeria, Kiev, Saint Petersburg and Warsaw. Several of the innovations contained in the Commission proposal seek to remedy these matters.

Conversely, it has proved difficult to achieve a genuinely open dialogue with the ministries responsible for visa policy. The decision-making culture still bears the imprint of the habits that have developed over decades within the security authorities. This means discretion and unwillingness to inform the outside world about their activities. Against this background, it has been difficult, for example, to ascertain how important various steps and requirements in the visa process really are. The visa policy of the Schengen area is an important part of the EU's external image. The amendments tabled by your rapporteur cover five major sets of issues which were already explained in the working document from December 2006. They are as follows:

- (1) A common external image
- (2) A positive impression and customer service
- (3) Problem areas and remedies
- (4) Political options of the Community
- (5) Direct communication

These five subject areas have prompted a series of amendments. "A common external image" is covered by the amendments to Articles 5, 7, 18, 35, 40, 41 and 42. "A positive impression

and customer service” is addressed by the amendments to Articles 4, 5, 7, 10, 11, 12, 14, 15, 16, 18, 20, 40, 41, 42 and 45a, and to Annexes III and X. The amendments to Articles 41, 43a and 46a deal with “Problem areas and remedies”. “Political options of the Community” are elucidated by the amendments to Articles 16, 20 and 44a. “Direct communication” is covered by the amendment to Article 42 on the creation of a common visa portal. Some amendments are covered by more than one heading. The Schengen area is an area for freedom of movement and represents one of the most successful projects realised by the Member States of the Union. The Schengen area as a concept has gained acceptance not only in the EU but also outside the EU where the term 'Schengen visa' has achieved general recognition. Notwithstanding, a great deal remains to be done in order to provide the Schengen area with a common external image. For example, no common website exists for the Schengen visa. The visa rules of different consulates in the self-same location can vary considerably. Where a Member State has no representation in a particular place - such as e.g. Spain in Murmansk - it is not possible for the local population to contact the Finnish consulate which is located there. Instead they must travel to Saint Petersburg - a 24-hour train journey away - if they want to apply for a Spanish Schengen visa for an ordinary holiday in the sun. There should be a standing requirement for the Member States to conclude cooperation agreements with each other where the responsible consulate is located an unreasonably long distance away. The need for such arrangements will become more pressing if biometric identifiers are introduced which, in practice, means that all applicants must personally attend at the relevant consulate.

Without jeopardising essential security issues it is important that Schengen consulates adopt customer-oriented working methods. Persons faced with an exceptionally long or extremely difficult journey to the nearest consulate (sometimes applicants must, for example, first travel to another country for which a visa is also required in order thereafter to be able to apply for a visa to the Schengen area) should be offered the opportunity of making this trip only once. The rapporteur also believes that the visa fee should be kept at a relatively low level, €35, and that some categories such as children accompanied by parents or persons forming part of an exchange programme should be exempted from the fee. In addition, the practice of issuing multiple-entry visas should be extended. Bona fide travellers, i.e. persons who have on several occasions received a Schengen visa and never misused it or broken the rules in the Schengen area, should also benefit and not simply a number of predetermined categories such as businessmen, certain student groups and close relations. Excessively strict categorisation of people simply creates difficult demarcation problems. What happens when someone has terminated his business dealings with a company in the Schengen area? What happens once someone has completed their studies, etc? The legislator cannot judge what is a bona fide traveller simply on the basis of assignment to a category. Weight should therefore also be attached to a person's past visa record when assessing that person's application for a visa. Furthermore, a critical evaluation must also be made of what documents the applicant really needs in order to be able to apply for a visa and how detailed a description of the itinerary he needs to submit.

Your rapporteur has also uncovered shortcomings which merit further attention. The Commission has not taken sufficient account in its proposal of the special circumstances confronting passenger ferries operating in the Baltic region, the Mediterranean and the Black Sea region. Today there is substantial traffic between the EU Member States but traffic between the Schengen area and third countries is very limited largely on account of the visa rules. This issue must be looked at in greater depth.

It is also important that a third country should know what conditions it is required to satisfy in order to be exempted from the visa requirement. The rapporteur believes that the Schengen countries ought to draw up clear rules for when a country is exempted from visa requirements. Such a mechanism ought to be based on the following criteria: low number of refusals, application of sponsorship and accommodation agreement, low percentage of fellow nationals overstaying the period of validity of visas, low number of single persons rejected on various grounds, guaranteed reliable travel documents and effective border checks.

Furthermore, the EU's visa policy ought to reflect fundamental priorities of its foreign policy. This is in principle satisfied by the existence of visa simplification agreements but closer analysis of these agreements shows that they are minimalist by their nature. The rapporteur believes that also major issues such as greater frequency of visas issued with a period of validity of several years, whether biometric data must be implemented or not and even meaningful reductions in fees must be possible subjects for visa simplification agreements. Moreover, it is important that the European Parliament too should be involved in the framing of negotiating mandates for such agreements and in the conduct of negotiations. It is also disturbing that many young people bordering on the EU have never been abroad even once. The Union has a responsibility not to isolate these people. Otherwise nationalist and radical tendencies can take root.

## PROCEDURE

<b>Title</b>	Community Code on Visas			
<b>References</b>	COM(2006)0403 – C6-0254/2006 – 2006/0142(COD)			
<b>Date submitted to Parliament</b>	19.7.2006			
<b>Committee responsible</b> Date announced in plenary	LIBE 26.9.2006			
<b>Rapporteur(s)</b> Date appointed	Henrik Lax 22.2.2006			
<b>Discussed in committee</b>	28.11.2006	19.12.2006	5.6.2007	27.6.2007
	12.9.2007	29.11.2007	26.3.2008	8.4.2008
<b>Date adopted</b>	8.4.2008			
<b>Result of final vote</b>	+: 42			
	–: 0			
	0: 1			
<b>Members present for the final vote</b>	Alexander Alvaro, Philip Bradbourn, Mihael Brejc, Michael Cashman, Jean-Marie Cavada, Carlos Coelho, Esther De Lange, Gérard Deprez, Agustín Díaz de Mera García Consuegra, Armando França, Urszula Gacek, Kinga Gál, Roland Gewalt, Lilli Gruber, Jeanine Hennis-Plasschaert, Lívia Járóka, Ewa Klamt, Magda Kósáné Kovács, Wolfgang Kreissl-Dörfler, Stavros Lambrinidis, Henrik Lax, Roselyne Lefrançois, Sarah Ludford, Claude Moraes, Martine Roure, Inger Segelström, Csaba Sógor, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber, Renate Weber, Tatjana Ždanoka			
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Simon Busuttil, Genowefa Grabowska, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Metin Kazak, Marianne Mikko, Siiri Oviir, Nicolae Vlad Popa, María Isabel Salinas García, Rainer Wieland			