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to: Visa Working Party

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Subject: Draft Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications

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Delegations will find attached a consolidated version of the draft Regulation in the form of a three-column table showing the Commission proposal and the Presidency compromise proposal (new proposals are indicated in **bold**). The third column contains the report of the European Parliament's Rapporteur, Mrs Sarah Ludford, on 23.11.2007 (text in bold is text differing from the original proposal from the Commission).

It is the intention of the Presidency at the meeting on 18.2.2008 to go through the Presidency proposals with the purpose of seeking agreement on the compromise text.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p align="center"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>  <b>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</b></p> <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p>Having regard to the proposal from the Commission,</p> <p>Acting in accordance with the procedure laid down in Article 251 of the Treaty,</p> <p>Whereas:</p> <p>(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004 and to provide for a legal framework for the capturing of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p>	<p align="center"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>  <b>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</b></p> <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p>Having regard to the proposal from the Commission<sup>1</sup>,</p> <p>Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,</p> <p>Whereas:</p> <p>(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004<sup>3</sup> and to provide for a legal framework for the capturing of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p>	<p align="center"><b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>  <b>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</b></p> <p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</p> <p>Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) ii) thereof,</p> <p>Having regard to the proposal from the Commission<sup>4</sup>,</p> <p>Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>5</sup>,</p> <p>Whereas:</p> <p>(1) To ensure reliable verification and identification of visa applicants it is necessary to process biometric data in the Visa Information System (VIS) established by Council decision 2004/512/EC of 8 June 2004<sup>6</sup> and to provide for a legal framework for the capturing of these biometric identifiers. Furthermore, the implementation of the VIS requires new forms of organisation for the reception of applications for visas.</p>

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ L 213, 15.6.2004, p.5.

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> OJ L 213, 15.6.2004, p.5.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(2) The integration of biometric identifiers in the VIS 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 the use of 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 VIS.</p>	<p>(2) The integration of biometric identifiers in the VIS 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 the use of 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 VIS.</p>	<p>(2) The integration of biometric identifiers in the VIS 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 the use of 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 VIS.</p>
<p>(3) The choice of the biometric identifiers is made in the [<i>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</i>]. This Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p>	<p>(3) The choice of the biometric identifiers is made in the <i>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</i><sup>7</sup>, hereinafter referred to as "VIS Regulation". This Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p>	<p>(3) The [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] <b><i>provides that fingerprints and photographs of the applicant should be stored in the VIS. This</i></b> Regulation defines the standards for the collection of these biometric identifiers by referring to the relevant provisions set out by the International Civil Aviation Organisation (ICAO). No further technical specifications are required in order to ensure interoperability.</p>
		<p>(3a) <b><i>The reception arrangements for applicants should be made with due respect for human dignity and integrity. The processing of visa applications should be conducted in a professional and respectful manner and be proportionate to the objectives pursued.</i></b></p>

<sup>7</sup> OJ L , p.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the reception of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>	<p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the <del>reception</del> <b>collection</b> of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>	<p>(4) In order to facilitate the registration of visa applicants and to reduce the costs for Member States, new organisational possibilities need to be envisaged in addition to the existing framework of representation. Firstly a specific type of representation limited to the reception of visa applications and enrolment of biometric identifiers should be added to the Common Consular Instructions.</p>
<p>(5) Other options such as co-location, common application centres and outsourcing should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. Under the legal framework established Member States should be free to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission.</p>	<p>(5) Other options such as co-location, common application centres, honorary consuls and cooperation with external service providers should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. Under the legal framework established Member States should be free to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission.</p>	<p>(5) Other options such as co-location, common application centres and outsourcing should be introduced. An appropriate legal framework for these options should be established, taking into account in particular data protection issues. <b><i>In order to ensure the integrity of the visa issuing process, any activity related to the issuing of visas, including the collection of biometric data, should take place on the premises of a Member State which enjoy diplomatic or consular protection under international law or on European Commission premises recognised by the host State as inviolable.</i></b> Under the legal framework established Member States should be free <b><i>in accordance with the conditions laid down in this Regulation</i></b> to determine which type of organisational structure they will use in each third country. Details of those structures should be published by the Commission <b><i>on a common Schengen visa internet site.</i></b></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.	(6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.	(6) When organising co-operation, Member States should ensure that the applicant is directed to the Member State responsible for the processing of his application.
(7) It is necessary to make provisions for situations in which Member States' central authorities decide to outsource part of the visa handling process to an external service provider. Such arrangements should be established in strict compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data	(7) It is necessary to make provisions for situations in which Member States' central authorities decide to, in order to facilitate the procedure, cooperate with an external service provider for the <del>reception</del> <b>collection</b> of visa applications. Such a decision may be taken if, due to particular local circumstances such as a high number of applications <sup>8</sup> , another way of organising the reception of visa applications is not considered appropriate by the Member State concerned . Such arrangements should be established in compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.	(7) <b><i>Since the issuing of visas is by its very nature a public task, any decision taken by the central authorities of a Member State</i></b> to outsource part of the visa handling process to an external service provider <b><i>should only be taken if no other possibility exists and if it is duly justified.</i></b> Such arrangements should be established in strict compliance with the general principles for issuing visas, respecting the data protection requirements set out in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

<sup>8</sup> Amendment proposed by the Presidency. HU entered a reservation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(8) Member States shall conclude contracts with external service providers which should contain provisions on their exact responsibilities, direct and total access to their premises; information of applicants, confidentiality and circumstances, conditions and procedures for suspending or terminating the contract.	(8) Member States should cooperate with external service providers on the basis of a legal instrument which should contain provisions on their exact responsibilities, direct and total access to their premises; information of applicants, confidentiality and circumstances, conditions and procedures for suspending or terminating the cooperation.	(8) <i>Any contract that a Member State concludes with an external service provider should contain provisions on <b>the provider's</b> exact responsibilities, direct and total access to <b>its</b> premises; information of applicants, confidentiality, <b>compliance with data protection rules</b> and circumstances, conditions and procedures for suspending or terminating the contract. <b>Member States should take appropriate measures to ensure that the contracts with external service providers are enforceable.</b></i>
		(8a) <i>Member States should aim to organise the receipt of visa applications, the enrolment of biometric identifiers and the interview in such a way that the visa applicant has to appear only once in person (one-stop-shop principle) in order to obtain a visa.</i>
(9) To ensure the compliance with data protection the working group created by Article 29 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the European Data Protection Supervisor have been consulted.	(9) To ensure the compliance with data protection the working group created by Article 29 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the European Data Protection Supervisor have been consulted.	(9) <i>The European Data Protection Supervisor has issued an opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>1</sup> and the Article 29 Working Party in accordance with Article 30(1)(c) of Directive 95/46/EC.</i> <sup>1</sup> OJ L 8, 12.1.2001, p. 1.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		(9a) <i>Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applies to the processing of personal data in application of this Regulation. However, certain points should be clarified, in particular in respect of the responsibility for the processing of data, of safeguarding the rights of the data subjects and of the supervision on data protection.</i>
(10) Member States should be able to allow certain categories of applicants or all applicants direct access to their consular offices or diplomatic missions for humanitarian or other reasons.	(10) Member States should be able to allow categories of applicants or all applicants direct access to their consular offices or diplomatic missions.	(10) Member States should be able to allow certain categories of applicants or all applicants direct access to their consular offices or diplomatic missions for humanitarian or other reasons.
(11) In order to facilitate the procedure of any subsequent application, it should be possible to copy biometric data from the first application within a period of 48 months in accordance with the retention period laid down in the VIS Regulation. Once this period of time has elapsed, the biometric identifiers should be captured again	(11) In order to facilitate the procedure of any subsequent application, it should be possible to copy biometric data from the first application within a period of <del>54</del> <b>59</b> months for adults and 24 months for children between the age of 6 and 12 years old <sup>9</sup> . Once this period of time has elapsed, the biometric identifiers should be captured again.	(11) In order to facilitate the procedure of any subsequent application, it should be possible to copy biometric data from the first application within a period of <b>59</b> months <i>from the start of</i> the retention period <i>provided for in Article 23 of</i> the VIS Regulation. Once this period of time has elapsed, the biometric identifiers should be captured again.
(12) Due to the requirement to capture biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.	(12) Due to the requirement to capture biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.	(12) Due to the requirement to capture biometric identifiers, commercial intermediaries such as travel agencies should no longer be used for the first application but only for the subsequent ones.

<sup>9</sup> FR entered a reservation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.	(13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.	(13) The Common Consular Instructions on visas for diplomatic missions and consular posts should therefore be amended accordingly.
(14) The Commission should present a report on the implementation of this Regulation two years after its entry into force, covering the implementation of the enrolment of biometric identifiers, the principle of the "first application" and the organisation of the reception and the processing of visa applications.	(14) The Commission should present a report on the implementation of this Regulation two years after its entry into force, covering the implementation of the enrolment of biometric identifiers, the principle of the "first application" and the organisation of the reception and the processing of visa applications.	<p>(14) The Commission should present a report on the implementation of this Regulation <b>three</b> years after <b>the VIS is brought into operation and every four years thereafter</b>, covering the implementation of the enrolment of biometric identifiers, <b>the appropriateness of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data</b>, the principle of the "first application" and the organisation of the reception and the processing of visa applications.</p> <p><i>The report should also include, on the basis of Article 17 (12), (13) and (14) and Article 50(4) of the VIS Regulation, the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons compared with the cases in which fingerprints are taken. The report should include information on cases in which a person who could factually not provide fingerprints was refused a visa.</i></p> <p><i>The report should be accompanied, where necessary, by appropriate proposals to amend this Regulation. The Commission should transmit the report to the European Parliament and the Council.</i></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(15) The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.</p>	<p>(15) Since the objectives of this Regulation, namely the organisation of the reception and the processing of visa applications in respect of the insertion of biometric data in the VIS, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing common standards and interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve those objectives.</p>	<p>(15) <i>The objectives of this Regulation are the organisation of the receipt and processing of visa applications in respect of the insertion of biometric data in the VIS. Since these objectives cannot be sufficiently achieved by the Member States the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in the third paragraph of that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.</i></p>
<p>(16) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing common standards and interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.</p>	<p><i>(deleted)</i></p>	<p><i>(deleted)</i></p>
		<p>(16a) <i>This Regulation respects fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms, by the Charter of Fundamental Rights of the European Union and by the United Nations Convention on the Rights of the Child.</i></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(17) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law.</p>	<p>(16) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law.</p>	<p>(17) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i> under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law.</p>
<p>(18) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.</p>	<p>(17) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement<sup>10</sup>.</p>	<p>(18) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement.</p>

<sup>10</sup> OJ L 176, 10.7.1999, p. 31.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
(19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.	(18) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.	(19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen <i>acquis</i> . The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
(20) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.	(19) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.	(20) This Regulation constitutes a development of provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen <i>acquis</i> . Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.
(21) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.	(20) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.	(21) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen <i>acquis</i> which fall within the area referred to in Article 4 (1) of the Council decision on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	(21) As regards Cyprus, this Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession.	
(22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,	(22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 4(2) of the 2005 Act of Accession,	(22) This Regulation constitutes an act building on the Schengen <i>acquis</i> or otherwise related to it within the meaning of Article 3(2) of the 2003 Act of Accession,

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In Point II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following paragraph is added: "A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The relevant provisions of 1.2 (c) and (e) shall apply. The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules."</p>	<p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In Point II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following paragraphs <del>is</del> <b>are</b> added: "A Member State may also represent one or more other Member States in a limited manner solely for the <del>reception</del> <b>collection</b> of applications and the enrolment of biometric identifiers<sup>11</sup>. The relevant provisions of 1.2 (c) and (e) shall apply. The <del>reception</del> <b>collection</b> and transmission of files and data to the represented Member State shall be carried out respecting the relevant data protection and security rules.</p> <p><b><i>(aa) Representation of one or more Member States in a limited manner may be carried out by a Member State to which this instrument does not apply. In such cases, the Member States represented in a limited manner shall:</i></b></p> <ul style="list-style-type: none"> <li><b><i>- ensure that all data protection principles for the processing of personal data are respected by the representing Member State; and</i></b></li> <li><b><i>- ensure that the cost of the visa is not affected by the representation."</i></b> </li></ul>	<p>HAVE ADOPTED THIS REGULATION:</p> <p style="text-align: center;"><i>Article 1</i></p> <p>The Common Consular Instructions on visas for diplomatic missions and consular posts are amended as follows:</p> <p>(1) In Point II, point 1.2 is amended as follows:</p> <p>(a) In (b) the following paragraph is added: "A Member State may also represent one or more other Member States solely for the reception of applications and the enrolment of biometric identifiers. The relevant provisions of 1.2 (c) and (e) shall apply. <b><i>Where it receives an application, the representing Member State shall create the application file in the VIS and insert the data referred to in Article 9 of the VIS Regulation. It shall then inform the consular post of the represented Member State of the application and the VIS entry through the VIS communication infrastructure as provided for in Article 16 of the VIS Regulation.</i></b> The reception and transmission of files and data to the represented consular post shall be carried out respecting the relevant data protection and security rules."</p>

<sup>11</sup> COM wanted a sentence to be added indicating that the "limited representation" could also be implemented by a non-Schengen State as far as the reception of applications and their transmission to the represented State are concerned.

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		<p><b>(1a) In Point III, point -1 shall be added:</b>  <b>"Conduct of staff involved in visa applications</b></p> <p><b>Member States shall ensure that applicants are received courteously by all staff involved in visa applications.</b></p> <p><b>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.</b></p> <p><b>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."</b></p>
<p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p>	<p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p>	<p>(b) Point (d) is replaced by the following: "When uniform visas are issued pursuant to (a) and (b), the representation shall be reflected in the table of representation for the issuing of uniform visas set out in Annex 18."</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>(2) In Point III, point 1 is replaced by the following:</p> <p>1.1 <u>Visa application forms-number of application forms</u></p> <p>Applicants shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. Member States may, insofar as national administrative procedures so require, request several copies of the application.</p>	<p>(2) In Point III, point 1 is replaced by the following:</p> <p>1.1. <u>Visa application forms-number of application forms</u></p> <p>Applicants shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. Member States may, insofar as national administrative procedures so require, request several copies of the application.</p>	<p>(2) In Point III, point 1 is replaced by the following:</p> <p>1.1 <u>Visa application forms-number of application forms</u></p> <p><i>Applicants</i> shall also be required to fill in the uniform visa form. Applications for a uniform visa must be made using the harmonised form a specimen of which is given in Annex 16.</p> <p>At least one copy of the application form must be filled in so that it may be used during consultation with the central authorities. The Contracting Parties may, insofar as national administrative procedures so require, request several copies of the application.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>1.2. Biometric identifiers</p> <p>a) 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally captured.</li> </ul> <p>For any subsequent application the biometric identifiers shall be copied from the first application, providing the last entry is not older than 48 months. After this period a subsequent application is to be considered as a "first application".</p>	<p>1.2. <u>Biometric identifiers</u></p> <p>a) 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally captured.</li> </ul> <p>Where biometric identifiers collected from the applicant regarding an earlier application were entered for the first time in the VIS:</p> <ul style="list-style-type: none"> <li>– less than 24 months before the date of the new application in cases where the applicant was a child from 6 to 12 years of age when the biometric identifiers were entered for the first time, and</li> <li>– less than <del>54</del> <b>59</b> months before the date of the new application in cases where the applicant was a person above 12 years of age when the biometric identifiers were entered for the first time,</li> </ul> <p>these biometric identifiers shall be copied to the new application.</p>	<p>1.2. <u>Biometric identifiers</u></p> <p>a) Member States shall collect biometric identifiers comprising the facial image and ten fingerprints from the applicant <b>respecting the rights</b> laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms, <b>in the Charter of Fundamental Rights of the European Union</b> and in the United Nations Convention on the Rights of the Child.</p> <p>At the moment of submission of his/her first visa application each applicant <b>not subject to any of the exceptions referred to in point (b)</b> shall be required to appear in person. At that time the following biometric identifiers shall be collected:</p> <ul style="list-style-type: none"> <li>– a photograph, scanned or taken at the time of application and</li> <li>– ten fingerprints taken flat and digitally captured.</li> </ul> <p>For any subsequent application, <b>within 59 months from the start of the retention period provided for in Article 23 of the VIS Regulation</b>, the biometric identifiers shall be copied from the first application. After this period a subsequent application is to be considered as a "first application".</p>

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	<p>However, in case of serious doubts<sup>12</sup> regarding the identity of the visa applicants, the <i>diplomatic mission or consular post may decide exceptionally to collect</i> biometric identifiers within the period specified above<sup>13</sup>. <i>Furthermore, when the visa application is lodged at the external service provider or in the framework of limited representation provided for in Point II, point 1.2(aa) and there are doubts regarding compliance with the time requirements specified above, a visa applicant may request his/her biometric identifiers to be collected.</i></p>	

<sup>12</sup> DE entered a reservation.

<sup>13</sup> FR maintained its reservation because it wants the date of collection of the fingerprints to be also covered by "the serious doubts".

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<p>The technical requirements for the photograph and the fingerprints shall be in accordance with the international standards as set out in ICAO document 9303 part 1 (passports) 6th edition.</p> <p>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 point 1.B.</p> <p>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.</p>	<p>The technical requirements for the photograph shall be in accordance with the international standards as set out in ICAO Doc 9303 part 1 6th edition. <b><i>The age of the photograph for subsequent applications shall be determined at the time of the first application.</i></b></p> <p>The fingerprints shall be taken in accordance with ICAO standards and the Commission Decision 2006/648/EC of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the VIS.</p> <p>The biometric identifiers shall be taken by qualified and duly authorised staff of the visa authorities. Under supervision of the visa authorities, the biometric identifiers may also be taken by qualified and duly authorized staff of an honorary consul or of an external service provider referred to in point 1.B.</p> <p>The data shall be entered in the VIS only by duly authorised consular staff according to Articles 4(1), Article 5 and Article 6(5) and (6) of the VIS Regulation.</p>	<p>The technical requirements for the photograph and the fingerprints shall be in accordance with the international standards as set out in ICAO document 9303 part 1 (passports) 6th edition.</p> <p>The biometric identifiers shall be taken by qualified and duly authorised staff of the diplomatic mission or consular post or, under their supervision <b><i>and responsibility</i></b>, of the external service provider referred to in point 1.B.</p> <p>The data shall be entered in the Visa Information System (VIS) only by duly authorised consular staff <b><i>referred to in Article 4(1), in accordance with Article 5 of the VIS regulation.</i></b></p> <p><b><i>Member States shall ensure that full use is made of all search criteria under Article 13 of the VIS Regulation in order to avoid false rejections and identifications.</i></b></p> <p><b><i>The collection of biometric identifiers, including their transmission from the service provider to the responsible consular post, shall be supervised in accordance with Articles 41 and 43 of the VIS Regulation and Article 28 of Directive 1995/46.</i></b></p>

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<p>b) Exceptions</p> <p>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of 6;</li> <li>– Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken.</li> </ul> <p>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.</p> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p>	<p>b) Exceptions</p> <p>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of 6. The use of fingerprints given by children aged between 6 and 12 at the time of collection is regulated in point ba);</li> <li>– Persons where fingerprinting is physically impossible. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. Visa authorities shall be entitled to ask for further clarification on the grounds of the temporary impossibility. If fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken;</li> <li>– Heads of state or government and holders of diplomatic passports who accompany them in official delegation when they are invited by Member States' governments or international organisations, when visiting such international organisations.</li> </ul> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p>	<p>b) Exceptions</p> <p>The following applicants shall be exempt from the requirement to give fingerprints:</p> <ul style="list-style-type: none"> <li>– Children under the age of <b>12</b></li> <li>– Persons where fingerprinting is physically impossible. If, however, fingerprinting of less than ten fingers is possible, the respective number of fingerprints shall be taken. <b><i>Member States shall ensure that appropriate procedures guaranteeing the dignity of the person concerned are in place in the event of there being difficulties in enrolling. They shall also ensure that the decision as to whether fingerprinting is impossible is always taken by the duly authorised staff of the diplomatic mission or consular post of the Member State(s). Furthermore, should the impossibility be temporary, the applicant shall be required to give fingerprints at the following application. Consular staff shall be entitled to ask for further clarification of the reasons for the temporary impossibility.</i></b></li> <li>– holders of diplomatic passports who accompany them in official delegation when they are invited by Member States' governments or international organisations, when visiting such international organisations.</li> </ul> <p>The fact that fingerprinting is physically impossible shall not influence the grant or refusal of a visa.</p>

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		<p>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.</p> <p>In each of these cases an entry “not applicable” shall be introduced in the VIS.</p> <p><i>Without prejudice to the provisions of Point III.4, for persons under the age of 12, scanned photographs shall be used which do not require them to appear in person.</i></p> <p><i>The exemption from the requirement to give fingerprints for children and the elderly, and in particular the age range for the taking of fingerprints, shall be reviewed three years after the start of operation of the VIS. To this end the Commission shall present a report which shall in particular cover the experience of the VIS with regard to the taking and use of fingerprints from children aged 12 and over and a detailed technical assessment of the reliability of taking and using the fingerprints of children under the age of 12 for identification and verification purposes in a large-scale database such as the VIS. The report shall incorporate an extended impact assessment of lower and higher age limits for requiring fingerprints, including social, ergonomic and financial aspects.</i></p> <p><i>The report shall make a similar assessment as regards the taking of fingerprints from the elderly. Should the report show significant problems with taking fingerprints of persons over a certain age, the Commission shall make a proposal to impose an upper age limit.</i></p> <p><i>The report shall be accompanied, where necessary, by suitable proposals to amend this Regulation.</i></p>

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	ba) fingerprints given by children aged between 6 and 12 at the time of collection may only be used for verification purposes <sup>14</sup> .	
<p>(3) In Point VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>For each location Member States shall either equip their consular office with the required material for capturing/collecting biometric identifiers or without prejudice to the above mentioned options of representation, decide to cooperate with one or more other Member States. Any cooperation shall take the form of co-location or the establishment of a Common Application Centre or co-operation with external service providers.</p>	<p>(3) In Point VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>For each location Member States shall either equip their visa authorities with the required material for capturing/collecting biometric identifiers or cooperate with one or more Member States and/or with an external service provider. Member States shall also equip the offices of their honorary consuls whenever they make use of them to collect biometric identifiers.</p> <p>Except for the payment of the <del>handling fee to be charged</del> (as provided for by Part VII, point 4 and Annex 12) and without prejudice to the <del>possibility</del> <b>requirement</b> to call the visa applicant for a personal interview <del>in case of doubt</del> (as provided for by Part III, point 4), the selection of a form of organisation shall not result in the need for the applicant to make personal appearances at more than one location.<sup>15</sup></p>	<p>(3) In Point VII, point 1 is replaced by the following text:</p> <p><i>1 A Organisation of the reception and processing of visa applications</i></p> <p>Each Member State shall be responsible for organising the reception and processing of visa applications.</p> <p>For each location Member States shall either equip their consular office with the required material for capturing/collecting biometric identifiers or without prejudice to the above mentioned options of representation, decide to cooperate with one or more other Member States. Any cooperation shall take the form of co-location or the establishment of a Common Application Centre or, <b>where these are inappropriate</b>, co-operation with external service providers.</p>

<sup>14</sup> NL, BE, BG, DE, EE entered a reservation because in their view it should be possible to use the fingerprints of children for identification purposes as well. The Chair and COM reminded delegations that the European Parliament (EP) is strongly opposed to the taking of fingerprints from children, in particular for identification purposes and has called for concrete figures based on scientific studies from the Member States regarding the reliability of the taking and using of fingerprints of children.

<sup>15</sup> DE entered a reservation. COM reminded delegations that the possibility for an interview in case of doubts leaves untouched the one-stop-shop principle as already foreseen in the current CCI provisions.

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<p>a) Where “co-location” is chosen, 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.</p>	<p>a) Where "co-location" is chosen, staff from the diplomatic missions or consular posts of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic mission or consular post 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 mission or consular post is being used.</p>	<p>a) Where “co-location” is chosen, 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><i>Applicants shall be directed to the Member State responsible for the processing of the visa application.</i></b></p>
<p>b) Where "Common Application Centres": are established, 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.</p>	<p>b) Where "Common Application Centres" are established, staff of diplomatic missions or consular posts 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.</p>	<p>b) Where “Common Application Centres” are established, staff of diplomatic posts and consular missions of two or more Member States are pooled in <b><i>the building of one Member State enjoying diplomatic or consular protection under international law or in a European Commission building recognised by the host State as inviolable</i></b> 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.</p>

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	c) Honorary consuls may also be authorised to perform some or all of the tasks referred to in 1.B.1. Adequate measures should be taken in order to guarantee security and data protection.	
c) Co-operation with external service providers in accordance with 1.B	d) Co-operation with external service providers in accordance with 1.B	c) Co-operation with external service providers in accordance with 1.B
<p><i>1.B Co-operation with external service providers</i></p> <p>Where for reasons relating to the local situation of the consular post it is not appropriate to equip the diplomatic mission or consular office for capturing/collecting biometric identifiers or to organise co-location or a Common Application Centre, a Member State or several Member States jointly may co-operate with an external service provider for the reception of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa applications.</p>	<p><i>1.B Co-operation with external service providers<sup>16</sup></i></p> <p>Where for reasons relating to the local situation of the consular post a Member State considers it is not appropriate to equip or to sufficiently equip the diplomatic mission, the consular post or the honorary consul for capturing/collecting biometric identifiers or that it is not appropriate to organise or join co-location or a Common Application Centre, a Member State or several Member States may co-operate with an external service provider for the <del>reception</del> <b>collection</b> of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of <del>visa applications</del> <b>data</b>.</p>	<p><i>1.B Co-operation with external service providers</i></p> <p><b><i>If, due to particular circumstances or</i></b> 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 <b><i>responsible for the processing of the data and therefore</i></b> liable for <b><i>any breaches of contract and in particular for</i></b> compliance with data protection rules for the processing of visa applications. <b><i>Those Member State(s) shall ensure that an external service provider under Point VII, point 1.B.1b undertakes its activities on the premises of a Member State which enjoy diplomatic or consular protection under international law or on Commission premises recognised by the host state as inviolable and that qualified and duly authorised staff of the diplomatic mission or consular post of the Member State(s) are present to closely supervise the activities of the external service providers.</i></b></p>

<sup>16</sup> Reservation entered by DE who called for the introduction of additional security measures in the Annex.

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<p>1.B.1 Types of co-operation with external service providers</p> <p>Cooperation with external service providers shall take [one of] the following form[s]:</p> <p>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;</p>	<p>1.B.1 Types of co-operation with external service providers</p> <p>Cooperation with external service providers shall only cover some or all of the following tasks:</p> <ul style="list-style-type: none"> <li>• <i>Providing general information on visa requirements and application forms;</i></li> <li>• <i>Collecting admissible visa applications;</i></li> <li>• <i>Collecting the fee to be charged;</i></li> <li>• <i>Informing the applicant on documents required by the diplomatic mission or consular post on the basis of a checklist;</i></li> <li>• <i>Capturing of data (alphanumeric and biometric);</i></li> <li>• <i>Managing of appointments for personal appearance at the diplomatic mission or consular post;</i></li> <li>• <i>Transmitting of the application to the diplomatic mission or consular post;</i></li> <li>• <i>Collecting the passports (including a refusal notification if applicable) from the diplomatic mission or consular post and returning them to the applicant.</i></li> </ul> <p><del>a) provision of general information on the requirements for applying for a visa and distribution of forms;</del></p>	<p>1.B.1 Types of co-operation with external service providers</p> <p>Cooperation with external service providers shall take [one of] the following form[s]:</p> <p>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;</p>

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<p>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 by Part VII, point 4 and Annex 12) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.</p>	<p><del>b) management of an appointment system with the diplomatic mission or consular post or the external service provider;</del></p>	<p>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 by Part VII, point 4 and Annex 12), transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application <b><i>and returns the passport to the applicant or to a legal representative at the end of the procedure.</i></b></p>
	<p><del>e) reception of applications, supporting documents and biometric data and their transmission to the diplomatic mission or consular post and the return of the passport at the end of the procedure;</del></p>	
	<p><del>d) collection of the handling fee<sup>17</sup>.</del></p>	

<sup>17</sup> FI entered a reservation.

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<p>1.B.2. Obligations of Member States</p> <p>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.</p> <p>When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts and shall ensure there is no conflict of interests.</p>	<p>1.B.2. Obligations of Member States</p> <p>The cooperation with an external service provider <b>and in the framework of limited representation provided for in Point II, point 1.2(aa)</b> shall be based on a legal instrument that shall comply with the requirements set out in Annex xy.</p> <p><b><i>Where biometric identifiers have been collected by an external service provider, the represented Member State shall ensure that it is possible to:</i></b></p> <ul style="list-style-type: none"> <li>- <b><i>check the accuracy and quality of the biometric identifiers on a random basis; and</i></b></li> <li>- <b><i>check the accuracy and quality of biometric identifiers collected for an application where there are doubts concerning the accuracy and quality of the biometric identifiers collected in that particular case</i></b></li> </ul> <p><sup>18</sup>.</p>	<p>1.B.2. Obligations of Member States</p> <p><b><i>In compliance with Directive 95/46/EC</i></b>, the Member State(s) concerned shall select an external service provider <b><i>which</i></b> is able to ensure <b><i>a high quality of service and</i></b> all the technical and organisational security measures <b><i>necessary</i></b> 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.</p> <p>When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts) and shall ensure there is no conflict of interests.</p> <p><b><i>The diplomatic missions or consular posts of the Member States shall ensure that the company selected offers relevant professional expertise in information assurance and data security. Member States should follow best procurement practices in contracting external visa support services.</i></b></p>

<sup>18</sup> Reservation entered by COM and IT.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>External service providers shall not have access to the Visa Information System (VIS) for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.</p> <p>The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46. 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.</p>	<p>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.</p> <p>Before taking a decision to cooperate with the external service provider<sup>19</sup>, 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 about such a decision to cooperate.</p>	<p>External service providers shall not have access to the Visa Information System (VIS) for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts <i>solely for the purposes laid down in the VIS Regulation.</i></p> <p>The Member State(s) concerned shall conclude a <b>written</b> contract with the external service provider in accordance with Article 17 of Directive 95/46. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall <b>justify, with reasons in accordance with Point VII, point 1.B, the need for the contract with</b> the diplomatic missions and consular posts of other Member States and the Commission delegation <b>within local consular cooperation.</b></p>
<p>In addition to the obligations set out in Article 17 of Directive 95/46, the contract shall also contain provisions which:</p> <p>a) define the exact responsibilities of the service provider;</p>		<p>In addition to the obligations set out in Article 17 of Directive 95/46, the contract shall also contain provisions which:</p> <p>a) define the exact responsibilities of the service provider;</p>
<p>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;</p>		<p>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;</p>

<sup>19</sup> BE entered a reservation because the condition to inform the other Member States in advance is impossible to apply in cases where a decision on outsourcing has been taken before the entry into force of the Regulation.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
c) require the service provider to provide the applicants with the information required under Regulation ..... [draft VIS regulation];		c) require the service provider to provide the applicants with the information required under <i>Article 37 of the draft 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;</i>
		<i>ca) require the service provider to ensure that its staff are appropriately trained and respects the rules laid down in Point III, point -1;</i>
		<i>cb) require the service provider to adopt appropriate anti-corruption measures;</i>
		<i>cc) require the service provider to report to the responsible Member State without delay any security breaches or any other problems;</i>
		<i>cd) require the service provider to record any complaints or notifications from applicants on data misuse or unauthorised access. The external service provider shall inform the responsible Member State's diplomatic mission or consular post without delay and coordinate with them in order to find a solution. Complaints should be handled in such a way so as to ensure that explanatory responses are given to visa applicants promptly;</i>
d) provide for access by consular staff to the premises of the service provider at all times;		d) provide for access by consular staff to the premises of the service provider at all times;

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
e) require the service provider to observe rules of confidentiality (including the protection of the data collected in relation to visa applications;		e) require the service provider <i>and its staff</i> to observe rules of confidentiality <i>which shall also apply once the staff have left the employ of the external service provider or after the suspension or termination of the contract;</i>
		ea) <i>ensure data protection compliance, including reporting obligations, external audits, regular spot checks by, inter alia, national data protection authorities and that mechanisms are in place for the apportionment of the liability of a contractor in the event of a breach of the regulations on privacy, including the obligation to compensate individuals where they have suffered damage resulting from an act or omission of the service provider;</i>
		eb) <i>require the service provider to transmit without delay the completed file to the diplomatic mission or consular post of the Member State responsible for the processing of the application and not to copy, store, or otherwise retain any data collected after the transmission;</i>
		ec) <i>require the service provider to prevent any unauthorised reading, copying, modification or deletion of visa data during the transmission from the service provider to the diplomatic mission or consular post of the Member State responsible for the processing of the application, in particular by means of appropriate encryption techniques.</i>
f) contain a suspension and termination clause.		f) contain a suspension and termination clause.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p><i>fa) contain a revision clause with a view to ensuring that contracts reflect best current practices;</i></p>
		<p><i>fb) lay down rules on the conduct of the staff responsible for handling visa applications and for collecting biometric data with maximum respect for human dignity. Any measure taken when carrying out those duties must be proportionate to the aims of that measure. In processing the application, staff shall avoid any discrimination among persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.</i></p> <p><i>A model contract shall be established within local consular cooperation.</i></p> <p><i>Member States shall ensure that there is the least possible service disruption for visa applicants in the event of the external service provider suddenly ceasing to provide the services required under the contract.</i></p>
<p>The Member State(s) concerned shall monitor implementation of the contract, including:</p> <p>a) the general information provided by the service provider to visa applicants;</p>	<p>The Member State(s) concerned shall monitor implementation of the legal instrument, including:</p> <p>a) the general information <i>on visa requirements</i> provided by the service provider to visa applicants;</p>	<p>The Member State(s) concerned shall <i>cooperate closely with the external service provider and shall closely monitor the</i> implementation of the contract, including:</p> <p>a) the general information provided by the service provider to visa applicants;</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>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;</p>	<p>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 <i>of personal data</i> involves the transmission of <i>this</i> data over a network, and against all other unlawful forms of processing <i>of personal data</i> as well as the <del>reception</del> <i>collection</i> and transmission of files and data to the diplomatic mission or consular post;</p>	<p>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 <i>diplomatic mission</i> or consular post;</p>
<p>c) the capturing of biometric identifiers;</p>	<p>c) the capturing of biometric identifiers;</p>	<p>c) the capturing <i>and transmission</i> of biometric identifiers;</p>
<p>d) the measures taken to ensure compliance with data protection provisions.</p>	<p>d) the measures taken to ensure compliance with data protection provisions.</p>	<p>d) the measures taken to ensure compliance with data protection <i>and data security</i> provisions <i>as well as measures against corruption</i>.</p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p>The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Annex 12.</p> <p>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.</p>	<p>The total amount of fees charged by the external service provider for processing the visa application shall not exceed<sup>20</sup> the fee set out in Annex 12<sup>21</sup>.</p> <p>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.</p>	<p><i>The fee paid by the applicant shall not exceed the fee set out in annex 12 irrespective of whether Member States cooperate with external service providers.</i></p> <p><i>Member States shall ensure that a procedure is in place allowing for the identification of the external service provider handling any visa application.</i></p> <p>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.</p>
<p>1.B.5 Information</p> <p>Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.</p>	<p>1.B.5 Information</p> <p>Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.</p>	<p>1.B.5 Information</p> <p><i>Member States and their diplomatic missions or consular posts shall provide the general public with all relevant information in relation to a visa application :</i></p> <p><i>(a) the criteria, conditions and procedures for applying for a visa;</i></p>

<sup>20</sup> **EL** and **PL** did not see the purpose of this formulation as the fee set out in Annex 12 was fixed. Responding to a query from **PT**, **COM** noted that there is no link between the negotiation mandates on Community visa facilitation agreements recently agreed upon and outsourcing.

<sup>21</sup> **FR**, **IT**, **ES**, **DE**, **BE** and **AT** were opposed to this provision. **IT** and **ES** added that for them in this context there should be no difference between external service providers and tourist agencies. **EL** entered a reservation and asked for clarification about the maximum amount to be paid by the applicant. **NL** stressed the necessity of making a clear distinction between the tasks of the consulate and those of the service provider, and suggested the addition of a point (e) covering issues related to integrity. Moreover, **NL** proposed the text be worded as follows: "An external service provider may charge a service fee (payable in addition to the handling fee set out in Annex 12), provided that the possibility is maintained for the applicant to lodge an application directly at the diplomatic mission or consular post.". **COM** maintained that if part of Member States' usual tasks were outsourced, the applicant should not be obliged to pay an additional fee, and wondered whether a call centre, where the applicant had to obtain an appointment, could be considered as an additional service. **COM** emphasised that the Community imposed visa requirements on a number of third countries and Member States are obliged to organise the reception of applications properly. Some delegations (**IT**, **NL**, **AT**, **CZ**) noted that the applicant would always be able to submit the application directly at the consular post.

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		<p><i>(b) the means of obtaining an appointment, if applicable;</i></p>
		<p><i>(c) where the application should be submitted (competent diplomatic mission or consular post, common application centre or external service provider).</i></p> <p><i>This information to the general public shall also be available through a common Schengen visa internet site.</i></p> <p><i>The latter shall be established in order to further support the application of the common visa policy and the handling of the visa procedure.</i></p>
		<p><b>1.B. Information Campaign</b></p> <p><i>Shortly before the VIS is brought into operation in a third country, the diplomatic missions or consular posts of Member States together with the delegation of the Commission shall launch a campaign informing the general public about the objectives pursued, the data stored in and the authorities having access to the VIS, and the rights of visa applicants. Such campaigns shall be conducted regularly.</i></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
<p><i>1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts</i></p> <p>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.</p>	<p><i>1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts<sup>22</sup></i></p> <p><u>In the case of cooperation with external service providers, Member States shall maintain the possibility for applicants to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts, where they have a visa department, in reasonable time<sup>23</sup>. If the previous condition is fulfilled, the external service provider may charge a service fee (payable in addition to the handling fee set out in Annex 12).</u></p> <p><u>Should Member States decide to cooperate with external service providers, in locations where there is no diplomatic mission or consular post, in order to facilitate access to visa application, the service fee may be charged by the external service provider - at his discretion or if so provided for in the legal instrument referred to in pt 1.B.2, second indent.<sup>24</sup></u></p> <p><u>Irrespective of the type of cooperation chosen Member States may also maintain the possibility of allowing for applicants' direct access to their premises.<sup>25</sup></u></p>	<p><i>1.C Maintenance of direct access for applicants to Member States diplomatic missions and consular posts</i></p> <p>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.</p>

<sup>22</sup> **IT** wanted to maintain the possibility for applicants to have access to consular premises in all cases. **COM** was opposed to the proposal of the Presidency. **SE** entered a reservation on the point. **SI** entered a scrutiny reservation on the new text. **EL** was opposed to an additional fee. **PL** entered comments on visa fees and on external service providers and suggested a new wording.

<sup>23</sup> **LU** asked what was actually meant by reasonable time. The **Chair** asked delegations a contribution on that point, to be sent by e-mail. **COM** thought "reasonable time" was only a part of the question and called for a drafting along the lines of "identical conditions".

<sup>24</sup> **MT, CY** and **SK** entered a scrutiny reservation on the two first subparagraphs.

<sup>25</sup> **BE, IT, AT, BG, DE, FR, LT, DK** were of the opinion that this last subparagraph is superfluous.

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<p><i>1.D Decision and publication</i></p> <p>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.</p> <p>Member States shall provide the Commission with the contracts they conclude.</p>	<p><i>1.D Decision and publication</i></p> <p>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.</p> <p>Member States shall provide the Commission with a copy of the legal instrument referred to in point 1.B.2, second indent.</p>	<p><i>1.D Decision and publication</i></p> <p>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 <b><i>on the common Schengen visa internet site.</i></b></p> <p>Member States shall provide the Commission with the contracts they conclude.</p>
<p>(4) In point VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>	<p>(4) In point VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>	<p>(4) In point VIII, point 5.2 is amended as follows:</p> <p>a) the title is replaced by the following:</p>
<p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a):</p> <p>For repeated applications in the sense of point III 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p>	<p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a)<sup>26</sup>:</p> <p>For <del>repeated</del> <b><i>subsequent</i></b> applications<sup>27</sup> in the sense of point III 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p>	<p>5.2. Member States' diplomatic missions and consular posts' cooperation with commercial intermediaries</p> <p>b) the following sentence is inserted between the title and point 5.2 (a):</p> <p>For repeated applications in the sense of point III 1.2, Member States may allow their diplomatic missions or consular posts to cooperate with commercial intermediaries (i.e. private administrative agencies, transport or travel agencies (tour operators and retailers)).</p>
		<p><b><i>1.E General Responsibilities</i></b></p>

<sup>26</sup> ES, BE, IT, AT: reservation.

<sup>27</sup> NL suggested "For subsequent applications...". FR wondered whether the applicant should not have the possibility, by crossing a box on the visa application form, to indicate she/he has already given her/his fingerprints

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p><b>1.E.1 Documents</b></p> <p><i>Any document, data or biometric identifier received by, or on behalf of, a Member State in the course of a visa application shall be considered a 'consular document' under the Vienna Convention on Consular Relations and shall be treated in an appropriate manner.</i></p>
		<p><b>1.E.2 Training</b></p> <p><i>Before being authorised to take biometric identifiers, the staff of the diplomatic mission or consular point shall receive appropriate training so as to ensure smooth and professional enrolment.</i></p>
		<p><b>1.E.3 Liability</b></p> <p><i>Any person who, or Member State which, has suffered damage as a result of an unlawful processing operation or any act in breach of this Regulation shall be entitled to receive compensation from the Member State which is responsible for the damage suffered. That Member State shall be exempted from its liability, in whole or in part, if it proves that it is not responsible for the event giving rise to the damage.</i></p> <p><i>Claims for compensation against a Member State for the damage referred to in the previous subparagraph shall be governed by the provisions of national law of the defendant Member State.</i></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
		<p><b>1.E.4 Penalties</b></p> <p><i>Member States shall take the necessary measures to ensure that any breach of this Regulation, in particular any misuse of data submitted for a visa application is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.</i></p>
<p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present a report to the European Parliament and to the Council on the implementation of the present regulation two years after its entry into force.</p>	<p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present a report to the European Parliament and to the Council on the implementation of the present Regulation two years after its entry into force.</p>	<p style="text-align: center;"><i>Article 2</i></p> <p>The Commission shall present, <b>three years after the VIS is brought into operation and every four years thereafter</b>, a report to the European Parliament and to the Council on the implementation of <b>this Regulation, including the implementation of the enrolment of biometric identifiers, the appropriateness of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data, the principle of the “first application” and the organisation of the reception and the processing of visa applications. The report shall also include, on the basis of Article 17 (12), (13) and (14) and of Article 50(4) of the VIS Regulation, the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons compared with the number of cases in which fingerprints are taken. The report shall include information on cases in which a person who could factually not provide fingerprints was refused a visa. The report shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.</b></p>

<b>COMMISSION PROPOSAL</b>	<b>PRESIDENCY PROPOSAL</b>	<b>EUROPEAN PARLIAMENT</b>
<p style="text-align: center;"><i>Article 3</i></p> <p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>.</p>	<p style="text-align: center;"><i>Article 3</i></p> <p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>.</p>	<p style="text-align: center;"><i>Article 3</i></p> <p>This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i>.</p>
<p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels,</p> <p><i>For the European Parliament</i>      <i>For the Council</i> <i>The President</i>                      <i>The President</i></p>	<p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels,</p> <p><i>For the European Parliament</i>      <i>For the Council</i> <i>The President</i>                      <i>The President</i></p>	<p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p> <p>Done at Brussels,</p> <p><i>For the European Parliament</i>      <i>For the Council</i> <i>The President</i>                      <i>The President</i></p>

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	<p style="text-align: center;"><b>ANNEX xy</b></p> <p style="text-align: center;"><b>List of minimum requirements to be included in legal instruments in the case of cooperation with external service providers</b></p> <p>In executing its activities the external service provider shall:</p> <p>A) In relation to the execution of the activities</p> <p>I. Data protection</p> <p>a) refrain from any unauthorised reading, copying, modification or deletion of visa data, in particular during the transmission to the diplomatic mission or consular post of the Member State responsible for <del>the</del> <del>processing of</del> <b>the a visa</b> application. The transmission of the data shall be made at the latest 24 hours after their collection. The only data that may be retained shall be the name and contact of the visa applicant for the purposes of the appointment arrangements;</p>	
	<p>b) ensure all the technical and organisational security measures required to protect personal data against accidental or unlawful destruction or accidental loss, alteration unauthorised disclosure or access, in particular where the <del>processing</del> <b>cooperation</b> involves the transmission of files and data to the diplomatic mission or the consular post and all other unlawful forms of processing <b>the personal data</b>;</p>	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	c) process the data only for the purposes of processing <del>of</del> <i>the</i> personal data of visa applicants on behalf of the Member State concerned;	
	d) apply data protection standards at least equivalent to those set out in Directive 95/46;	
	e) provide the applicants with the information required under Article 37 of the VIS Regulation;	
	<p>II. External Service Provider Staff</p> <p>a) ensure that its staff in the performance of their duties:</p> <ul style="list-style-type: none"> <li>- receive applicants courteously,</li> <li>- respect the human dignity and integrity of the applicant,</li> <li>- do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, age or sexual orientation, and</li> <li>- respect the rules of confidentiality which will also apply once the staff have left their job or after suspension or termination of a contract;</li> </ul>	
	b) provide identification of the staff working in the company at all times;	
	c) prove that the staff are reliable and have the requisite expertise;	

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	B) In relation to the verification of the execution of the activities  a) provide for access by staff entitled by the visa authorities to its premises at all times without previous notice, in particular for inspection purposes;	
	b) ensure the possibility of remote access to its appointment system for inspection purposes;	
	c) ensure the use of monitoring methods (e.g. test applicants; Webcam) <sup>28</sup> ;	
	d) ensure access to proof of data protection compliance, including reporting obligations, external audits, regular spot checks;	
	C) Miscellaneous  a) act under the instructions of the Member State responsible for the processing of the application;	
	b) adopt appropriate anti-corruption measures (e.g. provisions on staff remuneration; cooperation in the selection of staff members employed on the task; two-man-rule; rotation principle) <sup>29</sup> ;	

<sup>28</sup> Amendment proposed by **DE**.

<sup>29</sup> Amendment proposed by **DE**.

COMMISSION PROPOSAL	PRESIDENCY PROPOSAL	EUROPEAN PARLIAMENT
	c) provide appropriate compensation both to the Member State concerned and the visa applicant where any of points A) c), d) or e) are breached;	
	d) prove to be solvent and reliable (including having the necessary licences, commercial registration, company statutes, bank contracts and no conflict of interests);	
	e) respect fully the provisions of the legal instrument, which shall contain a suspension or termination clause, in particular in the event of breach of the rules established.	