



Brussels, 11 September 2015
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LIMITE

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CODEC 1157
COMIX 380

**Interinstitutional File:
2014/0094 (COD)**

NOTE

From:	Presidency
To:	Permanent Representatives Committee/Mixed Committee
No. Cion doc.:	8401/14 VISA 90 CODEC 971 COMIX 201 (COM(2014) 164 final)
Subject:	Draft Regulation of the European Parliament and of the Council on the Union Code on visas (Visa Code) (recast)

I. State of play

The proposal for a Regulation amending the Union Code on visas¹ has been tabled by the Commission as a recast².

On the basis of the Interinstitutional Agreement of 28 November 2001 on the recast technique³, recasting consists in the adoption of a new legal act which incorporates in a single text both the substantive amendments made to an earlier act and the unchanged provisions of that act. The grey shaded parts in the text of the proposal are supposed to indicate the substantive amendments, namely amendments which affect the substance of the earlier acts, and the "white" parts of the same text reflect any provision of the earlier act which has not undergone any substantive amendment, subject to the purely formal or editorial changes.

¹ See 8401/14 -proposal for a Regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code) (recast).

² The reason for recasting is included in Recital 1 of the proposal : "Regulation (EC) No 810/2009 of the European Parliament and of the Council has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity."

³ Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (see OJ C 77, 28.03. 2002, p.1).

However, during the examination of the proposal in the Visa Working Party started in June 2014, some substantial amendments have been included in the "white" parts, even though these parts in accordance with the Interinstitutional agreement are supposed to contain formal or editorial changes of the existing legal text.

As the Legal Service of the Council has confirmed in the Visa Working Party, in the light of the applicable Interinstitutional Agreement, amendments to the Union Code on visas should be limited only to the grey parts and, as a matter of principle, the white parts should not be amended unless the Commission agrees to reconsider its initial proposal. Otherwise, unanimity would be required in the Council.

If the Council decides to suggest amendments to any part of the text of the recast irrespective of whether the part is “white” or shaded in grey, proceedings would fall outside the recast approach. and the Commission could potentially withdraw its proposal.

However, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament (EP) sent on 31 August 2015 a letter to the Council (see Annex) in order to inform that LIBE had decided to submit amendments to the codified parts ("white" parts) of the recast as well. In the same letter, it is also pointed out that the Commission had been notified of that decision and asked to inform LIBE of its position towards the draft amendments tabled by the EP¹ and to let LIBE know as to whether the Commission intends to withdraw its proposal.

Consequently, the Presidency considers that, in this light, the two following options can be considered:

- either to maintain the changes made by the Council to the white parts of the text and thus departing from the recast approach. This could open up for negotiations on amendments from the EP which may not be agreeable for the Council;
- or to respect the recast approach and, as a consequence, remove any substantial changes made to the white parts of the text during the examination of the proposal in the Council.

¹ See draft report issued on 31 August 2015 by LIBE in PR\1071712EN.doc - PE557.179v02-00.

II. Conclusion

The Permanent Representatives Committee is invited to determine which approach to follow for the purpose of further proceedings.



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKY PARLAMENT EUROPA-PARLAMENTE
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Committee on Civil Liberties, Justice and Home Affairs
 The Chairman

IPOL-COM-LIBE D (2015) 38007

Mr Jeppe TRANHOLM-MIKKELSEN
 Secretary-General
 Council of the European Union
 Justus Lipsius Building
 Rue de la Loi 175
 B-1048 BRUSSELS

314071 31.08.2015

Subject: *Proposal for a Regulation of the European Parliament and of the Council
 on the Union Code on Visas (Visa Code)(recast) (2014/0094 (COD))*

Dear Mr Tranholm-Mikkelsen,

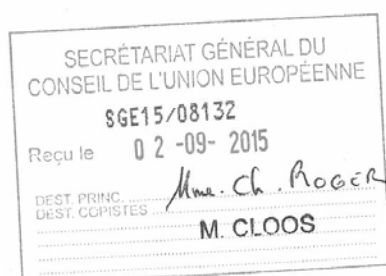
Pursuant to Rule 104(3) of the European Parliament's Rules of Procedure, I hereby inform you that the Committee on Civil Liberties, Justice and Home Affairs may submit amendments to the codified parts of the recast proposal referred to above, in accordance with point 8 of the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts.

The Commission has also been notified and asked to inform the Committee on Civil Liberties, Justice and Home Affairs of its position on the amendment(s), and whether or not it intends to withdraw the recast proposal, before the committee puts the amendment(s) to the vote.

Yours sincerely,

Claude Moraes

Claude MORAES



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