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OUTCOME OF PROCEEDINGS

From:	Visa Working Party/Mixed Committee EU-Iceland/Liechtenstein/Norway/Switzerland)
On:	2 and 3 September 2015
No. prev. doc.:	11003/15 VISA 238 CODEC 1053 COMIX 335
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)

1. At its meeting on 2-3 September 2015, the Working Party examined the drafting suggestions made by the Presidency in 11003/15.

2. The outcome of the discussions during that meeting is to be found in the Annex attached. Comments in relation to the text are set out in the footnotes to the Annex. The text of the draft Regulation as amended by the Working Party appears in **bold** (new text or (…) when text has been deleted). The changes suggested by the Presidency, which have not yet been agreed, are underlined.

ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union Code on Visas (Visa Code)

(recast)

TITLE I

GENERAL PROVISIONS

Article 2

Definitions

12. 'valid travel document' means a travel document that**:**[1]

(a) has not been usurped or wrongfully obtained,

(b) is not false, counterfeit or forged and

(c) the period of validity of which as defined by the issuing authority has not expired;

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[1] **HR**: scrutiny reservation on Article 2. **PL**: scrutiny reservation, since consulate is not equipped to check whether the travel document is valid or not. If the visa has been issued on the basis of the travel document, it is supposed to be valid later on at the borders as well. Moreover, there is no definition of 'valid travel document' in the Schengen Borders Code. The **Chair** explained that this definition was not meant to be used when examining the first application but, for instance, as a reason for refusing to issue a Multiple Entry Visa (MEV). **PT**: scrutiny reservation because of the link with Article 21. **CZ:** scrutiny reservation, since the modification should not be made to the definition but to Article 18(5)(a), which could read as follows: *' (a) that the travel document presented is a valid travel document entitling the holder to cross the border.'* **NL** and **BE** wondered what the consequence of lodging an application on the basis of an invalid travel document would be, and whether the fee would be returned to the applicant if the application cannot be considered as admissible because the travel document is not valid. **BE** was of the view that this information had to be entered into the VIS. The **representative of the Commission** (COM) opposed the change, since the Commission was of the view that:
- the validity of the document cannot be legally checked;
- the existing provision is already sufficient;
- this definition would deviate from the provision in the Schengen Borders Code.

TITLE II

AIRPORT TRANSIT VISA

Article 3

Third-country nationals required to hold an airport transit visa

1. Nationals of the third countries listed in Annex III shall be required to hold an airport transit visa when passing through the international transit areas of airports situated on the territory of the Member States.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning amendments to the list of the third countries set out in Annex III.[1]

   Where in the case of emerging risks, imperative grounds of urgency so require, the procedure provided for in Article 49 shall apply to delegated acts adopted pursuant to this paragraph.

3. Where there is a sudden and substantial influx of irregular immigrants[2], a Member State may require nationals of third countries other than those referred to in paragraph 1 to hold an airport transit visa when passing through the international transit areas of airports situated on its territory. The duration of such a measure shall not exceed 12 months. The scope and duration of the airport transit visa requirement shall not exceed what is strictly necessary to respond to the sudden and substantial influx of irregular immigrants.

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[1] **SE**: more harmonised approach needed. Conditions of delegation to the Commission should be further specified. Clear criteria and objective to be defined concerning the countries to be listed in Annex III. **FR,** supported by **PL,** questioned the use of delegated acts and wondered why implementing acts could not be used. **BE**, supported by **NL**: delegated acts not the right procedure in case of emergency. **ES**: decision should not be left to the Commission only. **COM** stressed that the decision would be taken by the Commission on the basis of the information provided by Member States.

[2] **CZ**: not only migratory risks should be included, but also security risks.

4. (**moved from paragraph 6**) **The Member State may prolong the airport transit visa requirement** ~~only once~~ **where the lifting of the requirement would lead to a substantial influx**[1] **of irregular migrants. Each Subsequent prolongations should not exceed 12 months**. [2]

5. [3]Where a Member State plans to introduce the airport transit visa requirement in accordance with paragraph 3, it shall as soon as possible notify the Commission, and shall provide the following information:

(a) the reason for the planned airport transit visa requirement, substantiating the sudden and substantial influx of irregular immigrants;[4]

(b) the scope and duration of the planned introduction **or prolongation** of the airport transit visa requirement.

5.1 Where a Member State decides to prolong the airport transit visa requirement in accordance with paragraph 4, it shall notify the Commission two months[5] **before the prolongation takes effect and provide the information referred to in paragraph 5(a) and (b).**

6. Following the notification by the Member State concerned in accordance with **paragraph 5**, the Commission may issue an opinion.

~~6.~~ (**moved to 4**)

7. The Commission shall, on an annual basis, inform the European Parliament and the Council about the implementation of this Article.

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1 **ES**: more open wording is needed.
2 **FR**: Member States should be able to prolong the requirement as many times as they want. **COM** agreed. **NL**: absence of cooperation by the third country concerning readmission should also be taken into account.
3 **PT, PL**: scrutiny reservation.
4 **ES**: difficult to implement given the urgency of the situation.
5 **ES**: deadline should be reduced in case of urgency. **COM** disagreed since it stated that the Commission was currently not duly notified.

8. [1]The following categories of persons shall be exempt from the requirement to hold an airport transit visa provided for in paragraphs 1 and 3:

(a) holders of a valid uniform visa, touring visa, national long-stay visa or residence permit issued by a Member State;

(b) third-country nationals holding a valid residence permit issued by a Member State which does not take part in the adoption of this Regulation or by a Member State which does not yet apply the provisions of the Schengen acquis in full, or third country nationals holding one of the valid residence permits listed in Annex IV issued by Andorra, Canada, Japan, San Marino or the United States of America guaranteeing the holder's unconditional readmission, or holding a residence permit for the Caribbean parts of the Kingdom of the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba);

(c) third-country nationals holding a valid visa for a Member State which does not take part in the adoption of this Regulation, or for a Member State which does not yet apply the provisions of the Schengen acquis in full, or for a country party to the Agreement on the European Economic Area, or for Canada, Japan or the United States of America, or holders of a valid visa for the Caribbean parts of the Kingdom of the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba), when travelling to the issuing country or to any other third country, or when, having used the visa, returning from the issuing country;

(d) family members of citizens of the Union as referred to in Article 3 of Directive 2004/38/EC;

(e) holders of diplomatic, service, official or special passports;[2]

(f) flight crew members who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation.

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[1] **PT**: scrutiny reservation.

[2] **SE, FR, CZ, ES** favoured limiting this to diplomatic passports only. **COM** pointed out that the reason why this provision had been added was that Member States are allowed, in accordance with Regulation (EC) No 539/2001, to waive the visa requirement for holders of this category of travel documents. COM also recalled practical problems that had been discussed earlier in the Visa WP related to the lack of coherence between ATV requirements and visa waivers for certain categories of persons (cf. point 2.1.7 of the Commission Staff Working Document in 8478/14 ADD 1).

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning the amendments to the list of valid residence permits entitling the holder to transit through the airports of Member States without being required to hold an airport transit visa, set out in Annex IV.

Article 5

Member State competent for examining and deciding on an application

1.[1] The Member State competent for examining and deciding on an application for a uniform visa shall be:

(a) the Member State whose territory constitutes the sole destination of the visit(s);

(b) if the visit includes more than one destination, or if several separate visits are to be carried out within a period of two months, the Member State whose territory constitutes the main destination of the visit(s) in terms of the length of stay, counted in days ; or

(c) if no main destination can be determined, the Member State whose external border the applicant intends to cross in order to enter the territory of the Member States.

[1] **BE**: opposed to changing the current system, which is satisfactory. **COM** explained that some clearer criteria had been added to the proposal, such as the number of days.

2.[1] If the Member State that is competent in accordance with paragraph 1 point (a) or (b), is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6, the applicant is entitled to lodge the application:

a) at the consulate of one of the Member States of destination of the envisaged visit,

b) at the consulate of the Member State of first entry, if point a) is not applicable,

c) in all other cases at the consulate of any of the Member States that are present in the country concerned.

3. The Member State competent for examining and deciding on an application for an airport transit visa shall be:

(a) in the case of a single airport transit, the Member State on whose territory the transit airport is situated; or

(b) in the case of double or multiple airport transit, the Member State on whose territory the first transit airport is situated.

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[1] **FR,** supported by **DE, CH, CZ, HU, SE, ES**: against the idea of mandatory representation, since the current system is satisfactory. Furthermore, it could entail more work for some consulates and then justify an increase in the visa fee. **DE,** supported by **AT, CH**, **NO**, **NL**, **PL**, suggested deleting the whole of paragraph 2 and, above all, point (c). **BE** explained that paragraph 2 concerns 'limited representation' only, since it reads '…the applicant is entitled to lodge…', whereas paragraph 1 reads 'the Member State competent for examining and deciding on an application…' Furthermore, BE suggested introducing a transitional period for concluding bilateral agreements on representation. **COM**, while stating that the transitional period could be a good idea, disagreed with the delegations and stressed that the purpose of the provisions set out under this paragraph was to help applicants and allow them to apply for a visa when they find themselves in the disagreeable situation where the competent Member State is neither present nor represented. Moreover, COM was of the opinion that point (c) constituted an important facilitation for the applicants concerned, while at the same time not being too cumbersome for Member States, since there would not be too many cases where this provision would apply. **SE:** such situations could be covered by Article 5(4) of the current Visa Code. **COM** disagreed with that idea.
The **Chair** asked whether Member States could agree on paragraph 2 if it had to be understood as the consulate acting as a mailbox and dispatching the applications afterwards to the competent Member State. **DE, AT, HU, FR**, **CZ, NO, NL, BE** confirmed that they could not agree. **ES, IT, NL** suggested that the applicant could lodge the application with an external service provider (ESP). **COM** said that the possibility of outsourcing to ESPs was not possible. Furthermore, COM stressed that Member States had to carry out the full examination of the application in this case.

CHAPTER II

APPLICATION

Article 8

Practical modalities for lodging an application

1. Applications **shall** be lodged **no more than** six months before and**, as a rule,** no later than 15 calendar days before the start of the intended visit.

2. **Applicants (…)** may **be required (…)** to obtain an appointment for the lodging of an application. The appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested.

4. [1]The consulate shall allow to lodge the application either without prior appointment or with an **(…)** appointment **arranged** without delay to family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC.

5. In justified cases of urgency, the consulate **(…) may** allow applicants to lodge their applications either without appointment, or an **(…)** appointment **arranged** without delay shall be given.

6. Applications may, without prejudice to Article 12 be lodged:

(a) by the applicant;

(b) by an accredited[2] commercial intermediary referred to in Article 43 or

(c) a professional, cultural, sports or educational association or institution.[3]

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[1] **SE** considered this not to be the best place for this provision, as it is already included in Directive 2004/38/EC. **AT** suggested deleting paragraph 4, since it was of the opinion that the proposal implied hiring extra staff and would be more costly. **PT**: scrutiny reservation on paragraphs 4 and 5. Too difficult to implement, even with 'without delay'. **ES** suggested using the same wording as in Article 5 of Directive 2004/38/EC, namely 'as soon as possible'. COM stated that paragraph 4 was just about transposing the facilitations already provided for in that Directive.

[2] **RO,** supported by **SE, IT** asked for a clearer definition of 'accredited'. **COM** replied that the conditions for being considered as accredited were to be found under Article 43 of the current Visa Code. Furthermore, COM stressed that this was a 'may' clause ('Applications may…').

[3] **HR** disagreed.

Article 9

General rules for lodging an application

1. [1]Applicants shall appear in person when lodging an application for the collection of fingerprints, in accordance with Article 12 (2) ~~and~~ (3) **and (7)(b).**

2. ~~**Except in the case of an applicant for whom the fingerprinting was temporarily impossible at a previous application as referred to in Article 12(7)(b),**~~ VIS registered applicants shall not be required to appear in person when lodging an application, where **either** their fingerprints have been entered into the VIS less than 59 months before **or the information on their permanent impossibility to deliver fingerprints has been registered in the VIS less than 59 months before**. ~~Applicants shall not be required to appear in person when lodging an application if their permanent impossibility to deliver fingerprints has been previously registered in the VIS less than 59 months before the date of the new application.~~

Article 10

Application form

1. Each applicant shall submit a manually or electronically completed **(…)** application form **signed manually or, if applicable, electronically**, as set out in Annex I. Persons included in the applicant's travel document shall submit a separate application form. Minors shall submit an application form signed **manually or, if applicable, electronically** by a person exercising permanent or temporary parental authority or legal guardianship.[2]

[1] **FR, CH, SE** supported the Presidency's suggestion. **CZ** found it too complicated. **COM** expressed support as well.

[2] **CH, DE, BE, SE** supported the Presidency's suggestion. **COM** expressed support as well. **RO** suggested replacing 'shall' by 'may' and 'completed' by 'filled in'.

Article 11

Travel document

The applicant shall present a valid travel document satisfying the following criteria:

(a) without prejudice to Article 21(2), it shall be valid for at least three months after the intended date of departure from the territory of the Member States or, in the case of several visits, after the last intended date of departure from the territory of the Member States. However, in a justified case of emergency, this obligation may be waived;

(b) it shall contain at least **(…) two consecutive** blank **(…) pages**, and if several applicants are covered by the same travel document it shall contain **(…) two consecutive** blank **(…) pages** per applicant;[1]

(c) it shall have been issued within the previous 10 years.

Article 12

Biometric identifiers

1. Member States shall collect biometric identifiers of the applicant comprising a photograph of him and his 10 fingerprints in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child.

2. At the time of submission of the first application, the following biometric identifiers of the applicant shall be collected:

– a photograph, scanned or taken at the time of application, and

– his 10 fingerprints taken flat and collected digitally.

[1] **PL, PT**: scrutiny reservation. **COM** pointed out that the implementation of Article 12 would be part of the evaluation of the VIS, which is currently being carried out and will be presented next year. Therefore, suggestions for amendments to that Article should be postponed until after the evaluation.

3. Where fingerprints collected from the applicant as part of an earlier application for a short stay visa or a touring visa were entered in the VIS for the first time less than 59 months before the date of the new application, they shall be copied to the subsequent application.

However, where there is reasonable doubt regarding the identity of the applicant, the consulate shall collect fingerprints within the period specified in the first subparagraph.

Furthermore, if at the time when the application is lodged, it cannot be immediately confirmed that the fingerprints were collected within the period specified in the first subparagraph, the applicant may request that they be collected.

7. The following applicants shall be exempt from the requirement to give fingerprints:

(a) children under the age of 12;

(b) persons for whom fingerprinting is physically impossible. If the fingerprinting of fewer than 10 fingers is possible, the maximum number of fingerprints shall be taken. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling;

(c) heads of State or government and members of a national government with accompanying spouses, and the members of their official delegation when they are invited by Member States' governments or by international organisations for an official purpose;

(d) sovereigns and other senior members of a royal family, when they are invited by Member States' governments or by international organisations for an official purpose.

7.1. The following applicants may be exempt from the requirement to give fingerprints:[1]

(a) **persons in situation of medical urgency**[2] **attested by a medical certificate;**[3]

(b) **persons summoned before** an international Court or Tribunal.[4]

Article 13[5]

Supporting documents

1. When applying for a uniform visa, the applicant shall present:

(a) documents indicating the purpose of the journey;

(b) documents in relation to accommodation, or proof of sufficient means to cover his accommodation;

(c) documents indicating that the applicant possesses sufficient means of subsistence both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or that he is in a position to acquire such means lawfully, in accordance with Article 5(1)(c) and (3) of Regulation (EC) No 562/2006 of the European Parliament and of the Council ;

(d) information enabling an assessment of the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for.

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1 **RO, FR**, **NL**: support. **SE**: reluctant to allow new exemptions. **LT**: legal uncertainty because of the use of the 'may' clause.
2 **ES**: to be broadened.
3 **CH**: support.
4 **CH**: reservation.
5 **AT, HU**: scrutiny reservation on the whole Article. **COM**: although it was of the view that the text of the Article has to be as clear as possible, it stressed that the verification of the entry conditions is to be dealt with in Article 18. The **Chair** stated that it had to remain possible for consulates to ask for further documents in addition to those referred to in the list with a view to security measures.

2. Points (b), (c) and (d)[1] of paragraph 1 **shall** not apply to applicants who are VIS registered regular travellers and who have lawfully used the **visas**.[2]

4. The list of supporting documents which may be requested from the applicant in order to verify the fulfilment of the conditions listed in paragraph 1 is set out in Annex II**. The consulate may require other documentation pertaining to the verification of entry conditions and risk assessment as referred to in Article 18(10).**[3]

5. (**moved from paragraph 9**) Within local Schengen cooperation, lists of supporting documents shall be prepared in each jurisdiction in order to take account of local circumstances.[4]

6. (**moved from paragraph 10**) Without prejudice to paragraph 1, Member States may provide exemptions from the list of supporting documents referred to in paragraphs 4 and 9 in the case of applicants attending major international events organised in their territory that are considered particularly important due to their tourism and/or cultural impact.[5]

7. (**moved from paragraph 11**) The Commission shall by means of implementing acts adopt the **latest version** of the lists of supporting documents to be used in each jurisdiction in order to take account of local circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).[6]

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1 **DE**: opposed to the reference to points (b), (c) and (d). **BE**: point (d) to be dropped since the intention to return has to be proven by the applicant.

2 **PT**: scrutiny reservation maintained. **SE**: more clarity is needed on 'the visas'.

3 **COM** disagreed, since this is getting mixed up in the verification of entry conditions, which comes later in the examination process. **FR, ES**: support of Presidency's suggestion. **DE** suggested adding '…anytime there are doubts…'

4 Following a request made by **PL**, the Chair suggested amending this paragraph along the following lines: '…shall be prepared and periodically updated in each jurisdiction…' **COM** disagreed since it said that the Visa Committee was already dealing with the necessary updating exercise of those lists.

5 **DE**: scrutiny reservation. **NO** disagreed due to lack of harmonisation. Moreover, NO asked what should be understood as 'major international events'. **SE** asked how this provision would work if a Member State was representing another one.

6 **DE**: scrutiny reservation.

8. (**moved from paragraph 5**) Consulates may waive one or more of the requirement to provide one or more of the documents referred to in paragraph 1(a) to (d) in the case of an applicant known to them for his integrity and reliability, in particular the lawful use of previous visas, if there is no doubt that he will fulfil the requirements of Article 5(1) of Regulation (EC) No 562/2006 at the time of the crossing of the external borders of the Member States.[1]

9. (**moved from paragraph 6**) The consulate shall start processing the visa application on the basis of **(…)** copies of the supporting documents. Applicants **whose data** are not yet registered in the VIS **or VIS registered applicants** who never obtained a visa within the period during which their data were registered in the VIS shall provide the original[2]. The consulate may ask for original documents from applicants who are VIS registered applicants **(…) (…)** where there is doubt about the authenticity of a specific document ~~**or where the requirement to submit original documents stems from the harmonised list of supporting documents referred to in Article 46(1)(a).**~~[3]

10. (**moved from paragraph 7**) Member States may require applicants to present a proof of sponsorship and/or private accommodation by completing a form drawn up by each Member State. That form shall indicate in particular:

(a) whether its purpose is proof of sponsorship and/or of private accommodation;

(b) whether the sponsor/inviting person is an individual, a company or an organisation;

(c) the identity and contact details of the sponsor/inviting person ;

(d) the applicant(s);

(e) the address of the accommodation;

(f) the length and purpose of the stay;

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1 **DE**: scrutiny reservation.

2 **FR,** supported by **AT,** opposed this, since it goes against the possibility of lodging the application and the supporting documents online.

3 **DE**: scrutiny reservation. **COM** agreed.

(g) possible family ties with the sponsor/inviting person .

(h) the information required pursuant to Article 37(1) of Regulation (EC) No 767/2008;

In addition to the Member State's official language(s), the form shall be drawn up in at least one other official language of the institutions of the Union. A specimen of the form shall be notified to the Commission.

11. (**moved from paragraph 8**) When applying for an airport transit visa, the applicant shall present:

(a) documents in relation to the onward journey to the final destination after the intended airport transit;

(b) information enabling an assessment of the applicant's intention not to enter the territory of the Member States.

Article 18

Verification of entry conditions and risk assessment

2. In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who has lawfully used the **visas obtained within the respective time-limits referred to in Article 2(9)**[1], it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration[2] **(…)** and the possession of sufficient means of subsistence.

3. The presumption referred to in paragraph 2 shall not apply where the consulate has reasonable[3] doubts about the fulfilment of the~~se~~ entry conditions based on information stored in the VIS or the absence thereof, such as decisions annulling a previous visa, or in the passport, such as entry and exit stamps **or any other relevant information**[4]. In such cases, the consulates may carry out an interview and request additional documents **as referred to in paragraph 10**.

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1 **PT**: reservation.
2 **ES**: not only risk of irregular immigration at stake.
3 **IT**: what is reasonable? More legal certainty to be ensured. Therefore, new wording to be found.
4 **CH**, supported by **FR, SE**, suggested indicating '…any other relevant information not stored in the VIS'. **COM** wondered how to understand this sentence and was of the opinion that '…or the absence thereof…' was superfluous. The **Chair** agreed to delete this part of the sentence.

5. Without prejudice to paragraph 2, while checking whether the applicant fulfils the entry conditions, the consulate shall verify:

(a) that the travel document presented is **(…) a valid travel document**;[1]

(b) the applicant's justification for the purpose and conditions of the intended stay, and that he has sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is in a position to acquire such means lawfully;

(c) whether the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;

(d) that the applicant is not considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of Regulation (EC) No 562/2006 or to the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.

8. In the examination of an application for an airport transit visa, the consulate shall in particular verify:

(a) that the travel document presented is **(…) a valid travel document**;[2]

(b) the points of departure and destination of the third-country national concerned and the coherence of the intended itinerary and airport transit;

(c) proof of the onward journey to the final destination.

10. During the examination of an application, consulates may in justified cases carry out an interview, ~~and~~ request **information specified in Article 13(1) as well as any additional documents**.

Moreover, COM indicated that the provision should refer to '…these entry conditions…', since the presumption applies only to the two entry conditions referred to in paragraph 2.

[1] **PL**: link to Article 11 should be clarified.

[2] **PL**: link to Article 11 should be clarified.

Article 24

Filling in the visa sticker

3. Member States may add national entries in the 'comments' section of the visa sticker which shall **(…) not** duplicate the entries established in accordance with the procedure referred to in paragraph 2 **(…)**. The 'comments' section of the visa sticker of a multiple entry visa shall not indicate a specific travel purpose.[1]

Article 29

Refusal of a visa

1. Without prejudice to Article 22(1), a visa shall be refused:

(a) if the applicant:

(i) presents a travel document which is **(…) not a valid travel document**;

(ii) does not provide justification for the purpose and conditions of the intended stay;

(iii) does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is not in a position to acquire such means lawfully;

(iv) has already stayed for 90 days during the current 180-day period on the territory of the Member States on the basis of a uniform visa or a visa with limited territorial validity;

[1] **CH**, **FR**, **BE**, **AT, CZ, LV, ES** preferred the previous version of this provision, which provided for the inclusion of a specific travel purpose. **DE**: support for Presidency's suggestion. **SE**: issue preferably to be dealt with in the Handbook. **SI** welcomed the Presidency's suggestion but thought that forbidding the inclusion of the travel purpose in the 'comments' was going too far, since it can sometimes be useful to include it (e.g. for work purposes). **COM** could agree with the Presidency's suggestion. Although referring to a work permit in the comments section could be useful, COM pointed out that the visa is not purpose-bound.

(v) is a person for whom an alert has been issued in the SIS for the purpose of refusing entry;

(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of Regulation (EC) No 562/2006 or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds; or[1]

(b) if there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or the veracity of their contents, the reliability of the statements made by the applicant or his intention to leave the territory of the Member States before the expiry of the visa applied for.

Article 31

Annulment and revocation

1. A visa shall be annulled where it becomes evident that the conditions for issuing it were not met at the time when it was issued, in particular if there are serious grounds for believing that the visa was fraudulently obtained. A visa shall in principle be annulled by the competent authorities of the Member State which issued it. A visa may be annulled by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such annulment.

2. A visa shall be revoked where it becomes evident that the conditions for issuing it are no longer met. A visa shall in principle be revoked by the competent authorities of the Member State which issued it. A visa may be revoked by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such revocation.

3. A visa may be revoked at the request of the visa holder. The competent authorities of the Member States that issued the visa shall be informed of such revocation.

[1] **PT**, supported by **FI, EL, FR, NO, ES, PL, NL, HU**, pleaded for the condition relating to the travel medical insurance (TMI) to be reinserted.

4. Failure of the visa holder to produce, at the border, one or more of the supporting documents referred to in Article 13(4), shall not automatically lead to a decision to annul or revoke the visa.

5. If a visa is annulled or revoked, a stamp stating 'ANNULLED' or 'REVOKED' shall be affixed to it and the optically variable feature of the visa sticker, the security feature 'latent image effect' as well as the term 'visa' shall be invalidated by being crossed out.

6. A decision on annulment or revocation of a visa and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex V.

7. A visa holder whose visa has been annulled or revoked shall have the right to appeal, unless the visa was revoked at his request in accordance with paragraph 3. Appeals shall be conducted against the Member State that has taken the decision on the annulment or revocation and in accordance with the national law of that Member State. Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex V.

8. Information on an annulled or a revoked visa shall be entered into the VIS in accordance with Article 13 of Regulation (EC) No 767/2008.[1]

[1] **SI**: Member States should be allowed to annul a visa without entering the information in the VIS. **COM**, while stressing that this was a codified part of the recast exercise, said it would discuss it bilaterally with SI.

CHAPTER V

VISAS ISSUED AT THE EXTERNAL BORDERS

Article 32

Visas applied for exceptionally at the external border

1. In exceptional cases, visas may be issued at border crossing points if the following conditions are satisfied:

(a) the applicant fulfils the conditions laid down in Article 5(1)(a), (c), (d) and (e) of Regulation (EC) No 562/2006 ;

(b) the applicant has not been in a position to apply for a visa in advance and submits, if required, supporting documents substantiating unforeseeable and imperative reasons for entry; and

(c) the applicant's return to his country of origin or residence or transit through States other than Member States fully implementing the Schengen acquis is assessed as certain.

2. A visa issued at the external border shall be a uniform visa, entitling the holder to stay for a maximum duration of 15 days, depending on the purpose and conditions of the intended stay. In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.[1]

3. Where the conditions laid down in Article 5(1)(a), (c), (d) and (e) of Regulation (EC) No 562/2006 are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity, in accordance with Article 22(1)(a) of this Regulation, for the territory of the issuing Member State only.

[1] **FI**: reference to the TMI to be reinserted. **COM** disagreed, since the requirement for the applicant to be in possession of a TMI has been deleted. **BE**: reference to transit should be deleted. **COM** agreed and said that the deletion had already been agreed on during the first examination of this provision.

4. A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article 19 shall, in principle, not be issued a visa at the external border.

However, a visa with limited territorial validity for the territory of the issuing Member State may be issued at the external border for such persons in exceptional cases, in accordance with Article 22(1)(a).

5. In addition to the reasons for refusing a visa as provided for in Article 29(1) a visa shall be refused at the border crossing point if the conditions referred to in paragraph 1(b) of this Article are not met.

6. The provisions on justification and notification of refusals and the right of appeal set out in Article 29(3) and Annex V shall apply.

Article 34

Visas issued to seafarers at the external border

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa for the purpose of transit at the border where:

(a) he fulfils the conditions set out in Article 32(1); and

(b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.

2. Before issuing a visa at the border to a seafarer, the competent national authorities make sure that the necessary information concerning the seafarer in question has been exchanged.

3. The Commission shall by means of implementing acts adopt operational instructions for issuing visas at the border to seafarers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

4. This Article shall apply without prejudice to Article 32(2), (3) and (4).

TITLE IV

ADMINISTRATIVE MANAGEMENT AND ORGANISATION

Article 35

Organisation of visa sections

1. Member States shall be responsible for organising the visa sections of their consulates.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up, where appropriate. Particular attention shall be paid to clear work structures and a distinct allocation/division of responsibilities in relation to the taking of final decisions on applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised staff. Appropriate measures shall be taken to prevent unauthorised access to such databases.

2. The storage and handling of visa stickers shall be subject to adequate security measures to avoid fraud or loss. Each consulate shall keep an account of its stock of visa stickers and register how each visa sticker has been used.

3. Member States' consulates shall keep archives of applications **in paper or electronic format**. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and the reference number of the visa issued, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.

Individual **paper or electronic** application files shall be kept for a minimum of two years from the date of the decision on the application as referred to in Article 20(1).[1]

[1] Strong support for the Presidency's suggestion from **SE, FR, CH, NO, BE, HU, IT, NL, AT**. **DE**: scrutiny reservation. **COM**: no strong opinions.

Article 36

Resources for examining applications and monitoring of consulates

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the examining of applications, in such a way as to ensure reasonable and harmonised quality of service to the public.

2. Premises shall meet appropriate functional requirements of adequacy and allow for appropriate security measures.

3. Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and up-to-date information on the relevant Union and national law.

4. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of examination of applications and take corrective measures when deviations from the provisions of this Regulation are detected.

Article 37

Conduct of staff

1. Member States' consulates shall ensure that applicants are received courteously.

2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.

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

Article 38

Consular organisation and cooperation

1. Each Member State shall be responsible for organising the procedures relating to applications.

2. Member States shall:

(a) equip their consulates and authorities responsible for issuing visas at the borders with the required material for the collection of biometric identifiers, as well as the offices of their honorary consuls, whenever they make use of them, to collect biometric identifiers in accordance with Article 40;

(b) cooperate with one or more other Member States under representation arrangements or any other form of consular cooperation.

3. A Member State may also cooperate with an external service provider in accordance with Article 41.

4. Member States shall notify to the Commission their consular organisation and cooperation in each consular location.

5. In the event of termination of cooperation with other Member States, Member States shall assure the continuity of full service as soon as practicable.[1]

[1] **COM** said that the addition was meaningless. The termination should be announced well in advance in order for the applicant to know in which Member State's consulate he/she can lodge his/her application. **CH**, supported by **FR** and **SE**, stressed that Member States did not always have the resources to ensure the continuity of full service.

Article 39

Representation arrangements

1. A Member State may agree to represent another Member State that is competent in accordance with Article 5 for the purpose of examining applications and issuing[1] visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner only for the collection of applications and the enrolment of biometric identifiers.

2. Where the representation is limited to the collection of applications, the collection and transmission of files and data to the represented Member State shall be carried out in compliance with the relevant data protection and security rules.

3. A bilateral arrangement shall be established between the representing Member State and the represented Member State. That arrangement:

(a) shall specify the duration of the representation, if only temporary, and the procedures for its termination;

(b) may, in particular when the represented Member State has a consulate in the third country concerned, provide for the provision of premises, staff and payments by the represented Member State.

(c) may stipulate that applications from certain categories of third-country nationals are to be transmitted by the representing Member State to the central authorities of the represented Member State for prior consultation as provided for in Article 19;[2]

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[1] **DE,** supported by **NO, PL, HU**: not clear what the limited representation actually covers, in particular when reading paragraph 1 and 2 together (collection of applications, enrolment of biometrics). Is it also possible for the Member State to take a decision on the application (e.g. refusal)? **COM** pointed out that this was the current text of the Visa Code, which is not used enough by the Member States. Furthermore, COM suggested new wording along the following lines: '… for the purpose of examining applications and taking decisions on applications.' Furthermore, COM said that it would make a drafting suggestion concerning paragraph 2 in order to clarify the distinction between the collection of applications and the enrolment of biometrics.

[2] **FR**: agreed. **CH**: no added value since already covered by Article 19. **SE** preferred the wording of the Commission's proposal.

(d) may, by way of derogation from paragraph 2[1] authorise the consulate of the representing Member State to refuse to issue a visa after examination of the application.[2]

4. Member States lacking their own consulate in a third country shall endeavour to conclude representation arrangements with Member States that have consulates in that country.

5. With a view to ensuring that a poor transport infrastructure or long distances in a specific region or geographical area do not require a disproportionate effort on the part of applicants to have access to a consulate, Member States lacking their own consulate in that region or area shall endeavour to conclude representation arrangements with Member States that have consulates in that region or area.

6. The represented Member State shall notify the representation arrangements or the termination of those arrangements to the Commission at least two months before they enter into force or are terminated where practicable.[3]

7. The consulate of the representing Member State shall, at the same time that the notification referred to in paragraph 6 takes place, inform both the consulates of other Member States and the delegation of the European Union in the jurisdiction concerned about representation arrangements or the termination of such arrangements.

8. If the consulate of the representing Member State decides to cooperate with an external service provider in accordance with Article 41 or with accredited commercial intermediaries as provided for in Article 43, that cooperation shall include applications covered by representation arrangements. The central authorities of the represented Member State shall be informed in advance of the terms of such cooperation.

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[1] **DE, FR, DK, NO**: reference to paragraph 2 not correct anymore; should be to paragraph 1 instead.

[2] **DE,** supported by **DK** and **FR**: text of point (d) to be moved to paragraph 1. **COM** disagreed with the Presidency suggestions in points (c) and (d).

[3] **FR, SE** agreed. **COM** could maybe agree to reduce the time frame to one month, for instance, but stressed that it could not happen overnight.

Article 40

Recourse to honorary consuls

1. Honorary consuls may be authorised to perform some or all of the tasks referred to in Article 41(5). Adequate measures shall be taken to ensure security and data protection.

2. Where the honorary consul is not a civil servant of a Member State, the performance of those tasks shall comply with the requirements set out in Annex VI, except for the provisions in point D(c) of that Annex.

3. Where the honorary consul is a civil servant of a Member State, the Member State concerned shall ensure that requirements comparable to those which would apply if the tasks were performed by its consulate are applied.

Article 41

Cooperation with external service providers

1. Member States shall endeavour to cooperate with an external service provider together with one or more Member States, without prejudice to public procurement and competition rules.

2. Cooperation with an external service provider shall be based on a legal instrument that shall comply with the requirements set out in Annex VI.

3. The examination of applications, interviews (where appropriate), the decision on applications and the printing and affixing of visa stickers shall be carried out only by the consulate.

4. External service providers shall not have access to the VIS under any circumstances.

Access to the VIS shall be reserved exclusively to duly authorised staff of consulates.

5. An external service provider may be entrusted with the performance of one or more of the following tasks:

(a) providing general information on visa requirements and application forms;

(b) informing the applicant of the required supporting documents, on the basis of a checklist;

(c) collecting data and applications (including collection of biometric identifiers) and transmitting the application to the consulate;

(d) collecting the visa fee;

(e) managing the appointments for the applicant, where applicable, at the consulate or at the external service provider;

(f) collecting the travel documents, including a refusal notification if applicable, from the consulate and returning them to the applicant.

6. When selecting an external service provider, the Member State(s) concerned shall scrutinise the solvency and reliability of the company, including the necessary licences, commercial registration, company statutes, bank contracts, and ensure that there is no conflict of interests.

7. The Member State(s) concerned shall ensure that the external service provider selected complies with the terms and conditions assigned to it in the legal instrument referred to in paragraph 2.

8. The Member State(s) concerned shall remain responsible for compliance with data protection rules for the processing of data and shall be supervised in accordance with Article 28 of Directive 95/46/EC.

Cooperation with an external service provider shall not limit or exclude any liability arising under the national law of the Member State(s) concerned for breaches of obligations with regard to the personal data of applicants or the performance of one or more of the tasks referred to in paragraph 5. This provision is without prejudice to any action which may be taken directly against the external service provider under the national law of the third country concerned.

9. The Member State(s) concerned shall provide training to the external service provider, corresponding to the knowledge needed to offer an appropriate service and sufficient information to applicants.

10. The Member State(s) concerned shall closely monitor the implementation of the legal instrument referred to in paragraph 2, including:

(a) the general information on visa requirements and application forms provided by the external service provider to applicants;

(b) 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 cooperation involves the transmission of files and data to the consulate of the Member State(s) concerned, and all other unlawful forms of processing personal data;

(c) the collection and transmission of biometric identifiers;

(d) the measures taken to ensure compliance with data protection provisions.

To this end, the consulate(s) of the Member State(s) concerned shall, on a regular basis, carry out spot checks on the premises of the external service provider.

11. In the event of termination of cooperation with an external service provider, Member States shall ensure the continuity of full service.

12. Member States shall provide the Commission with a copy of the legal instrument referred to in paragraph 2. By **1st March** each year, Member States shall report to the Commission on their cooperation with and monitoring (as referred to in Annex VI, point C) of external service providers worldwide.[1]

[1] **CH** pointed out that it was not clear that the report is about the last calendar year and suggested adding '…in relation to the period covering the last calendar year...' **COM** supported that suggestion. **SE**: annual report not needed: too heavy an administrative burden. **ES** suggested adding that the Commission would provide Member States with a summary of their contributions. **COM** agreed to share the information with the Member States and suggested providing delegations with a template in order to give them a standard way of reporting to the Commission.

Article 42

Encryption and secure transfer of data

1. In the case of cooperation among Member States and cooperation with an external service provider and recourse to honorary consuls, the Member State(s) concerned shall ensure that the data are fully encrypted, whether electronically transferred or physically transferred on an electronic storage medium.

2. In third countries which prohibit encryption of data to be electronically transferred the Member State(s) concerned shall not allow transfer data electronically.

In such a case, the Member State(s) concerned shall ensure that the electronic data are transferred physically in fully encrypted form on an electronic storage medium by a consular officer of a Member State or, where such a transfer would require disproportionate or unreasonable measures to be taken, in another safe and secure way, for example by using established operators experienced in transporting sensitive documents and data in the third country concerned.

3. In all cases the level of security for the transfer shall be adapted to the sensitive nature of the data.

4. The Union shall endeavour to reach agreement with the third countries concerned with the aim of lifting the prohibition against encryption of data to be electronically transferred.

Article 43

Member States' cooperation with commercial intermediaries

1. Member States may accept the lodging of applications by a private administrative agency, a transport company or a travel agency, such as a tour operator or a retailer (commercial intermediaries), except for the collection of biometric identifiers.

2. Cooperation with commercial intermediaries shall be based on the granting of an accreditation by Member States' relevant authorities. The accreditation shall, in particular, be based on the verification of the following aspects:

(a) the current status of the commercial intermediary: current licence, the commercial register, contracts with banks;

(b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;

(c) contracts with transport companies, which must include an outward journey, as well as a guaranteed and fixed return journey.

3. Accredited commercial intermediaries shall be monitored regularly by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation and wherever deemed necessary, verification of the documents relating to group return.

4. Within local Schengen cooperation, information shall be exchanged on the performance of the accredited commercial intermediaries concerning irregularities detected and refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to carry out scheduled trips.

5. Within local Schengen cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each consulate and from which accreditation has been withdrawn, together with the reasons for any such withdrawal.

Each consulate shall inform the public about the list of accredited commercial intermediaries with which it cooperates.

Article 44

Compilation of statistics

Member States shall compile annual statistics[1] on visas, in accordance with Annex VIII[2]. These statistics shall be submitted by 1 March for the preceding calendar year.

Article 45

Information to be provided to the public

1. Member States' central authorities and consulates shall provide the public with all relevant information in relation to the application for a visa, in particular:

(a) the criteria, conditions and procedures for applying for a visa;

(b) the means of obtaining an appointment, if applicable;

(c) where the application may be submitted;

(d) accredited commercial intermediaries;

(e) the time limits for examining applications provided for in Article 20(1), (2) and (3);

(f) the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information;

(g) that negative decisions on applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal, with information regarding the procedure to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;

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[1] **NO**: statistics could be taken out from the central VIS by the Commission. **COM**: Commission does not have access to central VIS. To be discussed with eu-LISA but COM doubted this is a good idea.

[2] **PT**: scrutiny reservation concerning changes in Annex VIII.

(h) that mere possession of a visa does not confer an automatic right of entry and that the holders of visa are requested to present proof that they fulfil the entry conditions at the external border, as provided for in Article 5 of Regulation (EC) No 562/2006.

2. The representing and represented Member State shall inform the general public about representation arrangements as referred to in Article 8 39 before such arrangements enter into force.

3. The Commission shall establish a standard information template for the implementation of the provisions of paragraph 1.

4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the application for a visa.

TITLE V

LOCAL SCHENGEN COOPERATION

Article 46

Local Schengen cooperation between Member States' consulates

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' consulates and the Commission shall strive to[1] cooperate within each jurisdiction, and, in particular, establish ~~to~~:

(a) ~~prepare~~[2] a harmonised list of supporting documents to be submitted by applicants, taking into account Article 13 and Annex II;

(b) ~~ensure a~~ common translation of the application form in accordance with Article 10(6);

(c) ~~establish~~ the list of travel documents issued by the host country and update it regularly.

2. Within local Schengen cooperation a common information sheet shall be established on the basis of the standard information template drawn up by the Commission under Article 45(3).

3. Member States within local Schengen cooperation shall exchange the following:

(a) quarterly statistics on uniform visas, visas with limited territorial validity, airport transit visas and touring visas applied for, issued and refused;

(b) information with regard to the assessment of migratory and/or security risks, in particular on:

(i) the socioeconomic structure of the host country;

(ii) sources of information at local level, including social security, health insurance, fiscal registers and entry-exit registrations;

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[1] **SE,** supported by **DE, CH, PL**: Local Schengen cooperation (LSC) is very important in order to ensure a more harmonised solution. Therefore, it found 'strive to' to be too light a formulation. However, **FR** agreed. **COM** disagreed with the Presidency's suggestion.

[2] **BE** was against deleting this.

(iii) the use of false, counterfeit or forged documents;

(iv) irregular immigration routes;

(v) refusals;

(c) information on cooperation with transport companies.[1]

4. Local Schengen cooperation meetings to deal specifically with operational issues in relation to the application of the common visa policy shall be organised regularly among Member States and the Commission. These meetings shall be convened within the jurisdiction by the Commission, unless otherwise agreed at the request of the Commission.

Single-topic meetings may be organised and sub-groups set up to study specific issues within local Schengen cooperation.

5. Representatives of the consulates of Member States not applying the Union acquis in relation to visas, or of third countries, may on an ad hoc basis be invited to participate in meetings for the exchange of information on issues relating to visas.

6. Summary reports of local Schengen cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of the reports to a Member State. The consulates of each Member State shall forward the reports to their central authorities.

7. An annual report shall be drawn up within each jurisdiction by 31 December each year. On the basis of these reports, the Commission shall draw up an annual report on the state of affairs of local Schengen cooperation to be submitted to the European Parliament and the Council.

[1] **FR**: reference to TMI to be reintroduced.

TITLE VI[1]

FINAL PROVISIONS

Article 47

Arrangements in relation to the Olympic Games and Paralympic Games

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuing of visas set out in Annex VII.

Article 48[2]

Exercise of the delegation

1. The power to adopt delegated acts[3] is conferred on the Commission subject to the conditions laid down in this Article.

2. Powers to adopt delegated acts referred to in Article 3(2) and (9) shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of power referred to in Article 3(2) and (9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

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1 **PT**: scrutiny reservation on the whole of Title VI.

2 **FI, EL**: scrutiny reservation on the Article.

3 **FR** was opposed to delegated acts. **DE** entered a scrutiny reservation. **NL**: not in favour of delegated acts concerning airport transit visas. **COM** said that a cross-cutting discussion on implementing-delegated acts was needed, in particular with a view to the negotiations with the European Parliament. Moreover, **COM** recalled that the Commission had circulated a table containing an overview and comparison with the current Visa Code as regards delegated-implementing acts.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(2) and (9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 49

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 48(5). In such cases, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

Article 50

Instructions on the practical application of this Regulation

The Commission shall by means of implementing acts adopt the operational instructions on the practical application of the provisions of this Regulation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

Article 51

Committee procedure

1. The Commission shall be assisted by a committee (the Visa Committee). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 52

Notification

1. Member States shall notify the Commission of:

(a) representation arrangements referred to in Article 39;

(b) third countries whose nationals are required by individual Member States to hold an airport transit visa when passing through the international transit areas of airports situated on their territory, as referred to in Article 3;

(c) the national form for proof of sponsorship and/or private accommodation referred to in Article 13(7), if applicable;

(d) the list of third countries for which prior consultation referred to in Article 19(1) is required;

(e) the list of third countries for which information referred to in Article 28(1) is required;

(f) the additional national entries in the 'comments' section of the visa sticker, as referred to in Article 24(3);

(g) authorities competent for extending visas, as referred to in Article 30(5);

(h) the choice of consular organisation and cooperation as referred to in Article 38;

(i) statistics compiled in accordance with Article 44 and Annex VIII.

2. The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via the constantly updated Schengen visa website, referred to in Article 45(4).

Article 54

Monitoring and evaluation

1. Three years after the date set in Article 55(2), the Commission shall produce an evaluation of the application of this Regulation. This overall evaluation shall include an examination of the results achieved against objectives and of the implementation of the provisions of this Regulation, without prejudice to the reports referred to in paragraph 3.

2. The Commission shall transmit the evaluation referred to in paragraph 1 to the European Parliament and the Council. On the basis of the evaluation, the Commission shall submit, if necessary, appropriate proposals with a view to amending this Regulation.

3. The Commission shall present, three years after the VIS is brought into operation and every four years thereafter, a report to the European Parliament and to the Council on the implementation of Articles 12, 15, 38, 40 to 42 of this Regulation, including the implementation of the collection and use of biometric identifiers, the suitability 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 implementation of the 59-month rule for the copying of fingerprints and the organisation of the procedures relating to applications. The report shall also include, on the basis of Article 17(12), (13) and (14) and of Article 50(4) of (EC) No 767/2008, 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 were 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.

4. The first of the reports referred to in paragraph 3 shall also address the issue of the sufficient reliability for identification and verification purposes of fingerprints of children under the age of 12 and, in particular, how fingerprints evolve with age, on the basis of the results of a study carried out under the responsibility of the Commission.