



Brussels, 21 September 2015  
(OR. en)

12068/15

LIMITE

VISA 292  
CODEC 1195  
COMIX 411

---

---

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

---

---

**NOTE**

From:	Presidency
To:	Visa Working Party
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)

With a view to the meeting of the Visa Working Party on 30 September - 1 October 2015, on the basis of the comments raised during the last meetings, the Presidency has prepared the following issues:

- the definitions (Article 2);
- the Airport Transit Visa (ATV) (Article 3);
- the Member State competent for examining and deciding on an application (Article 5);
- Competence to issue visas to third-country nationals legally present within the territory of a Member State (Article 7);
- the application (Articles 8 and 13);
- the verification of entry conditions and risk assessment (Article 18);
- Decision on the application (Article 20);
- Filling in the visa sticker (Article 24);

- visas issued at the external borders (Article 32);
- administrative management and organisation (Articles 39 and 41);
- local Schengen cooperation (Article 46);
- final provisions (Articles 48, 53 and 55).
- Annexes II, V, VIII.

Consequently, for the purpose of the discussions at the next meeting of the Visa Working Party, the Presidency invites delegations to examine the text of those articles which delegations will find in 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 new drafting suggested by the Presidency is underlined and ~~stroked through~~ when the text has been deleted.

---

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:

**(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;

16. 'seafarer' means any person who is employed or engaged or works in any capacity on board a ship:

- to which the Maritime Labour Convention, 2006 applies or

- on internal waters.

## ***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.  
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, 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.
4. **(moved from paragraph 6) The Member State may prolong the airport transit visa requirement ~~only once~~ where the lifting of the requirement would create a risk of substantial influx of irregular migrants or a substantive increase in number of non-readmitted persons. Each subsequent prolongations should not exceed 12 months.**
5. 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;
  - (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~~six weeks before the prolongation takes effect and provide the information referred to in paragraph 5(a) and (b).**

8. 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;

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

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. 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.

2. 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.

## Article 7

### **Competence to issue visas to third-country nationals legally present within the territory of a Member State**

1. Third-country nationals who are legally present in the territory of a Member State and who are required to hold a visa to enter the territory of one or more other Member States shall apply for a visa at the consulate of the Member State that is competent in accordance with Article 5.

2. Third-country nationals who have lost their travel document, or from whom this document has been stolen, while staying in the territory of a Member State, may leave that territory, without any visa or other authorisation, on the basis of a valid travel document entitling them to cross the border issued by a consulate of their country of nationality and the presentation of a declaration of loss or theft of the travel document holding the visa issued by the competent authorities ~~without any visa or other authorization.~~

3. Where the third-country national, referred to in paragraph 2, intends to continue travelling in the Schengen area, the authorities in the Member State where he declares the loss or theft of his travel document, shall issue a visa with a duration of validity and period of allowed stay identical to the original visa on the basis of the data registered in the VIS. The visa may also be issued by the representation of the initial issuing Member State or that of another Member State which the primary issuing Member State has concluded a representation agreement with.

## ***CHAPTER II***

### ***APPLICATION***

#### ***Article 8***

#### **Practical modalities for lodging an application**

1. Applications **shall** be lodged no more than 9 months for seafarers and no more than six months for other applicants 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.

### 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.
2. Points (b) and (c) and (d) of paragraph 1 **shall** not apply to applicants who are VIS registered regular travellers and who have lawfully used the **visas**.
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. **In case of doubt, the consulate may at any time require other documentation pertaining to the verification of entry conditions and risk assessment as referred to in Article 18(10).**
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.
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 5 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.
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).



## *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)**, it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration (...) and the possession of sufficient means of subsistence.

3. The presumption referred to in paragraph 2 shall not apply where the consulate has reasonable doubts about the fulfilment of these entry conditions based on information stored in the VIS, such as decisions annulling a previous visa, or in the passport, such as entry and exit stamps **or any other relevant information**. In such cases, the consulates may carry out an interview and request additional documents **as referred to in paragraph 10**. The presumption shall not apply also where the visa applicant has obtained visas on the basis of either falsified, counterfeit, forged, usurped or wrongfully obtained travel documents and/or supporting documents.

## *Article 20*

### **Decision on the application**

3. Applications of (...) family members of Union citizens as referred to in Article 3(1) of Directive 2004/38/EC shall be decided on as soon as possible within 5 calendar days of the date of the lodging of an application. ~~That period may be extended up to a maximum of 10 calendar days in~~ individual cases, notably when further scrutiny of the application is needed, that period may be extended to a maximum of 10 calendar days.

## *Article 24*

### **Filling in the visa sticker**

3. Member States may add national entries in the 'comments' section of the visa sticker, which shall ~~neither~~ **not** duplicate the entries established in accordance with the procedure referred to in paragraph 2 (...).

## *CHAPTER V*

### *VISAS ISSUED AT THE EXTERNAL BORDERS*

#### *Article 32*

##### **Visas applied for exceptionally at the external border**

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.~~

#### *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~~ taking decisions on visa applications 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.

1a. The consulate of the representing Member State may be authorised to refuse issuing a visa after examination of the application.

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;**

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

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~~ one months before they enter into force or are terminated, except in the case of force majeure.
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.

#### *Article 41*

#### **Cooperation with external service providers**

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 during the previous calendar year. The Commission shall transmit a summary of these reports to the Member States for information purposes.

## ***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 cooperate within each jurisdiction in particular to:

(a) prepare 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;

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

(iv) irregular immigration routes;

(v) refusals;

(c) information on cooperation with transport companies.

## *Article 48*

### **Exercise of the delegation**

1. The power to adopt delegated acts 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.
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 53*

### **Repeal**

Regulation (EC) No 810/2009 is repealed and replaced by this Regulation from 6 months after the day of entry into force.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.

## *Article 55*

### **Entry into force**

1. This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [6 months after the day of entry into force].
3. Article 51 shall apply from [3 months after the day of entry into force].
4. Article 5(2) shall apply from [2 years after the day of entry into force]

## **Annex II**

### List of supporting documents

The below generic list of supporting documents shall be subject of assessment and alteration in local Schengen cooperation, under Articles 13(9)<sup>1</sup>(4), 13(5) and 46(1)(a).

### **B. DOCUMENTATION ALLOWING FOR THE ASSESSMENT OF THE APPLICANT'S INTENTION TO LEAVE THE TERRITORY OF THE MEMBER STATES**

#### **1. reservation of or return or round ticket:**

## **Annex V**

### Standard form for notifying grounds for refusal, annulment or revocation of a visa

Addition of Field 1a: “there are reasonable doubts as to the authenticity of the supporting documents submitted or the veracity of their contents”

Addition of Field 7a: “there are reasonable doubts as to the reliability of the statements made”

## **Annex VIII**

### Annual statistics on visas

1. Data shall be submitted for each location where individual Member States issue visas; this includes both consulates and border crossing points (cf. Regulation (EC) No 562/2006, Article 5 (4)(b)).

2. The following data shall be submitted to the Commission within the deadline set out in Article 44 using common templates provided by the Commission, and disaggregated by citizenship of the applicant when relevant, as indicated in the templates:

Number of A visas applied for (single and multiple airport transit)

Number of A visas issued, disaggregated by:

Number of A visas issued for single airport transit,

Number of A visas issued for multiple airport transits,

Number of A visas not issued,

Number of C visas applied for (single-entry and multiple-entry C visas),

– Disaggregated by purpose of travel (cf; field 21 of the application form set out in Annex I

Number of C visas issued, disaggregated by:  
Number of C visas issued for single entry,  
Number of C visas issued for multiple entry with a period of validity of less than 1 year,  
Number of C visas issued for multiple entry with a period of validity of at least 1 year but less than 2 years,  
Number of C visas issued for multiple entry with a period of validity of at least 2 years but less than 3 years,  
Number of C visas issued for multiple entry with a period of validity of at least 3 years but less than 4 years,  
Number of C visas issued for multiple entry with a period of validity of more than 4 years.  
Number of LTV visas issued, disaggregated by the reason why they were issued (cf. Article 22(1) and (3), and Article 33(3),  
Number of C visas not issued because the visa was refused, disaggregated by the reason why the visa was refused,  
– Number of appeals introduced against refused applications,  
– Number of decisions maintained after an appeal,  
– Number of decisions overturned,  
– Number of visas applied for free of charge.  
Number of visas issued under representation agreements.  
If data is neither available nor relevant for one particular category and a third country, the cell shall be left empty and no other value shall be entered.

---