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**NOTE**

From:	Presidency
To:	Visa Working Party
No. prev. doc.:	12068/15 VISA 292 CODEC 1195 COMIX 411 12383/15 VISA 315 CODEC 1249 COMIX 436 13112/15 VISA 332 CODEC 1350 COMIX 500
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 9 November 2015, on the basis of the comments raised during the last meetings, the Presidency has prepared the following issues:

- definitions (Article 2);
- Airport Transit Visa (ATV) (Article 3);
- authorities competent for taking part in the procedures relating to applications (Article 4);
- Member State competent for examining and deciding on an application (Article 5);
- practical modalities for lodging an application (Article 8);
- supporting documents (Article 13);
- visa fee (Article 14);
- verification of entry conditions and risk assessment (Article 18);

- decision on the application (Article 20);
- issuing of a uniform visa (Article 21);
- consular organisation and cooperation (Article 38);
- representation arrangements (Article 39);
- local Schengen cooperation between Member States' consulates (Article 46);
- exercise of the delegation (Article 48);
- urgency procedure (Article 49);
- entry into force (Article 55).

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.

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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**

**7. (...)**

## ***TITLE II***

### ***AIRPORT TRANSIT VISA***

#### ***Article 3***

#### **Third-country nationals required to hold an airport transit visa**

~~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.~~

6. (moved from paragraph 4) Where a Member State plans to introduce the airport transit visa requirement in accordance with paragraphs 3 and 4, it shall as soon as possible notify the Commission, and shall provide the following information its analysis pertaining in particular with:

- 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 of the airport transit visa requirement.

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:

...

- (e) holders of diplomatic, ~~service, official or special~~ passports;

~~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.~~

## **TITLE III**

### ***CONDITIONS AND PROCEDURES FOR ISSUING VISAS***

#### ***CHAPTER I***

#### ***AUTHORITIES TAKING PART IN THE PROCEDURES RELATING TO APPLICATIONS***

##### ***Article 4***

##### **Authorities competent for taking part in the procedures relating to applications**

1. Applications shall be examined and decided on by consulates.
2. By way of derogation from paragraph 1, applications may be examined and decided on at the external borders of the Member States by the authorities responsible for checks on persons, in accordance with Articles 32, (...) and 34.

##### ***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 **or purpose** of stay (...); 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. (moved from paragraph 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.

3. Member States shall cooperate and foster the conclusion of bilateral arrangements to prevent a situation in which an application cannot be examined and decided on because ~~If~~ the Member State that is competent in accordance with paragraphs 1 to 2, ~~point (a) or (b)~~, is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6. ~~If the Member State that is competent in accordance with paragraphs 1 to 2, 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,
- ~~e) in all other cases at the consulate of any of the Member States that are present in the country concerned.~~

## *CHAPTER II*

### *APPLICATION*

#### *Article 8*

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

~~3. The consulate shall allow to lodge the application either without prior appointment or with an immediate appointment to close relatives of Union citizens who:~~

~~(a) intend to visit their Union citizen close relatives residing in the Member State of their nationality;~~

~~(b) intend to travel, together with their Union citizen close relatives residing in a third country, to the Member State of which the Union citizen has the nationality.~~

4. The consulate shall allow to lodge the application either without prior appointment or with an (...) appointment **arranged as soon as possible** 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 immediate appointment ~~arranged as soon as possible~~ shall be given.

*Article 13*

**Supporting documents**

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

~~3. Close relatives of Union citizens referred to in Article 8(3) shall provide only documentary evidence proving the family relationship with the Union citizen, and that they visit or travel together with the Union citizen.~~

Family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC shall provide only original documentary evidence proving that they travel to accompany or join the Union citizen and the family relationship with the Union citizen as referred to in Article 2(2) or the other circumstances referred to in Article 3(2) of that Directive.

9. **(moved from paragraph 6)** The consulate shall start processing the visa application on the basis of (...) copies of the supporting documents. Visas shall not be issued until the original of the supporting documents are provided to the consulate. Applicants **whose data** are not yet registered in the VIS **or VIS registered applicants who did not obtain a visa within the period during which their data were registered in the VIS** shall provide the original. 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.



## *Article 14*

### **Visa fee**

1. Applicants shall pay a visa fee of EUR 60.

~~2. Children from the age of six years and below the age of 12 years shall pay a visa fee of EUR 35.~~

3. The visa fee shall be revised regularly in order to reflect the administrative costs.

4. The following categories shall pay no visa fee:

(a) ~~children under the age of six years~~ ~~minors under the age of~~ **twelve years** ;

(b) school pupils, students, postgraduate students and accompanying teachers who undertake stays for the purpose of study or educational training;

(c) researchers from third countries, as defined in Council Directive 2005/71/EC, travelling for the purpose of carrying out scientific research or participating in a scientific seminar or conference ;

**(d) (...)**

(e) participants aged 25 years or less in seminars, conferences, sports, cultural or educational events organised by non-profit organisations;

**(f) (...)**

(g) family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC in accordance with Article 5(2) of that Directive.

**4a. The visa fee may be waived for holders of diplomatic and service passports.**

## *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 and accomodation.

## *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 within 12 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 20 calendar days.

**CHAPTER IV**  
**ISSUING OF THE VISA**

*Article 21*

**Issuing of a uniform visa**

1. The period of validity of a visa and the length of the authorised stay shall be based on the examination conducted in accordance with Article 18.

2. A visa may be issued for one or multiple entries. The period of validity of a multiple entry visa shall not exceed five years. The period of validity of a multiple entry visa may extend beyond the period of validity of the passport to which the visa is affixed.

Without prejudice to Article 11(a), the period of validity of a single entry visa shall include a ‘period of grace’ of 15 days. Member States may decide not to grant such a period of grace for reasons of public policy or because of the international relations of any of the Member States.

3. VIS registered regular travellers who have lawfully used the (...) ~~obtained~~ visas as referred to in Article 2(9) shall be issued a multiple-entry visa valid for at least three years or less if so requested when lodging their application.

4. Applicants referred to in paragraph 3 who have lawfully used the multiple entry visa valid for three years or less (...) shall be issued a multiple-entry visa valid for five years or less if so requested when lodging their application and provided that the application is lodged no later than one year from the expiry date of the multiple entry visa valid for three years.

~~4a. Paragraphs 3 and 4 shall not apply where the consulate has reasonable doubts about the fulfilment of the entry conditions as referred to in Article 18(3).~~

## 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.

## 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.

6. The represented Member State shall notify the representation arrangements or the termination of those arrangements to the Commission at the latest ~~least two months~~ one month before they enter into force or are terminated, **except in the case of force majeure**.

## TITLE V

### LOCAL SCHENGEN COOPERATION

#### *Article 46*

#### **Local Schengen cooperation between Member States' consulates**

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.
- (d) information on insurance companies providing adequate travel medical insurance, including verification of the type of coverage and possible excess amount.

3a. Local Schengen cooperation shall, on annual basis, assess and draw up a non-exhaustive list of insurance companies providing adequate travel medical insurance

*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 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 55*

##### **Entry into force**

4. Article 5 (a) and (b) shall apply from [2 years after the day of entry into force]

## Harmonised application form

## Application for Schengen Visa

This application form is free



1

Family members of EU, EEA or CH citizens shall not fill in fields no.21, 22, 32, 33 and 34 (marked with\*).

Fields 1-3 shall be filled in in accordance with the data in the travel document.

1. Surname (Family name) ( <del>xx</del> )				FOR OFFICIAL USE ONLY Date of application:  Visa application number:  Application lodged at <input type="checkbox"/> Embassy/consulate <input type="checkbox"/> Service provider <input type="checkbox"/> Intermediary <input type="checkbox"/> Border (Name): ..... <input type="checkbox"/> Other	
2. Surname at birth (Former family name(s)) ( <del>xx</del> )					
3. First name(s) (Given name(s)) ( <del>xx</del> )					
4. Date of birth (day-month-year)		5. Place of birth  6. Country of birth  <u>Paternal / maternal filiation</u>		7. Current nationality  Nationality at birth, if different:  <u>Other nationalities:</u>	
8. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		9. <u>Civil</u> status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> <b>Registered Partnership</b> <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widow(er) <input type="checkbox"/> Other (please specify)		File handled by: Supporting documents: <input type="checkbox"/> Travel document <input type="checkbox"/> Means of subsistence <input type="checkbox"/> Invitation <input type="checkbox"/> <u>TMI</u> <input type="checkbox"/> Means of transport <input type="checkbox"/> Other:	
10. Parental authority/legal guardian: Surname, first name, address (if different from applicant's), telephone no., e-mail address, and nationality					
11. National identity number, where applicable					
15. Number of travel document	16. Date of issue	17. Valid until	18. Issued by		
12. Personal data of the family member who is an EU, EEA or CH citizen					
Surname		First name(s)			
Date of birth	Nationality		Number of travel document or ID card		
13. Family relationship with an EU, EEA or CH citizen <input type="checkbox"/> spouse ..... <input type="checkbox"/> child ..... <input type="checkbox"/> grandchild ..... <input type="checkbox"/> dependent ascendant <input type="checkbox"/> <u>Registered Partnership</u>					
14. Type of travel document <input type="checkbox"/> Ordinary passport <input type="checkbox"/> Diplomatic passport <input type="checkbox"/> Service passport <input type="checkbox"/> Official passport <input type="checkbox"/> Special passport <input type="checkbox"/> Other travel document (please specify)					
Visa decision: <input type="checkbox"/> Refused <input type="checkbox"/> Issued: <input type="checkbox"/> A <input type="checkbox"/> C <input type="checkbox"/> LTV <input type="checkbox"/> Valid: From Until  Number of entries: <input type="checkbox"/> 1 <input type="checkbox"/> Multiple					

<sup>1</sup> No logo is required for Norway, Iceland, Liechtenstein and Switzerland.



19. Applicant's home address and e-mail address		Telephone number(s)	
20. Residence in a country other than the country of current nationality <input type="checkbox"/> No <input type="checkbox"/> Yes. Residence permit or equivalent ..... No. .... Valid until .....			
*21. Current occupation			
* 22. Employer and employer's address and telephone number. For students, name and address of educational establishment			
23. (...) Purpose(s) of the journey: <input type="checkbox"/> Tourism..... <input type="checkbox"/> Business..... <input type="checkbox"/> Visiting family or friends .... <input type="checkbox"/> Cultural ..... <input type="checkbox"/> Sports ..... <input type="checkbox"/> Official visit <input type="checkbox"/> Medical reasons <input type="checkbox"/> Study <input type="checkbox"/> Airport transit ..... <input type="checkbox"/> Other (please specify):			
24. Member State(s) of <b>main</b> destination (and other Member States of destination , if applicable)		25. Member State of first entry	
26. Number of entries requested <input type="checkbox"/> Single entry.... <input type="checkbox"/> Multiple entries		27. Duration of the intended <u>total</u> stay Indicate number of days	
28. Intended date of arrival in the Schengen area / visa valid from		29. Intended date of departure from the Schengen area / visa valid until	
30.Fingerprints collected previously for the purpose of applying for a Schengen visa or a touring visa <input type="checkbox"/> No <input type="checkbox"/> Yes. Date, if known ..... Visa sticker number, if known .....			
31. Entry permit for the final country of destination, where applicable Issued by ..... Valid from ..... until .....			
<del>28. Intended date of arrival in the Schengen area</del>		<del>29. Intended date of departure from the Schengen area</del>	
* 32. Surname and first name of the inviting person(s) in the Member State(s). If not applicable, name of hotel(s) or temporary accommodation(s) in the Member State(s)			
Address and e-mail address of inviting person(s)/hotel(s)/temporary accommodation(s)		Telephone and telefax	
*33. Name and address of inviting company/organisation		Telephone and telefax of company/organisation	
Surname, first name, address, telephone , telefax, and e-mail address of contact person in company/organisation			
*34. Cost of travelling and living during the applicant's stay is covered:			
<input type="checkbox"/> by the applicant himself/herself  Means of support <input type="checkbox"/> Cash <input type="checkbox"/> Traveller's cheques <input type="checkbox"/> Credit card <input type="checkbox"/> Pre-paid accommodation		<input type="checkbox"/> by a sponsor (host, company, organisation), please specify ..... <input type="checkbox"/> referred to in field 32 or 33 ..... <input type="checkbox"/> other (please specify)  Means of support <input type="checkbox"/> Cash <input type="checkbox"/> Accommodation provided <input type="checkbox"/> All expenses covered during the stay	

<input type="checkbox"/> Pre-paid transport <input type="checkbox"/> Other (please specify)		<input type="checkbox"/> Pre-paid transport <input type="checkbox"/> Other (please specify)		
33. Personal data of the family member who is an EU, EEA or CH citizen				
Surname		First name(s)		
Date of birth	Nationality	Number of travel document or ID-card		
I am aware that the visa fee is not refunded if the visa is refused.				
<p>I am aware of and consent to the following: the collection of the data required by this application form and the taking of my photograph and, if applicable, the taking of fingerprints, are mandatory for the examination of the visa application; and any personal data concerning me which appear on the visa application form, as well as my fingerprints and my photograph will be supplied to the relevant authorities of the Member States and processed by those authorities, for the purposes of a decision on my visa application.</p> <p>Such data as well as data concerning the decision taken on my application or a decision whether to annul, revoke or extend a visa issued will be entered into, and stored in the Visa Information System (VIS) for a maximum period of five years, during which it will be accessible to the visa authorities and the authorities competent for carrying out checks on visas at external borders and within the Member States, immigration and asylum authorities in the Member States for the purposes of verifying whether the conditions for the legal entry into, stay and residence on the territory of the Member States are fulfilled, of identifying persons who do not or who no longer fulfil these conditions, of examining an asylum application and of determining responsibility for such examination. Under certain conditions the data will be also available to designated authorities of the Member States and to Europol for the purpose of the prevention, detection and investigation of terrorist offences and of other serious criminal offences. The authority of the Member State responsible for processing the data is: [(.....)].</p> <p>I am aware that I have the right to obtain in any of the Member States notification of the data relating to me recorded in the VIS and of the Member State which transmitted the data, and to request that data relating to me which are inaccurate be corrected and that data relating to me processed unlawfully be deleted. At my express request, the authority examining my application will inform me of the manner in which I may exercise my right to check the personal data concerning me and have them corrected or deleted, including the related remedies according to the national law of the State concerned. The national supervisory authority of that Member State [contact details: .....]</p> <p>will hear claims concerning the protection of personal data.</p> <p>I declare that to the best of my knowledge all particulars supplied by me are correct and complete. I am aware that any false statements will lead to my application being rejected or to the annulment of a visa already granted and may also render me liable to prosecution under the law of the Member State which deals with the application.</p> <p>I undertake to leave the territory of the Member States before the expiry of the visa, if granted. I have been informed that possession of a visa is only one of the prerequisites for entry into the European territory of the Member States. The mere fact that a visa has been granted to me does not mean that I will be entitled to compensation if I fail to comply with the relevant provisions of Article 5(1) of Regulation (EC) No 562/2006 (Schengen Borders Code) and I am therefore refused entry. The prerequisites for entry will be checked again on entry into the European territory of the Member States.</p>				
Place and date			Signature ((...))signature of parental authority/legal guardian, <b>if applicable</b> ):	

## 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)1(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;~~

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