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NOTE

From:	Presidency
To:	Visa Working Party
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)

Following the discussions during the first examination of the articles of the draft Regulation within the Visa WP, several outstanding issues emerged that the Presidency aims to reach agreement on during the coming meetings.

The first two outstanding issues the Presidency has identified concern the definition of and the facilitations granted to the "VIS registered applicants" and the "VIS registered regular travellers" as well as the deadlines concerning the submission of applications, the prior consultation and the decision on the application.

Delegations will find in the Annex the text of Article 2(8) and (9), Article 9(2), Article 13(1), (2) and (6), Article 18(2), (3) and (10), Article 21(3) and (4), Article 8(1), Article 19(2) and (3), Article 20(1) and (2), which the Presidency has prepared for the purpose of the Visa Working Party meeting on 4-5 March 2015.

The underlined text reflects the changes to the Commission proposal as suggested by the Presidency.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Union Code on Visas (Visa Code)

(recast)

Definitions and facilitations

TITLE I

GENERAL PROVISIONS

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

8. "VIS registered applicant" means a visa applicant whose data are registered in the Visa Information System;

9. "VIS registered regular traveller" means a visa applicant who is registered in the Visa Information System and who has obtained three visas within the 12 months prior to the application;

CHAPTER II

APPLICATION

Article 9

General rules for lodging an application

2. VIS registered applicants and VIS registered regular travellers shall not be required to appear in person when lodging an application, where their fingerprints have been entered into the VIS less than 59 months before.

Article 13

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 Council¹ ;

(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.

¹ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

2. Points (b), (c) and (d) of paragraph 1 do not apply to applicants who are VIS registered regular travellers and who have lawfully used the three previously obtained visas. However, this paragraph shall not apply where the presumption referred to in Article 18(2) does not apply.

6. The consulate shall start processing the visa application on the basis of (...) copies of the supporting documents. Applicants who are not yet registered in the VIS shall provide the original. The consulate may ask for original documents from applicants who are VIS registered applicants or VIS registered regular travellers, (...) 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).

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

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 three previously obtained visas, 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 any other relevant information (...).

10. During the examination of an application, consulates may in justified cases as well as when the presumption referred to in paragraph 2 does not apply, carry out an interview and request additional documents.

CHAPTER IV

ISSUING OF THE VISA

Article 21

3. VIS registered regular travellers who have lawfully used the three previously obtained visas shall be issued a multiple entry visa valid for at least three years.

4. Applicants referred to in paragraph 3 who have lawfully used the multiple entry visa valid for at least three years shall be issued a multiple entry visa valid for five years provided that the application is lodged no later than one year from the expiry date of the multiple entry visa valid for at least three years.

Deadlines

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.

CHAPTER III

EXAMINATION OF AND DECISION ON AN APPLICATION

Article 19

Prior consultation of central authorities of other Member States

2. The central authorities consulted shall reply definitively as soon as possible but no later than within six calendar days after being consulted. The absence of a reply within this deadline shall mean that they have no grounds for objecting to the issuing of the visa.

3. Member States shall notify the Commission of the introduction or withdrawal of the requirement of prior consultation, as a rule, at the latest 15 calendar days before it becomes applicable. This information shall also be given within local Schengen cooperation in the jurisdiction concerned.

Article 20

Decision on the application

1. Applications shall be decided on within 10 calendar days of the date of the lodging of an application which is admissible in accordance with Article 17.
2. That period may be extended up to a maximum of 40 calendar days in individual cases, notably when further scrutiny of the application is needed.
