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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) - Mandate for negotiations with the European Parliament

Introduction

1. On 14 March 2018 the Commission submitted a legislative proposal amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) (7173/18). This presentation followed the withdrawal of the 2014 visa package, which had proposed a recast of the Visa Code as well as a Regulation establishing a new type of visa (the touring visa). The interinstitutional negotiations on that package hit a stumbling block, leading the Commission to announce in late 2017 that it would withdraw the package and would come up with a new proposal with targeted amendments to the Visa Code.

2. The Bulgarian Presidency started the examination of the 2018 proposal in the Council preparatory bodies soon after its presentation. Following a thorough examination of the draft Regulations at expert level during five meetings of the Visa Working Party, the Presidency completed two further readings of the text during the JHA Counsellors' meetings on 8 and 13 June. During those proceedings, the Presidency put forward a number of compromise proposals¹, reflecting the oral and written² comments made by delegations.
3. Policy debates were held at political level, in Coreper (28 March and 29 May 2018), SCIFA (16 May 2018) and the JHA Council (5 June 2018), to give guidance to the aforementioned Working Party on certain politically sensitive issues.
4. Considerable progress was made in the early stage of the discussion on many technical aspects of the proposal, such as the level of visa fees, some aspects of the representation arrangements, the procedures and conditions for issuing visas, the determination of the Member States competent for examining and deciding on an application, the issuing of multiple-entry visas and the cooperation with external service providers.
5. Two elements of the proposal were discussed right up to the last phase. The first of these concerns the core feature of the Commission proposal, namely, the link between visa policy and readmission, and the other is the inclusion in the Visa Code – as suggested by some Member States – of provisions according to which visa applications may be examined and decided upon not only by consulates but also by central authorities. A third issue, the specific scheme for the issuance of visas applied for at the external border (Article 36a), has been thoroughly examined but was finally not accepted by the majority of delegations.

The link between visa policy and readmission

6. The Commission proposed the creation of a new mechanism to trigger stricter conditions for processing visas when a third country does not cooperate sufficiently on the readmission of irregular migrants. The proposal to codify such a link in the Visa Code reflects a debate on this issue dating back to 2015 (in the context of the Visa Code recast proposal) and was specifically mentioned by the JHA Council in its conclusions of 8 June 2017.

¹ 7981/18, 8475/18, 8800/18, 9540/18 + ADD 1 and 9939/18.

² 7812/18, 8004/18 + ADD 1, 8427/18 and 9041/18.

7. In Coreper, on 28 March 2018, delegations broadly supported the principle of codifying the link in a legal instrument (i.e. the Visa Code) as a way of ensuring more legal certainty and transparency. It was also clear that the indicators proposed by the Commission for assessing the level of cooperation on readmission with third countries needed to be further elaborated, and that the decision-making process needed to be adapted in order to reflect the political nature of the decision to activate visa policy as leverage.
8. The discussions developed around four major issues: the list of indicators, the approach to be followed, the triggering mechanism and the type of legal act to be used to adopt the restrictive measures.
9. The Integration, Migration and Expulsion (Expulsion) Working Party in April 2018 gave some guidance to the Visa Working Party concerning the indicators. On the basis of the 'toolbox' endorsed in May 2017 (9880/17 RESTREINT UE/EU RESTRICTED), it suggested adding one more indicator regarding the practical cooperation offered by third countries in return and readmission, accompanied by a non-exhaustive list of concrete measures to be provided for by the third country (Article 25a(2)).
10. There were lengthy discussions, including at ministerial level, on the choice of the approach to be followed: namely (as proposed by the Commission), an approach consisting only of a 'negative' form of leverage whereby stricter conditions for processing visas would apply to nationals from third countries which do not cooperate satisfactorily on readmission, or (as suggested by two delegations) an approach in which the 'sanctions' would also be combined with a positive form of leverage, i.e. further visa incentives would be granted to third-country nationals from cooperative countries.

The principle that visa policy should also be used as a positive tool received some support from a number of delegations. However, it eventually appeared that the drawbacks of such an approach, notably in its practical implementation, outnumbered its advantages and the JHA Council clearly indicated that the negative approach was the one to be followed.

11. In this regard, discussions revolved around the possibility of including an early-warning mechanism in the scheme, seen by some delegations as a means of strengthening the principle of gradualism, which should underpin the adoption of visa restrictive measures vis-à-vis third countries. While there seemed to be general agreement that some form of warning should be implemented before the adoption of actual measures, some delegations were opposed to the explicit inclusion of any such clause in the Regulation, considering that discreet diplomacy would be more effective than formal notification and contacts. The cases of Bangladesh and Ivory Coast, handled in the framework of the 'Coreper toolbox', were invoked as precedents both to show the effectiveness of the early-warning mechanism and to confirm its informal and discreet nature. The Presidency brokered a compromise, at a very late stage of the discussions, whereby the Commission, when deciding that a third country is not cooperating, would also take into account the steps it has taken with that country to improve the level of cooperation and would continue these efforts once it submits a proposal for a Council implementing act (Article 25a(5)).
12. Concerning the triggering mechanism (Article 25a (2)(3)(4)(5)), on 29 May Coreper gave clear guidance on the inclusion of a third element: in addition to the Commission's own (regular) assessment of a country's level of cooperation or a notification from a Member State, the Commission would be obliged to act when a simple majority of Member States notifies a persisting problem to the Commission over a period of one year. This element is largely inspired by the so-called 'suspension mechanism'³ and responds to the request by Member States to enhance the political nature of the process leading to the adoption of visa measures.
13. Finally, concerning the type of legal act to be used to adopt restrictive measures, in line with the logic aimed at giving Member States a leading role in the process, delegations agreed that the legal act should be a Council implementing decision (upon a proposal by the Commission). The adoption of the act will therefore take place in the Council framework and not in comitology as proposed by the Commission.

³ Regulation (EU) 2017/371 of 1 March 2017 amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (revision of the suspension mechanism), OJ L 061, 08 March 2017, p. 1.

The role of central authorities in the procedures related to visa applications

14. The Presidency compromise text includes an amendment to Article 4 ('Authorities competent for taking part in the procedures relating to applications') whereby, as a derogation from the principle that applications are examined and decided upon by consulates, Member States can decide that central authorities can play this role as well.
15. This change in of one of the basic principles of the Visa Code needed to be reflected throughout the Visa Code. This alignment exercise was done at a very late stage of the discussions and led the Presidency to modify a number of provisions of the Visa Code which were not included in the Commission's proposal. In addition to mere technical alignments, the Presidency also made sure to include throughout the text a number of safeguards concerning the need for central authorities to have sufficient knowledge of local circumstances and language(s) in order to properly assess the migratory and security risk, as well as to ensure effective participation in Local Schengen Cooperation.
16. While a few delegations disagreed that central authorities should be given such a role in visa processing, considering that only consulates had the necessary local knowledge and expertise to assess an application, the majority supported the Presidency compromise on this issue, also stressing the particular role that central authorities can play in conducting proper security checks.

Visas applied for at the external border under a specific scheme

17. In order to promote short-term tourism, the Commission proposed a new provision (Article 36a) derogating from the general rules on the issuing of visas at the external border. Under this specific scheme, Member States would be allowed, under certain conditions, to issue visas at the external border subject to strict criteria to prevent security and migratory risks and upon notification and publication of the organisational modalities of the scheme.

The proposal was discussed both at technical and political level. The majority of delegations expressed scepticism, pointing out the negative implications of the scheme in terms of security, its potential discriminating effect among Member States (Member States lacking external land and sea borders could never implement the scheme), as well as its departure from the "philosophy" underpinning the Schengen area as the visa issued under the scheme would be valid only in the Member State issuing it. As a consequence, Article 36a was deleted in the compromise text by the Presidency.

Conclusion

18. On the basis of the outcome of the discussions, the Presidency believes that the overall compromise on the draft Regulations, as set out in the annexes to this note⁴, is a balanced one and has a broad degree of support from delegations. It therefore invites the Committee to confirm this and to grant the Presidency a mandate to negotiate with the European Parliament on this basis, with a view to reaching an agreement with the European Parliament as soon as possible.

⁴ Changes to the Commission proposal (and not to the current Visa Code) are marked in ***bold italics*** and ~~striketrough~~. New changes compared to 9939/1/18 REV 1 are marked in ***bold italics underline*** and ~~striketrough underline~~ (see recital 7 and Article 25a).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(a) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Union's common short-stay visa policy has been an integral part to the establishment of an area without internal borders. Visa policy should remain an essential tool for facilitating tourism and business, while helping counter security risks and the risk of irregular migration to the Union.
- (2) The Union should use its visa policy in its cooperation with third countries, and to ensure a better balance between migration and security concerns, economic considerations and general external relations.

¹ OJ C , , p. .

- (3) Regulation (EC) No 810/2009 of the European Parliament and of the Council² establishes the procedures and conditions for issuing visas for intended stays on the territory of Member States not exceeding 90 days in any 180-days period.
- (3a) *Applications should be examined and decided upon by consulates or, by derogation, central authorities. Member States should ensure that the consulates and central authorities have sufficient knowledge of local circumstances to ensure the integrity of the visa procedure.*
- (4) The visa application procedure should be as easy as possible for applicants. It should be clear which Member State is competent for examining an application for a visa in particular where the intended visit covers several Member States. Where possible, Member States should allow for application forms to be completed and submitted electronically. ***It should also be possible to sign the application form electronically where the electronic signature is recognized by the competent Member State.*** Deadlines should be established for the various steps of the procedure in particular to allow travellers to plan ahead and avoid peak seasons in consulates.
- (5) Member States should not be obliged to maintain the possibility of direct access for the lodging of applications at the consulate in places where an external service provider has been mandated to collect visa applications on its behalf, without prejudice to the obligations imposed on Member States by Directive 2004/38/EC³, in particular its Article 5(2).
- (6) The visa fee should ensure that sufficient financial resources are available to cover the expenses of visa processing, including appropriate structures and sufficient staff to ensure the quality and integrity of the examination of visa applications. The amount of the visa fee should be revised on a ~~two~~ **three**-yearly basis on the basis of objective criteria.

² Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (OJ L 243, 15.9.2009, p. 1).

³ Council Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, OJ L 229, 29.6.2004, p. 35.

- (7) To ensure that nationals of third countries subject to the visa requirement can lodge their visa application in their place of residence ~~even if no Member State is present~~ ***where the competent Member State has no consulate*** for the purpose of collecting ***applications and it is not represented by another Member State***, external service providers should be enabled to provide the necessary service for a fee ~~exceeding the general maximum level~~ ***up to the amount of the visa fee. Where this amount is not sufficient to provide a full service, it should be possible to require a higher amount of service fee or an additional courier fee.***
- (8) Representation arrangements should be streamlined and obstacles to the conclusion of such arrangements among Member States should be avoided. The representing Member State should be responsible for the entire processing of visa applications without the involvement of the represented Member State, ***unless the representation arrangement stipulates that the represented Member State has to be consulted on applications from certain categories of third-country nationals.***
- (9) In order to lessen the administrative burden on Member States' consulates and to facilitate smooth travel for frequent or regular travellers, multiple-entry visas with a long period of validity should be issued according to objectively determined common criteria and not be limited to specific travel purposes or categories of applicants.
- (10) Given the differences in local circumstances notably with regard to migratory and security risks, as well as the relationships that the Union maintains with specific countries, Member States' diplomatic missions and consular posts in individual locations should assess the need to adapt the general provisions to allow for a more favourable or more restrictive application. More favourable approaches in issuing multiple-entry visas with a long period of validity should take into account, in particular, the existence of trade agreements covering the mobility of business persons, ~~and the third country's cooperation on the readmission of irregular migrants.~~

- (11) In case of lack of cooperation of certain third countries to readmit their nationals apprehended in an irregular situation and failure of those third countries to cooperate effectively in the return process, a restrictive and temporary application of certain provisions of Regulation (EC) No 810/2009 should on the basis of a transparent mechanism based on objective criteria, be applied to enhance a given third country's cooperation on readmission of irregular migrants.

The Commission should assess regularly, at least once a year, the cooperation of third countries with regard to readmission and examine the notification of Member States. The Commission should, before deciding that a third country is not cooperating sufficiently and that action is needed, take into account the overall cooperation of that third country in the field of migration, in particular in the area of border management, of prevention and fight against migrant smuggling and of prevention of irregular transit of migrants through its territory.

The Commission should, following a decision that the third country is not cooperating sufficiently or a notification by a simple majority of Member States that a third country is not cooperating, submit a proposal to the Council to adopt an implementing decision, while continuing its efforts to improve the cooperation with the third country concerned.

- (11a) *In order to ensure that all the relevant factors and possible implications of the application of the measures to enhance a given third country's cooperation on readmission are adequately taken into account, given the particularly sensitive political nature of such measures and their horizontal implications for the Member States and the Union itself, in particular for their external relations and for the overall functioning of the Schengen area, implementing powers should be conferred on the Council, acting on a proposal from the Commission.*

Conferring such implementing power on the Council adequately takes into account the potential politically sensitive nature of the implementation of the measures to enhance the cooperation of a third country on readmission, given also the facilitation agreements that Member States have in place with third countries.

- (12) Applicants who have been refused a visa should have the right to appeal ~~which should, at a certain stage of the proceedings, guarantee an effective judicial appeal~~. More detailed information on the refusal grounds and procedures for appeal of negative decisions should be provided in the notification of the refusal.
- ~~(13) The issuing of visas at the external border should remain exceptional. However, to promote short term tourism, Member States should be authorised to issue visas at the external border on the basis of temporary schemes, for which the organisational arrangements should be notified and published. Such schemes should be limited in scope and comply with the general rules for processing visa applications. The validity of the visa issued should be limited to the territory of the issuing Member State.~~
- (14) Local Schengen cooperation is crucial for the harmonised application of the common visa policy and for proper assessment of migratory and security risks. Cooperation and exchanges among Member States' diplomatic missions and consular posts in individual locations should be coordinated by Union Delegations. They should assess the operational application of specific provisions in the light of local circumstances and migratory risk.
- (15) Member States should closely and regularly monitor the operations of external service providers to ensure compliance with the legal instrument governing the responsibilities entrusted with the external service provider. Member States should report to the Commission annually on the cooperation with and monitoring of external service providers. Member States should ensure that the entire procedure for the processing of visa applications and the cooperation with external service providers is monitored by expatriate staff.
- (16) Flexible rules should be established to allow Member States to optimise the sharing of resources and to increase consular coverage. Cooperation among Member States (Schengen Visa Centres) could take any form suited to local circumstances in order to increase geographical consular coverage, reduce Member States' costs, increase the visibility of the Union and improve the service offered to visa applicants.

- (17) Electronic visa application systems developed by Member States help to facilitate application procedures for applicants and consulates. A common solution allowing full digitisation should be developed, making full use of the recent legal and technological developments.
- (18) In accordance with Articles 1 and 2 of the Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union (TEU) and to the Treaty establishing the European Community on the Functioning of the European Union (TFEU) Denmark is not taking part in the adoption of this Regulation and is not bound by it, or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (19) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁴. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- (20) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁵. Ireland is therefore not taking part in the adoption of the Regulation and is not bound by it or subject to its application.

⁴ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

⁵ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

- (21) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*⁶ which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC.⁷
- (22) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*⁸, which fall within the area referred to in Article 1, point B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC.⁹

⁶ OJ L 176, 10.7.1999, p. 36.

⁷ Council Decision of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁸ OJ L 53, 27.2.2008, p. 52.

⁹ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

- (23) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement concluded between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹⁰ on the conclusion of that Protocol.
- (24) As regards Cyprus, this Regulation constitutes an act building upon or otherwise related to the Schengen *acquis*, within the meaning of Article 3(42) of the 2003 Act of Accession.
- (25) As regards Bulgaria and Romania, this Regulation constitutes an act building upon or otherwise related to the Schengen *acquis* within the meaning of Article 4(42) of the 2005 Act of Accession.
- (26) As regards Croatia, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession.
- (27) Regulation (EC) No 810/2009 should therefore be amended accordingly,

¹⁰ Council Decision of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 810/2009 is amended as follows:

(1) In Article 1, paragraph 1 is replaced by the following:

“1. This Regulation establishes the conditions and procedures for issuing visas for intended stays on the territory of the Member States not exceeding 90 days in any 180-days period.”;

(2) Article 2 is amended as follows:

(a) in point 2, point (a) is replaced by the following:

“(a) an intended stay on the territory of the Member States of a duration of no more than 90 days in any 180 days period; or”;

(b) point 7 is replaced by the following:

“7. ‘recognised travel document’ means a travel document recognised by one or more Member States for the purpose of crossing the external borders and affixing a visa pursuant to Decision No 1105/2011 of the European Parliament and of the Council.¹¹”;

~~(c) point 11 is deleted;~~

(d) The following new points **is** *are* added:

“12. ‘seafarer’ means any person who is employed, engaged or works in any capacity on board a ~~seagoing~~ ship ***in maritime navigation*** or a ship navigating in international inland waters.

¹¹ Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list. OJ L 287, 4.11.2011, p. 9.

13. ‘electronic signature’ means data in electronic form which is attached to or logically associated with other data in electronic form and which is used by the signatory to sign, as defined by Regulation (EU) N° 910/2014¹².’

(3) in Article 3(5) points (b) and (c) are replaced by the following:

- “(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 V issued by Andorra, Canada, Japan, San Marino or the United States of America guaranteeing the holder’s unconditional readmission, or holding a **valid** residence permit for ~~the Caribbean parts~~ **one or more of the overseas countries and territories** 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~~ **one or more of the overseas countries and territories** 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;”;

¹² **Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114.**

(3a) *Article 4, paragraph 1, is replaced by the following:*

“1. Applications shall be examined and decided on by consulates.

1a. By derogation from para 1, Member States may decide that applications are examined and decided on by central authorities. Member States shall ensure that those authorities have sufficient knowledge of local circumstances of the country where the application is lodged in order to assess the migratory and security risk, as well as sufficient knowledge of the language to analyse documents, and that consulates are involved, where necessary, to conduct additional examination and interviews.”;

(4) in Article 4, paragraph 2 is replaced by the following:

“2. By way of derogation from paragraph 1, the authorities responsible for checks on persons may examine and decide on applications at the external borders of the Member States, in accordance with Articles 35, ~~and 36 and 36a~~.”;

(5) in Article 5(1) point (b) is replaced by the following:

*“(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, ~~counted in days~~; or”;*

(6) Article 8 is amended as follows:

(0) paragraph 1 is replaced by the following:

“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 taking decisions on visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner solely for the collection of applications and the enrolment of biometric identifiers.”

(a) paragraph 2 is deleted;

(b) paragraphs 3 and 4 are replaced by the following:

- “3. Where the representation is limited to the collection of applications, the collection and ~~data, and their~~**the** transmission **of data** to the represented Member State shall be carried out in compliance with the relevant data protection and security rules.
4. 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) it may stipulate that the central authorities of the represented Member State are to be consulted on applications from certain categories of third-country nationals. This consultation shall not exceed seven calendar days.”;**

(c) paragraphs 7 and 8 are replaced by the following:

- “7. The represented Member State shall notify the Commission of the representation arrangements or the termination of those arrangements at the latest ~~one month~~**15 calendar days** before they enter into force or are terminated, except in cases of *force majeure*.
8. The consulate of the representing Member State shall, at the same time that the notification referred to in paragraph 7 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.”;

(d) the following new paragraph is added:

“10. In cases of prolonged technical force majeure, a Member State shall seek temporary representation by another Member State in the given location for all or some categories of visa applicants.”;

(7) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Applications ***shall*** ~~may~~ be lodged no more than six months, and for seafarers in the performance of their duties, no more than nine months, before the start of the intended visit, and, as a rule, no later than 15 calendar days before ~~that~~ ***the start of the intended visit.***”;

(b) paragraph 4 is replaced by the following:

~~(c)~~ “4. Without prejudice to Article 13, applications may be lodged:

(a) by the applicant;

(b) by an accredited commercial intermediary, ~~as referred to in Article 45;~~

~~(c) by a professional, cultural, sports or educational association or institution on behalf its members.”;~~

(d) the following new paragraph is added:

“5. An applicant shall not be required to appear in person at more than one location in order to lodge an application.”;

(8) Article 10 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Applicants shall appear in person when lodging an application for the collection of fingerprints, in accordance with Article 13 (2), (3) and (7)(b).”;

(b) paragraph 2 is deleted;

(9) Article 11 is amended as follows:

(a) the first sentence of paragraph 1 is replaced by the following:

“1. Each applicant shall submit ~~a manually or electronically completed and manually or electronically signed~~ **an** application form, as set out in Annex I. ***The application form shall be completed manually. Where available, it may be completed electronically. It shall be signed manually or, where electronic signature is recognized by the Member State competent for examining and deciding on an application, electronically.***”;

(a1) ***the following new paragraph 1a is added:***

“1a. Where the applicant signs the application form electronically, the electronic signature shall meet the requirements for qualified electronic signature as set out in Article 26 of the Regulation (EU) N° 910/2014¹³.”;

(b) The following new paragraph 1aa is inserted:

“1aa. The content of the electronic version of the application form, if applicable, shall be as set out in Annex I.”;

(c) paragraph 3 is replaced by the following:

~~(d)~~ “3. The form shall, as a minimum, be available in the following languages:

- (a) the official language(s) of the Member State for which a visa is requested ***or which handles the application in representation***; and
- (b) the official language(s) of the host country.

In addition to the language(s) referred to in point (a), the form may be made available in any other official language(s) of the institutions of the European Union.”;

(e) paragraph 4 is ~~deleted~~ ***replaced by the following***;

¹³ ***Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC, OJ L 257, 28.8.2014, p. 73–114.***

“4. If the official language(s) of the host country is/are not integrated into the form, a translation into that/those language(s) shall be made available separately to applicants.”;

(10) Article 14 is amended as follows:

(0) paragraph 3 is replaced by the following:

“3. A non-exhaustive list of supporting documents may be requested from the applicant in order to verify the fulfilment of the conditions listed in paragraphs 1 and 2 is set out in Annex II.”;

(a) paragraphs 4 and 5 are replaced by the following:

“4. Member States may require applicants to present a proof of sponsorship ~~and~~ *or* private accommodation, or *of* both, by completing a form drawn up by each Member State. That form shall indicate in particular:

- (a) whether its purpose is proof of sponsorship or of private accommodation, *or both*;**
- (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) *identity data (name and surname, date of birth, place of birth and nationality)*;**
- (e) the address of the accommodation;**
- (f) the length and purpose of the stay;**
- (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 sent to the Commission.

5. Member States' consulates shall within local Schengen cooperation, as referred to in Article 48, assess the implementation of the conditions laid down in paragraph 1, to take account of local circumstances, and of migratory and security risks.”;

(b) The following new paragraph 5a is inserted:

“5a. Where necessary in order to take account of local circumstances as referred to in Article 48, the Commission shall by means of implementing acts adopt a harmonised list of supporting documents to be used in each jurisdiction. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).”;

(c) *paragraph 6 is replaced by the following:*

“6. The requirements of paragraph 1 may be waived in the case of an applicant known 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 the Schengen Borders Code at the time of the crossing of the external borders of the Member States.”;

(11) Article 15 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Applicants for a uniform visa for one entry shall prove that they are in possession of adequate and valid travel medical insurance to cover any expenses that might arise in connection with repatriation for medical reasons, urgent medical attention and emergency hospital treatment or death, during their intended stay on the territory of the Member States.”;

(b) in paragraph 2, the first subparagraph is replaced by the following:

“2. Applicants for a uniform visa for multiple entries shall prove that they are in possession of adequate and valid travel medical insurance covering the period of their first intended visit.”;

(12) Article 16 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

“1. Applicants shall pay a visa fee of EUR 80.

2. Children from the age of six years and below the age of 12 years shall pay a visa fee of EUR 40.”;

(b) The following new paragraph 2a is inserted:

“2a. A visa fee of **EUR 120 or** EUR 160 shall apply when ~~the Commission so decides~~ ***the implementing decision is adopted by the Council*** in accordance with Article 25a(5). ***This provision shall not apply to children below the age of 12 years.***”;

(c) paragraph 3 is deleted.

(d) in paragraph 4, point (c) is replaced by the following:

“(c) researchers from third countries, as defined in ~~Council Directive 2005/71/EC~~ ***Directive (EU) 2016/801***¹⁴, travelling for the purpose of carrying out scientific research or participating in a scientific seminar or conference;“;

(e) in paragraph 5 the second subparagraph is deleted;

(e1) in paragraph 7 the second subparagraph is replaced by the following:

“When charged in a currency other than euro, the amount of the visa fee charged in that currency shall be determined and regularly reviewed in application of the euro foreign exchange reference rate set by the European Central Bank. The amount charged may be rounded up and it shall be ensured under local Schengen cooperation that similar fees are charged.”;

¹⁴ ~~Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research (OJ L 289, 3.11.2005, p. 15).~~ ***Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21–57).***

(f) the following new paragraph is inserted:

“8a. The Commission shall assess the need to revise the amount of the visa fees set out in Article 16(1), (2) and (2a) every ~~two~~**three** years, taking into account objective criteria, such as the general EU-wide inflation rate as published by Eurostat, and the weighted average of the salaries of Member States' civil servants and, where appropriate, amend the amount of the visa fees by means of delegated acts.”;

(13) Article 17 is amended as follows:

(a) The first sentence of paragraph 1 is replaced by the following:

“1. A service fee may be charged by an external service provider referred to in Article 43.”;

(b) paragraph 3 is deleted;

(c) the following new paragraph 4a is inserted:

“4a. By derogation from paragraph 4, ~~the service fee shall not exceed the amount of the visa fee,~~ in third countries ~~whose nationals are subject to the visa requirement~~ where ~~no~~**the competent** Member State has a **no** consulate for the purpose of collecting visa applications ***and it is not represented by another Member State the service fee shall, in principle, not exceed the amount of the visa fee. In circumstances where this amount is not sufficient to provide a full service, a higher amount of service fee may be required. In such case, Member States shall notify the Commission of such scheme at the latest three months before the start of its implementation. The notification shall specify the grounds for the determination of the level of the service fee, in particular the detailed costs leading to the determination of a higher amount.***”;

(d) paragraph 5 is deleted;

(13a) Article 19 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. The competent consulate or the central authorities of the competent Member State shall verify whether:

- the application has been lodged within the period referred to in Article 9(1),*
- the application contains the items referred to in Article 10(3)(a) to (c),*
- the biometric data of the applicant have been collected, and*
- the visa fee has been collected.”;*

(b) the first subparagraph of paragraph 2 is replaced by the following:

“2. Where the competent consulate or the central authorities of the competent Member State find that the conditions referred to in paragraph 1 have been fulfilled, the application shall be admissible and the consulate or the central authorities shall:

- follow the procedures described in Article 8 of the VIS Regulation, and*
- further examine the application.”;*

(c) the first subparagraph of paragraph 3 is replaced by the following:

“3. Where the competent consulate or the central authorities of the competent Member States find that the conditions referred to in paragraph 1 have not been fulfilled, the application shall be inadmissible and the consulate or central authorities shall without delay:

- return the application form and any documents submitted by the applicant,*
- destroy the collected biometric data,*
- reimburse the visa fee, and*
- not examine the application.”;*

(14) Article 21 is amended as follows:

(a) ~~in~~ paragraph 3, *is amended as follows:*

– (i) *the first sentence is replaced by the following:*

“3. While checking whether the applicant fulfils the entry conditions, the consulate or the central authorities, shall verify:”;

– (ii) point (e) is replaced by the following :

“(e) that the applicant is in possession of adequate and valid travel medical insurance, where applicable, covering the period of the intended stay, or, if a uniform visa for multiple entry is applied for, the period of the first intended visit.”;

(b) paragraph 4 is replaced by the following:

*“4. The consulate **or the central authorities** shall, where applicable, verify the length of previous and intended stays in order to verify that the applicant has not exceeded the maximum duration of authorised stay in the territory of the Member States, irrespective of possible stays authorised under a national long-stay visa or a residence permit.”;*

(b1) the first sentence of paragraph 6 is replaced by the following:

“6. In the examination of an application for an airport transit visa, the consulate or the central authorities shall in particular verify: ”;

(c) paragraph 8 is replaced by the following:

*“8. During the examination of an application, consulates **or the central authorities** may in justified cases carry out an interview with the applicant and request additional documents.”;*

(15) Article 22 is amended as follows

(a) paragraphs 1, 2 and 3 are replaced by the following:

- “1. For grounds of threat to public policy, internal security, international relations or public health, a Member State may require the central authorities of other Member States to consult its central authorities during the examination of applications lodged by nationals of specific third countries or specific categories of such nationals. Such consultation shall not apply to applications for airport transit visas.***
2. The central authorities consulted shall reply definitively as soon as possible but not later than seven 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 ~~45~~**30** calendar days before it becomes applicable. This information shall also be given under local Schengen cooperation in the jurisdiction concerned.”;

(b) paragraph 5 is deleted;

(16) Article 23 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

- “1. Applications shall be decided within ~~40~~**15** calendar days of the date of the lodging of an application which is admissible in accordance with Article 19.***
- 1a. That period may be extended up to a maximum of ~~45~~**60** calendar days in individual cases, notably when further scrutiny of the application is needed.”;***

(b) paragraph 3 is deleted;

(c) paragraph 4 is amended as follows:

- (i) the following new point (ba) is inserted:
“(ba) issue an airport transit visa in accordance with Article 26; or”;
- (ii) point (d) is deleted;

(17) Article 24 is amended as follows:

(a) paragraph 1 is amended as follows:

- (i) in the second subparagraph, the first sentence is replaced by the following:
“A visa may be issued for one, **two** or multiple entries.”
- (ii) the third subparagraph is deleted;
- (iii) the fourth subparagraph is replaced by the following:
“Without prejudice to Article 12(a), the period of validity of a single entry visa shall include a 'period of grace' of 15 calendar days.”;

(b) paragraph 2 is replaced by the following:

“2. ***Provided that the applicant fulfils the entry conditions set out in Article 6(1)(a), (c), (d) and (e) of the Schengen Borders Code, multiple-entry visas with a long validity shall be issued for the following validity periods, unless the validity of the visa would exceed that of the travel document:***

- (a) for a validity period of one year, provided that the applicant has obtained and lawfully used three visas within the previous two years;
- (b) for a validity period of two years ~~shall be issued~~, provided that the applicant has obtained and lawfully used a previous multiple-entry visa valid for one year ***within the previous two years;***

- (c) for a validity period of five years, provided that the applicant has obtained and lawfully used a previous multiple-entry visa valid for two years ***within the previous three years.***

Airport transit visa and visa with limited territorial validity issued according to Article 25, paragraph 1, shall not be taken into account for the issuance of multiple-entry visas.”;

- (c) the following new paragraphs are inserted:

- “2a. By way of derogation from paragraph 2, the validity period of the visa issued may be shortened in individual cases where there is reasonable doubt that the entry conditions will be met for the entire period ***or there are reasonable grounds to grant a visa with a shorter period of validity.***
- 2b. By way of derogation from paragraph 2, Member States' consulates shall within local Schengen cooperation as referred to in Article 48, assess whether the rules on the issuing of the multiple entry visas set out in paragraph 2 need to be adapted to take account of local circumstances, and of migratory and security risk, in view of the adoption of more favourable or more restrictive rules in accordance with paragraph 2d.
- 2c. Without prejudice to paragraph 2, a multiple entry visa valid for up to five years may be issued to applicants who prove the need or justify their intention to travel frequently and/or regularly provided that they prove their integrity and reliability, in particular the lawful use of previous visas, their economic situation in the country of origin and their genuine intention to leave the territory of the Member States before the expiry of the visa for which they have applied.

2d. Where necessary on the basis of the assessment referred to in paragraph 2b, the Commission shall by means of implementing acts adopt the rules regarding the condition for the issuing of multiple-entry visas laid down in paragraph 2 to be applied in each jurisdiction in order to take account of local circumstances, of the migratory and security risks ~~and of the cooperation of the third country in question on readmission of irregular migrants in the light of the indicators set out in Article 25a(2)~~, and of its overall relation with the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).”;

(18) the following new Article is inserted:

“Article 25a

Cooperation on readmission

1. Article 14 (6), Article 16(1) and (5), point (b), Article 23(1) ~~*first sub-paragraph*~~, and Article 24(2) **and (2c)** shall not apply to applicants or categories of applicants, who are nationals of a third country that is considered not to be cooperating sufficiently with Member States on the readmission of irregular migrants, on the basis of relevant and objective data, in accordance with this Article. ~~This Article is without prejudice to the powers conferred on the Commission by Article 24(2d).~~
2. The Commission shall regularly assess, **at least once a year**, third countries' cooperation with regard to readmission, taking account, in particular, of the following indicators:
 - (a) the number of return decisions issued to persons illegally staying on the territory of the Member States from the third country in question;
 - (b) the number of actual **forced** returns of persons issued with return decisions as a percentage of the number of return decisions issued to citizens of the third country in question including, where appropriate, on the basis of Union or bilateral readmission agreements, the number of third country nationals who have transited through its territory;

- (c) the number of readmission requests *per Member State* accepted by the third country as a percentage of the number of such applications submitted to it.
- (d) *the level of practical cooperation in the area of return cooperation in the different stages of the return procedure, such as:*
- i. assistance provided in the identification of persons illegally staying on the territory of the Member States and in the timely issuance of travel documents*
 - ii. acceptance of the EU travel document or laissez-passer;*
 - iii. acceptance of charter flights;*
 - iv. acceptance of joint return operations.*

Such an assessment shall be based on the use of reliable data provided by Member States, as well as by Union's institutions, organs, bodies and Agencies. The Commission shall regularly, at least once a year, report its assessment to the Council.

3. A Member State may also notify the Commission if it is confronted with substantial and persisting practical problems in the cooperation with a third country in the readmission of irregular migrants on the basis of the same indicators as those listed in paragraph 2. *The Commission shall immediately inform the Council about the notification.*
4. The Commission shall examine any notification made pursuant to paragraph 3 within a period of one month. *The Commission shall inform the Council of the results of its examination.*

5. Where, on the basis of the analysis referred to in paragraphs 2 and 4, *and taking into account the steps taken by the Commission to improve the level of cooperation of the third country concerned in the field of readmission, the Union's overall relations with that third country, as well as its overall cooperation in the field of migration*, the Commission decides that a country is not cooperating sufficiently and that action is therefore needed, *or where, within 12 months, a simple majority of Member States have notified the Commission in accordance with paragraph 3, the Commission may, while continuing its efforts to improve the cooperation with the third country concerned, shall submit a proposal to the Council to adopt an implementing decision* ; ~~taking also account of the Union's overall relations with the third country concerned, adopt an implementing act, in accordance with the examination procedure referred to in Article 52(2):~~
 - (a) temporarily suspending the application of either Article 14(6), Article 16(5) point (b), Article 23(1) *first sub-paragraph*, or Article 24(2) *and (2c)*, or of some or all of those provisions, to all nationals on the third country concerned or to certain categories thereof, *and/or*
 - (b) applying, *on a gradual basis, one of* the visa fees set out in Article 16(2a) to all nationals of the third country concerned or to certain categories thereof.
6. The Commission shall continuously assess *and report* on the basis of the indicators set out in paragraph 2 whether ~~significant~~ *substantial and sustained* improvement in the given third country's cooperation on readmission of irregular migrants can be established and, taking also account of the Union's overall relations with the third country concerned, may decide to *submit a proposal to the Council to* repeal or amend the implementing *decision* ~~act~~ referred to in paragraph 5.
7. At the latest six months after the entry into force of the implementing *decision* ~~act~~ referred to in paragraph 5, the Commission shall report to the European Parliament and to the Council on progress achieved in that third country's cooperation on readmission.”;

(19) Article 27 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

- “1. The Commission shall by means of implementing acts adopt the details for filling in the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).
2. Member States may add national entries in the ‘comments’ section of the visa sticker. These entries shall ~~neither~~**not** duplicate the mandatory entries established in accordance with the procedure referred to in paragraph 1 ~~nor indicate a specific travel purpose.~~”;

(b) paragraph 4 is replaced by the following:

- “4. A visa sticker for a single entry visa may be filled in manually only in case of technical *force majeure*. No changes shall be made to a manually filled in visa sticker.”;

(20) Article 29 is amended as follows:

(a) paragraph 1 is replaced by the following:

- “1. The ~~printed~~ visa sticker shall be affixed to the travel document.”

(b) The following new paragraph is inserted:

- “1a. The Commission shall by means of implementing acts adopt the detailed arrangements for affixing the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).”;

(21) Article 31 is amended as follows:

(0) paragraph 1 is replaced by the following:

- “1. *A Member State may require that its central authorities be informed of visas issued by other Member States to nationals of specific third countries or to specific categories of such nationals, except in the case of airport transit visas.*”;

- (a) paragraph 2 is replaced by the following:

“2. Member States shall notify the Commission of the introduction or withdrawal of the requirement for such information at the latest ~~15~~**30** calendar days before it becomes applicable. The information shall also be given under local Schengen cooperation in the jurisdiction concerned.”;

- (b) paragraph 4 is deleted;

(22) Article 32 is amended as follows:

- (a) In paragraph 1(a) the following point (iia) is inserted:

“(iia) does not provide justification for the purpose and conditions of the intended airport transit;”;

- (b) paragraph 3 is replaced by the following:

“3. Applicants who have been refused a visa shall have the right to appeal. ~~which shall, at a certain stage of the proceedings, guarantee an effective judicial appeal.~~ Appeals shall be instituted against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Member States shall provide applicants with detailed information regarding the procedure to be followed in the event of an appeal, as specified in Annex VI.”;

- (c) paragraph 4 is deleted;

(23) Article 36 is amended as follows:

- (a) paragraph 2 is deleted;

(b) the following new paragraph is inserted:

“2a. 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 52(2).”;

~~(24) The following new Article is inserted:~~

~~“Article 36a~~

~~**Visas applied for at the external border under a specific scheme**~~

- ~~1. In order to promote short term tourism and subject to the conditions set out in this Article, a Member State may decide temporarily to allow the lodging of visa applications at specific land or sea border crossing points to persons fulfilling the entry conditions set out in Article 6 (1) of Regulation (EC) No 2016/399 of the European Parliament and of the Council.~~
- ~~2. The duration of the scheme shall be limited to four months in any calendar year and the categories of beneficiary shall be clearly defined and exclude third country nationals falling within the category of persons for whom prior consultation is required in accordance with Article 22 and persons not residing in the country adjacent to the land border crossing point or in a country having direct ferry connections to the sea border crossing point. Those schemes shall only apply to nationals of third countries with which readmission agreements have been concluded and for which the Commission has not taken a decision in accordance with Article 25a(5).~~
- ~~3. The Member State concerned shall establish appropriate structures and deploy specially trained staff for the processing of visa applications and the carrying out of all verifications and risk assessment, as set out in Article 21.~~
- ~~4. A visa issued pursuant to a specific scheme shall allow for only one entry, be valid only for the territory of the issuing Member State and shall authorise a stay of no more than seven calendar days. No ‘period of grace’ shall be included in the period of validity of the visa.~~

~~5. Where a visa is refused at the external border pursuant to a specific scheme, the Member State may not impose on the carrier concerned the obligations set out in Article 26 of the Convention Implementing the Schengen Agreement.~~

~~6. Member States shall notify the Commission of any schemes at the latest six months before the start of their implementation. The notification shall specify the categories of beneficiary, the geographical scope, the organisational arrangements for the scheme and the measures envisaged to ensure compliance with the conditions set out in this Article.~~

~~The Commission shall publish this notification in the Official Journal of the European Union.~~

~~7. Three months after the end of the scheme, the Member State concerned shall submit a detailed implementation report to the Commission. The report shall contain information on the number of visas applied for, issued and refused (including the citizenship of the persons concerned), the duration of stay and the departure rate (including the citizenship of persons not departing from the territory of the Member State at the expiry of the visa).”;~~

(25) in Article 37, paragraph 3 is replaced by the following:

“3. Member States’ consulates *or central authorities* shall keep archives of applications in paper or electronic format. Each individual file shall contain the relevant information allowing for a reconstruction, if need be, of the background for the decision taken on the application.

Individual application files shall be kept for a minimum of one year from the date of the decision on the application as referred to in Article 23(1) or, in the case of appeal, until the end of the appeal procedure, *whichever is the longest. In any case, if applicable, the individual electronic application files shall be kept for the period of validity of the issued visa.*”;

(26) ~~in~~ Article 38~~7~~ *is amended as follows:*

(a) *the title is replaced by the following:*

“Resources for examining applications and monitoring of the visa procedures”;

(b) *paragraph 1 is replaced by the following:*

“1. Member States shall deploy appropriate staff in sufficient numbers in consulates 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.”;

(c) *the following new paragraph is inserted:*

“1a. Member States shall ensure that the entire *visa* procedure *in consulates*, including the *lodging and handling of applications, the printing of visa stickers and practical* cooperation with external service providers, ~~is~~*are* monitored by expatriate staff to ensure the integrity of all stages of the procedure.”;

(d) *paragraph 3 is replaced by the following:*

“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.”;

(e) *the following new paragraph is inserted:*

“3a. Where Member States apply central decision making as referred to in Article 4(1a), they shall conduct specific training to ensure that staff employed centrally have sufficient and updated country-specific knowledge of local socio-economic circumstances and complete, precise and up-to-date information on the relevant Union and national law.”;

(26a) Article 39 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. Consular and central authorities’ 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.”;

(b) paragraph 3 is replaced by the following:

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

(27) Article 40 is replaced by the following:

“Article 40

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 requisite material for the collection of biometric identifiers, as well as the offices of their honorary consuls, where they make use of them, to collect biometric identifiers in accordance with Article 42;
 - (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 43.

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 ***strive to*** assure the continuity of full service.”;

(28) Article 41 is deleted;

(29) Article 43 is amended as follows:

- (a) paragraph 3 is deleted;

(a1) paragraph 5 is replaced by the following:

“5. ***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 or the central authorities.***”;

- (b) paragraph 6 is amended as follows:

- (i) point (a) is replaced by the following:

“(a) providing general information on visa requirements, in accordance with Article 47(1)(a) – (c), and application forms;”;

- (ii) ***point (c) is replaced by the following:***

“(c) ***collecting data and applications (including collection of biometric identifiers) and transmitting the application to the consulate or the central authorities;***”;

- (iii) point (e) is replaced by the following:

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

- (iv) *point (f) is replaced by the following:*

“(f) collecting the travel documents, including a refusal notification if applicable, from the consulate or the central authorities and returning them to the applicant.”;

- (c) paragraph 7 is replaced by the following:

“7. When selecting an external service provider, the Member State concerned shall assess the reliability and solvency of the organisation or company and ensure that there is no conflict of interests. The scrutiny shall include, as appropriate, the necessary licences, commercial registration, statutes and bank contracts.”;

- (d) paragraph 9 is replaced by the following:

“9. Member States shall be responsible for compliance with the rules on the protection of personal data and ensure that the external service provider is subject to the monitoring by the data protection supervisory authorities pursuant to Article 51(1) of Regulation (EU) 2016/679.”;

- (e) paragraph 11 is amended as follows:

- (i) “(a) the general information on the criteria, conditions and procedures for applying for a visa, as set out in Article 47(1)(a), (b) and (c), and the content of the application forms provided by the external service provider to applicants.”;
- (ii) *“(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 or the central authorities of the Member State(s) concerned, and all other unlawful forms of processing personal data; ”;*

- (iii) the second subparagraph is replaced by the following:

“To this end, the *central authorities or the* consulate(s) of the Member State(s) concerned shall, on a regular basis and as a minimum every ~~six~~ *twelve* months, carry out spot checks on the premises of the external service provider. Member States may agree to share the burden of this regular monitoring.”;

- (f) The following new paragraph is inserted:

“11a. By 1st ~~January~~ *February* each year, Member States shall report to the Commission on their cooperation with and monitoring (as referred to in Annex X, point C) of external service providers worldwide.”;

- (30) Article 44 is replaced by the following:

“Article 44

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 data are fully encrypted, whether transferred electronically or physically on an electronic storage medium.
2. In third countries that prohibit the encryption of data to be electronically transferred the Member State(s) concerned shall not allow data to be transferred electronically.

In such cases, 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 transfer would require disproportionate or unreasonable measures, 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.”;

(31) Article 45 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Member States may accept the lodging of applications, but not the collection of biometric identifiers, by ~~a private administrative agency, a transport company or a travel agency, such as a tour operator or a retailer~~ (commercial intermediaries).”

(b) paragraph 3 is replaced by the following:

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

(c) *in paragraph 5, the last subparagraph is replaced by the following:*

“Each consulate and the central authorities, shall make sure that the public is informed about the list of accredited commercial intermediaries with which it cooperates, where relevant.”;

(32) in Article 47(1), point (c), is replaced by the following:

“(c) where the application may be submitted (competent consulate or external service provider);”;

(33) Article 48 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Member States’ consulates and the Union delegations shall cooperate within each jurisdiction to ensure a harmonised application of the common visa policy taking into account local circumstances.

Where central authorities are examining and deciding on applications in the jurisdiction concerned, Member States shall ensure the active involvement of that central authority in Local Schengen cooperation. The staff contributing to local Schengen cooperation shall be adequately trained and involved in the examination of visa applications in the jurisdiction concerned.

To this end, in accordance with Article 5(3) of Council Decision 2010/427 , the Commission shall issue instructions to Union delegations to carry out the relevant coordination tasks provided for in this Article.”;

(b) the following new paragraph is inserted:

“1a. Member States and the Commission shall, in particular, cooperate in order to:

- (a) prepare a harmonised list of supporting documents to be submitted by applicants, taking into account Article 14;
- (b) prepare a local implementation of Article 24(2) regarding the issuing of multiple entry visas;
- (c) ensure a common translation of the application form, where relevant;
- (d) establish the list of travel documents issued by the host country and update it regularly;
- (e) draw up a common information sheet;
- (f) monitor, where relevant, the implementation of the derogations set out in Article 25a(5) and (6).”;

(c) paragraph 2 is deleted.

(d) paragraph 3 is replaced by the following:

~~(e)~~—“3. Member States under local Schengen cooperation shall exchange the following information:

- (a) quarterly statistics on uniform visas, visas with limited territorial validity, and airport transit 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) trends in fraudulent behaviour;
 - (vi) trends in refusals;
- (c) information on cooperation with *external service providers and with* transport companies;
- (d) information on insurance companies providing adequate travel medical insurance, including verification of the type of coverage and possible excess amount.”;
- (e) *in paragraph 5, the second subparagraph is deleted;*
- (f) the following new paragraph is inserted:

“6a. 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 local Schengen cooperation to be submitted to the European Parliament and the Council.”;

(34) Article 50 is deleted;

(35) The following new Articles are inserted:

“Article 50a

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 16(8a) shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of power referred to in Article 16(8a) 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 16(8a), 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 50b

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 50a(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.”;

(36) Articles 51 and 52 are replaced by the following:

“Article 51

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 52(2).

Article 52

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. ***Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.***”;

(37) Annex I is replaced by the text set out in Annex I to this Regulation;

(38) Annex V is replaced by the text set out in Annex II to this Regulation;

(39) Annex VI is replaced by the text set out in Annex III to this Regulation;

(40) Annexes VII, VIII and IX are deleted;

(41) The text set out in **Annex IV** to this Regulation replaces Annex X.

Article 2

Monitoring and evaluation

1. Three years after [the date of entry into force of this Regulation], 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.
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, where necessary, appropriate proposals.

Article 3

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 [six months after the day of entry into force].

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

“ANNEX I

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, 30, 31 and 32 (marked with*).

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

1. Surname (Family name)				FOR OFFICIAL USE ONLY Date of application:
2. Surname at birth (Former family name(s))				
3. First name(s) (Given name(s))				
4. Date of birth (day-month-year)	5. Place of birth 6. Country of birth		7. Current nationality Nationality at birth, if different: Other nationalities:	Application lodged at ☐ Embassy/consulate ☐ Service provider ☐ Intermediary ☐ Border (Name): ☐ Other File handled by: Supporting documents: ☐ Travel document ☐ Means of subsistence ☐ Invitation ☐ TMI ☐ Means of transport ☐ Other: Visa decision: ☐ Refused ☐ Issued: ☐ A ☐ C ☐ LTV ☐ Valid: From Until
8. Sex ☐ Male ☐ Female	9. Civil status ☐ Single ☐ Married ☐ Registered Partnership ☐ Separated ☐ Divorced ☐ Widow(er) ☐ Other (please specify):			
10. Parental authority (<i>in case of minors</i>) /legal guardian: Surname, first name, address (if different from applicant's), telephone no., e-mail address, and nationality				
11. National identity number, where applicable				
12. Type of travel document ☐ Ordinary passport ☐ Diplomatic passport ☐ Service passport ☐ Official passport ☐ Special passport ☐ Other travel document (please specify)				
153. Number of travel document	164. Date of issue	175. Valid until	186. Issued by (country)	
127. Personal data of the family member who is an EU, EEA or CH citizen <i>if applicable</i>				
Surname		First name(s)		
Date of birth	Nationality	Number of travel document or ID card		
138. Family relationship with an EU, EEA or CH citizen <i>if applicable</i> ☐ spouse ☐ child ☐ grandchild ☐ dependent ascendant ☐ Registered Partnership ☐ other				

¹ No logo is required for Norway, Iceland, Liechtenstein and Switzerland.

14. Type of travel document ☐ Ordinary passport ☐ Diplomatic passport ☐ Service passport ☐ Official passport ☐ Special passport ☐ Other travel document (please specify)		Number of entries: ☐ 1 ☐ 2 ☐ Multiple <i>Number of days</i>
19. Applicant's home address and e-mail address	Telephone number(s)	
20. Residence in a country other than the country of current nationality ☐ No ☐ 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: ☐ Tourism..... ☐ Business..... ☐ Visiting family or friends ☐ Cultural ☐ Sports ☐ Official visit ☐ Medical reasons ☐ Study ☐ Airport transit ☐ Other (please specify):		
24. Additional information on purpose of stay:		
25. Member State(s) of main destination (and other Member States of destination , if applicable)	26. Member State of first entry	
27. Number of entries requested ☐ Single entry ☐ Two entries ☐ Multiple entries Duration of the intended stay (indicate number of days): Intended date of arrival of the first intended stay in the Schengen area: Intended date of departure from the Schengen area after the first intended stay :		
28. Fingerprints collected previously for the purpose of applying for a Schengen visa or a [touring visa] ☐ No ☐ Yes. Date, if known Visa sticker number, if known		
29. Entry permit for the final country of destination, where applicable Issued by Valid from until		
* 30. 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	
*31. 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		
*32. Cost of travelling and living during the applicant's stay is covered:		
☐ by the applicant himself/herself	☐ by a sponsor (host, company, organisation), please specify ☐ referred to in field 30 or 31 32 or 33 ☐ other (please specify)	

Means of support ☐ Cash ☐ Traveller's cheques ☐ Credit card ☐ Pre-paid accommodation ☐ Pre-paid transport ☐ Other (please specify)	Means of support ☐ Cash ☐ Accommodation provided ☐ All expenses covered during the stay ☐ Pre-paid transport ☐ Other (please specify)	
I am aware that the visa fee is not refunded if the visa is refused.		
Applicable in case a multiple-entry visa is applied for: I am aware of the need to have an adequate travel medical insurance for my first stay and any subsequent visits to the territory of Member States.		
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. 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: [(.....)]. 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:] will hear claims concerning the protection of personal data. 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. 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 6(1) of Regulation (EU) No 2016/399 (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.		
Place and date	Signature (signature of parental authority/legal guardian, if applicable):	

”

“ANNEX V

LIST OF RESIDENCE PERMITS ENTITLING THE HOLDER TO TRANSIT THROUGH THE AIRPORTS OF MEMBER STATES WITHOUT BEING REQUIRED TO HOLD AN AIRPORT TRANSIT VISA

ANDORRA:

- Autorització temporal (temporary immigration permit – green).
- Autorització temporal per a treballadors d’empreses estrangeres (temporary immigration permit for employees of foreign enterprises – green).
- Autorització residència i treball (residence and work permit – green).
- Autorització residència i treball del personal d’ensenyament (residence and work permit for teaching staff – green).
- Autorització temporal per estudis o per recerca (temporary immigration permit for studies or research – green).
- Autorització temporal en pràctiques formatives (temporary immigration permit for internships and trainings – green).
- Autorització residència (residence permit – green).

CANADA:

- Permanent resident (PR) card.
- Permanent Resident Travel Document (PRTD).

JAPAN:

- Residence card.

SAN MARINO:

- Permesso di soggiorno ordinario (validity one year, renewable on expiry date).
- Special residence permits for the following reasons (validity one year, renewable on expiry date): university attendance, sports, health care, religious reasons, persons working as nurses in public hospitals, diplomatic functions, cohabitation, permit for minors, humanitarian reasons, parental permit.
- Seasonal and temporary working permits (validity 11 months, renewable on expiry date).
- Identity card issued to people having an official residence "residenza" in San Marino (validity of 5 years).

UNITED STATES OF AMERICA:

- Valid, unexpired immigrant visa. *May be endorsed at the port of entry for one year as temporary evidence of residence, while the I-551 card is pending production.*
- ~~– May be endorsed at the port of entry for one year as temporary evidence of residence, while the I-551 card is pending production.~~
- Valid, unexpired Form I-551 (Permanent Resident Card). *May be valid for up to 2 or 10 years – depending on the class of admission. If there is no expiration date on the card, the card is valid for travel.*
- ~~– May be valid for up to 2 or 10 years – depending on the class of admission.~~
- ~~– If there is no expiration date on the card, the card is valid for travel.~~
- Valid, unexpired Form I-327 (Re-entry Permit).
- Valid, unexpired Form I-571 (Refugee Travel Document endorsed as “Permanent Resident Alien”).”

“ANNEX VI



**STANDARD FORM FOR NOTIFYING GROUNDS FOR REFUSAL,
ANNULMENT OR REVOCATION OF A VISA
REFUSAL/ANNULMENT/REVOCATION OF VISA**

Ms/Mr _____,

☐ The _____ Embassy/Consulate-General/Consulate/[other competent authority]
in _____ *[on behalf of (name of represented Member State)]*;

☐ [Other competent authority] of _____;

☐ The authorities responsible for checks on persons at _____

has/have

☐ examined your visa application;

☐ examined your visa, number: _____, issued: _____ [date/month/year].

☐ The visa has been refused ☐ The visa has been annulled ☐ The visa has been revoked

This decision is based on the following reason(s):

1. ☐ a false/counterfeit/forged travel document was presented
2. ☐ justification for the purpose and conditions of the intended stay was not provided
3. ☐ you have not provided proof of sufficient means of subsistence, for the duration of the intended stay or for the return to the country of origin or residence, or for the transit to a third country into which you are certain to be admitted
4. ☐ you have not provided proof that you are in a position to lawfully acquire sufficient means of subsistence, for the duration of the intended stay or for the return to the country of origin or residence, or for the transit to a third country into which you are certain to be admitted

5. ☐ you have 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
6. ☐ an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry by (*indication of Member State*)
7. ☐ one or more Member State(s) consider you to be a threat to public policy or internal security:..... (*indication of Member State(s)*)
8. ☐ one or more Member State(s) consider you to be a threat to public health as defined in Article 2(19) of Regulation (E~~CE~~EU) No ~~562/2006~~**2016/399** (Schengen Borders Code) (*indication of M/ember State(s)*)
9. ☐ one or more Member State(s) consider you to be a threat to its/their international relations:.....(*indication of Member State(s)*)
10. ☐ the information submitted regarding the justification for the purpose and conditions of the intended stay was not reliable
11. ☐ there are reasonable doubts as to the reliability of the statements made as regards..... (*please specify*)
12. ☐ there are reasonable doubts as to the reliability, as to the authenticity of the supporting documents submitted or as to the veracity of their contents
13. ☐ ***there are reasonable doubts as to*** your intention to leave the territory of the Member States before the expiry of the visa ~~could not be ascertained~~
14. ☐ sufficient proof that you have not been in a position to apply for a visa in advance, justifying application for a visa at the border, was not provided
15. ☐ justification for the purpose and conditions of the intended airport transit was not provided
16. ☐ you have not provided proof of possession of adequate and valid travel medical insurance
17. ☐ revocation of the visa was requested by the visa holder¹.

Additional remarks:

You may appeal against the decision to refuse/annul/revoke a visa.

The rules on appeal against decisions on refusal/annulment/revocation of a visa are set out in: (*reference to national law*):

Competent authority with which an appeal may be lodged: (*contact details*):

.....

¹ Revocation of a visa based on this reason is not subject to the right of appeal.

Information on the procedure to follow can be found at: *(contact details)*:

.....

An appeal procedure must be lodged within: (indication of time-limit):

.....

Date and stamp of embassy/consulate-general/consulate/of the authorities responsible for checks on persons/of other competent authorities:

Signature of person concerned²: ”

² *If required by national law.*

“ANNEX X

***LIST OF MINIMUM REQUIREMENTS TO BE INCLUDED IN THE LEGAL INSTRUMENT
IN THE CASE OF COOPERATION WITH EXTERNAL SERVICE PROVIDERS***

A. The legal instrument shall:

- (a) enumerate the tasks to be carried out by the external service provider, in accordance with Article 43(6) of this Regulation;
- (b) indicate the locations where the external service provider is to operate and which consulate the individual application centre refers to;
- (c) list the services covered by the mandatory service fee
- (d) instruct the service provider to clearly inform the public that other charges cover optional services.

B. In relation to the performance of its activities, the external service provider shall, with regard to data protection:

- (a) prevent at all times any unauthorised reading, copying, modification or deletion of data, in particular during their transmission to the diplomatic mission or consular post of the Member State(s) competent for processing an application;
- (b) in accordance with the instructions given by the Member State(s) concerned, transmit the data,
 - electronically, in encrypted form, or
 - physically, in a secured way;
- (c) transmit the data as soon as possible:
 - in the case of physically transferred data, at least once a week,
 - in the case of electronically transferred encrypted data, at the latest at the end of the day of their collection;
 - ensure appropriate means of tracking individual application files to and from the consulate.
- (d) delete the data ***at the latest five-ten*** days after their transmission and ensure that ~~the~~ only the name and contact details of the applicant for the purposes of the appointment arrangements, as well as the passport number, are kept until the return of the passport to the applicant and deleted five days thereafter;
- (e) ensure 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 diplomatic mission or consular post of the Member State(s) concerned and all other unlawful forms of processing personal data;
- (f) process the data only for the purposes of processing the personal data of applicants on behalf of the Member State(s) concerned;

- (g) apply data protection standards at least equivalent to those set out in Regulation (EU) 2016/679¹;
- (h) provide applicants with the information required pursuant to Article 37 of Regulation (EC) No 767/2008 .

C. In relation to the performance of its activities, the external service provider shall, with regard to the conduct of staff:

- (a) ensure that its staff are appropriately trained;
- (b) ensure that its staff in the performance of their duties:
 - receive applicants courteously,
 - respect the human dignity and integrity of applicants, do not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and
 - respect the rules of confidentiality which shall also apply once members of staff have left their job or after suspension or termination of the legal instrument;
- (c) provide identification of the staff working for the external service provider at all times;
- (d) prove that its staff do not have criminal records and have the requisite expertise;

D. In relation to the verification of the performance of its activities, the external service provider shall:

- (a) provide for access by staff entitled by the Member State(s) concerned to its premises at all times without prior notice, in particular for inspection purposes;
- (b) ensure the possibility of remote access to its appointment system for inspection purposes;
- (c) ensure the use of relevant monitoring methods (e.g. test applicants; webcam);
- (d) ensure access to proof of data protection compliance by the Member State's national data protection authority, including reporting obligations, external audits and regular spot checks;
- (e) report in writing to the Member State(s) concerned without delay any security breaches or any complaints from applicants on data misuse or unauthorised access, and coordinate with the Member State(s) concerned in order to find a solution and give explanatory responses promptly to the complaining applicants

E. In relation to general requirements, the external service provider shall:

- (a) act under the instructions of the Member State(s) competent for processing the application;
- (b) adopt appropriate anti-corruption measures (e.g. adequate staff remuneration; cooperation in the selection of staff members employed on the task; two-man-rule; rotation principle);
- (c) respect fully the provisions of the legal instrument, which shall contain a suspension or termination clause, in particular in the event of breach of the rules established, as well as a revision clause with a view to ensuring that the legal instrument reflects best practice.”

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L119, 4.5.2016, p. 1.