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**VISA 374
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COMIX 1043**

OUTCOME OF PROCEEDINGS

of:	Visa Working Party/Mixed Committee (EU-Iceland/Norway/Switzerland)
dated:	27-28 November 2007
No. Cion prop.:	11752/1/06 REV 1 VISA 190 CODEC 771 COMIX 662 (COM(2006) 403 final + final/2 (en,fr,de))
Subject:	Draft Regulation of the European Parliament and of the Council establishing a Community Code on Visas

EE has forwarded to the Secretariat General of the Council a proposal for a new drafting of Article 32(2) which reads as follows: "Where a visa is applied for at the external border, the requirement for the travel medical insurance may be waived in accordance with national law when this measure serves to promote cultural interests as well as interests in the field of foreign policy, development policy, other areas of vital public interest or for humanitarian reasons.".

The explanation given by EE is to use a similar wording as in Council Decisions 2006/440/EC and 2004/17/EC. Doing so most of the cases where the requirement for the travel medical insurance might be waived should be covered.

The Visa Working Party examined Articles 33 to 49 and Annex XII on the basis of the Commission's proposal. The outcome of this examination is set out in the Annex to this note.

*Article 33¹***Visas issued to seafarers² in transit at the external border**

1. A seafarer who is required to be in possession of a visa³ when crossing the external borders of the Member States may be issued with a transit visa at the border where:
 - (a) he fulfils the conditions set out in Article 32(1) and
 - (b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer⁴.
2. Before issuing a visa at the border to a seafarer in transit, the competent national authorities shall comply with the rules set out in Annex XII, Part 1, and make sure that the necessary information concerning the seaman in question has been exchanged by means of a duly completed form for seamen in transit, as set out in Annex XII, Part 2⁵.
3. This Article shall apply without prejudice to Article 32(3), (4) and (5)⁶.

¹ **EL** and **KY** entered a reservation.

² **SK** asked whether there is a distinction to be made between seamen and seafarers.

³ **FI** and **DE** are of the opinion that the possibility of issuing collective visas should be foreseen. **COM** is not favourable to keeping this kind of visas.

⁴ **PT** was of the opinion that it should be left open to Member States to allow seamen to disembark without a visa and proposed to add the following drafting at the end of this point "...or for the purpose of a licence to go ashore." **COM** took note of the proposal. **BE** warned that the PT proposal could constitute an example of incompatibilities between the FAL Convention and EC Law in relation to the seamen, which was on the agenda of SCIFA/Mixed Committee on 21 November 2007.

⁵ **NO** asked whether seamen have to hold both a passport's number and a seamen book. **COM** replied that Annex XII, Part 2 had been taken out from Regulation (EC) No 415/2003 and that the Member States have been applying this Regulation since then without any problem. **COM** is ready to amend the drafting if necessary.

⁶ On the request of **BE** and **NL**, **COM** proposed to add a reference to 32(2) and (6).

TITLE III: Administrative management and organisation

Article 34¹

Organisation of visa sections

- 1². Member States shall be responsible³ for organising the visa sections of their diplomatic missions and consular posts⁴.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up. Without prejudice to the quality of services or knowledge of tasks, the staff shall be rotated at least every six months⁵. Particular attention shall be attached to clear work structures and distinct allocation/division of responsibilities in relation to the taking of final decisions on visa applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised expatriate permanent staff members⁶. Appropriate measures shall be taken to prevent unauthorised access to such databases.

2. The storage and handling of visa stickers shall be subject to stringent security measures to avoid fraud or loss⁷. Both issued visa stickers and cancelled visa stickers shall be registered⁸.

¹ **SE** entered a reservation on the whole article.

² **NL** entered a reservation.

³ **COM** proposed to change the lay-out in order to have "Member States shall be responsible" covering the provisions of the whole article.

⁴ **NL and SI** proposed to replace "diplomatic missions and consular posts" by Visa authorities throughout the text.

⁵ **NL, BE, SE, SK, EE, PT, DK, NO, EL, FR, CY and FI** were of the opinion that a 6 months period is too short and stressed that rotation is sometimes impossible when there is only one person. **LV** and **IT** agreed on the principle of rotation but stressed on the need for flexibility in applying that principle. **LU** proposed to delete the two first sentences of this subparagraph. **FR** suggested to delete the whole subparagraph.

⁶ **NL, BE, SE, SK, DK and FI** proposed to replace "duly authorised expatriate permanent staff members" by "duly authorised staff" as in VIS Regulation. **LU** was of the opinion that the choice should be left up to the Member State concerned. **LT** proposed to delete the term "expatriate".

⁷ **SK** and **FR** proposed to delete the first sentence, finding it too technical to be introduced here.

⁸ **DE** found the paragraph too technical for a legal text. It should appear in the Manual Handbook. Moreover **DE** added that the list of visa stickers and the stickers themselves should be stored apart to avoid the loss of information about the visa No. in case of theft.

3. Member States' diplomatic missions and consular posts shall keep archives of paper copies of visa applications. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and a copy of the visa issued¹, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.
- Individual files shall be kept for five years both when a visa has been issued and when it has been refused².

¹ **NL, DE, DK, BE** and **LV** were of the opinion that a copy of the visa is unnecessary because it is already stored in VIS.

² **EE, HU** and **SE** did not agree with the requirements contained in this paragraph. **SE, DK, NO, BE, LV** and **PT** wanted to have "copies" only instead of "paper copies". **SK** agreed with Commission proposal and proposed some flexibility on the question of electronic or paper copies. Moreover **SK** is of the opinion that the end of the first subparagraph is not needed. **COM** emphasised that delegations had opposed an electronic copy to be made in the framework of the discussions of the VIS Regulation. The **Chair** stressed on the need for keeping the paper form because it contains the signature of the applicant by which she/he recognises that the information given in the form is correct. **SE, NL, DK, BE, LV** and **CZ** found 5 years a too long period. **LT** stressed that a difference should be made between negative decisions on visa applications (5 years would be fine) and positive decisions (a shorter period should be foreseen). **FR** entered a scrutiny reservation on the whole paragraph. **NL, DE** and **BE** asked when the counting period starts: at the date of approval, date of application...? **COM** replied it should be on the date of the decision taken. **HU** stated that the wording about invalidated, revoked, cancelled, refused visas should be aligned. **COM** agreed to rectify it. **BE** entered a scrutiny reservation on the principle of keeping documents when the visa is issued.

Article 35¹

Resources for processing visa applications and monitoring of diplomatic missions and consular posts

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the processing of visa applications, in such a way as to ensure an efficient and harmonised level of treatment of applications and applicants in their diplomatic missions and consular posts². Premises should meet appropriate functional requirements of adequacy and allow for appropriate security measures.
2. 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 updated information on the relevant Community and national law.
3. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of processing of visa applications and take corrective measures when deviations from provisions are detected.

¹ **FR** and **NL** proposed to delete the whole article.

² **CZ** emphasised that recommendations should be made about the number of employees to be hired in relation to the level of difficulties the staff could encounter given the level of illegal migration in the place concerned. **PL** was of the opinion that a acceptable work burden and remuneration must be addressed in relation to consulates confronted with a high level of illegal immigration. **IT** found it too hard to insert that kind of information in a legal document. **BE** referred to Recital 10 of the proposal for the Regulation and stated that was sufficient to address the matter. **COM** insisted on the importance of maintaining those provisions, especially the terms "sufficient numbers" for the EP in relation to the need for outsourcing.

Article 36¹

Conduct of staff processing visa applications

1. Member States' diplomatic missions and consular post shall ensure that applicants are received courteously.
2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 37

Forms of cooperation in relation to the reception of visa applications

Member States may engage in the following forms of cooperation:

- (a) "co-location": staff from the diplomatic posts and consular missions of one or more Member States process the applications (including biometric identifiers) addressed to them at the diplomatic post and consular mission of another Member State and share the equipment of that Member State. The Member States concerned shall agree on the duration and conditions for the termination of the co-location as well as the part of the administrative fee to be received by the Member State whose diplomatic post or consular mission is being used.

¹ **NL, FR, IT, EE** and **SK** entered a reservation arguing this is not to be kept in legal provisions but rather in recitals.

- (b) "Common Application Centres": staff of diplomatic posts and consular missions of two or more Member States are pooled in one building in order to receive the visa applications (including biometric identifiers) addressed to them. Applicants shall be directed to the Member State responsible for the processing of the visa application. Member States shall agree on the duration and conditions for the termination of this co-operation as well as the cost sharing among the participating Member States. One Member State shall be responsible for contracts in relation to logistics and diplomatic relations with the host country.
- (c) Co-operation with external service providers: where for reasons relating to the local situation of the consular post it is not appropriate to equip the consular office for capturing/collecting biometric identifiers or to organise co-location or a Common Application Centre, a Member State or several Member States jointly may co-operate with an external service provider for the reception of visa applications (including biometric identifiers). In such a case, the Member State(s) concerned shall remain liable for compliance with data protection rules for the processing of visa applications.

Article 38

Co-operation with external service providers

1. Cooperation with external service providers shall take the following form:
 - (a) the external service provider acts as a call-centre providing general information on the requirements for applying for a visa and in charge of the appointment system; and/or,

(b) the external service provider provides general information on the requirements for applying for a visa, collects applications, supporting documents and biometric data from visa applicants and collects the handling fee (as provided for in Article 16) and transmits completed files and data to the diplomatic mission or consular post of the Member State competent for the processing of the application.

2. The Member State(s) concerned shall select an external service provider who is able to ensure all the technical and organisational security measures and appropriate technical and organizational measures requested by the Member State(s) to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network as well as the reception and transmission of files and data to the consular post, and against all other unlawful forms of processing.

When selecting external service providers, Member States' diplomatic missions or consular posts shall scrutinise the solvency and reliability of the company (including necessary licences, commercial registration, company statutes, bank contracts and shall ensure there is no conflict of interests.

3. External service providers shall not have access to the VIS for any purpose. Access to the VIS shall be reserved exclusively to duly authorised staff of diplomatic missions or consular posts.

4. The Member State(s) concerned shall conclude a contract with the external service provider in accordance with Article 17 of Directive 95/46/EC. Before concluding such a contract, the diplomatic mission or consular post of the Member State concerned shall within local consular cooperation inform the diplomatic missions and consular posts of other Member States and the Commission delegation why the contract is necessary.
5. In addition to the obligations set out in Article 17 of Directive 95/46/EC, the contract shall also contain provisions which:
- (a) define the exact responsibilities of the service provider;
 - (b) require the service provider to act under the instructions of the responsible Member States and to process the data only for the purposes of processing of personal data of visa applications on behalf of the responsible Member States in compliance with Directive 95/46;
 - (c) require the service provider to provide the applicants with the information required under the VIS Regulation;
 - (d) provide for access by consular staff to the premises of the service provider at all times;
 - (e) require the service provider to observe rules of confidentiality (including the protection of the data collected in relation to visa applications;
 - (f) contain a suspension and termination clause.

6. The Member State(s) concerned shall monitor implementation of the contract, including:
- (a) the general information provided by the service provider to visa applicants;
 - (b) the technical and organisational security measures and appropriate technical and organizational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing as well as the reception and transmission of files and data to the consular post;
 - (c) the capturing of biometric identifiers;
 - (d) the measures taken to ensure compliance with data protection provisions.
7. The total amount of fees charged by the external service provider for processing the visa application shall not exceed the fee set out in Article 16.
8. The consular staff of the Member State(s) concerned shall give training to the service provider, corresponding to the knowledge needed to offer appropriate service and sufficient information to visa applicants.

Organisational aspects

1. Precise information on the means of obtaining an appointment and submitting a visa application shall be displayed by Member States' diplomatic missions and consular posts for the general public.
2. Irrespective of the type of cooperation chosen, Member States may decide to maintain the possibility of allowing for applicants' direct access to lodge an application for a visa directly at the premises of its diplomatic mission or consular posts. Member States shall assure the continuity of reception and processing of visa application, in the event of sudden termination of cooperation with other Member States or any type of external service provider.
3. Member States shall inform the Commission of how they intend to organise the reception and processing of visa applications in each consular location. The Commission will ensure appropriate publication.

Member States shall provide the Commission with the contracts they conclude.

Article 40¹

Submission of visa applications by commercial intermediaries

1. For repeated² applications within the meaning of Article 11(2), Member States may allow their diplomatic missions or consular posts³ to cooperate with commercial intermediaries (i.e. private administrative agencies, transport⁴ or travel agencies (tour operators and retailers); hereinafter: “commercial intermediaries”) for the collection of applications, supporting documents and the handling fee and the transmission of completed files⁵ to the diplomatic mission or consular post of the Member State competent for the processing of the application.
2. Before granting accreditation to commercial intermediaries carrying out the tasks described in paragraph 1, Member States’ diplomatic missions and consular posts shall, in particular, verify the following aspects:
 - (a) the current status of the intermediary: current licence, the commercial register, contracts with banks;
 - (b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;
 - (c) contracts with airlines, which must include outward and guaranteed, fixed return journeys.

¹ **FR** entered a reservation on the whole article.

² **NL** proposed to have "subsequent" applications.

³ **BE** and **HU** asked why the external service providers were not referred to as well. **ES** entered a reservation on any differentiation between travel agencies and external service providers. **COM** replied that under the provisions of Chapter VIII, Point 5, of the CCI a clear distinction is to be made between commercial intermediaries and external service providers because the first ones intervene in the framework of a contract with the visa applicants where the other ones are only bound by legal commitments regarding the visa authorities.

⁴ **EE** and **LT** asked what was meant by "transport agency". **COM** indicated that different kinds of transport were covered: air, road,...

⁵ **DE** proposed to add the issuing of passports.

3. Accredited commercial intermediaries shall be monitored constantly¹ by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation, verification that the travel medical insurance provided is adequate and covers individual travellers, and wherever possible², verification of the documents relating to group return.
4. Within local consular cooperation, information shall be exchanged on irregularities detected, refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to effect scheduled trips.
5. Within local consular cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each diplomatic mission or consular post or from which accreditation has been withdrawn, together with the reasons for any such withdrawal³.

Each diplomatic mission or consular post shall make sure that the public is informed about the list of accredited intermediaries with which it cooperates.

Article 41

Information of the general public

1. Member States and their diplomatic missions or consular posts shall provide the general public with all relevant information⁴ in relation to the application for a visa⁵:
 - (a) the criteria, conditions and procedures for applying for a visa;
 - (b) the means of obtaining an appointment, if applicable;

¹ **NL** and **BE** found this wording in contradiction with "spot checks". **DE** entered a scrutiny reservation.

² **HU** proposed to add "...and deemed necessary...".

³ **IT** and **LT** are in favour of a positive list instead of a negative one.

⁴ **SK** was of the opinion that "actual information" would constitute a better wording.

⁵ **SE** asked whether information on a web site was sufficient.

(c) where the application should be submitted (competent diplomatic mission or consular post, common application centre or external service provider).¹

2. The representing Member State and the represented Member State shall inform the general public about arrangements on representation as provided in Article 7 three months before such arrangements enter into force². This information shall contain details of possible categories of applicants who must apply directly at a diplomatic mission or consular post of the represented Member.
3. The general public as well as the host country's authorities shall be informed that the stamp as provided for by Article 17 has no legal implications³.
4. The general public shall be informed of the time limits for examining visa applications provided for in Article 20(1). It shall also be informed of the third countries whose nationals or specific categories of such nationals are subject to prior consultation as set out in Annexes I and II⁴.
5. The general public shall be informed that negative decisions on visa applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal. Information shall be given on the possibilities of appeal, the competent legal instance, as well as the time-limit for lodging an appeal⁵.

¹ **SK** proposed to include the visa fees. **NL** proposed to have Art. 39(1) under Art.41(1) because it concerns information on appointments only made with diplomatic missions and consular posts, not with external service providers. **COM** disagreed because Art.39(1) must be read together with the different forms of cooperation referred to in Art.39.

² **PL, DK, NO, IT, EE, DE, NL, PT, HU** and **SE** found the deadline too long and asked for more flexibility. **BE** stressed that the general rule could be 3 months but particular circumstances could allow for a shorter period. **COM** opposed to amending its proposal because MS know this kind of representation long in advance.

³ **COM** informed delegations that this provision should no longer stay once the VIS Regulation enters into force.

⁴ **DE** referred to its position on Art.8 & 9. **DE** and **SK** insisted that confidentiality should be maintained regarding the countries for which prior consultation is applicable. **NL** opposed to 2nd sentence. **PT** suggested deleting the whole paragraph. **COM** stressed that this provision must be maintained. **IT** agreed with **COM**.

⁵ **SE** entered a scrutiny reservation, referring to its comments on Art.23.

6. The general public shall be informed that mere possession of a visa does not confer automatic¹ right of entry and that the holders of visa may be requested to present supporting documents at the border.
7. The general public shall be informed about the exchange rate applied by Member State's diplomatic missions and consular posts when the handling fee is charged in local currency².

¹ **NL** suggested to replace "automatic right" with "irrevocable right", and in Art.24 as well.

² **SK** and **PL** proposed to remove this paragraph to (1).

TITLE IV: Local Consular Cooperation

Article 42¹

Member States' diplomatic missions and consular posts' local consular cooperation

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' diplomatic missions and consular posts and the Commission shall cooperate within each jurisdiction and assess the need to establish in particular²:
 - (a) a harmonised list of supporting documents to be submitted by applicants, taking into account Article 14 and Annex IV;
 - (b) common criteria for examining visa applications, in particular in relation to the requirement that the applicant hold travel medical insurance (including the exemptions and the impossibility to acquire locally appropriate travel medical insurance), the handling fee, the use of the stamp indicating that a visa has been applied for and matters relating to the application form.
 - (c) common criteria for treating the different types of travel documents and an exhaustive list of travel documents issued by the host country, which shall be updated regularly.

¹ **FR** suggested deleting this article because it is not normative and indicated it should be removed to Practical Handbook. **BE** and **PL** disagreed because legally binding measures are needed to foster the Local Consular Cooperation (LCC) between MS.

² **DE** suggested to add a point (e) along these lines: "a harmonised approach to checks on return including the length, scope and method of the measures to be applied (e.g. boarding card controls, interviews in person on return, sampling)".

- (d) a harmonised approach in relation to cooperation with external service providers and commercial intermediaries.

If regarding one or more of the points (a) to (d), the assessment within the local consular cooperation confirms the need for a local harmonised approach, measures on such a harmonised approach shall be adopted pursuant to the procedure provided by Article 46(2)¹.

2. Within local consular cooperation shall be established a common information sheet on short-stay visa, transit and airport transit visas (the rights that it implies, the conditions for applying for it).
3. The following information shall be exchanged within local consular cooperation:
 - (a) monthly² statistics on short-stay visas, visas with limited territorial validity, transit visas and airport transit visas issued, as well as the number of rejected visa applications,
 - (b) information on
 - (i) the socio-economic structure of the host country;
 - (ii) sources of information at local level (on social security, health insurance, fiscal registers, entry-exit registrations etc.);
 - (iii) the use of false and falsified documents;
 - (iv) illegal immigration routes;
 - (v) refusals;
 - (vi) cooperation with airline companies;
 - (vii) insurance companies providing adequate travel medical insurance (including verification of type of coverage, possible excess amount).

¹ **NL** found it unclear: on what basis the decisions are going to be adopted. **COM** informed delegations Art.46(2) is based on Comitology procedure.

² **NL** was in favour of "regular" rather than "monthly". **COM** wanted the text to be maintained.

4. Local consular cooperation meetings among Member States and Commission to deal specifically with operational issues in relation to the application of the common visa policy shall be organised once a month¹. These meetings shall be convened by the Commission², unless otherwise agreed at the request of the Commission within the jurisdiction.

Single-topic meetings may be organised and sub-groups set up to study specific issues within local consular cooperation³.

5. Summary reports of local consular cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of reports to a Member State⁴. The diplomatic mission or consular post of each Member State shall forward the reports to their central authorities⁵.
On the basis of these monthly reports, the Commission shall draw up an annual report within each jurisdiction to be submitted to Council.
6. Representatives of diplomatic missions or consular posts of Member States not applying the community acquis in relation to visas⁶, or of third countries, may, on an ad hoc bases, be invited to participate in meetings for the exchange of information on specific issues relating to the issuance of visa.
7. Issues of particular general interest or which cannot be solved locally shall be submitted by the Commission to the Council⁷ for examination⁸.

¹ **NL, BE, HU, PL, EL, IT** and **SK** were of the opinion that the once a month requirement is too hard to apply and wanted more flexibility.

² The **Chair** was in favour of meetings convened by the Presidency.

³ **NL** found those organisational details too explicit and suggested removing them in the Practical Handbook.

⁴ **IT** and **DE** stated that the reports should be drawn up by the Commission.

⁵ **NL** found those organisational details too explicit and suggested removing them in the Practical Handbook.

⁶ **HU** suggested to refer to nMS already partially applying the Schengen acquis. **COM** agreed to have the sentence redrafted in order to cover those nMS. **NO** stressed on the importance to make sure **NO** is not excluded from the LCC and the Schengen cooperation.

⁷ **COM** informed delegations that the Visa WP was to be understood here.

⁸ The **Chair** informed delegations that they could send their questions on that item directly to the Commission

TITLE V: Final provisions

Article 43

Exceptional arrangements

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuance of visa set out in Annex XIII¹.

Article 44²

Amendments to the Annexes

- (1) Annexes III, IV, V, VI, VIII, IX, X and XI³ shall be amended in accordance with the procedure referred to in Article 46(2).
- (2) Without prejudice to Article 47(2)⁴ the changes of Annexes I and II shall be decided in accordance with the procedure set out in Article 46(2).

Article 45

Instructions on the practical application of the Visa Code

Operational instructions establishing the harmonised practices and procedures to be followed by Member States' diplomatic posts and consular missions when processing visa applications shall be drawn up in accordance with the procedure referred to in Article 46(2).

¹ **FR** stated that the specific procedures and conditions about visas, as referred to in Annex XIII were problematic regarding security. **COM** emphasised that those procedures were successfully applied for the Olympic games in Athens.

² **FR** and **NL** entered a scrutiny reservation on Art.44, 45, 46.

³ Following **COM** a reference to Annex XII is to be added.

⁴ **DE** and **IT** challenged the need to have a reference to Art.47(2).

Article 46
Committee

1. The Commission shall be assisted by a committee, hereinafter "the Visa Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.
3. The Visa Committee shall adopt its rules of procedure.

Article 47
Notification

1. Member States shall notify the Commission of:
 - (a) Situations of representation referred to in Article 7;
 - (b) the list of third countries for which information procedures referred to in Article 9(3) are required¹;
 - (c) the additional national entries in the "comments" section of the visa sticker as referred to in Article 25(2);

¹ LT asked whether this information should be published.

- (d) authorities competent for extending visas, referred to in Article 28(4);
- (e) the situations of cooperation referred to in Article 37¹;
- (f) statistics on all types of visas issued every six months (1st March and 1st September of each calendar year) using the uniform table² for exchanging statistics³.

The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via a constantly updated electronic publication.

2. Member States shall also notify the Commission of envisaged changes of the lists of third countries for which the prior consultation or information procedures referred to in Articles 8 and 9 are required.

Article 48

Repeals

1. Articles 9 to 17 of the Convention implementing the Schengen Agreement of 14 June 1985 are replaced.

¹ **PL** suggested to merge points (a) and (e).

² **NL** and **IT** suggested to have annual statistics and **NL** asked what was meant by "uniform table".

³ **FR** suggested to remove those provisions on a new paragraph 3. Moreover **FR** was of the opinion that the statistics should be annually only and not published.

2. The following shall be repealed:
- (a) The Common Consular Instructions, including the annexes.
 - (b) The decisions of the Schengen Executive Committee of 14 December 1993 (SCH/Com-ex (93) 21), (SCH/Com-ex (93)24) (SCH/Com-ex (94) 25), (SCH/Com-ex (98)12) SCH/Com-ex (98)57.
 - (c) Joint Action 96/197/JHA of 4 March 1996 adopted by the Council on the basis of Article K.3 of the TEU on airport transit arrangements¹.
 - (d) Regulation (EC) No 789/2001.
 - (e) Regulation (EC) No 1091/2001.
 - (f) Regulation (EC) No 415/2003.
3. References to repealed instruments shall be construed as references to this Regulation and read in accordance with the correlation table in Annex XIV.

¹ **FR** entered a scrutiny reservation.

Article 49

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply 6 months after that day of its entry into force. Articles 46 and 47 shall apply from the date of entry into force.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX XII¹ Part 1: OPERATIONAL INSTRUCTIONS FOR ISSUING VISAS AT THE BORDER TO SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS

The objective of these operational instructions is to provide rules for the exchange of information between the competent authorities of the Member States applying the Community acquis with respect to seamen in transit subject to visa requirements. Insofar as a visa is issued at the border on the basis of the information that has been exchanged, the responsibility lies with the Member State issuing the visa.

For the purposes of these operational instructions:

"Member State port": means a port constituting an external border of a Member State

"Member State airport": means an airport constituting an external border of a Member State; and

I. Signing on a vessel berthed or expected at a Member State port

(a) entry into the Member States' territory via an airport situated in another Member State²

- the shipping company or its agent shall inform the competent authorities at the Member State port where the ship is berthed or expected that seamen subject to visa requirements are due to enter via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;

¹ **PT** intends to present a note on technical specifications about this Annex.

² **NL** proposed to delete the end of the sentence from "...via an airport...".

- the said competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member State territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
 - the competent authorities at the Member State port shall inform the competent authorities at the Member State airport of entry, by means of a duly completed form for seamen in transit who are subject to visa requirements (as set out in Annex XIII, Part 2), sent by fax, electronic mail or other means, of the results of the verification and indicate whether a visa can in principle be issued at the border;
 - where the verification of the available data is positive and the outcome clearly concurs with the seaman's declaration or documents, the competent authorities at the Member State airport of entry or exit can issue a transit visa at the border with a maximum validity of five days. Furthermore, in such cases the seaman's travel document referred to above shall be stamped with a Member State entry or exit stamp and given to the seaman concerned.
- (b) entry into the Member States' territory via a land or sea border situated in another Member State
- the procedure is the same as that for entry via a Member State airport except that the competent authorities at the border post via which the seaman concerned enters the Member State territory shall be informed.

II. Leaving service from a vessel that has entered a Member State port

- (a) exit from the Member States' territory via an airport situated in another Member State
 - the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via a Member State airport. The shipping company or its agent shall sign a guarantee in respect of those seamen;
 - the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The travel route within the Member States' territory shall also be verified e.g. by reference to the airline tickets;
 - where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.
- (b) exit from the Member States' territory via a land or sea border situated in another Member State
 - the procedure is the same as that for exit via a Member State airport.

III. Transferring from a vessel that entered a Member State port to a vessel that will sail from a port situated in another Member State

- the shipping company or its agent shall inform the competent authorities at the said Member State port of the entry of seamen subject to visa requirements who are due to leave their service and exit from the Member States' territory via another Member State port. The shipping company or its agent shall sign a guarantee in respect of those seamen;
- the competent authorities shall verify as soon as possible whether the information provided by the shipping company or its agent is correct and examine whether the other conditions for entry into the Member States' territory have been satisfied. The competent authorities at the Member State port from which the seamen will leave the Member States' territory by ship shall be contacted for the examination. A check shall be carried out to establish whether the ship they are joining is berthed or expected there. The travel route within the Member States' territory shall also be verified;
- where the verification of the available data is positive, the competent authorities may issue a transit visa with a maximum validity of five days.

ANNEX XII: Part 2¹

FORM FOR SEAMEN IN TRANSIT WHO ARE SUBJECT TO VISA REQUIREMENTS			
FOR OFFICIAL USE:			
ISSUER: (STAMP) SURNAME/CODE OF OFFICIAL:		RECIPIENT: AUTHORITY	
DATA ON SEAMAN:			
SURNAME(S):		FORENAME(S):	
1A		1B	
NATIONALITY:		RANK/GRADE:	
1C		1D	
PLACE OF BIRTH:		DATE OF BIRTH:	
2A		2B	
PASSPORT NUMBER:		SEAMAN'S BOOK NUMBER:	
3A		4A	
DATE OF ISSUE:		DATE OF ISSUE:	
3B		4B	
PERIOD OF VALIDITY:		PERIOD OF VALIDITY:	
3C		4C	
DATA ON VESSEL AND SHIPPING AGENT:			
NAME OF SHIPPING AGENT:		5	
NAME OF VESSEL:		FLAG:	
6A		6B	
DATE OF ARRIVAL:		ORIGIN OF VESSEL:	
7A		7B	
DATE OF DEPARTURE:		DESTINATION OF VESSEL:	
8A		8B	
DATA ON MOVEMENT OF SEAMAN:			
FINAL DESTINATION OF SEAMAN:		9	
REASONS FOR APPLICATION: SIGNING ON <input type="checkbox"/>		TRANSFER <input type="checkbox"/> LEAVING SERVICE <input type="checkbox"/> 10	
MEANS OF TRANSPORT		CAR <input type="checkbox"/> TRAIN <input type="checkbox"/> AEROPLANE <input type="checkbox"/> 11	
DATE OF: ARRIVAL:		TRANSIT: DEPARTURE: 12	
CAR* <input type="checkbox"/> REGISTRATION N° :		TRAIN* <input type="checkbox"/> JOURNEY ROUTE:	
FLIGHT INFORMATION: DATE:		TIME: FLIGHT NUMBER:	
Formal declaration signed by the shipping agent or the ship-owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seaman.		13	

* = to be completed only if data available

¹ NL proposed to add the phone number and the IMO number of the ship. DE supported NL on the IMO number.

DETAILED DESCRIPTION OF FORM

The first four points deal with the identity of the seaman.

(1)	A.	Surname(s) ¹
	B.	Forename(s)
	C.	Nationality
	D.	Rank/Grade
(2)	A.	Place of birth
	B.	Date of birth
(3)	A.	Passport number
	B.	Date of issue
	C.	Period of validity
(4)	A.	Seaman's book number
	B.	Date of issue
	C.	Period of validity

Points 3 and 4 have been shown separately for clarity since, depending on the nationality of the seaman and the Member State being entered, a passport or a seaman's book can be used for identification purposes.

The next four points deal with the shipping agent and the vessel concerned.

- (5) Name of shipping agent (the individual or corporation who represents the ship-owner on the spot in all matters relating to the ship-owner's duties in fitting out the vessel).

¹ Please give the surname(s) that appear in the passport.

(6)	A. Name of vessel
	B. Flag (under which the merchant vessel is sailing)
(7)	A. Date of arrival of vessel
	B. Origin (port) of vessel
	Letter "A" refers to the vessel's date of arrival in the port where the seaman is to sign on.
(8)	A. Date of departure of vessel
	B. Destination of vessel (next port)

Points 7A and 8A give indications regarding the length of time for which the seaman may travel in order to sign on. It should be remembered that the route followed is very much subject to unexpected interferences and external factors such as storms, breakdowns, etc.

The next four points clarify the reason for the seaman's journey and his destination.

(9) The "final destination" is the end of the seaman's journey. This may be either the port at which he is to sign on or the country to which he is heading if he is leaving service.

(10) Reasons for application

(a) In the case of signing on, the final destination is the port at which the seaman is to sign on.

(b) In the case of transfer to another vessel within the Member States' territory, it is also the port at which the seaman is to sign on. Transfer to a vessel situated outside the Member States' territory must be regarded as leaving service.

(c) In the case of leaving service, this can occur for various reasons, such as end of contract, accident at work, urgent family reasons, etc.

(11) Means of transport

List of means used within the Member States' territory by the seaman in transit who is subject to a visa requirement to reach his final destination. On the form, the following three possibilities are envisaged:

(a) Car (or coach)

(b) Train

(c) Aeroplane

(12) Date of arrival (on the Member States' territory)

Applies primarily to a seaman at the first Member State airport or border-crossing point (since it may not always be an airport) at the external border via which he wishes to enter the Member States' territory.

Date of transit

This is the date on which the seaman signs off at a port in the Member States' territory and heads towards another port also situated in the Member States' territory.

Date of departure

This is the date on which the seaman signs off at a port in the Member States' territory to transfer to another vessel at a port situated outside the Member States' territory or the date on which the seaman signs off at a port in the Member States' territory to return to his home (outside the Member States' territory).

After determining the three means of travel, available information should also be provided concerning those means:

- (a) car, coach: registration
 - (b) train: name, number, etc.
 - (c) flight data: date, time, number
- (13) Formal declaration signed by the shipping agent or the ship- owner confirming his responsibility for the stay and, if necessary, for the repatriation costs of the seaman

If the seamen are travelling in a group, each one has to fill in the data for points 1A to 4C.

**ANNEX XIII: SPECIFIC PROCEDURES AND CONDITIONS FACILITATING THE
ISSUANCE OF VISAS TO MEMBER OF THE OLYMPIC FAMILY PARTICIPATING IN
THE OLYMPIC GAMES AND PARLYMPIC GAMES**

Chapter I

PURPOSE AND DEFINITIONS

Article 1

Purpose

The following specific procedures and conditions facilitating the application for visas and issuing of uniform short-stay visas to members of the Olympic family for the duration of the [year] Olympic and Paralympic Games.

In addition, the relevant provisions of the Community *acquis* concerning procedures for applying for and issuing the uniform visa apply.

Article 2

Definitions

For the purposes of this Regulation:

- 1) "Responsible organisations" relating to measures envisaged to facilitate the procedures for applying for and issuing visas for members of the Olympic family taking part in the [year] Olympic and/or Paralympic Games means the official organisations, in terms of the Olympic Charter, which are entitled to submit lists of members of the Olympic family to the Organising Committee of the [year] Olympic and Paralympic Games with a view to the issue of accreditation cards for the Games;

- 2) "Member of the Olympic family" means any person who is a member of the International Olympic Committee, the International Paralympic Committee, International Federations, the National Olympic and Paralympic Committees, the Organising Committees of the Olympic Games and the national associations, such as athletes, judges/referees, coaches and other sports technicians, medical personnel attached to teams or individual sportsmen/women and media-accredited journalists, senior executives, donors, sponsors or other official invitees, who agree to be guided by the Olympic Charter, act under the control and supreme authority of the International Olympic Committee, are included on the lists of the responsible organisations and are accredited by the Organising Committee of the [year] Olympic and Paralympic Games as participants in the [year] Olympics and/or Paralympic Games;
- 3) "Olympic accreditation cards" issued by the Organising Committee of the [year] Olympic and Paralympic Games, in accordance with [reference to national legislation] means one of two secure documents, one for the Olympic Games and one for the Paralympic Games, each bearing a photograph of its holder, establishing the identity of the member of the Olympic family and authorising access to the facilities at which competitions are held and to other events scheduled throughout the duration of the Games;
- 4) "Duration of the Olympic Games and Paralympic Games" means the period from To for the [year] Winter Olympic Games and the period from to for the [year] Paralympic Games;
- 5) "Organising Committee of the [year] Olympic and Paralympic Games" means the Committee set up on [reference to national provisions] to organise the [year] Olympic and Paralympic Games in.... , which decides on accreditation of members of the Olympic family taking part in those Games;
- 6) "Services responsible for issuing visas" means the services designated in [the Member State hosting the Olympic Games and Paralympic Games] to examine applications and issue visas to members of the Olympic family.

Chapter II

ISSUE OF VISAS

Article 3

Conditions

A visa may be issued pursuant to this Regulation only where the person concerned:

- (a) has been designated by one of the responsible organisations and accredited by the Organising Committee of the [year] Olympic and Paralympic Games as a participant in the [year] Olympic and/or Paralympic Games;
- (b) holds a valid travel document authorising the crossing of the external borders, as referred to in Article 5 of the Schengen Borders Code¹;
- (c) is not a person for whom an alert has been issued for the purposes of refusing entry;
- (d) is not considered to be a threat to public policy, national security or the international relations of any of the Member States.

Article 4

Filing of the application

1. Where a responsible organisation draws up a list of the persons selected to take part in the [year] Olympic and/or Paralympic Games, it may, together with the application for an Olympic accreditation card for the persons selected, file a collective application for visas for those persons selected who are required to be in possession of a visa in accordance with Regulation (EC) No 539/2001, except where those persons hold a residence permit issued by a Member State, or a residence permit, issued by United Kingdom or Ireland, in accordance with Directive 2004/38/EC.

¹ OJ L 105, 13.4.2006.

2. Collective applications for visas for the persons concerned shall be forwarded at the same time as applications for the issue of an Olympic accreditation card to the Organising Committee of the [year] Olympic and Paralympic Games in accordance with the procedure established by it.
3. A single visa application per person shall be filed for persons taking part in the [year] Olympic and/or Paralympic Games.
4. The Organising Committee of the [year] Olympic and Paralympic Games shall forward to the services responsible for issuing visas, collective applications for visas as quickly as possible, together with copies of applications for the issue of an Olympic accreditation card for the persons concerned, bearing their full name, nationality, sex and date and place of birth and the number, type and expiry date of their passport.

Article 5

Examination of the collective application for visas and type of the visa issued

1. The visa shall be issued by the services responsible for issuing visas following an examination designed to ensure that the conditions set out in Article 3 are met.
2. The visa issued shall be a uniform short-stay, multiple entry visa authorising a stay of not more than 3 months for the duration of the [year] Olympics and/or Paralympic Games.
3. Where the member of the Olympic family concerned does not meet the conditions set out in point (c) or (d) of Article 3, the services responsible for issuing visas may issue a visa with limited territorial validity in accordance with Article 21 of the Code on Visas.

Article 6
Form of the visa

1. The visa shall take the form of two numbers entered on the Olympic accreditation card.
The first number shall be the visa number. In the case of a uniform visa, that number shall be made up of seven (7) characters comprising six (6) digits preceded by the letter "C". In the case of a visa with limited territorial validity, that number shall be made up of eight (8) characters comprising six (6) digits preceded by the letters "XX"¹. The second number shall be the number of the passport of the person concerned.
2. The services responsible for issuing visas shall forward the visa numbers to the Organising Committee of the [year] Olympic and Paralympic Games for the purposes of issuing accreditation cards.

Article 7
Waiver of fees

The processing of visa applications and the issue of visas shall not give rise to any fees being charged by the services responsible for issuing visas.

¹ Following **COM** a reference to the ISO code of the organising country should be added here.

Chapter III

GENERAL AND FINAL PROVISIONS

Article 8

Cancellation of a visa

Where the list of persons put forward as participants in the [year] Olympic and/or Paralympic Games is amended before the Games begin, the responsible organisations shall inform without any delay the Organising Committee of the [year] Olympic and Paralympic Games thereof so that the accreditation cards of the persons removed from the list may be revoked. The Organising Committee shall notify the services responsible for issuing visas thereof and shall inform them of the numbers of the visas in question.

The services responsible for issuing visas shall cancel the visas of the persons concerned. They shall immediately inform the authorities responsible for border checks thereof, and the latter shall without delay forward that information to the competent authorities of the other Member States.

Article 9

External border checks

1. The entry checks carried out on members of the Olympic family who have been issued visas in accordance with this Regulation shall, when such members cross the external borders of the Member States, be limited to checking compliance with the conditions set out in Article 3.

2. For the duration of the Olympic and/or Paralympic Games:
- (a) entry and exit stamps shall be affixed to the first free page of the passport of those members of the Olympic family for whom it is necessary to affix such stamps in accordance with Article 10(1) of the Schengen Borders Code . Upon first entry, the visa number shall be indicated on that same page;
 - (b) the conditions for entry provided in Article 5(1)(c) of the Schengen Borders Code shall be presumed to be fulfilled once a member of the Olympic family has been duly accredited.
3. Paragraph 2 shall apply to members of the Olympic family who are third-country nationals, whether or not they are subject to the visa requirement under Regulation (EC) No 539/2001.
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