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OUTCOME OF PROCEEDINGS

of: Visa Working Party/Mixed Committee (EU-Iceland/Norway/Switzerland)

dated: **29 - 30 March 2007**

No. Cion prop.: 11752/1/06 VISA 190 CODEC 771 COMIX 662 REV 1

Subject: Draft Regulation of the European Parliament and of the Council establishing a Community Code on Visas

The Visa Working Party examined Articles 15 - 17 and Annex VI on the basis of the Commission's proposal. The outcome of this examination is set out in the Annex to this note.

Article 15

Travel medical insurance

1. Applicants for short-stay visas and transit¹ visas shall prove that they are in possession of adequate and valid travel insurance to cover any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment².

Without prejudice to Article 12(2) last sentence, proof of travel insurance shall be presented when the application is lodged.³

2. Applicants applying for multiple entry⁴ visas with a long validity shall prove that they are in possession of adequate travel medical insurance covering the period of the first intended visit.

In addition, such applicants shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance for subsequent stays.

¹ **BE** considered it exaggerated to insist on this for persons applying for a transit visa (of a validity of 1-5 days) and found that against that background it was even more illogical that persons applying for a visa at the border would be exempt from having a TMI (sub-paragraph (5)). **COM** would not insist on maintaining the requirement for persons applying for a transit visa.

Replying to a query from **FR**, **COM** confirmed that ATVs were not covered.

² **FR** wished to add a reference to "*aide sociale*". **COM** wondered what type of expenses these would be.

³ **BE** was of the opinion that for practical reasons the proof of TMI should always be presented at the time of submission of the application, adding that if the proof is presented only when the applicant collects the visa, the whole purpose of TMI would be undermined. **ES** and **LV** supported these points of view, adding that a harmonised practice would prevent visa shopping.

NO, **DK** and **PT** preferred to maintain the two options.

⁴ Replying to a query from **SI**, **COM** noted that it was the multiple entry aspect that was important and not the duration of stays or the length of validity of the visa.

3. The insurance must be valid throughout the territory of the Member States and cover the entire period of the person's stay or transit. The minimum coverage shall be EUR 30 000.

When a visa with limited territorial validity or a transit visa is issued, the insurance cover may be confined to the Member State(s) concerned.¹

4. Applicants shall, in principle, take out insurance in their State of residence. Where this is not possible, they should seek to obtain insurance in any other country.

The person signing the form provided for in Annex V may take out insurance for the applicant, in which case, the conditions set out in paragraph 3 shall apply.²

5. Holders of diplomatic passports³, seafarers⁴ as covered by the ILO Conventions n° 108 and 185, and third-country nationals applying for a visa at the border⁵ shall be exempt from the requirement to hold adequate and valid travel insurance.⁶
6. The need for further exemptions may be assessed within local consular cooperation.⁷

¹ **HU** suggested the deletion of the reference to "transit". **COM** noted that this type of visa had been added due to the maximum length of such a visa, which implied that the holder could only travel via a rather limited number of Schengen States.

² **NL** suggested that it be spelt out that the insurance should be subscribed in the name of the person travelling. **COM** could accept such an amendment.

³ Replying to a query from **IT**, **COM** noted that this general exemption concerned a clearly defined category of persons, contrary to what is the case for holders of service passports.

⁴ **FR** wished to delete the reference to seafarers as the insurance provided for under the ILO convention covered matters other than TMI. **COM** suggested that **FR** submit an alternative text.

⁵ Responding to a query from **LU**, **COM** recalled that visas could only exceptionally (in most cases for reasons of urgency) be applied for at the border, and therefore this exemption was justified. Moreover, it would in most cases be impossible to obtain an insurance at the border.

⁶ **HU** suggested that a reference to family member of EU citizens be added. **COM** recalled that all provisions concerning family members of EU citizens were governed by Directive 2004/38.

⁷ **FR** was not in favour of this provision.

7. The insurance requirement may be considered to have been met where it is established that an adequate level¹ of insurance may be assumed in the light of the applicant's professional situation. This exemption may concern particular professional groups already covered by travel medical insurance as a result of their professional activities.
8. Within local consular cooperation in a given jurisdiction it shall be assessed whether it is possible to acquire appropriate travel medical insurance.
9. When assessing whether insurance is adequate¹ diplomatic missions or consular posts shall ascertain whether claims against the insurance company would be recoverable² in a Member State³.
10. When the requirement to be in possession of travel medical insurance has been waived, the relevant authority shall affix the following code, "N-INS", in the "comments" section of the visa sticker.

¹ **BE** suggested that guidelines as to the assessment of the "adequate level" be added in the practical Instructions to be drawn up later. **COM** would consider a more appropriate and "legal" wording.

² Responding to a comment made by **FR**, and referring to the reservation made by FR in relation to paragraph (6), **COM** noted that the purpose of paragraphs (6) and (8) was to allow "LCC" to agree on alternative solutions.

³ **BE** recalled that previously there also had been a reference to Switzerland and Liechtenstein.

Article 16

The handling¹ fee

1. When lodging a visa application, applicants shall pay a handling fee² of 60 EUR, corresponding to the administrative costs of processing the visa application. The fee shall be charged in EURO or in the national currency of the third country³ where the application is made and shall not be refundable.

¹ **NL** suggested that given the issues related to the fees charged for "outsourced services", a more precise definition of what is exactly covered by "handling" should be drawn up. **COM** noted that this issue would be dealt with in detail when the separate draft proposal amending the CCI was to be examined again. As far as the Commission Services were concerned, the "handling" covered all aspects from the reception of the application until the final decision on the application, adding that this tallied with the feasibility study drawn up by **FR** in relation to the recent increase of the handling fee. **FR** recalled that the result of the feasibility study had been that the administrative expenses amounted to 60 EUR.

Recognising that the current Schengen acquis does not contain a precise definition of what "handling" covers, **COM** emphasised that "administrative expenses" related to the handling of visa applications should cover all tasks related to this handling, irrespective of whether external service providers performed parts of these tasks.

² **NL** also suggested adding that it is the consular representation who decides the currency to be used. **COM** could accept such an addition if considered relevant by delegations.

³ **HU**, supported by **AT** and **DE**, suggested the addition of "the currency usually used in the third country concerned" and of "US \$", as it would not be possible for applicants to pay in EUR throughout the world. **COM** would consider the addition of US \$, recalling that this reference had been deleted when the flat rate had been introduced in 2003.

BG suggested that it should be agreed in the LCC which currency is to be used by all consular representations in a given location. **COM** would consider this suggestion.

Recalling the situation in Luanda as reported by **IT** in a previous meeting (see 6110/07 VISA 50 COMIX 150, page 9), **IT** strongly advocated that the EUR be used as a reference currency (not as the currency to be used for the actual payment) and the ECB exchange rate be used. **COM** could accept this suggestion.

2. Applicants shall be given a receipt for the fee paid.¹ The receipt shall indicate that the handling fee is not refundable.²
3. If the handling fee is charged in the national currency of the third country where the application is made, Member States' diplomatic missions and consular posts shall apply the Euro foreign exchange reference rate established by the European Central Bank³. They ensure under local consular cooperation that all Member States adapt the amount of the handling fee in national currency at the same time.
4. The handling fee shall be waived for visa applicants belonging to one of the following categories:
 - (a) children under 6 years;
 - (b) school pupils, students, post graduate students and accompanying teachers who undertake trips for the purpose of study or educational training; and
 - (c) researchers from third countries travelling within the Community for the purpose of carrying out scientific research as defined in the Recommendation (No. 2005/761/EC) of the European Parliament and of the Council of 28 September 2005.

¹ **AT** found this superfluous and **HU** found that a receipt should only be given upon request.
² **LV**, supported by **NL**, **FI** and **BG** suggested that this information be added on the application form as applicants who pay the handling fee via bank transfer will not receive a receipt as described in this paragraph. **ES** preferred to maintain the Commission's proposal. **COM** noted that the main purpose was to inform the applicant and thus it might be a better idea to add this information in the application form.

³ **PT**, **BE**, **FR**, **IT**, **NL**, **SI** and **AT**: scrutiny reservation. According to these delegations this provision would create problems for their respective national accounts departments. **NL** wondered how often this exchange rate was adjusted. **COM** would verify this. **HU** recalled that the EUR had not yet been introduced in all Member States, and suggested the following addition: "or the exchange rate applied by their respective central bank." **IT** supported this and suggested that paragraphs 1, 2 and 3 be reworded to make them more readable. **COM** was not in favour of the suggestion made by **HU**, fearing that it would give rise to further problems.

5. In individual cases, the amount of the fee to be charged may be waived or reduced 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.
6. Until 1 January 2008, nationals of third countries in respect of which the Council has given the Commission a mandate to negotiate a visa facilitation agreement by 1 January 2007 shall pay a handling fee of 35 EUR.²
7. When the holder of an LTV issued in accordance with Article 21(1), third paragraph, needs to travel – within the period of validity of that visa - to a Member State not included in the territorial validity of the LTV, no handling fee shall be charged for the processing of the second visa application.³

¹ **EE** and **LV** suggested the addition of a general exemption for holders of diplomatic passports (a new paragraph (d)). **HU** suggested that reference to possible exemptions from paying the handling fee for holders of diplomatic and service passports be added in the practical Instructions to be drawn up later. **COM** would follow the wishes of delegations in this matter, but recalled that by virtue of paragraph (5) Member States could exempt any individual applicant from paying the handling fee.

² **NL**, **EE** and **HU** requested that a reference to the visa facilitation agreements already concluded should also be added. Replying to a query from **PL**, **COM** noted that the agreements currently under negotiation would be covered if, by the dates indicated, they had been initialled and signed by not yet entered into force.

³ **AT**, **DE**, **FR** and **EL**: scrutiny reservation. **COM** noted that if an applicant is issued with an LTV as a result of a SIS alert, this could be considered as that person's individual responsibility. On the other hand, if a person is issued an LTV because a given Member State does not recognise the travel document that he/she holds, the person concerned has no influence on that situation. According to the Commission, it is therefore not justified - in the latter case - that the person concerned should have to reapply for a visa (and pay a second fee) since the reasons were beyond his/her control.

8. The fee shall be doubled in cases where the visa application is submitted by the visa applicant three days or less before the envisaged date of departure without justification.¹

Article 17

Stamp indicating that an application has been lodged

1. In order to avoid the simultaneous lodging of multiple applications, the Member State's diplomatic mission or consular post to which an application is made shall stamp the applicant's travel document indicating that a visa has been applied for. The stamp shall be placed on the first available page that contains no entries or stamps in the travel document, when the diplomatic mission or consular post receives the application.²
2. The stamp shall have no legal implication for future applications.
3. The stamp shall be as set out in the model in Annex VI and shall be affixed in accordance with that annex.

¹ **FR** found that what could seem as an additional service to the applicant, would add to the complexity of the various fees that apply and could be detrimental to the quality of the examination of the application and even give the impression that a visa could be obtained if a double fee was paid. **PT, LV, IT, BE**: scrutiny reservation.
NL preferred to delete this provision. **SE** wondered what "without justification" meant. While acknowledging that the collection of fees had become rather complicated because of the visa facilitation agreements, **ES** preferred to maintain this provision in order to prevent pressure on consular staff due to "last minute" applications. **HU** was in favour of maintaining the provision, but specifying that a fast track examination did not mean that a visa was automatically issued.

COM would not insist on this provision which was meant to compensate for the extra efforts made by consular staff. **COM** wondered whether it actually entailed additional costs to examine an application speedily? **PL** was of the opinion that - also in the light of the widespread use of external service providers charging additional fees for their services - such a "fast track" fee would be politically sensitive. **ES** emphasised that applicants were never obliged to submit their applications via a service provider, but if he/she chose to do so, he/she would have to pay for the services.

² **HU** noted that the stamp only served a purpose when a visa has not been issued or when the applicant needed to make use of the passport during the examination of the application. **COM** recalled the numerous examples of uncertainty among applicants and third countries' authorities as to the actual value of this stamp. Therefore a systematic use of the stamp would prevent such misunderstanding that were bound to occur if the stamp is only put in the passport in case of refusal. **IT** expressed doubts about the utility of this provision.

4. Diplomatic passports shall not be stamped. A harmonised approach as to whether to derogate from the requirement for other specified categories of persons shall be agreed upon within local consular cooperation.¹
5. The provisions of this Article shall cease to apply to Member States' diplomatic missions and consular posts from the date they transmit the visa data to the VIS.²

¹ **FR** was not in favour of such exemptions.

² **FR** suggested the following formulation: "... from the date where the VIS is fully operational."
COM recalled the regional roll-out of the VIS and it would seem archaic to continue to use the "application stamp" when a Member State had started transmitting data to the VIS.

**ANNEX VI: UNIFORM FORMAT OF STAMP INDICATING THAT AN APPLICATION
FOR A VISA HAS BEEN LODGED ***

...¹ visa ...² R/ ...³
xx/xx/xxxx⁴ ⁵

Example :

C visa FR R/ IT
22/04/2006 Consulat de France
Djibouti

* **AT**: scrutiny reservation.

¹ Code of the visa applied for.

² Code of the Member State processing the application.

³ If applicable, code of the Member State represented by the Member State processing the visa application.

⁴ Date of application (eight digits: xx day, xx month, xxxx year).

⁵ Authority processing the visa application.