

Community Code on Visas (Visa Code)

2006/0142(COD) - 08/04/2008

The Committee on Civil Liberties, Justice and Home Affairs adopted the report drawn up by Henrik LAX (ALDE, FI) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council establishing a Community Code on Visas.

The main amendments are as follows:

“Territorial” competence: Members consider that it should not depend on the law of the third country different from their country of residence whether an applicant requesting a visa is deemed to be legally present in that country. It amended the provisions to state that in exceptional and duly justified cases (e.g. for humanitarian reasons) visa applications may be lodged by third-country nationals in another third country. In that case, the consent of the responsible diplomatic mission or consular post in the applicant's country of residence must, as a general rule, be obtained before the visa is issued.

Furthermore, a multiple-entry visa shall be issued only in the applicant's country of residence unless the applicant can demonstrate that an exception is necessary.

Member State responsible for processing a visa application: this may be the diplomatic mission of another Member State representing the Member State of destination or any of the Member States of destination under the terms of an arrangement pursuant to the provisions on arrangements on representation **Arrangements on representation:** Member States lacking their own representation in a third country shall conclude arrangements on representation with other Member States that do have diplomatic missions or consular posts in that country. With a view to ensuring that poor transport infrastructure or long distances in a specific region does not require a disproportionate effort on the part of visa applicants to have access to a mission or consular post, Member States lacking their own representation in that region shall conclude arrangements on representation with other Member States that do have missions or consular posts in that region. Guidelines as to whether a journey to a diplomatic mission or consular post would involve disproportionate effort shall be drawn up for each host country within the framework of local consular cooperation. Those guidelines shall take into account, inter alia, distances and transport infrastructure and shall be made public.

Submission of the application: applications shall be submitted no more than 6 months (rather than 3 months) before the start of the planned visit.

Capturing of biometric data: the committee deleted the provisions in the original proposal and stated that these provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty (codecision procedure).

Personal interview: a new clause makes provision for a personal interview in order to ascertain whether the criteria for issue of a visa are met, and sets out the derogations from the general rule.

Supporting documents: applicants shall not be required to provide documents regarding accommodation or invitation before applying for a visa if they are able to prove that they have sufficient means to cover their subsistence and accommodation costs in the Member State or States that they intend to visit. This derogation is without prejudice to the requirement for applicants to be able to supply such documents at the external borders of the Union if requested. If translations of the supporting documents are required, the applicant shall be entitled to provide them either in the official language(s) of the host country or in English, French or German.

Travel medical insurance: the minimum coverage shall be EUR 20 000 (rather than EUR 30 000). The diplomatic missions shall approve such travel medical insurances only where the insurance company in question allows the applicant to cancel the insurance without any extra costs if the visa application is refused.

Handling fee: Members want this to be EUR 35 rather than EUR 60, stating that the latter hurts the image of the EU. The handling fee will be waived for: children under 12 (rather than 6 years); participants in student exchange programmes; participants aged 25 and under in not-for-profit sports, cultural or civil society events; persons proving their need to travel on humanitarian grounds, inter alia when their life is at risk and their country of residence cannot provide the necessary medical treatment, and the persons accompanying them. Families travelling with more than two children shall not be required to pay the handling fee in respect of more than two children.

Examination of the application: when it is considered necessary to call an applicant for an interview, the decision on the application shall be based on a one-stop procedure where the journey to the diplomatic mission from the applicant's ordinary place of residence would involve disproportionate effort in accordance with the guidelines. Telephone interviews and video calls may be allowed in certain cases, inter alia, where the applicant has a positive visa history or where the journey to the diplomatic mission would involve disproportionate effort.

Decision on the application: multiple entry visas will have a period of validity of 12 months, and in duly justified cases, up to a maximum of 5 years. Where issuing a multiple-entry visa is not appropriate, a single-entry visa with a period of validity of 6 months may be issued. Amongst the factors to be considered are professional drivers who regularly cross borders and participants in exchange programmes and in other regular civil society activities.

Refusal of a visa: where applicants exercise their right to appeal, an in-depth review of the decision and of the reasons for refusal shall be undertaken. The applicant shall be informed of the results of the review as well as be provided with more detailed reasons as to why the visa was refused.

Rights flowing from an issued visa: the Commission proposal had stated that mere possession of a short stay visa or a transit visa does not confer automatic right of entry. The committee amended this, so that possession of a short stay visa or a transit visa **shall** confer automatic right of entry provided that, on arrival at the external border, the traveller meets the requirements of the Schengen Borders Code and unless an alert has been issued in the SIS or in a national register or new information has come to light which proves the visa application to be fraudulent.

Extension: the fee is reduced from EUR 30 to EUR 17.5.

Forms of cooperation in relation to the reception of visa applications: the committee deleted this from the proposal and stated that these provisions shall be laid down in a legislative act adopted in accordance with the codecision procedure. It did the same to the provisions on **co-operation with external service providers** and **organisational aspects**

Submission of visa applications by commercial intermediaries: it was clarified that the reception of visa applications by commercial intermediaries shall not release the Member States' diplomatic missions and consular posts from the duty of carefully and independently checking that all conditions for the issuance of a visa are met in each individual case. If there is any doubt, it may be necessary for the applicant to present himself in person at the diplomatic mission or consular post.

Information: a common Schengen visa internet site shall be established in order to further support the application of the common visa policy. This internet site shall also support the handling of the visa procedure. Information to the general public shall also be available through the site.

Consular cooperation: within local consular cooperation, coherent procedures shall be established enabling the applicants to set up an appointment for the submission of an application by telephone, internet, or by other methods.

The Commission shall, within 2 years, undertake an evaluation of its implementation and of local consular cooperation arrangements between Member States concerning visa procedures. Particular attention shall be paid to the special needs of passenger ferry companies and tourist companies delivering services in the border regions of the Schengen area, the issues of biometrics and provisions aimed at facilitating and simplifying the visa procedure.

The committee inserted a new clause on **bilateral agreements concerning visa facilitations**. It also inserted new provisions on **frequent travellers** and on a **procedure for waiving the visa regime**. Members also add that the European Parliament and the Council, acting in accordance with the codecision procedure, shall adopt any decisions concerning the introduction of requirements for biometric identifiers, for those countries which have been offered the prospect of EU membership and for those countries which benefit from programmes under the European Neighbourhood Policy.

Lastly, Members clarified some points in the Annexes.