Visas: collection of biometric identifiers, organisation of the reception and processing of visa applications, organisation of Member States consular offices for the implementation of the Visa Information System VIS

2006/0088(COD) - 06/03/2009 - Commission communication on Council's position

The Council's common position incorporates the elements of the compromise reached by the European Parliament and the Council after the discussions that followed Parliament's adoption of its opinion at first reading on 9 July 2008 and the political trialogue of 2 December 2008.

This common position essentially preserves the key objectives of the Commission's original proposal. It takes into account the principal amendments adopted by Parliament at first reading, which supplement and clarify the legal framework for organising Member States' consular offices and cooperation between them for the purpose of receiving and processing visa applications.

The main differences of substance between the common position and the original Commission proposal are as follows:

- **the age limit for taking fingerprints**: whereas the Commission had originally proposed taking fingerprints from visa applicants aged six and over, the text of the common position provisionally sets a minimum age of 12, which will be re-examined in the light of the findings of the study that the Commission has undertaken to carry out at Parliament's request;

- **the use of external service providers for the reception of visa applications**: clarification was provided concerning the special conditions in which Member States may use such external service providers and the minimum requirements that must be included in the legal instruments establishing ties between the Member States and the external service providers. In exchange for maintaining direct access to the consular offices, the possibility of charging visa applicants an extra fee has been introduced, regardless of the exemptions from fees provided for in Annex 12 to the Common Consular Instructions. **The extra fee should be in proportion to the costs incurred by the external service provider** in performing the tasks assigned to it, and an effort should be made to harmonise it as part of local consular cooperation. It may not be more than half the fee laid down in Annex 12 to the Common Consular Instructions;

- **the use of honorary consuls**: the text of the common position allows honorary consuls to be used for the reception of visa applications, including collecting biometric data. Honorary consuls, who do not have the status of a civil servant of the Member State they represent, will be subject to the same rules as apply to external service providers;

- **secure data transmission**: provisions lay down the legal and practical arrangements for the secure transmission of data between Member States or between external service providers and Member States, particularly in third countries where data encryption is not allowed. The proposed wording introduces important data protection guarantees and confirms the Member States' responsibility in this regard.

Other Parliamentary amendments concerning drafting changes to improve the text are also accepted.

In conclusion, the Commission accepts the common position, which incorporates and complements the main elements of its original proposal and the principal amendments adopted by the European Parliament.