Union Code on Visas (Visa Code). Recast

2014/0094(COD) - 01/04/2014 - Legislative proposal

PURPOSE: to recast and amend Regulation (EC) No 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (**Visa Code**).

PROPOSED ACT: Regulation of the European Parliament and the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council. BACKGROUND: Article 57(1) of Regulation (EC) No 810/2009 on the Visa Code requires the Commission to send the European Parliament and the Council an evaluation of its application two years after all the provisions of the Visa Code have become applicable (i.e. 5 April 2013). The evaluation may be accompanied by a proposal for an amendment of the Regulation. This is the aim of this proposed Regulation.

The proposed amendments, while maintaining security at the external borders and ensuring the good functioning of the Schengen area, **make travel easier for legitimate travellers** and **simplify the legal framework in the interest of Member States**, e.g. by allowing more flexible rules on consular cooperation.

The proposal intends to make the access to the Schengen area easier for legitimate travellers will facilitate visiting friends and relatives and doing business. It will boost economic activity, tourism and job creation.

IMPACT ASSESSMENT: the Commission examined the proposal and concluded that there were to main problem areas: (i) the overall length and costs (direct and indirect) and the cumbersome nature of the procedures; (ii) insufficient geographical coverage in visa processing. In this regard, the issuing of multiple-entry visas (MEVs) with a long validity accompanied by certain **procedural facilitations** was considered the only win-win solution.

LEGAL BASIS: Article 77(2)(a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposed Regulation aims to facilitate the procedural rules applicable to regular travellers in order to ease mobility in the EU. It is presented as part of a package of two parallel proposals which seek to clarify and simplify the visa scheme in general.

The main objectives of the legislative package include:

- reducing the deadline from 15 to **10 days** for processing and taking a decision;
- making it possible to lodge visa applications in other EU countries consulates if the Member State competent for processing the visa application is neither present nor represented;
- **substantial facilitations for regular travellers** including mandatory issuing of multiple entry visas valid for three years;
- simplified application form and allowing for online applications;
- possibility for Member States to devise **special schemes** granting visas at the borders for up to 15 days in one Schengen State;
- possibility for Member States to facilitate the issuing of visa for visitors attending major events;
- a new type of visa (Touring-visa (parallel proposal)) allowing legitimate travellers to circulate in the Schengen area for up to 1 year (without staying in one Member State for more than 90 days in any 180-day period).

Reducing the deadline: it is proposed to reduce the deadline for processing and making a decision on a visa application is reduced from 15 to 10 days. The maximum deadline for lodging an application has been increased from **three to six months** before the intended trip, to allow travellers to plan ahead and avoid peak seasons.

Furthermore, the list of supporting documents will be simplified and become **exhaustive** and the enhanced harmonisation of these requirements at local level will ensure equal treatment of visa applicants.

The often costly obligatory travel medical insurance will be abolished.

Establishing a clearer set of procedural rules and speeding up the process with the introduction of mandatory criteria for obtaining a multiple entry visa (MEV) valid for three years and subsequently for five years for 'VIS registered regular' travellers. Applicants whose data are registered in the Visa Information System (VIS) and who have previously lawfully used at least two visas within the past 12 month period will benefit from these facilitations. This change of rules is also possible thanks to the roll out of the Visa Information System (VIS), which is expected to be completed in 2015, enabling Member States' consulates to access the visa applicants' 'history'.

General procedural facilitations:

- the principle of all applicants having to lodge the application in person has been abolished. Generally, applicants will only be required to appear in person at the consulate
- or the external service provider for the **collection of fingerprints** to be stored in the Visa Information System (VIS);
- the general visa application form (Annex I) has been simplified and a reference has been made to the use of electronic filling in of the application form: the standard form for notifying and motivating refusal, annulment or revocation of a visa has been be revised to include a specific ground for refusal of an airport transit visa and to ensure that the person concerned is properly informed about appeal procedures;
- the list of supporting documents in Annex II is no longer a "non-exhaustive list" and a distinction has been made between unknown applicants and VIS registered regular travellers as regards the supporting documents to be submitted. The provisions regarding the preparatory work on drawing up lists adapted to local circumstances in local Schengen cooperation have been reinforced;
- the provisions on visa fee waivers have become mandatory rather than optional to ensure **equal treatment** of applicants. Certain categories eligible to visa fee waivers have been enlarged to cover minors up to 18 years (previously the age of six).

Special schemes: provisions have been included to provide certain procedural facilitations for close relatives of Union citizens so as to contribute to improving their mobility, in particular by **facilitating family visits**.

The following cases are set out:

- the provisions provide for facilitations for family members intending to visit Union citizens residing in the territory of the Member State of which they are nationals and for family members of Union citizens living in a third country and wishing to visit together the Member State of which the EU citizens are nationals;
- Member States may, where the EU citizen exercises the right to move and reside freely in their territory, require the family member who is a non-EU national to have an entry visa. Member States must grant such persons every facilityto obtain the necessary visas, which must be issued free of charge as soon as possible and on the basis of an accelerated procedure.

Visas applied for at the external border under a temporary scheme: in view of promoting short term tourism, a Member State may decide to temporarily issue visas (upon notification and publication of the organisational modalities of the scheme) at the external border to persons fulfilling specific conditions. This should, in principle, **remain exceptional**.

Exemptions in the case of international events: Member States should be free to define the exact supporting documents to be submitted by visa applicants in order to prove the fulfilment of the entry conditions required by this Regulation. Where such a harmonised list of supporting documents exists, in order to provide facilitations for visa applicants, Member States should be allowed to provide **certain exemptions** from that list when major international events are organised in their territory. These events should be large scale and of particular importance due to their tourism and/or cultural impact (for instance, universal exhibitions and sports championships).

Enlarging consular cooperation: according to the proposal, if the Member State competent for processing the visa application is neither present nor represented in a given third country, the applicant is entitled to apply **at any of the consulates present** (**'mandatory representation'**).

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 adapted to local circumstances aiming at **increasing geographical consular coverage**, reducing Member States' costs, increasing the visibility of the European Union and improving the service offered to visa applicants.

In this regard, representation arrangements should be streamlined and obstacles for the conclusion of such arrangements among Member States should be avoided and the representing Member State should be responsible for carrying out the entire processing of visa applications without involvement of the represented Member State.

External service providers: Member States' use of external service provider is no longer to be the last resort solution. Family members of Union citizens exercising their right to free movement and close relatives of Union citizens not exercising their right to free movement as well as applicants who can justify a case of emergency should be given an **immediate appointment**.

It is provided that Member States should annually report to the Commission on the cooperation with external service providers, including the monitoring of the service providers.

Statistics: Annex VII is amended to provide for the collection of all relevant data in a sufficiently disaggregated form allow for proper assessment.

Information to the public: the Commission should create a common Schengen visa internet website and develop a template for the information to be given to visa applicants.

Other technical amendments include:

- the deletion of the reference to the specific travel purpose "transit" given that short stay visas are not purpose bound;
- establishing harmonised rules on the handling of situations of loss of identity document and valid visa.

DELEGATED ACTS: in accordance with Article 290 of the TFEU, the power to amend non-essential elements of Regulation is delegated to the Commission in respect of the **list of third countries whose nationals are required to hold an airport transit visa** when passing through the international transit

areas of airports situated on the territory of the Member States (Annex III) and the **list of residence permits entitling the holder to transit through the airports** of Member States without being required to hold an airport transit visa (Annex IV).

The Commission should be empowered to adopt implementing acts establishing the list of supporting documents to be to be used in each location to take account of local circumstances, details for filling in and affixing of the visa stickers and the rules for issuing visas to seafarers at the external borders. Therefore, the previous annexes VII, VIII and IX should be deleted.