

Touring visa

2014/0095(COD) - 01/04/2014 - Legislative proposal

PURPOSE: to introduce a new type of visa (touring visa) both for visa-exempt and visa requiring third-country nationals with a legitimate interest in travelling around the Schengen area for more than 90 days in any 180-day period, provided that the applicant does not intend to stay for more than 90 days in the same Member State.

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: Union legislation established harmonised rules concerning the entry and stay of third-country nationals in the Member States for up to 90 days in any 180-day period.

The 90 day/180 day 'limitation' may have been appropriate for the size of the five founding members of the Schengen cooperation. However, when the Schengen area comprises 26 Member States, it poses a considerable barrier for many third-country nationals with legitimate interests in travelling in the Member States such as tourists, live performance artists, researchers, students, pensioners, service providers, etc. It also leads to missed economic opportunities for Member States. They do not want and/or do not need to reside in a particular Member State for longer than three months. However, there is **no 'Schengen' visa or other authorisation allowing for a stay of more than three months or 90 days in the Schengen area.**

It is therefore appropriate to fill the legislative gap and establish a **new type of visa** ("touring visa") for both visa-exempt and visa-requiring third-country nationals planning to circulate in the territory of two or more Member States for more than 90 days, provided that they do not intend to stay for more than 90 days in any 180-day period in the territory of the same Member State.

N.B. this proposal is presented in parallel to the [proposal on the recast of the Community Code on Visas](#).

IMPACT ASSESSMENT: the Commission considered two regulatory options:

1. a new type of authorisation with a view to an intended stay in the Schengen area lasting more than 90 days but no more than 360 days was envisaged 'only' for a limited group of third-country nationals: artists (or sportsmen), culture professionals and their crew members employed by reliable and acknowledged live performing companies or

organisations and core family members travelling with them;

2. a similar authorisation not just for that specific category of third-country nationals, but for all third-country nationals.

Given that the lack of an authorisation allowing travellers to stay more than 90 days in any 180-day period in the Schengen area results in a **considerable economic loss** to the EU (these travellers being big spenders), the second option is the preferred one.

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

CONTENT: the objective of the proposal is to fill the legislative gap between the Schengen *acquis* on short stays and the EU/national law on residence in a particular Member State by:

- establishing a new type of visa ('touring visa' or T-type visa) for an intended stay in two or more Member States lasting more than 90 days but no more than 1 year (with the possibility of extension up to 2 years), provided that the applicant does not intend to stay for more than 90 days in any 180-day period in the **same Member State**;
- determining the application procedures and the issuing conditions for touring visas.

Main characteristics of the touring visa: the touring visa is quite distinct in many ways from the short-stay visa of the Visa Code. However, it is very similar to a uniform visa as in principle, it is valid for the territory of all Member States. The new type of visa is established on the legal basis of short-stay visas and permits. Therefore it is justified in principle to apply the relevant provisions of the Visa Code to the touring visa. To this effect, subsequent provisions specify in detail which provisions of the Visa Code will be applicable as regards:

- the conditions and procedures for issuing touring visas,
- the derogations from and additions to these rules, taking into account the specificities of the new type of visa.

Since the Commission is simultaneously proposing a recast of the Visa Code, this proposal will refer to the provisions of the proposed recast regulation rather than the existing regulation in force.

N.B. At the same time, the 90 days per 180 days rule should be maintained as a general dividing line between short stays and long stays, as it does not pose any problems for the vast majority of travellers.

Possibility to extend the length of the authorised stay: as regards the length of the authorised stay, the proposal provides the **possibility of a stay of up to two consecutive years in the Schengen area** for all third country nationals who can prove they fulfil the conditions for such a long period. When assessing an application, and in particular when defining the length of an authorised stay, consulates should take into account all relevant factors, e.g. the fact that citizens of third countries whose nationals are exempt from the visa requirement for short stays traditionally do not pose problems of irregular migration or security risks.

Procedures relating to applications: the proposal sets out the provisions in the Visa Code on as regards the authorities taking part in the procedures relating to applications which should apply to the touring visa. **It excludes the possibility of applications for touring visas to be lodged at the external borders**, as authorising a stay of possibly up to two years in the Schengen area requires thorough scrutiny that can never be carried out at external borders.

An additional condition for applicants is to present appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in total **without staying for more than 90 days in any 180-day period in the territory of any one of these Member States**.

The consulate of the competent Member State has at least **20 calendar days** to decide on the application.

Subsistence rules: applicants will have to demonstrate their sufficient means of subsistence and stable economic situation by means of salary slips or bank statements covering a period of 12 months prior to the date of the application, and/or supporting documents that demonstrate they will acquire sufficient financial means lawfully during their stay (e.g. proof of entitlement to a pension). According to this Article,

applicants in possession of a touring visa shall be allowed to apply in the Member State where they are legally present for work permit(s) required in the subsequent Member States.

Certain procedural facilitations are envisaged (i.e. possible waiver of submitting certain supporting documents) for specific categories of applicants who work for or are invited by a reliable and acknowledged company, organisation or institution, in particular, at managerial level or as researcher, artist, culture professionals, etc.

Bilateral visa waiver agreements: it is proposed to repeal Article 20(2) of the CISA, according to which, if a Member State concluded a bilateral visa waiver agreement with a

third country on the list in Annex II of the Visa Regulation ('visa-free list') before the entry into force of the CISA (or the date of the Member State's later accession to the Schengen Agreement), the provisions of that bilateral agreement may serve as a basis for that Member State to 'extend' a visa-free stay for longer than three months in its territory for nationals of the third country concerned.

Due to the existence of this type of bilateral agreement, some citizens may legally stay for a virtually unlimited period in the Schengen area on the basis of short-stay visa waivers.

Following the establishment of the touring visa, Article 20(2) of the Convention implementing the Schengen Agreement should be amended as it is incompatible with 77(2)(a) and (c) of the TFEU due to the fact that the **common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements** concluded by Member States. The authorised length of stay of third-country nationals should not depend on the number and content of such bilateral agreements concluded in the past.

The proposal provides for a five-year transitional period to phase out the impact of bilateral visa waiver agreements as far as the overall length of stay of third-country nationals in the Schengen area is concerned.

Other technical provisions: a proposal specifies the provisions in the Visa Code's chapter on 'Administrative management and organisation' that should also apply for the purpose of issuing touring visas. In the framework of local Schengen cooperation, consulates should exchange statistics and other information on touring visas.

The main objective of the amendments of the Schengen Borders Code and the VIS Regulation is to 'integrate' the touring visa into the Schengen acquis.