Union Code on Visas (Visa Code). Recast

2014/0094(COD) - 25/04/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Juan Fernando LÓPEZ AGUILAR (S&D, ES) on the proposal for a regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code) (recast).

The committee recommended that Parliament's position adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Objectives of the Visa Code: the Union Code on Visas - a main element of the common policy on visa- should also aim to **secure a high level of security, tackle irregular immigration and facilitate legitimate travel.** It should contribute to generating growth and be coherent with other Union policies, such as external relations, trade, education, culture and tourism.

The proposed regulation establishes the conditions and procedures for issuing visas for transit and for intended stays on the territory of Member States for a maximum period of 90 days in any 180 days.

Members specified that the regulation, including the provision regarding an intended stay not exceeding 90 days, **shall apply without prejudice to a possible application for international protection on the territory of the Member States and to the rights of refugees** and persons requesting international protection, in particular as regards non-refoulement.

Airport transit visas: the proposal provides that nationals of the third countries listed in Annex III of the Regulation should be in possession of an airport transit visa when passing through the international transit area of airports situated on the territory of Member States.

Members considered that a Member State **may prolong the application of the airport transit visa requirement only twice** where the lifting of the requirement would lead to a substantial influx of irregular migrants. Where a substantial influx of irregular migrants in a Member State persists even after the prolongation referred to above, the Member State concerned shall request the Commission to modify Annex III.

Persons in need of international protection shall be exempt from the requirement for an airport transit visa.

Consular territorial competence: Members proposed that a consulate shall decide to examine and decide on an application when it considers it necessary on **humanitarian grounds, for reasons of national interest or because of international obligations** incumbent on it, particularly under the 1951 Convention relating to the Status of Refugees (1951 Geneva Convention) or other relevant European or international instruments.

Persons seeking international protection may **apply for a European humanitarian visa directly at any consulate or embassy of the Member States**. Once granted following an assessment, such a humanitarian visa shall allow its holder to enter the territory of the Member State issuing the visa for the sole purpose of lodging in that Member State an application for international protection, as defined in Directive 2011/95/EU.

Applications: applications may be lodged **nine months** (rather than six months) before and no later than 15 calendar days before the start of the intended visit. In justified individual cases of urgency, including when it is necessary on professional grounds, on humanitarian grounds, for reasons of national interest or because of international obligations, the consulate may **waive** the latter time limit.

In order to take steps towards a modernisation of the visa application procedure, the report proposes to make the **application form available in electronic format** so that those who would like to do so can make use of it.

In addition, consulates may provide for the possibility of lodging an application online and of sending travel document, as well as supporting documents in case the original is required, by mail.

VIS registered applicants shall not be required to appear in person when lodging an application, where their biometric identifiers have been entered into the VIS less than 59 months before.

Where a Member State cooperates with an external service provider, that Member State shall maintain the **possibility for applicants to lodge their applications directly at its own consulates**, except where security considerations do not allow for such a possibility.

After the collection of the biometric identifiers, the applicant shall be issued with a receipt.

Travel medical insurance: persons to whom a uniform visa for one or two entries is to be issued shall prove that they are in possession of adequate and valid travel medical insurance to cover: (i) any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention, emergency hospital treatment or death, during their stay or stays on the territory of the Member States; (ii) the entire period of the person's intended stay or transit.

Failure to present a valid travel medical insurance shall lead to the revocation of the visa.

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

Visa fees: visa applicants whose data is registered in the VIS and whose biometric identifiers have been collected, and nationals of third countries with which the European Union has signed a readmission agreement, shall pay a visa fee of **EUR 40.**

Recipients of a visa with limited territorial validity issued on **humanitarian grounds** are exempt from visa fees.

Exemption from standard period of visa validity: when issuing a visa on humanitarian or international protection grounds, Member States shall grant an exemption from the standard '90 days in any 180 days' period of validity, for a period of 12 months, renewable, based on an assessment of the situation in the country of origin or of residence of the third-country national, awarding special attention to the circumstances of persons requesting international protection.

Close relatives and family members of Union citizens: applications of close relatives of the Union citizens and of family members of Union citizens as referred to in Directive 2004/38/EC shall be assessed taking into account the right to respect for private and family life as expressed in the Charter of Fundamental Rights of the European Union. When a family member of a Union citizen arrives at the border without holding the necessary visa, the **Member State concerned must, before turning him back, give the person concerned every reasonable opportunity to obtain the necessary documents** or have them brought to him within a reasonable period of time to corroborate or prove by other means that

he is covered by the right of free movement. If he succeeds in doing so and if there is no evidence that he poses a risk to the public policy, public security or public health requirements, the visa must be issued to him without delay at the border.

Refusals of applications of close relatives and of family members of Union citizens shall be **justified in a detailed way and in writing**. A family member may be refused a visa exclusively if the national authorities: (i) demonstrate that the visa applicant is a genuine, present and sufficiently serious threat to public policy, public security or public health; or (ii) demonstrate that there was abuse or fraud. Applicants who have been refused a visa shall have the right to appeal including the right to a **judicial remedy.**

Members added a new clause stating that **all consulates** should have a procedure for claiming compensation and publish this procedure on their website.

Cooperation between Member States: the Commission proposes to delete several arrangements with regard to such cooperation. On the other hand, the committee considers that the current optional forms of cooperation between Member States (co-location and Common Application Centres) should remain. It proposes that Member States should aim to establish **Schengen Visa Centres** in order to share resources, increase consular coverage, and improve the service offered to visa applicants, increase the visibility of the Union and enhance the uniform application of the Regulation.

External service providers: the Commission proposes to provide for the possibility of cooperation with an external service provider without any conditions or restrictions. Members consider that this contrasts with the current Visa Code in force whose philosophy is that outsourcing is permitted but only "as a last resort" after it had been ascertained that other options cannot be chosen. Accordingly, Members introduced amendments **specifying the particular circumstances under which external services providers should be considered**.

At the same time, Members proposed that the **monitoring of providers should be strengthened** and the Commission needs to be better informed on cooperation in order to be able to correctly assess the implementation of the legal provisions on the ground.

Information for the public: Members introduced amendments aiming to ensure more detailed information should be given to applicants so that they can prepare the application properly in advance.

The Schengen visa internet website shall be available in all official languages of the Union and the main language of the five third countries with the highest number of Schengen visa applications. It shall be accessible in all formats necessary to ensure accessibility for people with disabilities. In addition, that website shall provide the contact details of, and the web links to, the consulates of the Member States competent for examining a visa application.

Implementing acts: Members want to maintain the Annex as an integral part of the Visa Code instead of providing for the power to adopt the content of the current annexes at a later stage by implementing acts. In order to ensure the necessary flexibility to be able to adapt the annexes when necessary, they suggest that changes to the annexes of the Regulation may be made by delegated acts.