# 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) - 31/05/2006 - Legislative proposal

PURPOSE: i) to amend the Common Consular Instructions to allow for mandatory biometric identifiers from visa applicants ii) to offer Member States various options on how to organise, jointly, the reception and processing of visa applications.

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

CONTENT: this draft Regulation is being proposed by the European Commission to complement and reinforce the proposed Regulation on the exchange of data between Member States on short-stay visas.

*Background*

Currently, there are two procedure numbers, which relate to the presentation of this proposal:

- CNS/2004/0029: Refers to Council Decision 2004/512/EC on the establishment of the Visa Information System. (adopted on 8 June 2004).

- CNS/2004/0287: Refers to the proposed Regulation on the exchange of data on Schengen short-stay visas including the national long-stay visas which are concurrently valid as short-stay visas (Proposal yet to be concluded).

In addition, the Common Consular Instructions (CCI), a Council document on “Common Consular Instructions on Visas for the Diplomatic Missions and Consular Posts” governs the exact specifications on how to issue visas, from the costing thereof to verification of an applicant etc. (Please refer to Official Journal 2003/C 310, 19/12/2003)

*Objective*

The purpose of this proposal is twofold. Firstly, to create a legal base from which the Member States are able to take mandatory biometric identifies (in this case the facial image and ten flat fingerprints) and secondly, to create a legal base from which the Member States can operate joint consular offices for the implementation of the Visa Information System (VIS).

*Biometric identifiers*

The proposed Regulation on the exchange of data between the Member States on short-stay visas deals mainly with the transmission and exchange of data. The focus of this proposal is on the *collection of biometric data*. In presenting this Regulation the EU will create an additional legal instrument, which allows for the implementation of common and harmonised biometric specifications. To do so the Common Consular Instructions (CCI) will need to be amended.

The biometric specifications will be based on international standards adopted by the ICAO. These set out in detail how the photograph has to be taken as well as detailing how fingerprints must be scanned. Initially, biometric identifiers were to have been stored on a contactless chip attached to each visa sticker. However, this proved technically unfeasible. As a result all biometric identifiers of visa applicants will now be stored on the Visa Information System only. As a reminder, this development also affects a proposal to lay down a uniform format for the *residence permits for third-country nationals*. (Please refer to CNS/2003/0218).

*Common Application Centres*

A further element to this proposal is the pooling of resources for the sake of cost savings and simplification through the establishment of Common Application Centres (CAC's). This applies to the organisation of Member States' consular sections for the implementation of VIS. The concept of CAC's is based on the Hague programme, which invited the Commission to present a proposal on the establishment of common application centres. A number of advantages are associated with the establishment of CAC's: reinforcing local consular co-operation; streamlining procedures and offering cost-savings through the pooling of Member State resources. In other words, in addition to existing representations, Member States could consider the option of using new consular offices based on co-location, common application centres and outsourcing.

This later point, outsourcing, forms another central plank of the proposal. The outsourcing of non-sensitive activities, such as call-centres for appointments or the reception of applications, for consular posts faced with particularly high numbers of applications, could prove to be a further cost-saving measure. Outsourcing, however, should be done based on a common format. As the Commission points out, some Member States already "outsource" certain activities without common procedures and standards. It should be stressed that outsourcing is not being proposed as a general solution. Rather, it is optional, to be used in certain posts depending on the local situation. The solution being proposed by the Commission would mean that the Member States remain the "controllers" whilst external service providers remain the "processor".

*Provisions in detail*

In other provisions, the proposed Regulation would create a "one-stop" system for visa applications, whereby depositing a visa application form and the taking of biometric identifies can all take place at the same time and in the same place. The CCI will also be amended:

- To allow for "limited representation". This option allows a visa applicant to deposit his/her application form and submit their biometric data via one Member State consular section. This consular section can then forward the data to the consular post of the Member State deciding the visa application.

- To oblige the Member States to collect biometric identifiers as part of the visa application procedure. Fingerprints are taken during the first submission of a visa application.

- To waive the necessity of having to re-submit this data if the applicant seeks further applications within a four year time-frame. In other words the fingerprints and the photograph can be re-used and copied from the first application – up to a period of four years.

- To ensure that the necessary information is stored, for this period of time, on the VIS.

- To oblige applicants to make at least one personal appearance. After that applicants may use travel agencies to introduce their second request for a visa application.

Exceptions to these provisions have been built-in to the proposal. For example, children under the age of 6 do not need to submit finger-prints. Nor do persons, who are physically incapable of doing so. Holders of diplomatic passports, service/official passports and special passports will also be exempted from submitting biometric data.

On the matter of the Common Application Centres, the CCI will be amended:

- To offer the possibility of outsourcing. Responsibility for issuing visa remains that of the Member States. However, an external service provider could take over responsibility for certain activities, such as arranging appointments and/or taking the biometric identifiers. Member States must ensure that all relevant data protection rules are applied

- Member States will not be forced to co-operate and participate in CAC's if they do not wish to do so. The setting up of a CAC will be a matter for Member State negotiations. However, in cases where they do decide to co-operate they must do so based on one of the options set out in the amended CCI.

- The framework for co-operation, such as cost sharing, will be agreed amongst the participating Member States. They will be responsible for determining the solution chosen for each country or region within a third country. They will be obliged to draw up a list indicating the solutions chosen, which will be published.

Lastly, in order to examine the effectiveness of the CAC's and other forms of co-operation the Commission will present a report on the implementation of the present Regulation.

In accordance with Treaty provisions, the UK, Ireland and Denmark will not be taking part in the adoption of the Regulation. The ten new EU Member States, Norway, Iceland and Switzerland shall participate.