

Community Code on Visas (Visa Code)

2006/0142(COD) - 19/07/2006 - Legislative proposal

PURPOSE : to establish a Community Code on Visas.

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

CONTENT : the Commission presents this proposal in the context of the Hague Programme, which underlined the need for development of the common visa policy as part of a system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions. The Commission also refers to the Schengen acquis on visa policy, including the Common Consular Instructions (CCI), which are currently the basic instrument governing the procedures and conditions for the issuance of short-stay visas, transit visas and airport transit visas.

In order to meet the objectives of the Hague Programme and reinforce the coherence of the common visa policy on the issuance of the above-mentioned types of visas, the proposed Regulation deals with the following:

- **Incorporating into one Code on Visas of all provisions governing the issuance of visas and decisions in relation to refusal, extension, annulment, revocation and shortening of visas issued** : this covers Airport Transit Visas (ATV), the issuance of visas at the border, annulment and revocation of the validity of a visa, extension of an issued visa, and exchange of statistics. With regard to ATVs, in order to achieve the general objective of harmonisation of all aspects of visa policy, the possibility for individual Member States to impose an ATV requirement on certain nationalities has been abandoned.

- **New dimensions of the visa issuance procedure**: the establishment of the Visa Information System on the exchange of data between Member States on short-stay visas (VIS) will fundamentally change the processing of visa applications. On the one hand, Member States will automatically gain access to information on all persons having applied for a visa (within the 5-year period of retention of data) which will facilitate the examination of subsequent visa applications. On the other hand, the introduction of biometric identifiers as a requirement for applying for a visa will have a considerable impact on the practical aspects of receiving applications. As the VIS should become operational already 2007, the Commission has chosen to update the CCI in a separate legal proposal, which sets the standards for the biometric identifiers to be collected and provides for a series of options for the practical organisation of Member States' diplomatic missions and consular posts for the enrolment of visa applicants as well as for a legal framework for Member States' cooperation with external service providers. The contents of that proposal are inserted into and adapted to the structure of the present proposal, which will be amended once negotiations on the separate proposal have been finalised. The provisions for the cooperation with commercial intermediaries, such as travel agencies and tour operators, have been strengthened, in order to take account of this new situation.

- **Development of certain parts of the acquis** : the Commission discusses the introduction of provisions on a maximum issuing time; a clear distinction between inadmissible applications and formally refused applications; full transparency as to the list of third countries whose nationals are subject to prior consultation; a harmonised form providing proof of invitation, sponsorship and accommodation; an obligation for Member States to notify and motivate negative decisions; a legal framework to assure a harmonised approach to cooperation both between Member States' diplomatic missions and consular posts and with external commercial service providers; and mandatory rules for the cooperation between Member States' diplomatic missions and consular posts with commercial intermediaries.

- **Clarification of certain issues in order to enhance the harmonised application of legislative provisions** : this relates in particular to Visas with Limited Territorial Validity (LTV), and Travel Medical Insurance (TMI).

- **Enhancing transparency and legal certainty by clarifying the legal status of the provisions of the CCI and its annexes by removing provisions that are redundant or of a practical operational nature from the legal instrument** : the current Common Consular Instructions contain eighteen annexes including a number of legal provisions and various pieces of information: lists of third-country nationals subject to visa requirements, exemptions for holders of certain types of travel documents, table of representation, documents entitling the holder to entry without a visa, technical specifications etc. In order to clarify the legal status of these annexes, the Commission has decided only to keep those annexes that are directly linked to the implementation of the provisions contained in the body of the text, namely annexes I-XIII to the Regulation. These annexes will, in future, be subject to amendment via a committee procedure as the Commission considers that these practical provisions are in fact measures implementing the principles set out in Title V of the Regulation.

Furthermore, the Commission proposes deleting references to the following: national visas ("D" visas); long-stay national visa valid concurrently as a short-stay Schengen visa ("D+C" visas); group visas; Annex 2 and Annex 6 to the CCI

- **Harmonised application at operational level of the "Code on Visas"**: the Code on Visas shall only contain legal provisions on the issuance of short-stay and transit visas as well as airport transit visas. In order to ensure that Member States henceforth refrain from their current practice of drawing up national instructions to "superimpose" the common rules, one single common set of instructions on the practical

application of the legislation shall be drawn up. While preparing the proposal on the Code on Visas, the Commission in parallel considered the format and content of the practical "Instructions on the practical application of the Code on Visas" establishing the harmonised practices and procedures to be followed by Member States' diplomatic missions and consular posts when processing visa applications. These Instructions, which will be drawn up within the procedure provided for in Title V of the Regulation, will by no means add any legal obligations to the Visa Code but be of a purely operational nature. They shall be finalised by the date of entry into force of the Code.

Finally, the Commission discusses consequences of the various protocols annexed to the Treaties, since this Regulation will build upon the Schengen acquis. It also discusses the consequences for the new Member States of the two stage procedures for implanting instruments building on the Schengen acquis.