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) - 27/10/2006 - Document attached to the procedure

Opinion of the European Data Protection Supervisor

The present proposal aims at amending the Common Consular Instructions (CCI). These were adopted by the Executive Committee established by the Convention applying the Schengen Agreement of 14 June 1985.

As a part of the Schengen Acquis, they were inserted into EU law by a Protocol annexed to the Treaty of Amsterdam, and have been amended on several occasions since. Although a number of amendments remain confidential, the CCI were published in 2000. As to content, they are essentially a handbook containing practical rules on how to issue short-stay visas. They contain provisions on the examination of applications, the decision-making procedure, on how to fill in visa-stickers, etc.

According to the EDPS, this sensitive nature of biometric data requires that the introduction of obligations to use these data should only take place after a thorough assessment of its risks and should follow a procedure allowing full democratic control. These remarks underlie the examination by the EDPS of the present proposal.

The EDPS welcomes the fact that this proposal to amend the Common Consular Instructions is to be adopted in co-decision, thereby enhancing the democratic scrutiny in an area where this is certainly much needed.

On the substance, the EDPS recommends the following:

- the exemptions of the obligation to provide fingerprints should be dealt with in the VIS Regulation rather than in the CCI, in order to ensure clarity and consistency of this regime;
- the age limits for fingerprinting and photographs should be given careful consideration, taking account of aspects of feasibility but also of considerations of ethics, convenience and accuracy;
- photographs should not be considered as a ‘stand alone’ identification method but only as a supporting element;
- outsourcing the processing of visa application to a private company should be admissible only if it involves a place under diplomatic protection, and is based on contractual clauses providing for effective oversight and liability of the contractor.