

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed 2006/0142(COD)
Community Code on Visas (Visa Code) Repealing Regulation (EC) No 789/2001 <a href="#">2000/0805(CNS)</a> Repealing Regulation (EC) No 1091/2001 <a href="#">2000/0810(CNS)</a> Repealing Regulation (EC) No 415/2003 <a href="#">2002/0810(CNS)</a> Amended by <a href="#">2011/0051(COD)</a> Amended by <a href="#">2011/0223(COD)</a> Amended by <a href="#">2018/0061(COD)</a> Amended by <a href="#">2018/0152A(COD)</a> Amended by <a href="#">2022/0132A(COD)</a> Amended by <a href="#">2022/0132B(COD)</a>	
Subject 7.10.04 External borders crossing and controls, visas	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<a href="#">LIBE</a> Civil Liberties, Justice and Home Affairs	ALDE <a href="#">LAX Henrik</a>	22/02/2006
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Environment</a>	<a href="#">2953</a>	25/06/2009
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2746</a>	24/07/2006
European Commission	Commission DG <a href="#">Justice and Consumers</a>	Commissioner BARROT Jacques	

Key events			
19/07/2006	Legislative proposal published	COM(2006)0403	Summary
24/07/2006	Debate in Council	<a href="#">2746</a>	
26/09/2006	Committee referral announced in Parliament, 1st reading		
08/04/2008	Vote in committee, 1st reading		Summary
18/04/2008	Committee report tabled for plenary, 1st reading	<a href="#">A6-0161/2008</a>	
01/04/2009	Debate in Parliament		
02/04/2009	Results of vote in Parliament		

02/04/2009	Decision by Parliament, 1st reading	<a href="#">T6-0208/2009</a>	Summary
25/06/2009	Act adopted by Council after Parliament's 1st reading		
09/07/2009	End of procedure in Parliament		
13/07/2009	Final act signed		
15/09/2009	Final act published in Official Journal		

### Technical information

Procedure reference	2006/0142(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation (EC) No 789/2001 <a href="#">2000/0805(CNS)</a> Repealing Regulation (EC) No 1091/2001 <a href="#">2000/0810(CNS)</a> Repealing Regulation (EC) No 415/2003 <a href="#">2002/0810(CNS)</a> Amended by <a href="#">2011/0051(COD)</a> Amended by <a href="#">2011/0223(COD)</a> Amended by <a href="#">2018/0061(COD)</a> Amended by <a href="#">2018/0152A(COD)</a> Amended by <a href="#">2022/0132A(COD)</a> Amended by <a href="#">2022/0132B(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 062-p2-aa
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/39459

### Documentation gateway

Legislative proposal	<a href="#">COM(2006)0403</a>	19/07/2006	EC	Summary
Document attached to the procedure	<a href="#">SEC(2006)0957</a>	19/07/2006	EC	
Document attached to the procedure	<a href="#">SEC(2006)0958</a>	19/07/2006	EC	
Committee draft report	<a href="#">PE388.360</a>	09/07/2007	EP	
Amendments tabled in committee	<a href="#">PE392.091</a>	10/08/2007	EP	
Amendments tabled in committee	<a href="#">PE398.393</a>	05/12/2007	EP	
Amendments tabled in committee	<a href="#">PE402.738</a>	11/03/2008	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0161/2008</a>	18/04/2008	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0208/2009</a>	02/04/2009	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2009)3507</a>	25/06/2009	EC	
Draft final act	<a href="#">03625/2009/LEX</a>	13/07/2009	CSL	
Follow-up document	C(2010)5559	16/08/2010	EC	

Follow-up document		<a href="#">COM(2012)0648</a>	07/11/2012	EC	Summary
Follow-up document		COM(2014)0165	01/04/2014	EC	Summary
Follow-up document		SWD(2014)0101	01/04/2014	EC	Summary
Follow-up document		<a href="#">COM(2021)0092</a>	02/03/2021	EC	
Follow-up document		COM(2024)0128	14/03/2024	EC	
Follow-up document		SWD(2024)0108	19/04/2024	EC	
Follow-up document		SWD(2024)0109	19/04/2024	EC	

Additional information	
National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

Final act
<p><a href="#">Regulation 2009/810</a>  <a href="#">OJ L 243 15.09.2009, p. 0001</a> Summary</p> <p><a href="#">Corrigendum to final act 32009R0810R(01)</a>  <a href="#">OJ L 154 06.06.2013, p. 0010</a></p> <p><a href="#">Corrigendum to final act 32009R0810R(04)</a>  <a href="#">OJ L 284 12.11.2018, p. 0038</a></p>

## Community Code on Visas (Visa Code)

**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.

## Community Code on Visas (Visa Code)

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report drawn up by Henrik LAX (ALDE, FI) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council establishing a Community Code on Visas.

The main amendments are as follows:

?Territorial? competence: Members consider that it should not depend on the law of the third country different from their country of residence whether an applicant requesting a visa is deemed to be legally present in that country. It amended the provisions to state that in exceptional and duly justified cases (e.g. for humanitarian reasons) visa applications may be lodged by third-country nationals in another third country. In that case, the consent of the responsible diplomatic mission or consular post in the applicant's country of residence must, as a general rule, be obtained before the visa is issued.

Furthermore, a multiple-entry visa shall be issued only in the applicant's country of residence unless the applicant can demonstrate that an exception is necessary.

Member State responsible for processing a visa application: this may be the diplomatic mission of another Member State representing the Member State of destination or any of the Member States of destination under the terms of an arrangement pursuant to the provisions on arrangements on representation Arrangements on representation: Member States lacking their own representation in a third country shall conclude arrangements on representation with other Member States that do have diplomatic missions or consular posts in that country. With a view to ensuring that poor transport infrastructure or long distances in a specific region does not require a disproportionate effort on the part of visa applicants to have access to a mission or consular post, Member States lacking their own representation in that region shall conclude arrangements on representation with other Member States that do have missions or consular posts in that region. Guidelines as to whether a journey to a diplomatic mission or consular post would involve disproportionate effort shall be drawn up for each host country within the framework of local consular cooperation. Those guidelines shall take into account, inter alia, distances and transport infrastructure and shall be made public.

Submission of the application: applications shall be submitted no more than 6 months (rather than 3 months) before the start of the planned visit.

Capturing of biometric data: the committee deleted the provisions in the original proposal and stated that these provisions shall be laid down in a legislative act adopted in accordance with Article 251 of the Treaty (codecision procedure).

Personal interview: a new clause makes provision for a personal interview in order to ascertain whether the criteria for issue of a visa are met, and sets out the derogations from the general rule.

Supporting documents: applicants shall not be required to provide documents regarding accommodation or invitation before applying for a visa if they are able to prove that they have sufficient means to cover their subsistence and accommodation costs in the Member State or States that they intend to visit. This derogation is without prejudice to the requirement for applicants to be able to supply such documents at the external borders of the Union if requested. If translations of the supporting documents are required, the applicant shall be entitled to provide them either in the official language(s) of the host country or in English, French or German.

Travel medical insurance: the minimum coverage shall be EUR 20 000 (rather than EUR 30 000). The diplomatic missions shall approve such travel medical insurances only where the insurance company in question allows the applicant to cancel the insurance without any extra costs if the visa application is refused.

Handling fee: Members want this to be EUR 35 rather than EUR 60, stating that the latter hurts the image of the EU. The handling fee will be waived for: children under 12 (rather than 6 years); participants in student exchange programmes; participants aged 25 and under in

not-for-profit sports, cultural or civil society events; persons proving their need to travel on humanitarian grounds, inter alia when their life is at risk and their country of residence cannot provide the necessary medical treatment, and the persons accompanying them. Families travelling with more than two children shall not be required to pay the handling fee in respect of more than two children.

Examination of the application: when it is considered necessary to call an applicant for an interview, the decision on the application shall be based on a one-stop procedure where the journey to the diplomatic mission from the applicant's ordinary place of residence would involve disproportionate effort in accordance with the guidelines. Telephone interviews and video calls may be allowed in certain cases, inter alia, where the applicant has a positive visa history or where the journey to the diplomatic mission would involve disproportionate effort.

Decision on the application: multiple entry visas will have a period of validity of 12 months, and in duly justified cases, up to a maximum of 5 years. Where issuing a multiple-entry visa is not appropriate, a single-entry visa with a period of validity of 6 months may be issued. Amongst the factors to be considered are professional drivers who regularly cross borders and participants in exchange programmes and in other regular civil society activities.

Refusal of a visa: where applicants exercise their right to appeal, an in-depth review of the decision and of the reasons for refusal shall be undertaken. The applicant shall be informed of the results of the review as well as be provided with more detailed reasons as to why the visa was refused.

Rights flowing from an issued visa: the Commission proposal had stated that mere possession of a short stay visa or a transit visa does not confer automatic right of entry. The committee amended this, so that possession of a short stay visa or a transit visa shall confer automatic right of entry provided that, on arrival at the external border, the traveller meets the requirements of the Schengen Borders Code and unless an alert has been issued in the SIS or in a national register or new information has come to light which proves the visa application to be fraudulent.

Extension: the fee is reduced from EUR 30 to EUR 17.5.

Forms of cooperation in relation to the reception of visa applications: the committee deleted this from the proposal and stated that these provisions shall be laid down in a legislative act adopted in accordance with the codecision procedure. It did the same to the provisions on co-operation with external service providers and organisational aspects

Submission of visa applications by commercial intermediaries: it was clarified that the reception of visa applications by commercial intermediaries shall not release the Member States' diplomatic missions and consular posts from the duty of carefully and independently checking that all conditions for the issuance of a visa are met in each individual case. If there is any doubt, it may be necessary for the applicant to present himself in person at the diplomatic mission or consular post.

Information: a common Schengen visa internet site shall be established in order to further support the application of the common visa policy. This internet site shall also support the handling of the visa procedure. Information to the general public shall also be available through the site.

Consular cooperation: within local consular cooperation, coherent procedures shall be established enabling the applicants to set up an appointment for the submission of an application by telephone, internet, or by other methods.

The Commission shall, within 2 years, undertake an evaluation of its implementation and of local consular cooperation arrangements between Member States concerning visa procedures. Particular attention shall be paid to the special needs of passenger ferry companies and tourist companies delivering services in the border regions of the Schengen area, the issues of biometrics and provisions aimed at facilitating and simplifying the visa procedure.

The committee inserted a new clause on bilateral agreements concerning visa facilitations. It also inserted new provisions on frequent travellers and on a procedure for waiving the visa regime. Members also add that the European Parliament and the Council, acting in accordance with the codecision procedure, shall adopt any decisions concerning the introduction of requirements for biometric identifiers, for those countries which have been offered the prospect of EU membership and for those countries which benefit from programmes under the European Neighbourhood Policy.

Lastly, Members clarified some points in the Annexes.

## Community Code on Visas (Visa Code)

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The European Parliament adopted by 569 votes to 50, with 32 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the Council and of the European Parliament establishing a Community Code on Visas.

The amendments were the result of a compromise negotiated with the Council. They may be summarised as follows:

Objectives and scope: the regulation seeks to lay down procedures and conditions for the issuing of visas of short-stay visas (3 months) and transit visas. It will apply to any third-country national who must be in possession of a visa when crossing the external borders of the Member States and will determine the third countries whose national are required to hold a visa (including an airport transit visa), with the exception of free transit visas, as provided for in the Chicago Convention on International Civil Aviation.

Airport transit visa: the compromise adds a new sub-heading to the regulation on airport transit visas and specifies the third-country nationals required to hold such visas. The compromise includes a provision which states that certain categories of persons shall be exempt from the requirement to hold an airport transit visa. These are: i) holders of a valid uniform visa, national long-stay visa or residence permit issued by a Member State; ii) third-country nationals holding valid residence permits issued by Andorra, Canada, Japan, San Marino or the United States of America, according to specific provisions; iii) third-country nationals holding a valid visa for a Member State or for a State party to the Agreement on the European Economic Area, Canada, Japan or the United States of America, or when they return from these countries after having used the visa; iv) family members of citizens of the Union; v) holders of diplomatic passports; vi) flight crew members who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation.

Procedures and conditions for the issue of visas: new provisions are provided for in regard to the conditions for the issue of visas. In principle, only consulates shall examine and decide on a visa application. However, by way of derogation, applications may be examined and decided on at the external borders of the Member States by the authorities responsible for checks on persons.

Consular territorial competence: the compromise lays down the rules regarding the Member State that is competent to examine and decide upon an application, including for airport transit visas. In principle, the Member State responsible for the issue of the visa will be the Member State whose territory constitutes the main destination of the visit. The Member States are called upon to cooperate in such a way as to ensure that each application is examined (see 'cooperation agreements').

Multiple entry visas for frequent travellers: the compromise also makes provision, provided that certain conditions are fulfilled, that multiple-entry visas be issued in order to lessen the administrative burden of Member States' consulates and to facilitate the smooth traveling for frequent or regular travellers. Applicants known to the consulate for their integrity and reliability should, as far as possible, benefit from a simplified procedure.

Arrangements on representation: the compromise also allows for one Member State to represent another for the purpose of examining applications and issuing visas on behalf of that Member State. A Member State may also represent another Member State (in a limited manner solely for the collection of applications and the enrolment of biometric identifiers). The consulate of the representing Member State shall, when envisaging the refusal of a visa, submit the application to the relevant authorities of the represented Member State in order for them to take the final decision. In any event, an arrangement shall be established between the representing Member State and the represented Member State laying down the conditions for the cooperation between the parties, the purpose being that Member States not having a consulate in a third country conclude arrangements on representation with other Member States that do have them. In addition, with a view to ensuring that poor transport infrastructure or long distances in a specific region or geographical area do not require a disproportionate effort on the part of applicants to have access to a consulate, the Parliament invites Member States lacking their own consulate in that region or area to conclude arrangements on representation with Member States that have consulates in that region or area.

Practical modalities for lodging an application: applications shall be lodged no more than 3 months before the start of the intended visit. Holders of a multiple-entry visa may lodge the application before the expiry of the visa valid for a period of at least 6 months. Applicants may be required to obtain an appointment for the lodging of an application. There are some new provisions relating to the lodging of applications, such as the presentation of the application form, and the documents necessary for the granting of the visa.

Biometric identifiers: contrary to the position taken by the parliamentary committee which had deleted these provisions so as to establish a special legal instrument for the purpose, the compromise reached during the plenary session reintegrates the basis provisions relating to identifiers. Certain applicants will, however, be exempt from the requirement to give fingerprints, in particular, children under 12.

Supporting documents: a series of new supporting documents are provided for, including, in particular, documents in relation to accommodation, or proof of sufficient means of the applicant to cover accommodation costs. In the case of airport transit visas, certain supporting documents are also required. The plenary has reintegrated within the text the principle whereby an applicant may be required to present a proof of sponsorship and/or private accommodation by means of a form (contrary to the position of the parliamentary committee).

Travel medical insurance: the compromise also provides for the requirement for applicants to prove that they are in possession of adequate and valid travel medical insurance to cover any expenses which might arise in connection with repatriation for medical reasons, or death in the case of multi-entry uniform visas. The minimum coverage shall be EUR 30 000.

Visa fee: contrary to the position taken by the parliamentary committee, the compromise reached during plenary provides for the payment of a visa fee of EUR 60 (rather than EUR 35) when the application is lodged. Children from the age of 6 and below the age of 12 shall pay a visa fee of EUR 35 (or may be completely exempted if the consular representation so authorises). A series of applicants will be completely exempted from a visa fee (e.g. children under 6, participants in seminars and conferences aged less than 25 or those attending sporting, cultural or educational events organised by non-profit organisations). Overall the visa fee should be regularly reviewed to take account of Member States' administrative costs. Moreover, an additional service fee may be charged to cover the costs incurred by an external service provider while performing one or more of the consular tasks.

Rights flowing from an issued visa: the mere possession of a uniform visa or a visa with limited territorial validity does not confer an automatic right of entry. Members of the parliamentary committee responsible were of the contrary opinion that persons in possession of a visa should benefit from an automatic right as long as they fulfilled the conditions laid down by EU legislation (Schengen Borders Code, ?).

Cooperation with regard to visa applications and use of external service providers: in contrast to the position of the parliamentary committee responsible, the plenary reincorporated a series of measures on cooperation between Member States for the processing of visa applications. A new article deals with assistance for honorary consuls. Lastly, recourse to an external service provider by one or jointly by several Member States is provided for (but will be subject to a separate legal instrument). The plenary also specifies the type of tasks that can be delegated to external service providers.

Encryption and secure transfer of data: new provisions were agreed in the case of data transfer between competent authorities, as a result of representation arrangements between Member States, cooperation between Member States and a service provider or recourse to honorary consuls.

Statistics: the compromise provides for a new article on statistics stipulating that the Member States shall compile annual statistics on visas to be submitted by 1 March of each year.

Website: the compromise also provides for the creation of an internet site dealing with Schengen visas to improve the visibility and a uniform image of the common visa policy. This site will serve as a means to provide the general public with all relevant information in relation to the application for a visa.

Amendments to the VIS Regulation: at the same time as the introduction of the visa code, a series of related amendments will be made to the VIS Regulation.

Evaluation: the compromise provides for the revision of the regulation in the 2 years that follow its entry into force. Provision is made for other evaluations to be undertaken at regular intervals thereafter which may result, if appropriate, in the modification of the regulation itself.

It should also be noted that some changes were also made to the annexes in relation to the amendments made to the main body of the text.

## Community Code on Visas (Visa Code)

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**PURPOSE:** to establish the Community Code on Visas.

**LEGISLATIVE ACT:** Regulation (EC) No 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code).

**BACKGROUND:** until now, the issuance of visas has been governed by a number of different legal instruments making the overall provision less coherent and transparent than it ought to be. It is for this reason that it has been deemed necessary to incorporate all legal instruments governing the conditions and procedures for issuing visas into one Code on Visas. This will enhance transparency and clarify existing rules, introduce measures intended to increase the harmonisation of procedures, strengthen legal certainty and procedural guarantees. A full common policy with equal treatment of visa applicants shall be ensured.

**Overview:** this is a major step to further develop a common visa policy and to reinforce cooperation in the Schengen area. To recall, the third countries whose nationals must be in possession of visas when crossing the external borders of the Schengen area and those whose nationals are exempt from that requirement are listed in [Council Regulation \(EC\) No. 539/2001](#). The Visa Information System (VIS) is a database where alphanumeric data and biometric identifiers of the visa applicants are recorded. It aims at improving the system for issuing visas throughout the Schengen area. Currently, it is being implemented at Member State level and should be operable at a central level also by the end of 2009/beginning of 2010. A Community Code on Visas is deemed necessary to enable the competent authorities (diplomatic representation and Member State Consuls, etc) to apply in a harmonised and rational manner the applicable measures. The Code will replace the Common Consular Instructions (CCI).

**CONTENT:** following an agreement reached with the European Parliament at first reading, the Council adopted this Regulation establishing the procedures and conditions for issuing visas for transit through or intended stays in the territory of the Member States not exceeding three months in any six-month period. The provisions of the Regulation shall apply to any third-country national who must be in possession of a visa when crossing the external borders of the Member States pursuant to Council Regulation (EC) No 539/2001 without prejudice to:

- the rights of free movement enjoyed by third-country nationals who are family members of citizens of the Union;
- the equivalent rights enjoyed by third-country nationals and their family members, who, under agreements between the Community and its Member States, on the one hand, and these third countries, on the other, enjoy rights of free movement equivalent to those of Union citizens and members of their families.

The Regulation also lists the third countries whose nationals are required to hold an airport transit visa by way of exception from the principle of free transit laid down in Annex 9 to the Chicago Convention on International Civil Aviation, and establishes the procedures and conditions for issuing visas for the purpose of transit through the international transit areas of Member States' airports.

The Regulation brings together all legal instruments concerning visa decisions and increases transparency and legal security for applicants. It replaces the Common Consular Instructions.

The main points are as follows:

- the Regulation clarifies which Member State is responsible for processing a visa application and defines the different phases for examination and decision taking;
- it includes new provisions allowing for multiple-entry visas under certain conditions;
- it lists the documents a visa applicant needs to submit and the procedures for their verification;
- it harmonises the fees that can be charged and sets common standards for the service provided. The decision must respect the principle of non-discrimination. A decision should be taken within 15 calendar days;
- the Regulation requires Member States to give refused applicants the reasons for refusal and gives applicants the right to appeal.

**Application documents and fees:** as a general rule, applicants must appear in person when lodging an application. They need to turn in a number of documents: an application form, a valid travel document, a photograph, a document indicating the purpose of the journey, proof of sufficient means to cover accommodation and subsistence, proof of travel medical insurance as well as information enabling an assessment of the applicant's intention to leave the Schengen territory before the expiry of the visa.

At the time of submission of the first application, Member States should also collect fingerprints and introduce them - along with the photograph - into the Visa Information System (VIS). The visa fee is set at EUR 60 for persons from the age of 12 and older and EUR 35 for children between six and eleven. For children under six as well as school pupils coming to Europe for the purpose of study, researchers and representatives of non-profit organisations under 25 participating in seminars, conferences, sports, cultural or educational events visas are free. The visa fee may also be waived for children between six and eleven. An additional service fee may be charged by an external service provider.

**Uniform visas:** responsibilities, examination procedure, deadlines and right to appeal: for uniform visas, i.e. for visas valid for the entire territory of the Member States, the Member State responsible for examining and deciding on an application shall be:

- the one whose territory constitutes the sole destination of the visit;
- if the visit includes more than one destination, the Member State whose territory constitutes the main destination of the visit in terms of the length or purpose of stay;
- if no main destination can be determined, the Member State whose external border the applicant intends to cross in order to enter the Schengen territory.

During the examination procedure, particular consideration must be given to assessing the authenticity and reliability of the travel and other documents submitted and whether the applicant presents a risk of illegal immigration or a risk to the security of the Member States. In justified cases consulates may call the applicant for an interview and request additional documents. Each applicant shall submit a completed and signed application form, as set out in Annex I.

**Multiple-entry visas:** the Regulation allows for the issuing of multiple-entry visas that are valid for six months to five years. There are two main conditions:

- the applicant proves the need or justifies the intention to travel frequently and/or regularly, in particular due to his occupational or family status, such as business persons, civil servants engaged in regular official contacts with Member States and EU institutions, representatives of civil society organizations travelling for the purpose of educational training, seminars and conferences, family members of citizens of the Union, family members of third-country nationals legally residing in Member States and seafarers;

- the applicant proves his integrity and reliability, with, in particular, the lawful use of previous uniform visas or visas with limited territorial validity, his financial situation in the country of origin and his genuine intention to leave the Schengen territory before the expiry of the visa.

Airport transit visas: the Regulation sets out a series of measures concerning airport transit visas. It stipulates that nationals of the third countries listed in Annex IV shall be required to hold an airport transit visa when passing through the international transit areas of airports situated on the territory of the Member States. However, it states that in urgent cases of mass influx of illegal immigrants, individual Member States may require nationals of third countries other than those referred to the common list to hold an airport transit visa when passing through the international transit areas of airports situated on their territory. Member States shall notify the Commission of such decisions before their entry into force and of withdrawals of such an airport transit visa requirement. The Regulation also sets out certain categories of persons which shall be exempt from the requirement to hold an airport transit visa (e.g. citizens from Canada and the United States).

Elements of biometric identification: the Regulation provides that at the time of submission of the first application, the applicant shall be required to appear in person. At that time, the following biometric identifiers of the applicant shall be collected:

- a photograph, scanned or taken at the time of application, and
- his 10 fingerprints taken flat and collected digitally.

Where fingerprints collected from the applicant as part of an earlier application were entered in the VIS for the first time less than 59 months before the date of the new application, they shall be copied to the subsequent application. Children under the age of 12 shall be exempt from the requirement to give fingerprints.

Cooperation, information and evaluation: further provisions concern:

- cooperation between Member States in countries where not all Member States have a consular representation, Common Application Centres;
- the use of external service providers and cooperation with commercial intermediaries for the lodging of applications (such as private administrative agencies, transport companies or travel agencies);
- general information notably the setting up of an Internet site dealing with Schengen visas to improve the visibility and a uniform image of the common visa policy;
- information as regards the cost of issuing visas;
- visas issued to seafarers in transit at the external border;
- specific procedures and conditions facilitate the application for and issuing of visas to members of the Olympic family for the duration of the Olympic and Paralympic Games organised by a Member State;
- the collection of statistical data;
- evaluations to be carried out by the European Commission (the first one two years after all provisions are applicable).

Territorial provisions: in accordance with the Protocols annexed to the Treaty on European Union and specific decisions adopted later on the Schengen acquis to certain third countries, the Code shall apply to Iceland and Norway as well as Switzerland and Liechtenstein, as they are associated with the implementation and development of the Schengen acquis. On the other hand, Denmark, Ireland and the United Kingdom shall not be taking part in the adoption of this Regulation and shall not be bound by it or subject to its application. Denmark shall decide within a period of six months after the date of adoption of this Regulation whether it will implement it in its national law.

ENTRY INTO FORCE: 05/10/2009. It shall apply from 05/04/2010. Certain provisions on the committee procedure and on notification will apply from 05/10/2009. As far as the Schengen Consultation Network (Technical Specifications) is concerned, the repeal of Council Regulation (EC) No 789/2001 shall apply from the date referred to in Article 46 of the VIS Regulation. Lastly, certain provisions on the refusal of a visa, annulment and revocation and visas applied for at the external border shall apply from 05/04/2011.

## Community Code on Visas (Visa Code)

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The Commission presents a report on the functioning of Local Schengen Cooperation (LSC) during the first two years of implementation of Regulation (EC) 810/2009 (the Visa Code). It recalls that in its [Communication on the Global Approach to Migration and Mobility](#), it stressed that facilitating mobility is a strategic element of EU external migration policy, applying to a wide range of people, e.g. short-term visitors, tourists, students, researchers, business people and visiting family members.

Mobility and visa policy are closely inter-linked. Around 12 million short-stay visas were issued by Member States issuing Schengen visas in 2011. Visa policy is a crucial element of any forward-looking policy on mobility.

The report primarily addresses the implementation of local Schengen cooperation and sets out recommendations for enhancing and improving this cooperation. Additionally, it contains recommendations focusing on certain regional aspects such as consular coverage, which links in with some of the priorities proposed in the Global Approach Communication.

The EU is often perceived negatively by third countries because of its arcane and untransparent visa issuing procedures. For many people, their first contact with 'Europe' is with a Member States consulate when applying for a visa. It is therefore very important to apply the Visa Code correctly so that the process improves, offering visa applicants transparent, fair and equal treatment. LSC is the main tool to guarantee consistent implementation of the Visa Code, taking into consideration local circumstances.

General assessment: the legal framework for structured LSC, including the Commission's involvement, has not yet delivered its full potential. However, results achieved in a number of key locations have proved LSC's added value in enhancing harmonisation of the way in which the common visa policy is applied. This contributes to the perception applicants and local authorities have of a real policy ensuring equal and fair treatment. Improved Local Schengen Cooperation contributes to strengthening the credibility of the EU common Visa Policy, to making tangible the advantages for third country nationals and in the long run, to reducing pressure for visa facilitation agreements.

The report draws particular attention to the following points:

Training: generally, LSC contact points deplore the lack of structured training on the Visa Code in particular and on the common visa policy in general. This should, of course, be addressed in future.

Assessment of the need to harmonise the lists of supporting documents: at this initial stage of the implementation of the Visa Code, work on establishing lists of supporting documents is one of the most important tasks of the LSC and it has the most visible impact on visa applicants and local authorities. However, by July 2012 (i.e. more than 2 years after the start of application of the Code), only five Commission Decisions covering seven LSCs have been adopted (Bosnia-Herzegovina, China, Indonesia, Saudi Arabia, Sri Lanka, Turkey, Vietnam, Egypt, United Kingdom, Chile Kazakhstan, Nicaragua and Nigeria) and work has progressed in another 18 LSCs around the world. There are various reasons for the lack of progress: reluctance on the part of Member States at local level, seemingly unaware of the legal obligation to carry out this assessment; lack of awareness by consulates of certain Member States regarding application of a common visa policy; presence of only one or two Member States, obviously rendering harmonisation less relevant; nationals of the host state not subject to the visa requirement, so harmonisation is considered unnecessary.

There is one common denominator for most of the 30 LSCs that have accomplished this task:

in these locations, the EUD has invested considerable resources in coordinating the work in close cooperation with Member States consulates.

Recommendations: to improve LSC further, and to ensure that its core tasks are carried out in all locations to their full potential, the Commission makes the following recommendations, and states that the latter will only be implemented in Delegations maintaining the same or increased staff levels than in previous years.

#### The role of EU Delegations

- during the period 2010-2012, the core tasks of LSC have been carried out by EU Delegations' (EUD) staff in an increasing number of delegations. LSC will continue with the same workload level of staff in Delegations with focus in priority countries such as ENP countries and the EU's strategic partners. Burden sharing with Member States embassies and consulates in these countries will contribute to a better functioning of LSC;
- an LSC contact point must be designated in priority countries if this has not yet been done. The contact point should play an active role in LSC and take the lead in chairing meetings to ensure the continuity and coherence of cooperation taking into account burden sharing with Member States, e.g. when the EUD does not have sufficient appropriate staff to carry out LSC tasks, should tasks be delegated to a Member State;
- where relevant, coordination with the LSC taking place in locations outside capitals should be improved, possibly by involving a Member States' consulate as local coordinator;
- where relevant, EUD should in cooperation with Member States consulates assess whether consular coverage in the host state should be enhanced and, if so, explore the most appropriate way of doing so (e.g. by proposing the setting up of common application centres). This will become particularly relevant in view of the progressive roll-out of the Visa Information System (VIS);
- EUD should in cooperation with Member States diplomatic missions organise information events with the authorities of the host state to present the common visa policy, particularly the regional roll-out of the VIS, so as to prevent or clarify possible misconceptions. EUD should collect information from third country nationals on how the Visa Code is implemented (for example by opening a complaint mail box) and report problems or discrepancies in implementation of the Visa Code and the common visa policy, particularly as regards implementation of Visa Facilitation Agreements, with a view to bringing such problems to the attention of the Commission;
- a section of the EUD's website should be dedicated to general information on the common visa policy.

#### The role of Member States central authorities

- Member States consular staff should be made more aware of the legal obligations concerning LSC tasks provided for by the Visa Code and of the fact that the credibility of the EU is at stake, as many third country nationals form their opinion of the EU through visa issuing procedures;
- in locations where there is no EUD, a Member State should volunteer to designate its consulate in the location concerned to act as LSC contact point and report directly to the Commission on LSC issues.

#### The role of Member States consulates

- they should constructively and actively participate in LSC and be ready to share its tasks;
- they should systematically share common LSC reports with their central authorities;
- regional training on the Visa Code should be organised for MS consular staff, particularly as regards roll-out of the VIS in the region concerned;

The Commission in cooperation with EEAS should strengthen the capacity of EUD and LSC contact points, with particular attention to regions with a heavy workload, to carry out LSC tasks by:

- organising focused training/information sessions both centrally and regionally, on the application of the Visa Code (and Handbooks) and implementation of the VIS;
- enhancing networking among LSC contact points, possibly by organising an annual seminar where general briefs and updates can be given on EU Home Affairs and related policies;
- improving the basic information kit to LSC contact points, including a template for a common information sheet to ensure coherent communication on the common visa policy;
- revising the Handbook for the organisation of visa sections and local Schengen cooperation, Part II, to clarify implementation of the Visa Code as regards LSC tasks.

The core tasks to be carried out under the Visa Code are fairly specific and operational, and it is essential in the short term to accomplish these, particularly as regards harmonising the list of supporting documents. Better cooperation between Member States and the Commission and burden-sharing within LSC will contribute to building trust in the process.

## Community Code on Visas (Visa Code)

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The Commission presents an evaluation of the implementation of regulation (EC) No 810/2009 of the European Parliament and the Council establishing a Community Code on Visas (Visa Code).

State of play and objectives of the evaluation: a recent study on the economic impact of short-stay visa facilitation concludes that the number of travellers deterred from coming to the Schengen area by current visa requirements for the six third countries examined represents a significant direct, indirect and induced lost contribution to GDP. A conservative estimate of this annual loss is EUR 4.2 billion, while a probable estimate is EUR 12.6 billion. This implies about 80 000 lost jobs from both direct and indirect effects in the Schengen Area under the conservative estimate and about 250 000 under the probable scenario.

The Visa Code has greatly improved Schengen visa procedures since its entry into force three years ago, but the world has not stood still, and objectives and priorities have evolved. In this context, more coherence should also be ensured with trade policies. The latter could for instance be achieved by taking into account trade relations, including trade agreements, when considering negotiating visa facilitation agreements.

This report has been drawn up against this background. It identifies further improvements that can be made to:

- achieve a smarter common visa policy,
- increase the attractiveness of the EU for business, researchers, students and artists and culture professionals,
- respond to current and future challenges.

Need for a review of the existing legal framework: this evaluation has highlighted a number of benefits, but also areas for improvement regarding the procedures and conditions for issuing visas. This report has therefore evaluated the extent to which the initial overall goal of facilitating legitimate travel and ensuring equal treatment in similar cases has been achieved, without specifically assessing its effectiveness in terms of contributing to economic growth.

Generally, compared to the situation before its adoption, the Visa Code clarifies and simplifies the legal framework for the common visa policy. The Code has to a considerable extent modernised and standardised visa procedures and, if correctly implemented, allows to address certain problems highlighted in the evaluation.

However, the implementation of the legal provisions has not been optimal. This can largely be explained by the fact that most elements of flexibility are formulated as options (may-clauses) rather than mandatory rules.

The legal framework has never really been embraced at local level, and only in a very few locations has sustainable and continued cooperation been introduced, whereas in others, certain legal obligations have sometimes simply been ignored.

To work towards a truly common visa policy, the Commission proposes a revision of the Visa Code in order to:

1. ease the administrative burden for both applicants and consulates by fully exploiting the benefits of the Visa Information System (VIS) and differentiating the treatment of known/regular travellers and unknown applicants on the basis of clear, objective criteria;
2. further facilitate legitimate travel by streamlining and fully harmonising procedures and by rendering certain provisions mandatory where discretion is currently left to consulates: if adopted, these new rules will offer applicants significant procedural facilitations, as follows: first-time applicants should not automatically be eligible for a MEV as their applications need to be thoroughly examined to maintain a high level of security in the Schengen area. But they will benefit from all the general procedural facilitations that the Commission proposes, e.g. abolishing travel medical insurance, shorter deadlines for decision-making and a simplified application form. And they will benefit from VIS registered regular traveller status, with accompanying facilitations, if they apply for a third visa within 12 months of their lawfully used first visa;
3. revise the existing framework to boost consular cooperation and ensure easier access to Schengen visa application procedures in as many places as possible;
4. introduce an article in the Visa Code allowing visas to be issued at external borders on a temporary basis under strict conditions;
5. provide certain procedural facilitations to third-country nationals visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and to close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union citizen has the nationality;
6. establish that the procedural facilitations referred to above should as a minimum apply to the family members of Union citizens to whom Directive 2004/38/EC applies;
7. propose a legislative initiative to close the legal gap between the rules on short stays and the rules on admission of third-country nationals to individual Member States (third-country nationals face problems as authorised stays in the Schengen area are limited to 90 days in any 180-day period. Because of the lack of appropriate authorisation for stays longer than 90 days, they either have to limit their stays or they look to make use of legal instruments that are not designed for extending their authorised stay in the Schengen area in such cases).

Preparatory measures prior to the revision of the Visa Code: pending the adoption of this [proposal](#), the Commission considers it important and necessary to foster harmonisation and implementation of current provisions. The Commission will therefore work with the Member States, in the framework of the Visa Committee and other relevant fora, with a view to ensuring full implementation of the current provisions and by promoting identified best practices.

## Community Code on Visas (Visa Code)

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The Commission presented this staff working document which accompanies the Commission's evaluation of the implementation of Regulation (EC) No 810/2009 of the European Parliament and Council establishing a Community Code on Visas (Visa Code).

This working document follows extensive discussions with various stakeholders on issues such as practical issues arising from the implementation of the Code's legal provisions.

This document is also based on the Commission's regular monitoring of the correct implementation of EU legislation, petitions addressed to the European Parliament, questions raised by Members of the European Parliament, complaints and questions from private persons, and

Schengen evaluations.

Views been exchanged on the implementation of the Visa Code particularly in the framework of the Joint Committees set up under the various Visa Facilitation Agreements between the EU and a number of third countries.

This document also addresses the implementation of the five articles related to consular cooperation, as significant problems with their implementation have been identified, not related to the progressive rollout of the Visa Information System.

The document comprises a detailed assessment of the implementation of the provisions of the Visa Code grouped under thematic headings along with specific recommendations.

The headings include, inter alia:

- the visa application procedure,
- lodging the visa application,
- documentary requirements when lodging an application,
- fees to be paid,
- examination of the application,
- issuing and refusal of a visa,
- visas applied for and issued at the external borders,
- consular cooperation and consular coverage,
- lack of visa or other authorisation allowing travellers to stay more than 90 days in any 180-day period in the Schengen area.