

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation 2014/0095(COD)	Procedure lapsed or withdrawn
Touring visa Amending Regulation (EC) No 562/2006 2004/0127(COD) Amending Regulation (EC) No 767/2008 2004/0287(COD)	
Subject 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas	

Key players			
European Parliament			
Council of the European Union	Council configuration Justice and Home Affairs (JHA) Justice and Home Affairs (JHA)	Meeting 3415 3319	Date 09/10/2015 05/06/2014
European Commission	Commission DG Migration and Home Affairs	Commissioner MALMSTRÖM Cecilia	
European Economic and Social Committee			

Key events			
01/04/2014	Legislative proposal published	COM(2014)0163	Summary
03/04/2014	Committee referral announced in Parliament, 1st reading		
05/06/2014	Debate in Council	3319	
20/10/2014	Committee referral announced in Parliament, 1st reading		
09/10/2015	Debate in Council	3415	
16/03/2016	Vote in committee, 1st reading		
16/03/2016	Committee decision to open interinstitutional negotiations with report adopted in committee		
06/04/2016	Committee report tabled for plenary, 1st reading	A8-0079/2016	Summary
03/07/2018	Proposal withdrawn by Commission		

Technical information

Procedure reference	2014/0095(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 562/2006 2004/0127(COD) Amending Regulation (EC) No 767/2008 2004/0287(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 077-p2
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	LIBE/8/00418

Documentation gateway

Legislative proposal	COM(2014)0163	01/04/2014	EC	Summary
Economic and Social Committee: opinion, report	CES2932/2014	10/09/2014	ESC	
Committee draft report	PE560.876	08/09/2015	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0079/2016	06/04/2016	EP	Summary

Additional information

European Commission	EUR-Lex
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Touring visa

PURPOSE: to introduce a new type of visa (touring visa) both for visa-exempt and visa requiring third-country nationals with a legitimate interest in travelling around the Schengen area for more than 90 days in any 180-day period, provided that the applicant does not intend to stay for more than 90 days in the same Member State.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council

BACKGROUND: Union legislation established harmonised rules concerning the entry and stay of third-country nationals in the Member States for up to 90 days in any 180-day period.

The 90 day/180 day limitation may have been appropriate for the size of the five founding members of the Schengen cooperation. However, when the Schengen area comprises 26 Member States, it poses a considerable barrier for many third-country nationals with legitimate interests in travelling in the Member States such as tourists, live performance artists, researchers, students, pensioners, service providers, etc. It also leads to missed economic opportunities for Member States. They do not want and/or do not need to reside in a particular Member State for longer than three months. However, there is no Schengen visa or other authorisation allowing for a stay of more than three months or 90 days in the Schengen area.

It is therefore appropriate to fill the legislative gap and establish a new type of visa ("touring visa") for both visa-exempt and visa-requiring third-country nationals planning to circulate in the territory of two or more Member States for more than 90 days, provided that they do not intend to stay for more than 90 days in any 180-day period in the territory of the same Member State.

N.B. this proposal is presented in parallel to the [proposal on the recast of the Community Code on Visas](#).

IMPACT ASSESSMENT: the Commission considered two regulatory options:

1. a new type of authorisation with a view to an intended stay in the Schengen area lasting more than 90 days but no more than 360 days was envisaged only for a limited group of third-country nationals: artists (or sportsmen), culture professionals and their crew members employed by reliable and acknowledged live performing companies or

organisations and core family members travelling with them;

2. a similar authorisation not just for that specific category of third-country nationals, but for all third-country nationals.

Given that the lack of an authorisation allowing travellers to stay more than 90 days in any 180-day period in the Schengen area results in a

considerable economic loss to the EU (these travellers being big spenders), the second option is the preferred one.

LEGAL BASIS: Article 77(2)(a), (b) and (c) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the objective of the proposal is to fill the legislative gap between the Schengen acquis on short stays and the EU/national law on residence in a particular Member State by:

- establishing a new type of visa (touring visa or T-type visa) for an intended stay in two or more Member States lasting more than 90 days but no more than 1 year (with the possibility of extension up to 2 years), provided that the applicant does not intend to stay for more than 90 days in any 180-day period in the same Member State;
- determining the application procedures and the issuing conditions for touring visas.

Main characteristics of the touring visa: the touring visa is quite distinct in many ways from the short-stay visa of the Visa Code. However, it is very similar to a uniform visa as in principle, it is valid for the territory of all Member States. The new type of visa is established on the legal basis of short-stay visas and permits. Therefore it is justified in principle to apply the relevant provisions of the Visa Code to the touring visa. To this effect, subsequent provisions specify in detail which provisions of the Visa Code will be applicable as regards:

- the conditions and procedures for issuing touring visas,
- the derogations from and additions to these rules, taking into account the specificities of the new type of visa.

Since the Commission is simultaneously proposing a recast of the Visa Code, this proposal will refer to the provisions of the proposed recast regulation rather than the existing regulation in force.

N.B. At the same time, the 90 days per 180 days rule should be maintained as a general dividing line between short stays and long stays, as it does not pose any problems for the vast majority of travellers.

Possibility to extend the length of the authorised stay: as regards the length of the authorised stay, the proposal provides the possibility of a stay of up to two consecutive years in the Schengen area for all third country nationals who can prove they fulfil the conditions for such a long period. When assessing an application, and in particular when defining the length of an authorised stay, consulates should take into account all relevant factors, e.g. the fact that citizens of third countries whose nationals are exempt from the visa requirement for short stays traditionally do not pose problems of irregular migration or security risks.

Procedures relating to applications: the proposal sets out the provisions in the Visa Code on as regards the authorities taking part in the procedures relating to applications which should apply to the touring visa. It excludes the possibility of applications for touring visas to be lodged at the external borders, as authorising a stay of possibly up to two years in the Schengen area requires thorough scrutiny that can never be carried out at external borders.

An additional condition for applicants is to present appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in total without staying for more than 90 days in any 180-day period in the territory of any one of these Member States.

The consulate of the competent Member State has at least 20 calendar days to decide on the application.

Subsistence rules: applicants will have to demonstrate their sufficient means of subsistence and stable economic situation by means of salary slips or bank statements covering a period of 12 months prior to the date of the application, and/or supporting documents that demonstrate they will acquire sufficient financial means lawfully during their stay (e.g. proof of entitlement to a pension). According to this Article, applicants in possession of a touring visa shall be allowed to apply in the Member State where they are legally present for work permit(s) required in the subsequent Member States.

Certain procedural facilitations are envisaged (i.e. possible waiver of submitting certain supporting documents) for specific categories of applicants who work for or are invited by a reliable and acknowledged company, organisation or institution, in particular, at managerial level or as researcher, artist, culture professionals, etc.

Bilateral visa waiver agreements: it is proposed to repeal Article 20(2) of the CISA, according to which, if a Member State concluded a bilateral visa waiver agreement with a

third country on the list in Annex II of the Visa Regulation (visa-free list) before the entry into force of the CISA (or the date of the Member States later accession to the Schengen Agreement), the provisions of that bilateral agreement may serve as a basis for that Member State to extend a visa-free stay for longer than three months in its territory for nationals of the third country concerned.

Due to the existence of this type of bilateral agreement, some citizens may legally stay for a virtually unlimited period in the Schengen area on the basis of short-stay visa waivers.

Following the establishment of the touring visa, Article 20(2) of the Convention implementing the Schengen Agreement should be amended as it is incompatible with 77(2)(a) and (c) of the TFEU due to the fact that the common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements concluded by Member States. The authorised length of stay of third-country nationals should not depend on the number and content of such bilateral agreements concluded in the past.

The proposal provides for a five-year transitional period to phase out the impact of bilateral visa waiver agreements as far as the overall length of stay of third-country nationals in the Schengen area is concerned.

Other technical provisions: a proposal specifies the provisions in the Visa Code's chapter on Administrative management and organisation that should also apply for the purpose of issuing touring visas. In the framework of local Schengen cooperation, consulates should exchange statistics and other information on touring visas.

The main objective of the amendments of the Schengen Borders Code and the VIS Regulation is to integrate the touring visa into the Schengen acquis.

Touring visa

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Brice HORTEFEUX (EPP, FR) on the proposal for a regulation of the European Parliament and of the Council establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008.

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

Scope: Members propose to limit the scope of visas to performing artists and elite sports persons and their support staff who have been able to demonstrate clearly the administrative and logistical obstacles to organising a tour or a competition in several Member States in the Schengen area lasting more than three months. The scope should also include business related travellers who encounter similar difficulties to performing artists and elite sports persons during their working travel. Family members of those categories could also be granted such visas where appropriate.

Overall, the committee stressed that the touring visa should facilitate travel by professionals.

Stringent conditions and procedures for issuing touring visas: the abolition of controls at the internal borders of the Member States makes it difficult to track and trace travellers. Security guarantees should be obtained before a touring visa is issued, in order to limit the risks of fraudulent use, abuse or illegal immigration.

- Determination of the competent authority: the Member State which is competent should be that in which the applicant will carry out his professional activity for the longest time. The country of first entry should be the competent authority only when the stays in several Member States are of equivalent length or when it is impossible to provide details of the exact period of stay in each Member State.
- Duration of the touring visa: the Commission proposes that it should be possible to extend a touring visa for a further year, which would enable the visa holder to stay two consecutive years in the Schengen area. The committee considered that a touring visa should be limited to a maximum duration of 12 months in any period of 15 months, on condition that the length of stay in each Member State shall not exceed 90 days in any 180-day period.
- Applications: applications should be lodged no more than nine months and no less than 40 days before the entry in the Member State concerned in which the applicant intends to stay first. As the examination of applications and consultation of other Member States will be decisive, the period allowed for consideration of applications is extended to 30 days or, in exceptional cases, 40 days.

Consultation with the other Member States concerned: in order to encourage the issuing of touring visas and to enable adjustments to be made, strong cooperation between Member States is proposed. Members suggest that the stage during which the Member States that the applicant wishes to visit consult one another should be prolonged. This consultation stage should be extended to 15 days, to give the authorities of the Member States the necessary time to examine the substantiating documents and, if necessary, to raise objections if there is a risk of irregular immigration or a security risk, in accordance with the rules in force (the Schengen Borders Code).

- The application procedure: a more exhaustive list of substantiating documents is proposed. It includes work permits or authorisations issued by one or more of the Member States concerned when they are required, accident and sickness insurance recognised by the Member States concerned and employment contracts and a certificate of sponsorship issued by the organiser of the arts tour or sports season providing details of the purpose, the activity, the itinerary, the duration of the arts tour or sports season and the job to be done by the applicant. The committee also clarified the terms for refusing or opposing the issuing of a visa.
- Costs of a visa: the committee provides for a visa fee of EUR 100.

Conditions of entry and immigration issues: in the examination of an application for a touring visa, it shall be ascertained whether the applicant fulfils the entry conditions set out in the Schengen code and particular consideration shall be given to assessing whether the applicant presents a risk of irregular immigration or a risk to the security of the Member States.

The examination of an application for a touring visa shall include, in particular, the assessment of whether applicants have sufficient proof that he or she will not stay for more than 90 days on the territory of any Member State and that during the total length of stay the applicant will carry out one of the stated activities. The assessment shall also focus on the documents demonstrating that the applicant has sufficient financial means of subsistence for the whole duration of the intended stay, including their accommodation. There are additional provisions stating that the competent Member State may require the central authorities of other Member States to consult its central authorities during the examination of applications.

Report: 2 years after the date of application of the regulation, the Commission should present to the European Parliament and to the Council an evaluation report assessing the possibility of extending the scope of the touring visa to new categories, such as nationals of third countries listed in Annex II of Council Regulation (EC) No 539/2001.

The annex to the proposal has also been amended in accordance with the amendments made in committee.