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**11514/1/14  
REV 1**

**LIMITE**

**VISA 166  
CODEC 1559  
COMIX 360**

## **OUTCOME OF PROCEEDINGS**

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From: Visa Working Party/Mixed Committee  
EU-Iceland/Liechtenstein/Norway/Switzerland)

On: 19 June 2014

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Subject: Draft Regulation of the European Parliament and of the Council on the  
Union Code on Visas (Visa Code) (recast)

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1. At its meeting of 19 June 2014, the Working Party examined Articles 1 and 2 as set out in 8401/14.
2. The text of the aforementioned Articles is included in the Annex. Delegations' general comments are set out below. Comments in relation to the provisions of the Articles are set out in the footnotes of the Annex.

### General comments

**EL, DE, AT, CH, MT, ES** entered a general reservation on the whole text of the proposal.

**EL** asked the Commission to use the term "illegal" immigration (in line with the TFEU) throughout the text instead of "irregular".

**DE, AT** and **PL** were of the opinion that the amendments proposed by the Commission would entail financial costs, such as the need to hire extra staff. **AT** requested an assessment of those amendments. **SE, NO** and **NL** warned of risks concerning public order, safety and illegal immigration related to the amendments. **AT** and **PL** stressed the need to take into account some other recent proposals linked to this issue such as the "Smart Borders Package".

**EL, DE, PL** and **NL** opposed the deletion of the provisions concerning the "travel medical insurance" (TMI) (see Article 15).

**COM** stated that the financial impact of the amendments could only be assessed when the text of the draft Regulation had been agreed on. **COM** referred in that context to the potential financial support for external borders and visa, under the Internal Security Fund for the period 2014-2020.

Furthermore, **COM** invited delegations to submit figures and statistics in order to prove the usefulness of the TMI. In **COM**'s opinion, bills remaining unpaid by foreigners in hospitals, which the Member States are complaining about, are not necessarily due to visa travellers.

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the Union Code on Visas (Visa Code)**

**(recast)**

*Article 1*

**Subject matter and scope**

1. This Regulation establishes the conditions and procedures for issuing visas for intended stays on the territory of the Member States not exceeding 90 days in any 180 days period.

2. The provisions of this 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<sup>1</sup>, without prejudice to:

(a) the rights of free movement enjoyed by third-country nationals who are family members of citizens of the Union;

(b) the equivalent rights enjoyed by third-country nationals and their family members, who, under agreements between the Union 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.<sup>2</sup>

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<sup>1</sup> Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).

<sup>2</sup> **AT** warned about the potential abuse of the provisions under Directive 2004/38/EC. **COM** replied that the aim of the proposal was not to extend the scope of the provisions on free movement to situations that are not covered by that Directive but to allow EU citizens to benefit from specific facilitations.

3. This Regulation 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 conditions and procedures for issuing visas for the purpose of transit through the international transit areas of Member States' airports.

## *Article 2*

### **Definitions**

For the purpose of this Regulation the following definitions shall apply:

1. 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) of the TFEU ;
2. 'visa' means an authorisation issued by a Member State with a view to:
  - (a) an intended stay on the territory of the Member States of a duration of no more than 90 days in any 180 days period<sup>1</sup>; or
  - (b) transit through the international transit areas of airports of the Member States;
3. 'uniform visa' means a visa valid for the entire territory of the Member States;
4. 'visa with limited territorial validity' means a visa valid for the territory of one or more Member States but not all Member States;
5. 'airport transit visa' means a visa valid for transit through the international transit areas of one or more airports of the Member States;

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<sup>1</sup> **SK** wanted to remove the word "intended" since the stay can be unplanned (e.g. when the visa is issued at the border).

6. 'touring visa' means a visa as defined in Article 3(2) of [Regulation No.../...]<sup>1</sup>;

7. 'close relatives' means the spouse, children, parents, persons exercising parental authority, grandparents and grandchildren<sup>2</sup>;

8. 'VIS registered applicant' means an applicant whose data are registered in the Visa Information System<sup>3</sup>;

9. 'VIS registered regular traveller' means a visa applicant who is registered in the Visa Information System and who has obtained two visas within the 12 months prior to the application<sup>45</sup>;

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<sup>1</sup> **PL** and **NL** entered a reservation. **FR** thought that the full definition of a touring visa should be included in this point, without any reference to another Regulation.

<sup>2</sup> **PL**, **EL** and **IT** entered a reservation. **FR**, **DK**, **SI**, **MT**, **NO**, **AT** and **ES** stated that the list of the persons covered was too broad, as did **NL** and **SE**, who moreover stressed the financial consequences of the broad definition. **COM** took note but recalled that this definition had already been included in the visa facilitation agreements currently in force. **AT**, **IT** and **ES** suggested not only referring to "spouse" but also adding "partners" of a registered partnership. **COM** said it could agree if there was a consensus among delegations on that request. **AT** also suggested including "adopted children". Furthermore, **AT** was of the opinion that there was a definition missing in relation to "minors".

<sup>3</sup> **FR** and **PL** questioned the added value of this definition since all applicants should be registered in the VIS.

<sup>4</sup> **PL** entered a reservation. **NL** asked to align this definition with the provisions of the RTP proposal. **DK** warned of any automatism in the issuing of visas and favoured the concrete evaluation of each applicant.

<sup>5</sup> Comments raised in relation to points (8) and (9): **AT**, **DE** and **FR** entered a general reservation concerning the definitions of "VIS registered applicant" and "VIS registered regular traveller" and the consequences linked to these in the various steps of the procedure for the issuing of visas (see Article 18). **SK**, **DK** and **SI** suggested adding an obligation for the "regular traveller" to have used the visa lawfully. **COM** explained the reasons why those new provisions had been included in the proposal, as stated in point 3 of the explanatory memorandum, for instance because Member States did not sufficiently use the facilitations provided in the Visa Code for bona fide travellers (e.g. Multiple entry visas - MEV). Moreover, **COM** stressed that "regular travellers" would not be automatically issued a visa since an assessment by consulates in that regard would still be possible. **NL**, **AT**, **BE** and **FR** stated that MEV's were to be issued carefully since the situation of the applicants could change radically in the course of one year. **DE**, while agreeing that some facilitations should be granted to bona fide "regular travellers", thought that they should be tightened (too much was granted under too few conditions). With a view to finding a better balance in that regard, **FR** believed that the text of either Article 2 or Article 18 had to be amended.

10. 'visa sticker' means the uniform format for visas as defined by Council Regulation (EC) No 1683/95<sup>1</sup>;

11. 'recognised travel document' means a travel document recognised by one or more Member States for the purpose of crossing the external borders and affixing visas under Decision No 1105/2011/EU of the European Parliament and of the Council<sup>2 3</sup>;

12. 'valid travel document' means a travel document that is not false, counterfeit or forged and the period of validity of which as defined by the issuing authority has not expired<sup>4</sup>;

13. 'separate sheet for affixing a visa' means the uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form as defined by Council Regulation (EC) No 333/2002<sup>5</sup>;

14. 'consulate' means a Member State's diplomatic mission or a Member State's consular post authorised to issue visas and headed by a career consular officer as defined by the Vienna Convention on Consular Relations of 24 April 1963;

15. 'application' means an application for a visa;

16. 'seafarer' means any person who is employed or engaged or works in any capacity on board a ship to which the Maritime Labour Convention, 2006 applies.<sup>6</sup>

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<sup>1</sup> Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1).

<sup>2</sup> Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list (OJ L 287, 4.11.2011, p. 9).

<sup>3</sup> **NL** disagreed on the insertion of that definition in the Visa Code. **COM** referred to the provisions for issuing visas with limited territorial validity under Article 22(3).

<sup>4</sup> **FR** wanted to add that the holder of the travel document should have been provided with it legally; **SK** that the period of validity of the travel document be referred to.

<sup>5</sup> Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (OJ L 53, 23.2.2002, p. 4).

<sup>6</sup> **AT** was of the opinion that the definition should include the persons who work at inland waters. **PL** and **FR** asked whether the "ILO 1958 Seafarers' Identity Documents Convention" should be referred to instead. **EL** entered a reservation. **DK** suggested a reference to the definition contained in Regulation No 539/2001. **COM** replied that it would be checked whether all Member States have ratified the 2006 Maritime Labour Convention.