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MIGR 370
FRONT 270
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NOTE

From: Presidency

To: Visa Working Party/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein)

Subject: Towards a more strategic approach on visa policy
– Draft Council conclusions

With a view to the Visa Working Party meeting on 23 October 2024, delegations will find attached the draft Council conclusions on the above-mentioned subject as prepared by the Presidency.

Draft Council conclusions on

Towards a more strategic approach on visa policy

1. Visa policy is a key instrument developed by the European Union which also plays a crucial role in enhancing the resilience of the Schengen area to migration challenges. As migration patterns evolve and the complexity of global mobility increases, the EU must strengthen its collective efforts to safeguard the integrity of the Schengen area. The Council recognises the importance of a comprehensive review of the EU's visa policy in order to ensure the effective use of the instruments provided for by this policy area with the aim of bolstering the security of Schengen and the EU's migration policy framework. In this context, a more holistic and coordinated approach to visa policy is essential in order to be able to respond to immediate migration pressures and to abuses of the visa regime.

Against this background, the Council welcomes the Commission's commitment to develop a Union strategy on visa policy by reflecting on both legislative and operational improvements in a comprehensive manner so as to be able to better respond to current and future challenges.

2. In order to prevent and mitigate the consequences of the abuse of the visa-free regime, the EU should primarily focus on the efficient and effective use of the existing tools. These include, inter alia, the visa suspension mechanism (currently under revision), the application of the visa measures under the Article 25a mechanism of the Visa Code, the systematic checks carried out in the Visa Information System (VIS) at the borders and when examining asylum applications, and the seamless implementation of the Union's information systems, including the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS).

3. At the same time, the Council emphasises that, in addition to the swift adoption of the revision of the visa suspension mechanism, further measures could be considered aimed at preventing abuse of the EU's visa regime. Such measures are necessary to address emerging challenges in the management of visa-free travel, particularly to ensure that certain visa-exempt countries do not become hubs for irregular migration. In this regard, visa policy alignment to the EU's visa regime by third countries neighbouring the EU is urgent and essential to reduce the potential for abuse and to ensure the sustainability of the visa-free regime between the EU and these neighbouring countries. These third countries also need to take the necessary measures to address abuses. The Council has expressed its support for strengthening the monitoring of third countries' visa and migration policies. This enhanced scrutiny will play a critical role in identifying and addressing potential threats and so will contribute to a more secure and resilient European Union.
4. The Council underscores the importance of ensuring the smooth implementation of the EES and the ETIAS, both of which are vital in strengthening border security and addressing potential threats to internal security, including the misuse of visa-free travel and overstays of authorised stay periods. In the longer term, following a thorough assessment of the functioning of these systems, as provided for in the relevant regulations, potential improvements or modifications could be envisaged, in particular to better exploit the potential of ETIAS to respond more flexibly and progressively to abuses and security threats.
5. In order to reduce the number of unfounded asylum applications lodged by third-country nationals after entering the Schengen area with a visa and to have more comprehensive statistical data on this phenomenon, the Council acknowledges the importance of transparent and consistent procedures and the need to systematically consult the VIS in asylum procedures and record successful asylum identifications. This practice will ensure that the visa history of applicants is adequately considered, strengthening the EU's capacity to manage asylum applications effectively. Closer cooperation and data sharing between visa and asylum authorities, as well as the integration and analysis of the relevant data at EU level, are necessary elements for an effective asylum management.

In this context, it is also crucial that the revised Eurodac provides a proper platform to store a widened range of data on asylum seekers. To this end, the Council calls for the continued implementation of the interoperability architecture, including the revised VIS, to ensure that information on visa applicants is shared efficiently among Member States, helping to identify potential security threats. In the long-term, the associated statistics will be provided by the Central Repository for Reporting and Statistics (CRRS) within the interoperability framework. However, until this is achieved, the Council encourages the Commission to further explore the possibility of making better use of the statistical data-providing capacity of eu-LISA, including analysis of the shared data, which could help to identify evolving trends and improve risk analysis.

6. A well-functioning return and readmission system also contributes to reducing visa abuse, hence the effective functioning of the Article 25a mechanism of the Visa Code is crucial to ensure sufficient readmission cooperation with third countries. Acknowledging the diplomatic efforts undertaken by the Commission, as well as the favourable dynamics introduced in the mechanism by recent developments, the Council recognises that the implementation of the process could be further refined in order to develop a more powerful and credible mechanism, and its use could be further maximised. Therefore, the Council, within its competencies, undertakes to step up the effectiveness of the mechanism by establishing, where relevant and together with the Commission and the European External Action Service (EEAS), country-specific timeframes in the decision-making process in the Council, which should take into account the individual situations of third countries. It is important to undertake every effort by the third countries concerned to increase their level of cooperation. The Council stresses the need to convey a clear and unified message towards third countries that further measures will be implemented if cooperation does not improve within a reasonable period of time.
7. The Council recognises the need for a more harmonised use of existing visa measures, in particular as regards the application of the Visa Code. To achieve this, further measures shall be taken to reduce the opportunities for visa shopping, in particular through stronger and better coordinated local Schengen cooperation.

In this context, in the longer term, the introduction of more targeted, personalised sanctions against individuals who abuse the EU visa system could be duly considered, ensuring at the same time that the individual measures are applied uniformly by all Member States. Thus, the EU could effectively address visa abuses on a case-by-case basis, but still under well-defined common rules. The ongoing digitalisation trends, along with the implementation of EES, ETIAS, the revised VIS and the interoperability framework, including automated risk assessment and multiple-identity detection, will provide a broader range of information on travellers. This enhanced data could enable Member States to apply restrictive measures on an individual basis for abusers of the EU's visa regime.

Without prejudice to the need for an in-depth assessment, such an option could in future offer a pathway to a more nuanced and equitable visa system, balancing the need for security with the facilitation of legitimate travel. The Council encourages continued dialogue on potential reforms, with a view to enhancing the EU's ability to address visa abuse while promoting legitimate mobility.

8. The Council reaffirms the common objective that the EU should take a more strategic approach towards third countries by fostering a more tailor-made application of visa policy tools in external relations. This is particularly relevant in the context of decisions regarding visa liberalisation or visa facilitation. While Member States agree that visa facilitation agreements remain crucial instruments in the EU's relations with third countries, there is an increasing emphasis on their comprehensive and strategic use, particularly as a means to achieve broader Union objectives in other policy areas. This objective could be achieved by tailor-made agreements with country-specific conditions in the future, thereby serving the interests of the EU. Furthermore, the current practice of concluding readmission agreements in parallel to the granting of visa facilitations should remain a crucial element of the process.
9. While EU visa policy serves as an important tool to promote the EU's external policy interests, its application should contribute to the security and integrity of the Schengen area. The Council stresses the importance of balancing foreign policy objectives with internal security aspects when making visa-related decisions.

Granting visa-free travel to the EU creates a benefit for respective third-country nationals and is at the same time a powerful Union instrument that needs to be used in a more strategic manner. In this regard, the Council stresses that when visa liberalisation dialogue with a third country is being considered, all policy implications – and first and foremost those relating to justice and home affairs – should be fully taken into account in each step of the process, including in the development of benchmarks, in a transparent manner to ensure that both foreign policy and internal security concerns are properly addressed.

In addition, the Council underlines the importance for third countries who have obtained visa exemption through the visa liberalisation process to continue to fulfil the established benchmarks in order to remain accountable. This expectation requires an effective monitoring mechanism on the part of the EU, which will be further supported by the data extracted from the various information systems, in particular EES, ETIAS, the Interoperability Framework and the revised VIS, once operational.

10. Furthermore, visa policy should be leveraged to build partnerships on migration and security that come in support of EU interests. The Council recognises the importance of visa policy tools in the framework of migration partnership dialogues to foster a broader and more balanced cooperation with key countries of origin or transit that also helps to better manage the migratory pressure.
11. The Council welcomes the diplomatic efforts and active engagement of the Commission and the EEAS in restoring visa reciprocity with visa-free third countries, in particular the United States. In this context, preserving the visa-free status of the Member States is essential. In addition, the Council underscores the importance of ensuring equal and fair treatment for all EU citizens when travelling to third countries. In this regard, the Commission, together with the EEAS and the EU delegations, are invited to explore the possibility of securing uniform, equal entry conditions for all EU citizens, regardless of their nationality. Such diplomatic efforts would reinforce the EU's commitment to the principle of non-discrimination and the right of its citizens to travel on the global stage, and promote mutual respect for the principles of equality and reciprocity in visa policies.

12. Enhancing visa policy as a key component of the EU's broader security and migration strategy will require deeper cooperation among Member States, better coordination with external partners and the use of advanced technology and data-sharing mechanisms. The Council emphasises that by adopting a holistic and forward-looking strategy, the EU can better adapt to changing migration dynamics while ensuring the continued functioning and security of the Schengen area.

Furthermore, the EU's visa policy should be further aligned with broader geopolitical and economic considerations, including fostering partnerships with third countries, intensifying efforts to combat irregular migration and supporting legal migration channels. These measures will strengthen the resilience of the Schengen area, ensuring that it remains a secure and open space for legitimate travel, while effectively controlling migration and maintaining public confidence in the EU's border and immigration systems.
