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Delegations will find attached document COM(2014) 164 final.

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EUROPEAN  
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Brussels, 1.4.2014  
COM(2014) 164 final

2014/0094 (COD)

Proposal for a

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

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

**(recast)**

{SWD(2014) 67 final}

{SWD(2014) 68 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### **Grounds for and objectives of the proposal**

This proposal recasts and amends Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

This proposal takes into account the increased political emphasis given to the economic impact of visa policy on the wider European Union economy, and in particular on tourism, to ensure greater consistency with the growth objectives of the Europe 2020 strategy, in line with the Commission's communication *Implementation and development of the common visa policy to spur growth in the European Union*.<sup>1</sup>

The proposal also builds on the conclusions drawn in the Report from the Commission to the European Parliament and the Council on the evaluation of the implementation of the Visa Code<sup>2</sup>. The report is accompanied by a Commission staff working paper<sup>3</sup> containing the detailed evaluation.

This proposal also contains two measures to facilitate family contacts: It introduces certain procedural facilitations for close relatives coming to visit Union citizens residing in the territory of the Member State of which the latter are nationals and for close relatives of Union citizens living in a third country and wishing to visit together with the Union citizen the Member State of which the latter is a national.

Furthermore, it clarifies that the same procedural facilitations should as a minimum be granted to family members of EU citizens who benefit from article 5(2), second subparagraph of Directive 2004/38/EC on the rights of Union citizens and their family members to move and reside freely within the territory of the Member States.

#### **General context**

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (Visa Code) became applicable on 5 April 2010. The provisions regarding notification and the requirements on providing the grounds of refusal, revocation and annulment of visas and the right to appeal against such decisions, became applicable on 5 April 2011.

Article 57(1) of the Visa Code requires the Commission to send the European Parliament and the Council an evaluation of its application two years after all the provisions of the Visa Code have become applicable (i.e. 5 April 2013). The evaluation and accompanying staff working document have been submitted. Article 57(2) provides that the evaluation may be accompanied by a proposal for an amendment of the Regulation.

In the light of the evaluation report's conclusions, the Commission decided to submit this proposal for amendments to the legislation together with the report.

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<sup>1</sup> COM(2012) 649 final.

<sup>2</sup> COM (2014) 165.

<sup>3</sup> SWD (2014) 101 .

The proposed amendments while maintaining security at the external borders and ensuring the good functioning of the Schengen area, make travel easier for legitimate travellers and simplify the legal framework in the interest of Member States, e.g. by allowing more flexible rules on consular cooperation. The common visa policy should contribute to generating growth and be coherent with other EU policies on external relations, trade, education, culture and tourism.

### **Existing provisions**

Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENT**

### **Consultation of interested parties**

The consultation of interested parties is covered in the impact assessment<sup>4</sup> accompanying this proposal.

### **Impact assessment (IA)**

Based on the evaluation report referred to in section 1, two principal problem areas were identified:

*(1) The overall length and costs (direct and indirect) and the cumbersome nature of the procedures;*

The complex nature of this problem area is explained in detail in the IA. As far as regulatory options are concerned, the issuing of multiple-entry visas (MEVs) with a long validity accompanied by certain procedural facilitations was considered the only win-win solution for both sides. It has the potential to lessen the administrative burden on consulates and, at the same time, it is considered a very important facilitation for certain groups of travellers. In practice it would be equivalent to a visa waiver for the period of validity of the MEV, resulting in significant savings and efficiency gains both for visa applicants (in terms of time and cost) and consulates (time). The policy options envisaged in response to this problem area are therefore fairly similar. Only the beneficiaries to be covered and the length of validity of the MEVs to be issued differ, as follows:

Minimum regulatory option: introduction of mandatory procedural facilitations and mandatory issuing of MEVs valid for at least one year and subsequently for three years for frequent travellers (defined as applicants who have previously lawfully used at least three visas (within the previous 12 months prior to the date of the application) that are registered in the Visa Information System (VIS)).

Intermediate option: introduction of mandatory procedural facilitations and mandatory issuing of MEVs valid for at least three years and subsequently for five years for regular travellers (defined as applicants who have previously lawfully used at least two visas that are registered in the VIS).

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<sup>4</sup> SWD (2014) 67 and SWD 68.

The maximum option identified would extend mandatory procedural facilitations and mandatory issuing of MEVs immediately for five years to the majority of applicants ('VIS registered applicants') by requiring only one lawfully used visa (within the previous twelve months prior to the date of the application) that is registered in the VIS.

The IA showed that these options would all further harmonise the current legal framework and would lead towards a genuinely common visa policy. The potential economic impacts on the Member States of these options occur because the travellers in possession of long(er) validity MEVs with are likely to make more trips to the Schengen area than they otherwise would. The IA estimates that some 500 000 additional trips to the Schengen area with the minimum policy option, some 2 million with the intermediate and some 3 million with the maximum policy option. The additional trips to the Schengen area obviously generate additional income: some EUR 300 million (some 7 600 supported full time equivalent /FTE/ jobs) in case of the minimum option; more than EUR 1 billion (ca. 30 000 supported FTE job) with the intermediate option and some EUR 2 billion (50 000 supported FTE jobs) with the maximum option. The IA also showed that the very high potential economic impact of the maximum option is associated with a higher security risk.

None of these options would involve considerable additional costs. In fact, one of the driving forces behind the policy options is to produce savings for both the Member States/consulates and visa applicants. These options progressively lead to cost savings on the applicants' side, mainly resulting from the increasing number of long-validity MEVs issued. From the applicants' point of view, the maximum option is obviously the most efficient, and the minimum option is the least efficient. The declining number of visa applications under the MEV-system, is expected to reduce Member States' visa revenues. However, the issuing of MEVs also reduces costs, as fewer visa applications need to be processed: the economic benefits considerably exceed the estimated costs in all options.

While it was clear that the maximum option had a very high potential economic impact, it is associated with a potentially higher security risk, too. To mitigate this risk, the approach proposed is to issue longer-validity MEVs gradually to 'VIS registered regular travellers' (first for three years, then on the basis of lawful use of that visa, for five years). The impacts of this approach fall between the intermediate and the maximum option identified in the IA, probably closer to the impacts of the maximum option as far as the economic impacts are concerned.

(2) *insufficient geographical coverage in visa processing.*

The minimum policy option assessed for this problem area was to repeal Article 41 of the Visa Code (co-location, Common Application Centres (CAC)) and to introduce a general notion/concept of 'Schengen Visa Centre' which would provide a more realistic, more flexible definition with regard to certain forms of consular cooperation. The intermediate option in addition to the 'Schengen Visa Centres' was introducing the concept of 'mandatory representation' according to which, if the Member State competent to process the visa application is neither present nor represented (under such an arrangement) in a given third country any other Member State present in that country would be obliged to process visa applications on their behalf. Finally, as a maximum option, in order to ensure adequate visa collecting/processing coverage, Commission implementing decisions could lay down what the Schengen visa collecting network in third countries should look like in terms of representation arrangements, cooperation with external service providers and pooling of resources by other means.

The IA noted that the maximum policy option could have the most positive impacts in terms of rationalising the visa collecting/processing presence and could offer important advantages for visa applicants and significant efficiency gains for consulates. However its feasibility appears low. Based on the impact assessment, the intermediate option was preferred. The IA points out that 'mandatory representation' would secure consular coverage in any third country where there is at least one consulate present to process visa applications. This could have a positive impact on some 100 000 applicants who would be able to lodge the application in their country of residence instead of travelling to a country where the competent Member State is present or represented.

The economic impacts of all the policy options were considered fairly modest. In fact due to the very nature of the problem, the policy options were not aimed at generating economic growth in the first place, but providing a better service for visa applicants and providing a good legal framework for Member States to rationalise their resources. The financial impacts of 'mandatory representation' were considered not to be significant because, in principle, if a high number of visa applications is addressed to a Member State in a given third country that state will, in principle, already have ensured consular presence by being present or represented. Moreover the visa fee, in principle, covers the average cost of processing.

The non-regulatory policy options were considered to have very little positive impact on addressing the problems or achieving the policy objectives, so they were not considered very effective.

The evaluation report suggests, and this proposal deals with a number of other (mostly quite technical) issues. The IA did not cover those issues because the changes envisaged were not considered to have substantial and/or measurable budgetary, social, or economic implications; most of the proposed changes are intended to clarify or adjust/complement certain provisions of the Visa Code without altering their substance.

### 3. LEGAL ELEMENTS OF THE PROPOSAL

#### Summary

The proposed amendments concern the following issues:

The provisions on individual Member States' introduction of airport transit visa requirement for nationals of specific third countries have been revised to ensure transparency and proportionality (Article 3).

To distinguish clearly between different categories of visa applicants while taking into account the full roll out of the VIS, definitions of 'VIS registered applicants' and 'VIS registered regular travellers' have been added (Article 2). This distinction is reflected in all steps of the procedure (Articles 5, 10, 12, 13, 18 and 21). An overview of the various procedural facilitations is set out below:

	Lodging in person	Collection of fingerprints	Supporting documents	Visa to be issued
First time applicant – not VIS registered	YES	YES	Full list corresponding to all entry conditions	Single entry corresponding to travel purpose.  However, a MEV may be issued, if the consulate

				considers the applicant reliable.
VIS registered applicant (but not a regular traveller)	NO	NO, unless the fingerprints have not been collected within the last 59 months	Full list corresponding to all entry conditions	Single entry or MEV
VIS registered regular traveller	NO	NO	Only proof of travel purpose  Presumption (because of 'visa history' of fulfilment of entry conditions regarding migratory and security risk and sufficient means of subsistence.	First application: three year MEV  Following applications: five-year MEV

The provisions regarding "competent Member State" (Article 5) have been simplified to make it easier for applicants to know where to lodge the application and to ensure that they can, in principle, always lodge the application in their country of residence. This implies that in case the competent Member State is neither present nor represented in a given location, the applicant is entitled to apply at one of the consulates present according to criteria set out in the article.

The provisions provide certain procedural facilitations for close relatives of Union citizens so as to contribute to improving their mobility, in particular by facilitating family visits (Articles 8, 13, 14 and 20).

First, the provisions provide for facilitations for family members intending to visit Union citizens residing in the territory of the Member State of which they are nationals and for family members of Union citizens living in a third country and wishing to visit together the Member State of which the EU citizens are nationals. Both categories of situations are outside the scope of Directive 2004/38/EC. The Visa Facilitation Agreements concluded and implemented by the EU with a number of third countries demonstrate the importance of facilitating such visits: the amended Visa Facilitation Agreements with Ukraine and Moldova, as well as the recent Visa Facilitation Agreements with Armenia and Azerbaijan, provide facilitations (e.g. visa fee waiver and the issuing of multiple entry visas (MEVs) with a long validity) for the citizens of the third country concerned visiting close relatives who have the nationality of the Member State of residence. This practice of the Union should be made general in the Visa Code.

Secondly, according to the provisions the same facilitations are granted as a minimum in situations covered by Directive 2004/38/EC. As provided in Article 5(2) of the Directive, Member States may, where the EU citizen exercises the right to move and reside freely in their territory, require the family member who is a non-EU national to have an entry visa. As confirmed by the Court of Justice<sup>5</sup>, such family members have not only the right to enter the territory of the Member State but also the right to obtain an entry visa for that purpose. According to Article 5(2), second subparagraph of the Directive, Member States must grant

<sup>5</sup> See, inter alia, judgment of the Court of 31 January 2006 in case C-503/03 Commission v Spain

such persons *every facility*<sup>6</sup> to obtain the necessary visas, which must be issued free of charge as soon as possible and on the basis of an accelerated procedure.

It should be noted that Article 5(2) cited above essentially contains the same provision as Article 3(2) of Directive 68/360/EEC<sup>7</sup> which was repealed by Directive 2004/38/EC. Article 3(2) of Directive 68/360/EEC was adopted at a time when the then Community had no competence to legislate on visas. Since the entry into force of the Amsterdam Treaty on 1 May 1999, the Community has had a competence to legislate on visas. This competence, currently enshrined in Article 77 of the TFEU, was used for the adoption of the Visa Code. It is desirable to render more precise the facilitations which Directive 2004/38/EC refers to, and the appropriate place to do so is the Visa Code, where detailed rules on conditions and procedures for the issuing of visas are established. While respecting the freedom of Member States to grant further facilitations, the facilitations proposed for certain close relatives of Union citizens who have not made use of their right to move and reside freely within the Union should apply, as a minimum, in situations which fall within the scope of Directive 2004/38/EC. Those facilitations are then a common implementation in the Visa Code and for the Member States bound by it, of the obligation contained in Article 5(2), second subparagraph of Directive 2004/38/EC.

The provisions on visa fee waivers have become mandatory rather than optional to ensure equal treatment of applicants (Article 14). Certain categories eligible to visa fee waivers have been enlarged, e.g. minors up to 18 years, or added (close relatives of Union citizens not exercising their right to free movement).

General procedural facilitations:

- The principle of all applicants having to lodge the application in person has been abolished (cf. Commission staff working paper, point 2.1.1.1 (paragraph (7)). Generally, applicants will only be required to appear in person at the consulate or the external service provider for the collection of fingerprints to be stored in the Visa Information System (Article 9).
- The maximum deadline for lodging an application has been increased to allow travellers to plan ahead and avoid peak seasons; likewise a minimum deadline for lodging an application has been set to allow Member States time to proper assessment of applications and organisation of work (Article 8).
- The general visa application form (Annex I) has been simplified and a reference has been made to the use of electronic filling in of the application form (Article 10).
- The list of supporting documents in Annex II is no longer a "non-exhaustive list" and a distinction has been made between unknown applicants and VIS registered regular travellers as regards the supporting documents to be submitted (Article 13). The

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<sup>6</sup> The notion of facilitation has been interpreted by the Court of Justice in relation to the entry and residence of family members falling under Article 3(2) of the Directive as imposing an obligation on the Member States *to confer a certain advantage*, compared with applications for entry and residence of other nationals of third States, on applications submitted by persons who have a relationship of particular dependence with a Union citizen"; judgment of 5 September 2012 in case C-83/11, Rahman.

<sup>7</sup> Council Directive of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (68/360/EEC), OJ L 257, 19.10.1968, p. 13.



provisions regarding the preparatory work on drawing up lists adapted to local circumstances in local Schengen cooperation have been reinforced in Article 13.

- The unknown visa applicant (i.e. someone who has not applied for a visa before) should prove that he fulfils the visa issuing conditions.
- In this context, attention is drawn to the recent 'Koushkaki judgement'<sup>8</sup> according to which Articles 23(4), 32(1) and 35(6) (Articles 20(4), 29(1) and 32(5) of the recast Visa Code) "must be interpreted as meaning that the competent authorities of a Member State cannot refuse, following the examination of an application for a uniform visa, to issue such a visa to an applicant unless one of the grounds for refusal of a visa listed in those provisions can be applied to that applicant. Those authorities have a wide discretion in the examination of that application so far as concerns the conditions for the application of those provisions and the assessment of the relevant facts, with a view to ascertaining whether one of those grounds for refusal can be applied to the applicant."
- The European Court of Justice also ruled that the provisions of Article 32(1) (now Article 29(1)) of the Visa Code, read in conjunction with Article 21(1) (now Article 18(1)), "must be interpreted as meaning that the obligation on the competent authorities of a Member State to issue a uniform visa is subject to the condition that there is no reasonable doubt that the applicant intends to leave the territory of the Member States before the expiry of the visa applied for, in the light of the general situation in the applicant's country of residence and his individual characteristics, determined in the light of information provided by the applicant."
- It should be presumed that 'VIS registered regular travellers' fulfil the entry conditions regarding the risk of irregular immigration and need to possess sufficient means of subsistence. However, this presumption should be reversible in individual cases.
- The proposal establishes that the authorities of the Member States can rebut the presumption of fulfilment of entry conditions in an individual case and it establishes on which basis this can occur (Article 18(9)).
- General reduction of the deadlines for taking a decision on a visa application (Article 20) in the light of the shortening of the response time in the prior consultation procedure (Article 19). Short deadlines are introduced for the examination of applications from family members of Union citizens exercising their right to free movement and from close relatives of Union citizens not exercising their right to free movement.
- A MEV may be issued with a validity going beyond the validity of the travel document (Article 11(a)).
- The provisions on travel medical insurance (TMI) should be deleted because the actual added value of the TMI measure has never been established (cf. Commission staff working paper, point 2.1.1.2 (14)).

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<sup>8</sup> Judgment of 19 December 2013 in case C-84/12 Koushkaki not yet published in the E.C.R.

- The standard form for notifying and motivating refusal, annulment or revocation of a visa has been revised to include a specific ground for refusal of an airport transit visa and to ensure that the person concerned is properly informed about appeal procedures.
- Provisions derogating from the general provisions on the exceptional issuing of visas at the external border have been introduced: Member States will in view of promoting short term tourism be allowed to issue visas at the external borders under a temporary scheme and upon notification and publication of the organisational modalities of the scheme (Article 33).
- Flexible rules allowing Member States to optimise use of resources, increase consular coverage and develop cooperation among Member States have been added (Article 38).
- Member States' use of external service provider is no longer to be the last resort solution.
- Member States are not obliged to maintain the possibility of "direct access" for lodging applications at the consulate in places where an external service provider has been mandated to collect visa applications (deletion of previous Article 17(5)). However, family members of Union citizens exercising their right to free movement and close relatives of Union citizens not exercising their right to free movement as well as applicants who can justify a case of emergency should be given an immediate appointment.
- Member States should annually report to the Commission on the cooperation with external service providers, including the monitoring of the service providers.
- Streamlining of the provisions regarding representation arrangements (Article 39) (cf. Commission staff working paper, points 2.1.1.5 (paragraph (20)) and 2.1.4 (paragraph 41)).
- As explained in the evaluation report (point 3.2) the lack of sufficiently detailed statistical data hinders the assessment of the implementation of certain provisions. Therefore, Annex VII is amended to provide for the collection of all relevant data in a sufficiently disaggregated form allow for proper assessment. All data concerned can be retrieved (by Member States) from the VIS, except for information on the number of visas issued free of charge, but given that that is linked to the general treasury of the Member State, such data should be easily accessible.
- Strengthening of the legal framework regarding information to the public (Article 45):
  - A common Schengen visa internet website is to be created by the Commission
  - A template for the information to be given to visa applicants is to be developed by the Commission

Technical amendments:

- Deletion of the reference to the specific travel purpose "transit" (Article 1(1) mainly) given that short stay visas are not purpose bound. The reference has only been maintained where it referred to as a specific travel purpose, e.g. in Annex II to the Visa Code, listing the supporting documents to be submitted according to purpose of travel
- Establishing harmonised rules on the handling of situations of loss of identity document and valid visa (Article 7).
- Precise deadlines for Member States' various notifications (15 days): on representation arrangements, introduction of prior consultation and ex-post information.
- In accordance with Article 290 of the TFEU, the power to amend non-essential elements of Regulation is delegated to the Commission in respect of the list of third countries whose nationals are required to hold an airport transit visa when passing through the international transit areas of airports situated on the territory of the Member States (Annex III) and the list of residence permits entitling the holder to transit through the airports of Member States without being required to hold an airport transit visa (Annex IV).
- In accordance with Article 291 of the TFEU, the Commission should be empowered to adopt implementing acts establishing the list of supporting documents to be used in each location to take account of local circumstances, details for filling in and affixing of the visa stickers and the rules for issuing visas to seafarers at the external borders. Therefore, the previous annexes VII, VIII and IX should be deleted.

### **Legal basis**

Article 77(2)(a) of the Treaty of the Functioning of the European Union.

This proposal recasts Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) which was based on the equivalent provisions of the Treaty establishing the European Community, i.e. Article 62(2)(a) and (b)(ii).

### **Subsidiarity principle**

Article 77(2)(a) of the TFEU empowers the Union to develop measures concerning 'the common policy on visas and other short stay residence permits'.

The current proposal is within the limits set by this provision. The objective of this proposal is to further develop and improve the measures of the Visa Code concerning the conditions and procedures for issuing visas for intended stays in the territory of Member States not exceeding 90 days in any 180 days period. It cannot be sufficiently achieved by the Member States acting alone, because an amendment to an existing Union Act (the Visa Code) can only be achieved by the Union.

### **Proportionality principle**

Article 5(4) of the TEU states that the content and form of Union action must not exceed what is necessary to achieve the objectives of the Treaties. The form chosen for this action must enable the proposal to achieve its objective and be implemented as effectively as possible.

The establishment of the Visa Code in 2009 took the form of a Regulation in order to ensure that it would be applied in the same way in all the Member States that apply the Schengen *acquis*. The proposed initiative constitutes an amendment to an existing regulation and must therefore take the form of a regulation. As to the content, this initiative is limited to improvements of the existing regulation and based on the policy objectives to which one new objective was added: economic growth. The proposal therefore complies with the proportionality principle.

### **Choice of instrument**

This proposal recasts Regulation No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). Therefore only a Regulation can be chosen as a legal instrument.

## **4. BUDGETARY IMPLICATIONS**

The proposed amendment has no implications for the EU budget.

## **5. ADDITIONAL ELEMENTS**

### **Consequences of the various protocols annexed to the Treaties and of the association agreements concluded with third countries**

The legal basis for this proposal is to be found in Title V of Part Three of the Treaty on the Functioning of the European Union, with the result that the system of 'variable geometry', provided for in the protocols on the position of the United Kingdom, Ireland and Denmark and the Schengen protocol applies. The proposal builds on the Schengen *acquis*. The consequences for the various protocols therefore have to be considered with regard to Denmark, Ireland and the United Kingdom; Iceland and Norway; and Switzerland and Liechtenstein. Likewise, the consequences for the various Acts of Accessions must be considered. The detailed situation of each of these states concerned is described in recitals 49-57 of this proposal. The system of 'variable geometry' of this proposal is identical to the one that applies to the original Visa Code, with the addition of a reference to the 2011 Act of Accession regarding Croatia.

### **Link with the simultaneous proposal for a Regulation establishing a touring visa<sup>9</sup>**

Possible amendments to this proposal during the legislative process will have an impact on the proposal for a Regulation establishing a touring visa, so particular attention should be paid to ensuring the necessary synergies between these two proposals during the negotiation process. If in the course of these negotiations an adoption within a similar timeframe appears within reach, the Commission intends to merge the two proposals into one single recast proposal. In case the legislators reach agreement on the present proposal before there is prospect of imminent agreement on the proposal for a Regulation establishing the touring visa, the provisions in this proposal relating to the envisaged touring visa (Articles 3(7), 12(3), 18(6)) should not be maintained for adoption but be inserted later by an amendment to the Visa Code when agreement on the touring visa proposal has eventually been reached.

### **Succinct overview of the proposed amendments**

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<sup>9</sup> COM(2014) 163 final.

## Article 1 – Amendments to the Visa Code

### *Article 1 – Subject matter and scope*

- Horizontal change: throughout the text the reference to "transit" as a travel purpose has been deleted.

### *Article 2 - Definitions*

- Paragraph 6 is added to refer to the definition of 'touring visa' in the relevant Regulation.
- Paragraph 7 is added to provide a definition of 'close relatives' (of citizens of the Union).
- Paragraph 8 is added to provide a definition of 'VIS registered applicant' to ensure that full benefit is drawn of the Visa Information System.
- Paragraph 9 is added to provide a definition of 'VIS registered regular traveller' to ensure that full benefit is drawn of the Visa Information System and account is taken of the applicant's 'visa history'.
- Paragraph 12 is added to provide a definition of 'valid' in the sense of not expired as opposed to false, counterfeit or forged.
- Paragraph 16: a definition of 'seafarer' is added to ensure that all staff working on ships benefit from the various procedural facilitations.

### *Article 3 – Third country nationals required to hold an airport transit visa*

- Paragraph 4: the provisions on the introduction by individual Member States of an airport transit visa requirement for nationals of specific third countries have been revised to be covered by the appropriate institutional legal framework.

### *Article 5 – Member State competent for examining and deciding on an application*

- Paragraph 1 (b) is amended to maintain only one objective criterion, i.e. length of stay, for determining the Member State competent for examining an application when the envisaged trip covers more than one destination. Additionally, provisions have been added to cover situations where the traveller is to carry out several trips to different Member States within a short timeframe, i.e. two months.
- Paragraph 2 is amended to overcome situations where the "competent" Member State is neither present nor represented in the third country where the applicant legally resides. The provisions cover all possible situations and offer solutions expressing the spirit of cooperation and confidence on which the Schengen cooperation is based.

*Article 7 - Competence to issue visas to third-country nationals legally present within the territory of a Member State*

- Paragraph 1 is amended as a consequence of the amendment of Article 5.
- Paragraphs 2 and 3 are inserted to create a harmonised legal framework for situations where a third country national loses his/her travel document, or this document is stolen, while staying in the territory of the Member States.

*Article 8 – Practical modalities for lodging an application*

- Paragraph 1 establishes general maximum and minimum deadlines for lodging an application.
- Paragraph 3 is added to provide facilitation in certain situations involving relatives of Union citizens where an immediate appointment should be given.
- Paragraph 4 is amended to become mandatory ('shall') rather than optional ('may'), meaning that urgency cases shall always be treated immediately.
- Paragraph 5 is amended to clarify the rules on who may lodge the application on behalf of the applicant and a reference has been made to professional, cultural, sports or education association or institution as distinct from commercial intermediaries.
- Paragraph 6 has been moved from the previous Article 40(4) and amended to cover only the provision on applicants having only to appear in person at one location to lodge an application.

*Article 9 - General rules for lodging an application*

- Paragraph 1 has been replaced by a new text to take account of the abolition of the general principle of all applicants having to lodge the application in person (cf. Commission staff working paper, point 2.1.1.1 (paragraph (7))).
- Paragraph 2 is amended as a consequence of the amendment of paragraph 1.

*Article 10 – Application form*

- Paragraph 1 is amended to add a reference to the possibility of filling in the application form electronically.
- Paragraph 2 is inserted to ensure that the electronic version of the application form corresponds precisely to the application form set out in Annex I
- Paragraph 4 has been simplified to ensure that the application form is always, as a minimum, available in the official language of the Member State, for which the visa is requested, and the host state.

### *Article 11 – Travel document*

- Point (a) is amended with a cross reference to the new provision in Article 21 (2), see below.
- Point (b) is amended to ensure that one blank double page be available in the applicant's travel document so that the visa sticker and subsequent entry-exit stamps are placed next to each other. This will facilitate border checks; cf. Commission staff working paper, point 2.1.1.2 (paragraph (11)).

### *Article 12 – Biometric identifiers*

- Paragraphs 2 and 4 are amended as a consequence of the amendment of Article 9 (1).
- Paragraph 3 is amended to take account of the proposal on the 'touring visa'.

### *Article 13 – Supporting documents*

- Paragraph 2 is inserted to take account of the procedural facilitations to be granted to VIS registered regular travellers, meaning that this category of applicants only have to present proof of travel purpose.
- Paragraph 3 is inserted to grant or clarify facilitations for relatives of Union citizens in certain situations.
- Paragraph 4 is amended to establish that the harmonised list of supporting documents in Annex II is exhaustive.
- Paragraph 6 is inserted to ensure that applicants can submit facsimile or copies of original supporting documents. Applicants should subsequently submit the original documents, except for specific cases where the original document can only be requested in the case of doubt about the authenticity of the documents.
- In paragraph 7(a), a reference to 'private' accommodation has been added.
- Paragraph 10 has been added to take account of the provisions on implementing measures.

### *Article 14 – Visa fee*

- Point (a) of paragraph 3 enlarges the visa fee waiver to cover minors up to the age of 18 years (previously the age of six), thus doing away with the visa fee reduction for 6-12 year olds and the optional fee waiver for the same age group.
- Point (c) of paragraph 3 is amended to make a clear reference to the category of persons to be covered.
- Point (d) of paragraph 3 renders the fee waiver for holders of diplomatic and service passports mandatory

- Point (e) of paragraph 3 renders the fee waiver for participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations mandatory, thus doing away with optional fee waiver for this group and the mandatory fee waiver for representatives aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.
- Points (f) and (g) are inserted to grant or clarify visa fee waivers in certain situations involving relatives of Union citizens.

See also Commission staff working document, point 2.1.1.3 (paragraph (15)).

#### *Article 15 – Service fee*

- In paragraph 1, the reference to an "additional" service fee has been deleted
- Paragraph 3 is amended as a consequence of the amendment of Article 14.

#### *Article 18 – Verification of entry conditions and risk assessment*

- Paragraph 2 is inserted to take account of the insertion of Article 2(9) and the insertion of Article 13(1)(e).
- Paragraph 3 is inserted to clarify that the competent authorities of the Member State are responsible for justifying the reversion of the presumption of fulfilment of entry conditions in individual cases and on which grounds such a reversion can be based.
- Paragraph 6 is amended to take account of the proposal on a touring visa and the reference to "issued by another Member State" is deleted which was misleading.
- Paragraph 10 is amended and to allow for Member States to use modern means of communication to carry out an interview with the applicant, rather than requiring him to come to the consulate in person.

#### *Article 19 – Prior consultation*

- Paragraph 2 is amended to provide that Member States reply to the consultation requests within five calendar days rather than seven.
- Paragraph 3 provides that Member States notify requests for prior consultation at the latest 15 calendar days before the introduction of the measure to allow for timely information of applicants and for other Member States to prepare at technical level.
- Paragraph 5 is deleted because it has become obsolete



### *Article 20 – Decision on the application*

- Paragraph 1 provides that the decision making time be reduced to maximum 10 calendar days. This is both a consequence of the amendment of Article 19 (2) and of the findings in the evaluation of the implementation of the Visa Code, cf. Commission staff working document, point 2.1.1.6 (paragraph (22)).
- Paragraph 2 is amended to shorten the maximum period for the decision making time to 20 days and the last sentence is deleted as a consequence of the abolition of the provision allowing a represented Member State to require to be consulted on cases handled in representation.
- Paragraph 3 is inserted to grant and clarify the facilitations to be given in certain situations to close relatives of Union citizens.
- The previous paragraph 3 is deleted because an examination of an application for a short stay visa should not be allowed to take 60 calendar days.
- Paragraph 4, point (d) is deleted as a consequence of the abolition of the provision allowing a represented Member State to be consulted; this abolishes the requirement that certain cases be transmitted for handling by that represented Member State rather than the representing Member State.

### *Article 21 – Issuing of a uniform visa*

- Paragraph 2 replaces the previous Article 24 (1) 4<sup>th</sup> and 5<sup>th</sup> subparagraphs.
- Paragraph 2, first paragraph, is amended to remove the reference to "two-entry" visas which seems superfluous and reference is made to the possibility of issuing a multiple entry visa going beyond the validity of the travel document.
- Paragraphs 3 and 4 are added to take account of the amendment of Article 2(10) and to introduce objectively defined criteria for granting specific facilitations.
- Paragraph 5 is amended to cover other cases of visa applicants eligible for the issuing of a multiple entry visa.

### *Article 24 – Filling in of the visa sticker*

- Paragraph 2 is inserted to take account of Article 51(2).
- Paragraph 3 is amended to strengthen the provisions on the national comments on the visa sticker, cf. Commission staff working document, point 2.1.1.6 (paragraph (27)).
- Paragraph 5 is amended to ensure that only single entry visas may be issued manually.

*Article 25 – Invalidation of a completed visa sticker*

- Paragraph 2 is amended to take into account the need to create a proper legal basis for a best practice recommended in the Visa Code Handbook.

*Article 26 – Affixing a visa sticker*

- Paragraph 2 is inserted to take account of the provisions in Article 51(2).

*Article 28 – Informing central authorities of other Member States*

- Paragraph 2 is amended to ensure timely information of other Member States, cf. comments made regarding Article 19.

*Article 29 – Refusal of a visa*

- Point 1 (a) (vii) is deleted as a consequence of the abolition of the requirements on travel medical insurance.
- Paragraph 3 is replaced to add a reference to the need for Member States to provide detailed information on appeal procedures.
- Paragraph 4 is deleted as a consequence of deleting of the provision requiring that certain cases be transmitted for handling by that represented Member State rather than the representing Member State.

*Article 31 – Annulment and revocation*

- Paragraph 4 is amended to take account of the amendment of Article 13.

*Article 32 – Visas exceptionally applied for at the external border*

- The title is amended as a consequence of the insertion of Article 33.
- Paragraph 2 is deleted as a consequence of the abolition of the requirements on travel medical insurance.

*Article 33 – Visas applied for at the external border under a temporary scheme*

- These provisions have been inserted to allow Member States to promote short term tourism, they should be authorised to issue visas at the external border not only on a case-by-case basis depending on the third-country nationals' individual situation, but also on the basis of a temporary scheme. The Article sets out rules on notification and publication of the organisational modalities of a temporary scheme and establishes that the validity the visa issued should be limited to the territory of the issuing Member State.

- Paragraph 6 specifies the requirements on reporting by the Member State concerned.

#### *Article 34 – Visas issued to seafarers at the external borders*

- Paragraph 3 is inserted to take account of the provisions in Article 51(2).

#### *Article 38 – Consular organisation and cooperation*

- In paragraph 1 the second sentence has become obsolete.
- Point (b) of paragraph 2 is reworded as a consequence of the repeal of the previous Article 41 and of the abolition of the ranking of outsourcing as 'last resort'.
- Paragraph 4 is replaced by the insertion of Article 8 (6).

#### *Article 39 – Representation arrangements*

- Paragraph 1 corresponds to the previous Article 8(1).
- Paragraph 2 describes the collection and transmission of files and data among Member States in situations where a Member State represents another solely for the collection of applications and biometric identifiers.
- Paragraph 3 is amended to take account of the deletion of the possibility of a represented Member State to require being involved in cases handled under representation.
- Paragraphs 4 and 5 correspond to the previous Article 8(5) and (6), respectively.
- Paragraph 6 sets a minimum deadline for the represented Member States to notify to the Commission the conclusion or termination of representation arrangements.
- Paragraph 7 provides that the representing Member States shall at the same time notify to other Member States and the European Union Delegation in the jurisdiction concerned the conclusion or termination of representation arrangements.
- Paragraph 8 corresponds to the previous Article 8(9).

#### *Article 40 – Recourse to honorary consuls*

- In paragraph 1 "also" is deleted.

#### *Article 41 – Cooperation with external service providers*

- The previous paragraph 3 is deleted because such harmonisation is not possible in reality as Member States generally draw up global contracts with external service providers.

- Point (e) of paragraph 5 is amended as a consequence of the amendment of Article 9.
- Paragraph 12 is amended to require Member States to report annually on their cooperation and monitoring of external service providers, as provided for in Annex IX.

*Article 42 – Encryption and secure transfer of data*

- Paragraphs 1, 2 and 4 are amended to take account of the repeal of the previous Article 8.

*Article 43 - Member States' cooperation with commercial intermediaries*

- Paragraph 1 is amended as a consequence of the deletion of the previous Article 2(11), i.e. the definition of commercial intermediary.
- Paragraph 5, second sub-paragraph, is amended to ensure information to the public about the accredited commercial intermediaries.

*Article 45 – Information to be provided to the public*

- Point (c) of paragraph 1 is amended to take account of the repeal of the previous Article 41.
- The previous point (e) of paragraph 1 is deleted to take account of the repeal of the previous Article 20.
- Paragraph 3 is inserted to provide that the Commission establishes a harmonised template for the information to be provided under Article 45(1).
- Paragraph 4 is inserted to provide that the Commission establishes a Schengen internet website containing all relevant information relating to the application for a visa.

*Article 46 – Local Schengen cooperation*

- In paragraph 1, first sentence, and point (a) are amended to provide that within local Schengen cooperation (LSC), harmonised lists of supporting documents are prepared.
- In paragraph 1, point (b) and the last subparagraph are amended as a consequence of the amended Article 14.
- Paragraph 2 is amended as a consequence of the insertion of Article 45(3).
- Point (a) of paragraph 3 is amended to provide for quarterly compilations of statistics on visas at local level and a reference to the touring visa has been added.
- Point (b) of paragraph 3 is amended as a consequence of the reformulation of the first sentence.

- Paragraph 7 is amended to provide that on the basis of the annual reports drawn up in the various LSC, the Commission draws up one annual report to be transmitted to the European Parliament and the Council.

#### *Articles 48 –49 Exercise of delegation*

- These Articles are inserted to take account of the provisions of Article 290 of TFEU on delegated acts.

#### *Article 50 – Instructions on the practical application of the Visa Code*

- The Article is amended to take account of the provisions set out in Article 51(2).

#### *Article 51 – Committee procedure*

- This Article is amended to take account of the provisions governing the exercise of the Commission's implementing powers in accordance with Regulation (EU) No 182/2011.

#### *Article 52 – Notification*

- Point (g) of paragraph 1 is amended as a consequence of the amendment of Article 38.
- Paragraph 2 is amended as a consequence of the insertion of Article 45(4).

#### *Article 54 – Monitoring and evaluation*

- These are the standard provisions regarding monitoring and evaluation of legal instruments.

#### *Article 55 – Entry into force*

- This is the standard clause on entry into force and direct applicability. The application of the Regulation is deferred for six months following entry into force except for Article 51(2), which shall apply three months following the entry into force to allow for the adoption of implementing acts regarding as provided for in Articles 24, 26, 32 and 50.

#### Annexes

- Annex I is replaced
- Annex V:
  - the previous point 7, regarding travel medical insurance is deleted;
  - a new point 10 is added to cover cases where an application for an ATV is refused.

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↓ 810/2009 (adapted)

2014/0094 (COD)

Proposal for a

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

~~establishing a Community~~ ☒ on the Union ☒ Code on Visas (Visa Code)

(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION ,

Having regard to the Treaty ~~establishing the European Community~~ ☒ on the Functioning of the European Union (TFEU) ☒ , and in particular Article ~~62~~ ☒ 77 ☒ (2)(a) ~~and (b)(ii)~~ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>10</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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↓ new

(1) Regulation (EC) No 810/2009 of the European Parliament and of the Council<sup>11</sup> has been substantially amended several times. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

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↓ 810/2009 recital 1 (adapted)

~~In accordance with Article 61 of the Treaty, the creation of an area in which persons may move freely should be accompanied by measures with respect to external border controls, asylum and immigration.~~

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↓ 810/2009 recital 2 (adapted)

~~Pursuant to Article 62(2) of the Treaty, measures on the crossing of the external borders of the Member States shall establish rules on visas for intended stays of no more than three months, including the procedures and conditions for issuing visas by Member States.~~

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<sup>10</sup> OJ [...].

<sup>11</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa (OJ L 243, 15.9.2009, p. 1).

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↓ new

- (2) Union policy in the field of visas allowing for stays of up to 90 days in any 180 days is a fundamental component of the creation of a common area without internal borders. The common rules on the conditions and procedures for issuing visas should be governed by the principle of solidarity and mutual confidence between Member States.
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↓ 810/2009 recital 3 (adapted)

- (3) ~~As regards visa policy, the establishment of a ‘common corpus’ of legislation, particularly via the consolidation and development of the *acquis* (the relevant provisions of the Convention implementing the Schengen Agreement of 14 June 1985<sup>12</sup> and the Common Consular Instructions<sup>13</sup>, is one of the fundamental components of~~ Regulation (EC) No 810/2009 aims, inter alia, to ~~‘further development of the common visa policy as part of a multi-layer system aimed at facilitating~~ in order to facilitate ~~legitimate travel and tackling illegal~~ tackle irregular ~~immigration through further harmonisation of national legislation and handling practices at local consular missions’, as defined in the Hague Programme: strengthening freedom, security and justice in the European Union<sup>14</sup>.~~
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↓ 810/2009 recital 8 (adapted)

- (4) ~~Provided that~~ It should also ensure that under ~~certain conditions are fulfilled,~~ multiple-entry visas ~~should be~~ are issued in order to lessen the administrative burden of Member States’ consulates and to facilitate smooth travel 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.
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↓ new

- (5) Regulation (EC) No 810/2009 clarified and simplified the legal framework and greatly modernised and standardised visa procedures. However, specific provisions that were intended to facilitate procedures in individual cases on the basis of subjective criteria are not sufficiently applied.
- (6) A smart visa policy should entail continued security at the external borders whilst ensuring the effective functioning of the Schengen area and facilitating travel opportunities for legitimate travel. The common visa policy should contribute to generating growth and be coherent with other Union policies, such as external relations, trade, education, culture and tourism.
- (7) To ease mobility and to facilitate family visits for third-country nationals who are visiting close relatives who are Union citizens residing in the territory of the Member State of which they are nationals and for close relatives of Union citizens residing in a third country and wishing to visit together the Member State of which the Union

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<sup>12</sup> OJ L 239, 22.9.2000, p. 19.

<sup>13</sup> OJ C 326, 22.12.2005, p. 1.

<sup>14</sup> OJ C 53, 3.3.2005, p. 1.

citizen has the nationality, certain procedural facilitations should be provided by this Regulation.

- (8) The same facilitations should as a minimum be granted to family members in situations covered by Directive 2004/38/<sup>15</sup> in accordance with Article 5(2) of that Directive.
- (9) A distinction should be made between new first time applicants and persons who have been previously granted visas and who are registered in the Visa Information System (VIS), in order to simplify the procedure for registered travellers while addressing the risk of irregular immigration and the security concern posed by some travellers. This distinction should be reflected in all steps of the procedure.
- (10) It should be presumed that applicants who are registered in VIS and have obtained and lawfully used two visas within the 12 months prior to the application fulfil the entry conditions regarding the risk of irregular immigration and the need to possess sufficient means of subsistence. However, this presumption should be rebuttable where the competent authorities establish that one or more of these conditions are not fulfilled in individual cases.
- (11) The assessment of whether an issued visa has been used lawfully should be based on elements, such as respect of the period of authorised stay, of the territorial validity of the visa, and of the rules on access to the labour market and the exercise of an economic activity.

↓ 810/2009 recital 5 (adapted)  
⇒ new

- (12) It is necessary to set out rules on the transit through international areas of airports in order to combat ~~illegal~~ ⊗ irregular ⊗ immigration. ⊗ To this end ⊗ ~~This~~ ~~nationals from~~ a common list of third countries ⇒ the nationals of which ⊗ should be required to hold airport transit visas ⇒ should be established ⊗. Nevertheless, ~~in~~ ~~urgent cases of mass~~ ⇒ when a Member State experiences a sudden and substantial ⊗ influx of ~~illegal~~ ⊗ irregular ⊗ immigrants, Member States ⊗ it ⊗ should be ~~allowed to impose such a~~ ⊗ be able to introduce temporarily the airport transit visa ⊗ requirement ~~on~~ ⊗ for ⊗ nationals of ⊗ a given ⊗ ~~countries~~ ⊗ country ⊗ ~~other than those listed in the common list. Member States' individual decisions should be reviewed on an annual basis.~~ ⇒ The conditions and procedures for doing so should be laid down, in order to ensure that the application of this measure is limited in time and that in accordance with the principle of proportionality, it does not go beyond what is necessary in order to achieve the objective. The scope of the airport transit visa requirement should be limited to responding to the specific situation that prompted the introduction of the measure. ⊗

<sup>15</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, page 77).



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↓ new

- (13) The airport transit visa requirement should be waived for holders of visas and residence permits issued by certain countries.
- (14) It should be clear which is the Member State competent for examining an application for a visa, in particular where the intended visit covers several Member States.
- (15) Visa applicants should be able to lodge an application in their country of residence even where the Member State competent under the general rules is neither present nor represented in that country.
- (16) Harmonised treatment of visa holders whose travel document is lost or stolen during a stay in the territory of the Member States should be ensured.
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↓ 810/2009 recital 9

- (17) Because of the registration of biometric identifiers in the Visa Information System (VIS) as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ~~of 9 July 2008 concerning Visa Information System (VIS) and the exchange of data between Member States on short stay visas (VIS Regulation)~~<sup>16</sup>, the appearance of the applicant in person — at least for the first application — should be one of the basic requirements for the application for a visa.
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↓ 810/2009 recital 10

- (18) In order to facilitate the visa application procedure of any subsequent application, it should be possible to copy fingerprints from the first entry into the VIS within a period of 59 months. Once this period of time has elapsed, the fingerprints should be collected again.
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↓ 810/2009 recital 11 (adapted)

- (19) Any document, data or biometric identifier received by a Member State in the course of the visa application process ~~shall~~ ☒ should ☒ be considered a consular document under the Vienna Convention on Consular Relations of 24 April 1963 and ~~shall~~ ☒ should ☒ be treated ~~in an appropriate manner~~ ☒ accordingly ☒.
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↓ 810/2009 recital 12

- (20) Directive 95/46/EC of the European Parliament and of the Council ~~of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on~~

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<sup>16</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

~~the free movement of such data~~<sup>17</sup> applies to the Member States with regard to the processing of personal data pursuant to this Regulation.

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↓ new

- (21) Deadlines for the different steps of the procedure should be established, in particular to allow travellers to plan ahead and avoid peak seasons in consulates.
- (22) Member States' consulates should charge the same visa fee for processing visa applications. The categories of persons for which visa fee waivers are granted should be uniform and clearly defined. Member States should be allowed to waive the visa fee in individual cases.
- (23) Applicants should not be required to present travel medical insurance when lodging an application for a short stay visa because it is an disproportionate burden for visa applicants and there is no evidence that holders of short stay visas present a bigger risk in terms of public medical expenditure in Member States than the visa exempted third country nationals.
- (24) Professional, cultural and sports associations, as well as accredited commercial intermediaries should be allowed to lodge applications on behalf of visa applicants.
- (25) Provisions regarding *inter alia* the 'period of grace', the filling in of the visa sticker and the invalidation of completed visa stickers should be clarified.
- (26) Multiple entry visas with a long validity should be issued according to objectively determined criteria. The validity of a multiple entry visa could go beyond the validity of the travel document in which it is affixed.
- (27) The application form should take account of the roll out of the VIS. Member States should to the extent possible allow for visa application forms to be completed and submitted electronically and should accept facsimile or copies of supporting documents. Original documents should only be required in specific cases.
- (28) The standard form for notifying grounds for the refusal, annulment or revocation of a visa should include a specific ground for refusal of an airport transit visa and ensure that the person concerned is properly informed about appeal procedures.
- (29) The rules regarding the exchange of information between the competent authorities of the Member States in view of issuing visas to seafarers at the external borders and the form to be filled in to this effect should be as simple and clear as possible.
- (30) The issuing of visas at the external border should, in principle, remain exceptional. However, to allow Member States to promote short term tourism, they should be authorised to issue visas at the external border based on a temporary scheme and upon notification and publication of the organisational modalities of the scheme. Such schemes should be temporary in nature and the validity of the visa issued should be limited to the territory of the issuing Member State.

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<sup>17</sup> [Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data](#) (OJ L 281, 23.11.1995, p. 31).

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↓ 810/2009 recital 6 (adapted)  
⇒ new

- (31) ~~The reception a~~Arrangements for ☒ the reception of ☒ applicants should be made with due respect for human dignity. Processing of visa applications should be conducted in a professional and respectful manner and ~~be proportionate~~ ⇒ should not go beyond what is necessary in order ⇐ to ☒ achieve ☒ the objectives pursued.
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↓ 810/2009 recital 7 (adapted)  
⇒ new

- (32) Member States should ensure that the quality of the service offered to the public is of a high standard and follows good administrative practices. They should allocate appropriate numbers of trained staff as well as sufficient resources in order to facilitate as much as possible the visa application process. Member States should ensure that a ~~‘one-stop’ principle is applied to all~~ ☒ visa ☒ applicants ☒ should only appear in one location for the purpose of lodging the application ☒. ⇒ This should be without prejudice to the possibility of carrying out a personal interview with the applicant. ⇐
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↓ 810/2009 recital 13 (adapted)  
⇒ new

- (33) ~~In order to facilitate the procedure,~~ ☒ Regulation (EC) No 810/2009 provides for ☒ several forms of cooperation ~~should be envisaged, such as limited representation, co-location, common application centres, recourse to honorary consuls and cooperation with external service providers, taking into account in particular data protection requirements set out in Directive 95/46/EC~~ ☒ among Member States aimed at, on the one hand, allowing Member States to pool resources and on the other, at enhancing the consular coverage for the benefit of applicants ☒. ~~Member States should, in accordance with the conditions laid down in this Regulation, determine the type of organisational structure which they will use in each third country.~~ ⇒ Flexible rules should be established to allow Member States to optimise the sharing of resources and to increase consular coverage. Cooperation among Member States ("Schengen Visa Centres"), could take any form adapted to local circumstances aiming at increasing geographical consular coverage, reducing Member States' costs, increasing the visibility of the European Union and improving the service offered to visa applicants. ⇐
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↓ 810/2009 recital 4 (adapted)  
⇒ new

- (34) Member States should be present or represented for visa purposes in all third countries whose nationals are subject to visa requirements. ⇒ Member States should aim at enlarging the consular coverage. ⇐ Member States lacking their own consulate in a given third country or in a certain part of a given third country should ☒ therefore ☒ endeavour to conclude representation arrangements in order to avoid a disproportionate effort on the part of visa applicants to have access to consulates.

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↓ new

- (35) Representation arrangements should be streamlined and obstacles for the conclusion of such arrangements among Member States should be avoided and the representing Member State should be responsible for carrying out the entire processing of visa applications without involvement of the represented Member State.
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↓ 810/2009 recital 14  
⇒ new

- (36) It is necessary to make provision for situations in which a Member State decides to cooperate with an external service provider for the collection of applications. ~~Such a decision may be taken if, in particular circumstances or for reasons relating to the local situation, cooperation with other Member States in the form of representation, limited representation, co-location or a Common Application Centre proves not to be appropriate for the Member State concerned.~~ Such arrangements should be established in compliance with the general principles for issuing visas and with the data protection requirements set out in Directive 95/46/EC. ~~In addition, the need to avoid visa shopping should be taken into consideration when establishing and implementing such arrangements.~~
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↓ 810/2009 recital 15

~~Where a Member State has decided to cooperate with an external service provider, it should maintain the possibility for all applicants to lodge applications directly at its diplomatic missions or consular posts.~~

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↓ 810/2009 recital 16 (adapted)  
⇒ new

- (37) A Member State should cooperate with an external service provider on the basis of a legal instrument which should contain provisions on ~~its~~  the  exact responsibilities  of the latter  , on  the Member State's  direct and total access to ~~its~~  the  premises  of the external service provider  , information for applicants, confidentiality and on the circumstances, conditions and procedures for suspending or terminating the cooperation. ⇒ Member States should report to the Commission annually on the cooperation with external service providers, including the monitoring of the service providers. ⇐
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↓ 810/2009 recital 17

~~This Regulation, by allowing Member States to cooperate with external service providers for the collection of applications while establishing the ‘one stop’ principle for the lodging of applications, creates a derogation from the general rule that an applicant must appear in person at a diplomatic mission or consular post. This is without prejudice to the possibility of calling the applicant for a personal interview.~~

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↓ 810/2009 recital 19  
⇒ new

- (38) Statistical data are an important means of monitoring migratory movements and can serve as an efficient management tool. Therefore, such data should be compiled regularly in a common format. ⇒ Detailed data on visas should be collected in view of compiling comparative statistics to allow for evidence-based evaluation of the implementation of this Regulation. ⇐
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↓ 810/2009 recital 23 (adapted)  
⇒ new

- (39) ☒ The general public should be given all relevant information in relation to the application for a visa and the visibility and uniform image of the common visa policy should be improved. To this end ☒ ~~At a~~ a common Schengen visa Internet site ~~is to~~ ☒ should ☒ be established ~~to improve the visibility and a uniform image of the common visa policy~~ ⇒ and a common template for Member States' information to the public should be drawn up ⇐. ~~Such a site will serve as a means to provide the general public with all relevant information in relation to the application for a visa.~~
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↓ 810/2009 recital 18 (adapted)

- (40) Local Schengen cooperation is crucial for the harmonised application of the common visa policy and for proper assessment of migratory and/or security risks. Given the differences in local circumstances, the operational application of ~~particular~~ ☒ specific ☒ legislative provisions should be assessed among Member States' diplomatic missions and consular posts in individual locations in order to ensure a harmonised application of the legislative provisions to prevent visa shopping and different treatment of visa applicants.
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⇓ new

- (41) If there is no harmonised list of supporting documents in a given location, Member States are free to define the exact supporting documents to be submitted by visa applicants in order to prove the fulfilment of the entry conditions required by this Regulation. Where such a harmonised list of supporting documents exists, in order to provide facilitations for visa applicants, Member States should be allowed to provide certain exemptions from that list when major international events are organised in their territory. These events should be large scale and of particular importance due to their tourism and/or cultural impact, such as international or universal exhibitions and sports championships.
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↓ 810/2009 recital 27 (adapted)

- (42) When a Member State hosts the Olympic Games and the Paralympic Games, a ~~particular~~ ☒ specific ☒ scheme facilitating the issuing of visas to members of the Olympic family should apply.

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↓ 810/2009 recital 20

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>18</sup>.~~

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↓ 810/2009 recital 21

~~In particular, the Commission should be empowered to adopt amendments to the Annexes to this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

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↓ 810/2009 recital 22

~~In order to ensure the harmonised application of this Regulation at operational level, instructions should be drawn up on the practice and procedures to be followed by Member States when processing visa applications.~~

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↓ new

(43) In order to adapt to changing circumstances the common list of third countries whose nationals are required to be in possession of an airport transit visa when passing through the international transit area of airports situated on the territory of the Member States and the list of residence permits entitling their holder to transit through the airports of Member States without being required to hold an airport transit visa, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

(44) In order to ensure uniform conditions for the implementation of this Regulation, as regards the establishment of operational instructions on the practices and procedures to be followed by Member States when processing visa applications, lists of supporting documents to be applied in each jurisdiction, mandatory entries on the visa sticker, rules on affixing the visa sticker, and rules for issuing visas at the border to seafarers, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>19</sup>. The examination procedure should be used for the adoption of such implementing acts.

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<sup>18</sup> OJ L 184, 17.7.1999, p. 23.

<sup>19</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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↓ 810/2009 recital 26 (adapted)

- (45) Bilateral agreements concluded between the ~~Community~~ ☒ Union ☒ and third countries aiming at facilitating the processing of applications for visas may derogate from the provisions of this Regulation.
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↓ 810/2009 recital 30

- (46) The conditions governing entry into the territory of the Member States or the issue of visas do not affect the rules currently governing recognition of the validity of travel documents.
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↓ 810/2009 recital 28 (adapted)

⇒ new

- (47) Since the objective of this Regulation, namely the establishment of ~~the procedures and~~ ⇒ common ☒ conditions ☒ and procedures ☒ for issuing visas for ~~transit through~~ or intended stays in the territory of the Member States not exceeding ~~three months~~ ☒ 90 days ☒ in any ~~six-month~~ ☒ 180 days ☒ period, ~~cannot be sufficiently achieved by the Member States and can therefore~~ ⇒ only ☒ be better achieved at ~~Community~~ ☒ Union ☒ level, the ~~Community~~ ☒ Union ☒ may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty ☒ on the European Union (TEU) ☒. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve ~~that objective~~ ☒ this objective ☒.
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↓ 810/2009 recital 29 (adapted)

⇒ new

- (48) This Regulation respects fundamental rights and observes the principles recognised in particular ~~by the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms and~~ by the Charter of Fundamental Rights of the European Union. ⇒ In particular this Regulation seeks to ensure full respect for private and family life referred to in Article 7, protection of personal data referred to in Article 8 and the rights of the child referred to in Article 24 of the Charter of Fundamental Rights of the European Union ☒.
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↓ 810/2009 recital 31 (adapted)

⇒ new

- (49) In accordance with Articles 1 and 2 of ~~the Protocol~~ ☒ No 22 ☒ on the Position of Denmark annexed to the ~~Treaty on European Union~~ ☒ TEU ☒ and to the Treaty ~~establishing the European Community~~ ☒ on the Functioning of the European Union (TFEU) ☒, Denmark ~~does~~ ☒ is ☒ not ~~take~~ ☒ taking ☒ part in the adoption of this Regulation and is not bound by it, or subject to its application. Given that this Regulation builds ~~on~~ ☒ upon ☒ the Schengen *acquis* ~~under the provisions of Title IV of Part Three of the Treaty establishing the European Community~~, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months

after the ~~date of adoption of~~ ⇒ Council has decided on ⇐ this Regulation whether it will implement it in its national law.

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↓ 810/2009 recital 32 (adapted)

- (50) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the ~~⊗~~ latter's ~~⊗~~ association of those two States with the implementation, application and development of the Schengen *acquis*<sup>20</sup> which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC<sup>21</sup> on certain arrangements for the application of that Agreement.
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↓ 810/2009 recital 33 (adapted)

~~An arrangement should be made to allow representatives of Iceland and Norway to be associated with the work of committees assisting the Commission in the exercise of its implementing powers under this Regulation. Such an arrangement has been contemplated in the Exchange of Letters between the Council of the European Union and Iceland and Norway concerning committees which assist the European Commission in the exercise of its executive powers<sup>22</sup>, annexed to the abovementioned Agreement. The Commission has submitted to the Council a draft recommendation with a view to negotiating this arrangement.~~

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↓ 810/2009 recital 34

- (51) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>23</sup>, which fall within the area referred to in Article 1, point B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>24</sup> on the conclusion of that Agreement.
- 

↓ 810/2009 recital 35 (adapted)

⇒ new

- (52) As regards Liechtenstein, this Regulation constitutes a development of ~~⊗~~ the ~~⊗~~ provisions of the Schengen *acquis* within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to

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<sup>20</sup> OJ L 176, 10.7.1999, p. 36.

<sup>21</sup> Council Decision of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

<sup>22</sup> ~~OJ L 176, 10.7.1999, p. 53.~~

<sup>23</sup> OJ L 53, 27.2.2008, p. 52.

<sup>24</sup> Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).



the Agreement concluded between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point B, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision ~~2008/261/EC~~ 2011/350/EU<sup>25</sup> on the ~~signing~~ ⇒ conclusion ⇐ of that Protocol.

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↓ 154/2012 recital 11

- (53) As regards Cyprus, this Regulation constitutes an act building upon or otherwise related to the Schengen *acquis*, within the meaning of Article 3(4~~2~~) of the 2003 Act of Accession.
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↓ 154/2012 recital 12

- (54) As regards Bulgaria and Romania, this Regulation constitutes an act building upon or otherwise related to the Schengen *acquis* within the meaning of Article 4(4~~2~~) of the 2005 Act of Accession.
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↓ new

- (55) As regards Croatia, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession.
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↓ 810/2009 recital 36

- (56) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision ~~2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis*~~<sup>26</sup>. The United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.
- 

↓ 810/2009 recital 37 (adapted)

- (57) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision ~~2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions~~

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<sup>25</sup> ~~OJ L 83, 26.3.2008, p. 2~~ Council Decision of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

<sup>26</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

of the Schengen *acquis*<sup>27</sup>. Ireland is therefore not taking part in the adoption of the Regulation and is not bound by it or subject to its application,

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↓ 810/2009 recital 38 (adapted)

~~This Regulation, with the exception of Article 3, constitutes provisions building on the Schengen *acquis* or otherwise relating to it within the meaning of Article 3(2) of the 2003 Act of Accession and within the meaning of Article 4(2) of the 2005 Act of Accession,~~

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↓ 810/2009 (adapted)

HAVE ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PROVISIONS

#### Article 1

#### ~~Objective~~ ☒ Subject matter ☒ and scope

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↓ 610/2013 Art. 6.1 (adapted)

1. This Regulation establishes the ~~procedures and conditions~~ ☒ conditions and procedures ☒ for issuing visas for ~~transit through or~~ intended stays on the territory of the Member States not exceeding 90 days in any ~~180-day~~ ☒ days ☒ period.

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↓ 810/2009 (adapted)

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 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~~<sup>28</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.

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<sup>27</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<sup>28</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).

3. This 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~~  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 ~~17~~  20  (1) of the ~~Treaty~~  TFEU  ;

2. 'visa' means an authorisation issued by a Member State with a view to:

↓ 610/2013 Art. 6.2 (adapted)

(a) ~~transit through or~~ an intended stay on the territory of the Member States of a duration of no more than 90 days in any ~~180-day~~  days  period;  or

↓ 810/2009

(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;

↓ new

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

7. 'close relatives' means the spouse, children, parents, persons exercising parental authority, grandparents and grandchildren;

8. 'VIS registered applicant' means an applicant whose data are registered in the Visa Information System;

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;

↓ 810/2009

⇒ new

~~6~~10. 'visa sticker' means the uniform format for visas as defined by Council Regulation (EC) No 1683/95 ~~of 29 May 1995 laying down a uniform format for visas~~<sup>29</sup>;

~~7~~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>30</sup> ⇐;

↓ new

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;

↓ 810/2009

⇒ new

~~8~~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 ~~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~~<sup>31</sup>;

~~9~~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;

~~10~~15. 'application' means an application for a visa;

~~11. 'commercial intermediary' means a private administrative agency, transport company or travel agency (tour operator or retailer).~~

↓ new

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>29</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>30</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>31</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).

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↓ 810/2009  
⇒ new

## TITLE II

### *AIRPORT TRANSIT VISA*

#### *Article 3*

##### **Third-country nationals required to hold an airport transit visa**

1. Nationals of the third countries listed in Annex ~~IV~~ III 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.

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↓ new

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning amendments to the list of the third countries set out in Annex III.

Where in the case of emerging risks, imperative grounds of urgency so require, the procedure provided for in Article 49 shall apply to delegated acts adopted pursuant to this paragraph.

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↓ 810/2009 (adapted)  
⇒ new

3. ~~In urgent cases of mass~~  Where there is a sudden and substantial  influx of ~~illegal~~  irregular  immigrants, ~~individual~~  a  Member States may require nationals of third countries other than those referred to in paragraph 1 to hold an airport transit visa when passing through the international transit areas of airports situated on ~~their~~  its  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 duration of such a measure shall not exceed 12 months. The scope and duration of the airport transit visa requirement shall not exceed what is strictly necessary to respond to the sudden and substantial influx of irregular immigrants.

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↓ new

4. Where a Member State plans to introduce the airport transit visa requirement in accordance with paragraph 3, it shall as soon as possible notify the Commission, and shall provide the following information:

- (a) the reason for the planned airport transit visa requirement, substantiating the sudden and substantial influx of irregular immigrants;
- (b) the scope and duration of the planned introduction of the airport transit visa requirement.

5. Following the notification by the Member State concerned in accordance with paragraph 4, the Commission may issue an opinion.

6. The Member State may prolong the application of the airport transit visa requirement only once where the lifting of the requirement would lead to a substantial influx of irregular migrants. Paragraph 3 shall apply to such prolongation.

7. The Commission shall, on an annual basis, inform the European Parliament and the Council about the implementation of this Article.

↓ 810/2009

~~3. Within the framework of the Committee referred to in Article 52(1), those notifications shall be reviewed on an annual basis for the purpose of transferring the third country concerned to the list set out in Annex IV.~~

~~4. If the third country is not transferred to the list set out in Annex IV, the Member State concerned may maintain, provided that the conditions in paragraph 2 are met, or withdraw the airport transit visa requirement.~~

↓ 810/2009  
⇒ new

58. The following categories of persons shall be exempt from the requirement to hold an airport transit visa provided for in paragraphs 1 and 3:

(a) holders of a valid uniform visa, ⇒ touring visa, ⇐ national long-stay visa or residence permit issued by a Member State;

↓ 154/2012 Art. 1 (adapted)  
⇒ new

(b) third-country nationals holding a valid residence permit issued by a Member State which does not take part in the adoption of this Regulation or by a Member State which does not yet apply the provisions of the Schengen *acquis* in full, or third-country nationals holding one of the valid residence permits listed in Annex ~~V~~ IV issued by Andorra, Canada, Japan, San Marino or the United States of America guaranteeing the holder's unconditional readmission ⇒, or holding a residence permit for the Caribbean parts of the Kingdom of the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba) ⇐;

(c) third-country nationals holding a valid visa for a Member State which does not take part in the adoption of this Regulation, ☒ or ☒ for a Member State which does not yet apply the provisions of the Schengen *acquis* in full, ⇒ or for a country party to the Agreement on the European Economic Area, ⇐ or for Canada, Japan or the United States of America, ⇒ or holders of a valid visa for ⇐ the Caribbean parts of the Kingdom of ⇒ the Netherlands (Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba), ⇐ when travelling to the issuing country or to any other third country, or when, having used the visa, returning from the issuing country;

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↓ 810/2009

⇒ new

(d) family members of citizens of the Union as referred to in Article ~~1(2)(a)~~ ⇒ 3 of Directive 2004/38/EC ⇐;

(e) holders of diplomatic ⇐ , service, official or special ⇐ passports;

(f) flight crew members who are nationals of a contracting Party to the Chicago Convention on International Civil Aviation.

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↓ new

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 48 concerning the amendmens to the list of valid residence permits entitling the holder to transit through the airports of Member States without being required to hold an airport transit visa, set out in Annex IV.

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↓ 810/2009 (adapted)

⇒ new

### TITLE III

## ~~PROCEDURES AND CONDITIONS~~ ☒ AND PROCEDURES ☒ FOR ISSUING VISAS

### CHAPTER I

#### *AUTHORITIES TAKING PART IN THE PROCEDURES RELATING TO APPLICATIONS*

##### *Article 4*

#### **Authorities competent for taking part in the procedures relating to applications**

1. Applications shall be examined and decided on by consulates.
2. By way of derogation from paragraph 1, applications may be examined and decided on at the external borders of the Member States by the authorities responsible for checks on persons, in accordance with Articles ~~35~~ 32 ⇐ , 33 ⇐ and ~~36~~ 34.
3. In the non-European overseas territories of Member States, applications may be examined and decided on by the authorities designated by the Member State concerned.
4. A Member State may require the involvement of authorities other than the ones ~~designated~~ ☒ referred to ☒ in paragraphs 1 and 2 in the examination of and decision on applications.

5. A Member State may require to be consulted or informed by another Member State in accordance with Articles ~~22~~19 and ~~31~~28.

#### Article 5

##### Member State competent for examining and deciding on an application

1. The Member State competent for examining and deciding on an application for a uniform visa shall be:

- (a) the Member State whose territory constitutes the sole destination of the visit(s);
- (b) if the visit includes more than one destination,  $\Rightarrow$  or if several separate visits are to be carried out within a period of two months,  $\Leftarrow$  the Member State whose territory constitutes the main destination of the visit(s) in terms of the length ~~or purpose~~ of stay  $\Rightarrow$  , counted in days  $\Leftarrow$  ; or
- (c) if no main destination can be determined, the Member State whose external border the applicant intends to cross in order to enter the territory of the Member States.

~~42. Member States shall cooperate to prevent a situation in which an application cannot be examined and decided on because  $\boxtimes$  If  $\boxtimes$  the Member State that is competent in accordance with paragraphs 1 to 3  $\Rightarrow$  , point (a) or (b),  $\Leftarrow$  is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6,  $\Rightarrow$  the applicant is entitled to lodge the application:  $\Leftarrow$~~

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$\Downarrow$  new

- a) at the consulate of one of the Member States of destination of the envisaged visit,
  - b) at the consulate of the Member State of first entry, if point a) is not applicable,
  - c) in all other cases at the consulate of any of the Member States that are present in the country concerned.
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$\Downarrow$  810/2009

3. The Member State competent for examining and deciding on an application for an airport transit visa shall be:

- (a) in the case of a single airport transit, the Member State on whose territory the transit airport is situated; or
- (b) in the case of double or multiple airport transit, the Member State on whose territory the first transit airport is situated.

#### Article 6

##### Consular territorial competence



1. An application shall be examined and decided on by the consulate of the competent Member State in whose jurisdiction the applicant legally resides.
2. A consulate of the competent Member State shall examine and decide on an application lodged by a third-country national legally present but not residing in its jurisdiction, if the applicant has provided justification for lodging the application at that consulate.

#### Article 7

### Competence to issue visas to third-country nationals legally present within the territory of a Member State

1. Third-country nationals who are legally present in the territory of a Member State and who are required to hold a visa to enter the territory of one or more other Member States shall apply for a visa at the consulate of the Member State that is competent in accordance with Article 5~~(1) or (2)~~.

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↓ new

2. Third-country nationals who have lost their travel document, or from whom this document has been stolen, while staying in the territory of a Member State, may leave that territory on the basis of a valid travel document entitling them to cross the border issued by a consulate of their country of nationality without any visa or other authorisation

3. Where the third-country national, referred to in paragraph 2, intends to continue travelling in the Schengen area, the authorities in the Member State where he declares the loss or theft of his travel document, shall issue a visa with a duration of validity and period of allowed stay identical to the original visa on the basis of the data registered in the VIS.

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↓ 810/2009

⇒ new

## CHAPTER II

### APPLICATION

#### Article ~~98~~

### Practical modalities for lodging an application

1. Applications ~~shall~~ ⇒ may ⇐ be lodged ~~no more than three~~ ⇒ six ⇐ months before ⇒ and no later than 15 calendar days 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 six months.~~

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↓ 810/2009 (adapted)

2. ~~Applicants~~ ☒ Consulates ☒ may ~~be required~~ ☒ applicants ☒ to obtain an appointment for the lodging of an application. The appointment shall, as a rule, take place within a period of two weeks from the date when the appointment was requested.

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↓ new

3. The consulate shall allow to lodge the application either without prior appointment or with an immediate appointment to close relatives of Union citizens who:

(a) intend to visit their Union citizen close relatives residing in the Member State of their nationality;

(b) intend to travel, together with their Union citizen close relatives residing in a third country, to the Member State of which the Union citizen has the nationality.

4. The consulate shall allow to lodge the application either without prior appointment or with an immediate appointment to family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC.

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↓ 810/2009 (adapted)

⇒ new

5. In justified cases of urgency, the consulate ~~may~~ ⇒ shall ⇐ allow applicants to lodge their applications either without appointment, or an ☒ immediate ☒ appointment shall be given ~~immediately~~.

6. Applications may ⇒ , without prejudice to Article 12, ⇐ be lodged: ~~at the consulate~~

(a) by the applicant ~~or~~

(b) by ☒ an ☒ accredited commercial ☒ intermediary referred to in Article 43 ☒ ~~intermediaries, as provided for in Article 45(1), without prejudice to Article 13, or in accordance with Article 42 or 43.~~

☒ (c) a professional, cultural, sports or educational association or institution. ☒

☒ 7. An applicant shall not be required to appear in person at more than one location in order to lodge an application ☒

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↓ 810/2009 (adapted)

⇒ new

Article ~~109~~

### General rules for lodging an application

1. ~~Without prejudice to the provisions of Articles 13, 42, 43 and 45, a~~ Applicants shall appear in person ~~when lodging an application~~ ⇒ for the collection of fingerprints, in accordance with Article 12 (2) and (3) ⇐ .

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↓ new

2. VIS registered applicants shall not be required to appear in person when lodging an application, where their fingerprints have been entered into the VIS less than 59 months before.

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↓ 810/2009 (adapted)

~~2. Consulates may waive the requirement referred to in paragraph 1 when the applicant is known to them for his integrity and reliability.~~

3. When lodging the application, the applicant shall:

(a) present an application form in accordance with Article ~~11~~10;

(b) present a travel document in accordance with Article ~~12~~11;

(c) present a photograph in accordance with the standards set out in Regulation (EC) No 1683/95 or, where the VIS is operational pursuant to Article 48 of ~~the VIS~~ Regulation ☒ (EC) No 767/2008 ☒ , in accordance with the standards set out in Article ~~13~~12 of this Regulation;

(d) allow the collection of his fingerprints in accordance with Article ~~13~~12, where applicable;

(e) pay the visa fee in accordance with Article ~~16~~14;

(f) provide supporting documents in accordance with Article ~~14~~ 13 and Annex II~~.~~

~~(g) where applicable, produce proof of possession of adequate and valid travel medical insurance in accordance with Article 15.~~

#### Article ~~11~~10

#### Application form

1. Each applicant shall submit a ☒ manually or electronically ☒ completed and signed application form, as set out in Annex I. Persons included in the applicant's travel document shall submit a separate application form. Minors shall submit an application form signed by a person exercising permanent or temporary parental authority or legal guardianship.

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↓ new

2. The content of the electronic version of the application form, if applicable, shall be as set out in Annex I.

23. Consulates shall make the application form widely available and easily accessible to applicants free of charge.

34. The form shall ⇒ as a minimum ⇐ be available in the following languages:

(a) the official language(s) of the Member State for which a visa is requested;  
☒ and ☒

(b) the official language(s) of the host country;

~~(c) the official language(s) of the host country and the official language(s) of the Member State for which a visa is requested; or~~

~~(d) in case of representation, the official language(s) of the representing Member State.~~

In addition to the language(s) referred to in point (a), the form may be made available in another ☒ any other ☒ official language ☒ language(s) ☒ of the institutions of the European Union.

45. If the application form is not available in the official language(s) of the host country, a translation of it into that/those language(s) shall be made available separately to applicants.

56. ~~★~~ ☒ The ☒ translation of the application form into the official language(s) of the host country shall be produced under local Schengen cooperation ~~provided for~~ ☒ as set out ☒ in Article ~~48~~46.

67. The consulate shall inform applicants of the language(s) which may be used when filling in the application form.

#### Article ~~12~~11

### Travel document

The applicant shall present a valid travel document satisfying the following criteria:

(a) ~~its validity shall extend~~ ☒ without prejudice to Article 21(2), it shall be valid for ☒ at least three months after the intended date of departure from the territory of the Member States or, in the case of several visits, after the last intended date of departure from the territory of the Member States. However, in a justified case of emergency, this obligation may be waived;

(b) it shall contain at least ~~two~~ ⇒ one ⇐ blank ⇒ double ⇐ pages ⇒ , and if several applicants are covered by the same travel document it shall contain one blank double page per applicant ⇐ ;

(c) it shall have been issued within the previous 10 years.

## Biometric identifiers

1. Member States shall collect biometric identifiers of the applicant comprising a photograph of him and his 10 fingerprints in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child.

2. 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.

3. Where fingerprints collected from the applicant as part of an earlier application  $\Rightarrow$  for a short stay visa or a touring visa  $\Leftarrow$  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.

However, where there is reasonable doubt regarding the identity of the applicant, the consulate shall collect fingerprints within the period specified in the first subparagraph.

Furthermore, if at the time when the application is lodged, it cannot be immediately confirmed that the fingerprints were collected within the period specified in the first subparagraph, the applicant may request that they be collected.

4. In accordance with Article 9(5) of ~~the VIS~~ Regulation  $\boxtimes$  (EC) No 767/2008  $\boxtimes$ , the photograph attached to each application shall be entered in the VIS. ~~The applicant shall not be required to appear in person for this purpose.~~

The technical requirements for the photograph shall be in accordance with the international standards as set out in the International Civil Aviation Organization (ICAO) document 9303 Part 1, 6th edition.

5. Fingerprints shall be taken in accordance with ICAO standards and Commission Decision 2006/648/EC<sup>32</sup>.

6. The biometric identifiers shall be collected by qualified and duly authorised staff of the authorities competent in accordance with Article 4(1), (2) and (3). Under the supervision of the consulates, the biometric identifiers may also be collected by qualified and duly authorised staff of an honorary consul as referred to in Article ~~42~~ 40 or of an external service provider as referred to in Article ~~43~~ 41. The Member State(s) concerned shall, where there is any doubt, provide for the possibility of verifying at the consulate fingerprints which have been taken by the external service provider.

7. The following applicants shall be exempt from the requirement to give fingerprints:

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<sup>32</sup> Commission Decision 2006/648/EC of 22 September 2006 laying down the technical specifications on the standards for biometric features related to the development of the Visa Information System, OJ L 267, 27.9.2006, p. 41.

(a) children under the age of 12;

(b) persons for whom fingerprinting is physically impossible. If the fingerprinting of fewer than 10 fingers is possible, the maximum number of fingerprints shall be taken. However, should the impossibility be temporary, the applicant shall be required to give the fingerprints at the following application. The authorities competent in accordance with Article 4(1), (2) and (3) shall be entitled to ask for further clarification of the grounds for the temporary impossibility. Member States shall ensure that appropriate procedures guaranteeing the dignity of the applicant are in place in the event of there being difficulties in enrolling;

(c) heads of State or government and members of a national government with accompanying spouses, and the members of their official delegation when they are invited by Member States' governments or by international organisations for an official purpose;

(d) sovereigns and other senior members of a royal family, when they are invited by Member States' governments or by international organisations for an official purpose.

8. In the cases referred to in paragraph 7, the entry 'not applicable' shall be introduced in the VIS in accordance with Article 8(5) of ~~the VIS Regulation~~  (EC) No 767/2008 .

#### *Article ~~413~~*

### **Supporting documents**

1. When applying for a uniform visa, the applicant shall present:

(a) documents indicating the purpose of the journey;

(b) documents in relation to accommodation, or proof of sufficient means to cover his accommodation;

(c) documents indicating that the applicant possesses sufficient means of subsistence both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or that he is in a position to acquire such means lawfully, in accordance with Article 5(1)(c) and (3) of ~~the Schengen Borders Code~~  Regulation (EC) No 562/2006 of the European Parliament and of the Council<sup>33</sup>  ;

(d) information enabling an assessment of the applicant's intention to leave the territory of the Member States before the expiry of the visa applied for.

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<sup>33</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

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↓ new

2. Points (b), (c) and (d) of paragraph 1 do not apply to applicants who are VIS registered regular travellers and who have lawfully used the two previously obtained visas.

3. Close relatives of Union citizens referred to in Article 8(3) shall provide only documentary evidence proving the family relationship with the Union citizen, and that they visit or travel together with the Union citizen.

Family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC shall provide only documentary evidence proving that they travel to accompany or join the Union citizen and the family relationship with the Union citizen as referred to in Article 2(2) or the other circumstances referred to in Article 3(2) of that Directive.

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↓ 810/2009 (adapted)

~~34.~~ ~~A~~  The  ~~non-exhaustive~~ list of supporting documents which ~~the consulate~~ may request  be requested  from the applicant in order to verify the fulfilment of the conditions listed in paragraphs 1 ~~and 2~~ is set out in Annex II.

~~65.~~ Consulates may waive one or more of the requirements to provide one or more of the documents referred to in paragraph 1 (a) to (d) in the case of an applicant known to them for his integrity and reliability, in particular the lawful use of previous visas, if there is no doubt that he will fulfil the requirements of Article 5(1) of  Regulation (EC) No 562/2006  ~~Schengen Borders Code~~ at the time of the crossing of the external borders of the Member States.

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↓ new

6. The consulate shall start processing the visa application on the basis of facsimile or copies of the supporting documents. Applicants who are not yet registered in the VIS shall provide the original. The consulate may ask for original documents from applicants who are VIS registered applicants or VIS registered regular travellers, only where there is doubt about the authenticity of a specific document.

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↓ 810/2009 (adapted)

~~47.~~ Member States may require applicants to present a proof of sponsorship and/or private accommodation by completing a form drawn up by each Member State. That form shall indicate in particular:

- (a) whether its purpose is proof of sponsorship and/or of  private  accommodation;
- (b) whether the ~~host~~  sponsor/inviting person  is an individual, a company or an organisation;
- (c) the ~~host's~~ identity and contact details  of the sponsor/inviting person .
- (d) the ~~invited~~ applicant(s);

- (e) the address of the accommodation;
- (f) the length and purpose of the stay;
- (g) possible family ties with the ~~host~~  sponsor/inviting person .

(h) the information required pursuant to Article 37(1) of Regulation (EC) No 767/2008;

In addition to the Member State's official language(s), the form shall be drawn up in at least one other official language of the institutions of the ~~European Union~~. ~~The form shall provide the person signing it with the information required pursuant to Article 37(1) of the VIS Regulation.~~ A specimen of the form shall be notified to the Commission.

28. When applying for an airport transit visa, the applicant shall present:

- (a) documents in relation to the onward journey to the final destination after the intended airport transit;
- (b) information enabling an assessment of the applicant's intention not to enter the territory of the Member States.

59. Within local Schengen cooperation ~~the need to complete and harmonise the~~ lists of supporting documents shall be ~~assessed~~  prepared  in each jurisdiction in order to take account of local circumstances.

↓ new

10. Without prejudice to paragraph 1, Member States may provide exemptions from the list of supporting documents referred to in paragraphs 4 and 9 in the case of applicants attending major international events organised in their territory that are considered particularly important due to their tourism and/or cultural impact

11. The Commission shall by means of implementing acts adopt the lists of supporting documents to be used in each jurisdiction in order to take account of local circumstances. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)  
⇒ new

#### Article 15

#### **Travel medical insurance**

~~1. Applicants for a uniform visa for one or two entries shall 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, urgent medical attention and/or emergency hospital treatment or death, during their stay(s) on the territory of the Member States.~~



~~2. Applicants for a uniform visa for more than two entries (multiple entries) shall prove that they are in possession of adequate and valid travel medical insurance covering the period of their first intended visit.~~

~~In addition, such applicants shall sign the statement, set out in the application form, declaring that they are aware of the need to be in possession of travel medical insurance for subsequent stays.~~

~~3. The insurance shall be valid throughout the territory of the Member States and cover the entire period of the person's intended stay or transit. The minimum coverage shall be EUR 30000.~~

~~When a visa with limited territorial validity covering the territory of more than one Member State is issued, the insurance cover shall be valid at least in the Member States concerned.~~

~~4. Applicants shall, in principle, take out insurance in their country of residence. Where this is not possible, they shall seek to obtain insurance in any other country.~~

~~When another person takes out insurance in the name of the applicant, the conditions set out in paragraph 3 shall apply.~~

~~5. When assessing whether the insurance cover is adequate, consulates shall ascertain whether claims against the insurance company would be recoverable in a Member State.~~

~~6. The insurance requirement may be considered to have been met where it is established that an adequate level of insurance may be presumed in the light of the applicant's professional situation. The exemption from presenting proof of travel medical insurance may concern particular professional groups, such as seafarers, who are already covered by travel medical insurance as a result of their professional activities.~~

~~7. Holders of diplomatic passports shall be exempt from the requirement to hold travel medical insurance.~~

## *Article ~~16~~14*

### **Visa fee**

1. Applicants shall pay a visa fee of EUR 60.

~~2. Children from the age of six years and below the age of 12 years shall pay a visa fee of EUR 35.~~

~~3~~2. The visa fee shall be revised regularly in order to reflect the administrative costs.

~~4~~3. The visa fee shall be waived for applicants belonging to one of the following categories  shall pay no visa fee  :

(a) ~~children under six years~~  ⇒ minors under the age of eighteen years  ;

(b) school pupils, students, postgraduate students and accompanying teachers who undertake stays for the purpose of study or educational training;

(c) researchers from third countries  $\Rightarrow$ , as defined in Council Directive 2005/71/EC<sup>34</sup>,  $\Leftarrow$  travelling for the purpose of carrying out scientific research ~~from 28 September 2005 to facilitate the issue by the Member States of uniform short stay visas for researchers from third countries travelling within the Community for the purpose of carrying out scientific research~~  $\Rightarrow$  or participating in a scientific seminar or conference  $\Leftarrow$  ;

$\Downarrow$  new

(d) holders of diplomatic and service passports;

$\Downarrow$  810/2009 (adapted)

~~(dc) representatives of non-profit organisations~~  $\boxtimes$  participants  $\boxtimes$  aged 25 years or less ~~participating~~ in seminars, conferences, sports, cultural or educational events organised by non-profit organisations~~;~~

$\Downarrow$  new

(f) close relatives of the Union citizens referred to in Article 8(3).

(g) family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC in accordance with Article 5(2) of that Directive.

$\Downarrow$  810/2009 (adapted)

$\Rightarrow$  new

~~5. The visa fee may be waived for:~~

~~(a) children from the age of six years and below the age of 12 years;~~

~~(b) holders of diplomatic and service passports;~~

~~(c) participants aged 25 years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.~~

~~Within local Schengen cooperation, Member States shall aim to harmonise the application of these exemptions.~~

~~64.~~  $\boxtimes$  Member States may,  $\boxtimes$  ~~in~~ individual cases,  $\boxtimes$  waive or reduce  $\boxtimes$  the amount of the visa fee to be charged ~~may be waived or reduced when to do so~~  $\boxtimes$  this  $\boxtimes$  serves to promote cultural or sporting interests as well as interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons.

~~75.~~ The visa fee shall be charged in euro, in the national currency of the third country or in the currency usually used in the third country where the application is lodged, and shall not be refundable except in the cases referred to in Articles ~~16~~(2) and ~~17~~(3).

<sup>34</sup> Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purpose of scientific research (OJ L 289, 3.11.2005, p. 15).

When charged in a currency other than euro, the amount of the visa fee charged in that currency shall be determined and regularly reviewed in application of the euro foreign exchange reference rate set by the European Central Bank. The amount charged may be rounded up and consulates shall ensure under local Schengen cooperation that they charge equivalent fees.

86. The applicant shall be given a receipt for the visa fee paid.

#### *Article ~~17~~15*

#### **Service fee**

1. ~~An additional~~ service fee may be charged by an external service provider referred to in Article ~~43~~41. The service fee shall be proportionate to the costs incurred by the external service provider while performing one or more of the tasks referred to in Article ~~43~~41(6).

2. The service fee shall be specified in the legal instrument referred to in Article ~~43~~41(2).

~~3. Within the framework of local Schengen cooperation, Member States shall ensure that the service fee charged to an applicant duly reflects the services offered by the external service provider and is adapted to local circumstances. Furthermore, they shall aim to harmonise the service fee applied.~~

~~43~~. The service fee shall not exceed half of the amount of the visa fee set out in Article ~~16~~14(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article ~~16~~14(2), (4), (5) and (6) ⇒ (3) and (4) ⇐ .

~~5. The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.~~

### **CHAPTER III**

#### ***EXAMINATION OF AND DECISION ON AN APPLICATION***

#### *Article ~~18~~16*

#### **Verification of consular competence**

1. When an application has been lodged, the consulate shall verify whether it is competent to examine and decide on it in accordance with the provisions of Articles 5 and 6.

2. If the consulate is not competent, it shall, without delay, return the application form and any documents submitted by the applicant, reimburse the visa fee, and indicate which consulate is competent.

#### *Article ~~19~~17*

#### **Admissibility**

1. The competent consulate shall verify whether:

- (a) the application has been lodged within the period referred to in Article ~~98~~(1),
- (b) the application contains the items referred to in Article ~~109~~(3)(a) to (c),
- (c) the biometric data of the applicant have been collected, and
- (d) the visa fee has been collected.

2. Where the competent consulate finds that the conditions referred to in paragraph 1 have been fulfilled, the application shall be admissible and the consulate shall:

- (a) follow the procedures described in Article 8 of ~~the VIS~~ Regulation  (EC) No 767/2008  , and
- (b) further examine the application.

Data shall be entered in the VIS only by duly authorised consular staff in accordance with Articles 6(1), 7, 9(5) and 9(6) of ~~the VIS~~ Regulation  (EC) No 767/  2008 .

3. Where the competent consulate finds that the conditions referred to in paragraph 1 have not been fulfilled, the application shall be inadmissible and the consulate  without delay  shall ~~without delay~~:

- (a) return the application form and any documents submitted by the applicant,
- (b) destroy the collected biometric data,
- (c) reimburse the visa fee, and
- (d) not examine the application.

4. By way of derogation, an application that does not meet the requirements set out in paragraph 1 may be considered admissible on humanitarian grounds or for reasons of national interest.

#### ~~Article 20~~

##### ~~Stamp indicating that an application is admissible~~

~~1. When an application is admissible, the competent consulate shall stamp the applicant's travel document. The stamp shall be as set out in the model in Annex III and shall be affixed in accordance with the provisions of that Annex.~~

~~2. Diplomatic, service/official and special passports shall not be stamped.~~

~~3. The provisions of this Article shall apply to the consulates of the Member States until the date when the VIS becomes fully operational in all regions, in accordance with Article 48 of the VIS Regulation.~~

### Verification of entry conditions and risk assessment

1. In the examination of an application for a uniform visa, it shall be ascertained whether the applicant fulfils the entry conditions set out in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~  Regulation (EC) No 562/2006  , and particular consideration shall be given to assessing whether the applicant presents a risk of ~~illegal~~  irregular  immigration or a risk to the security of the Member States and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for.

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↓ new

2. In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who has lawfully used the two previously obtained visas, it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration, a risk to the security of the Member States, and the possession of sufficient means of subsistence.

3. The presumption referred to in paragraph 2 shall not apply where the consulate has reasonable doubts about the fulfilment of these entry conditions based on information stored in the VIS, such as decisions annulling a previous visa, or in the passport, such as entry and exit stamps. In such cases, the consulates may carry out an interview and request additional documents.

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↓ 810/2009 (adapted)

⇒ new

~~24~~. In respect of each application, the VIS shall be consulted in accordance with Articles 8(2) and 15 of ~~the VIS~~ Regulation  (EC) No 767/2008  . Member States shall ensure that full use is made of all search criteria pursuant to Article 15 of ~~the VIS~~ Regulation  (EC) No 767/2008  in order to avoid false rejections and identifications.

~~35~~.  Without prejudice to paragraph 2,  ~~W~~while checking whether the applicant fulfils the entry conditions, the consulate shall verify:

(a) that the travel document presented is not false, counterfeit or forged;

(b) the applicant's justification for the purpose and conditions of the intended stay, and that he has sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is in a position to acquire such means lawfully;

(c) whether the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;

(d) that the applicant is not considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of ~~the Schengen Borders Code~~  Regulation (EC) No 562/2006  or to the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.

~~(e) that the applicant is in possession of adequate and valid travel medical insurance, where applicable.~~

~~46.~~ The consulate shall, where applicable, verify the length of previous and intended stays in order to verify that the applicant has not exceeded the maximum duration of authorised stay in the territory of the Member States, irrespective of possible stays authorised under ~~⇒ a touring visa, ⇐ a national long-stay visa or a residence permit issued by another Member State.~~

~~57.~~ The means of subsistence for the intended stay shall be assessed in accordance with the duration and the purpose of the stay and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, multiplied by the number of days stayed, on the basis of the reference amounts set by the Member States in accordance with Article 34(1)(c) of ~~the Schengen Borders Code~~ ~~⊗~~ Regulation (EC) No 562/2006 ~~⊗~~. Proof of sponsorship and/or private accommodation may also constitute evidence of sufficient means of subsistence.

~~68.~~ In the examination of an application for an airport transit visa, the consulate shall in particular verify:

- (a) that the travel document presented is not false, counterfeit or forged;
- (b) the points of departure and destination of the third-country national concerned and the coherence of the intended itinerary and airport transit;
- (c) proof of the onward journey to the final destination.

~~79.~~ The examination of an application shall be based notably on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant.

~~810.~~ During the examination of an application, consulates may in justified cases ~~call the applicant for~~ ~~⇒ carry out~~ ⇐ an interview and request additional documents.

~~911.~~ A previous visa refusal shall not lead to an automatic refusal of a new application. A new application shall be assessed on the basis of all available information.

#### *Article ~~22~~19*

### **Prior consultation of central authorities of other Member States**

1. A Member State may require the central authorities of other Member States to consult its central authorities during the examination of applications lodged by nationals of specific third countries or specific categories of such nationals. Such consultation shall not apply to applications for airport transit visas.

2. The central authorities consulted shall reply definitively within ~~seven~~ ⇐ five ⇐ calendar days after being consulted. The absence of a reply within this deadline shall mean that they have no grounds for objecting to the issuing of the visa.

3. Member States shall notify the Commission of the introduction or withdrawal of the requirement of prior consultation ⇐ at the latest 15 calendar days ⇐ before it becomes

applicable. This information shall also be given within local Schengen cooperation in the jurisdiction concerned.

4. The Commission shall inform Member States of such notifications.

~~5. From the date of the replacement of the Schengen Consultation Network, as referred to in Article 46 of the VIS Regulation, prior consultation shall be carried out in accordance with Article 16(2) of that Regulation.~~

#### Article ~~23~~20

### Decision on the application

1. Applications shall be decided on within ~~15~~ ⇨ 10 ⇐ calendar days of the date of the lodging of an application which is admissible in accordance with Article ~~19~~17.

2. That period may be extended up to a maximum of 20 calendar days in individual cases, notably when further scrutiny of the application is needed ~~or in cases of representation where the authorities of the represented Member State are consulted.~~

~~3. Exceptionally, when additional documentation is needed in specific cases, the period may be extended up to a maximum of 60 calendar days.~~

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↓ new

3. Applications of close relatives of the Union citizens referred to in Article 8(3) and of family members of Union citizens as referred to in Article 3(1) of Directive 2004/38/EC shall be decided on within 5 calendar days of the date of the lodging of an application. That period may be extended up to a maximum of 10 calendar days in individual cases, notably when further scrutiny of the application is needed.

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↓ new

4. The deadlines provided for in paragraph 3 shall apply as a maximum to family members of Union citizens as referred to in Article 3 of Directive 2004/38/EC, in accordance with Article 5(2) of that Directive.

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↓ 810/2009

5. Unless the application has been withdrawn, a decision shall be taken to:

(a) issue a uniform visa in accordance with Article ~~24~~21;

(b) issue a visa with limited territorial validity in accordance with Article ~~25~~22;

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↓ new

(c) issue an airport transit visa in accordance with Article 23; or

(d) refuse a visa in accordance with Article ~~3229~~ ~~3229~~.

~~(d) discontinue the examination of the application and transfer it to the relevant authorities of the represented Member State in accordance with Article 8(2).~~

The fact that fingerprinting is physically impossible, in accordance with Article ~~1312~~ (7)(b), shall not influence the issuing or refusal of a visa.

## CHAPTER IV

### ISSUING OF THE VISA

#### Article ~~2421~~

#### Issuing of a uniform visa

1. The period of validity of a visa and the length of the authorised stay shall be based on the examination conducted in accordance with Article ~~2418~~.

2. A visa may be issued for one, ~~two~~ or multiple entries. The period of validity ⇒ of a multiple entry visa ⇐ shall not exceed five years. ⇒ The period of validity of a multiple entry visa may extend beyond the period of validity of the passport to which the visa is affixed. ⇐

~~In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.~~

Without prejudice to Article ~~1211~~ (a), the period of validity of ~~the~~ ⇒ a single entry ⇐ visa shall include an ~~additional~~ 'period of grace' of 15 days. Member States may decide not to grant such a period of grace for reasons of public policy or because of the international relations of any of the Member States.

3. VIS registered regular travellers who have lawfully used the two previously obtained visas shall be issued a multiple entry visa valid for at least three years.

4. Applicants referred to in paragraph 3 who have lawfully used the multiple entry visa valid for three years shall be issued a multiple entry visa valid for five years provided that the application is lodged no later than one year from the expiry date of the multiple entry visa valid for three years.



↓ 810/2009 (adapted)  
⇒ new

~~25. Without prejudice to Article 12(a),~~  A  multiple-entry visas  valid for up to 5 years may  shall be issued  with a period of validity between six months and five years,  where the following conditions are met:

~~(a) the~~  to an  applicant  who  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 organisations 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; and

~~(b)~~  provided that  the applicant proves his integrity and reliability, in particular the lawful use of previous uniform visas or visas with limited territorial validity, his economic situation in the country of origin and his genuine intention to leave the territory of the Member States before the expiry of the visa  for which he has  applied ~~for~~.

~~36. The data set out in Article 10(1) of the VIS Regulation~~  (EC) No 767/2008  shall be entered into the VIS when a decision on issuing such a visa has been taken.

↓ 810/2009 (adapted)

## Article ~~25~~22

### Issuing of a visa with limited territorial validity

1. A visa with limited territorial validity shall be issued exceptionally, in the following cases:

(a) when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations,

(i) to derogate from the principle that the entry conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~  Regulation (EC) No 562/2006  must be fulfilled;

(ii) to issue a visa despite an objection by the Member State consulted in accordance with Article ~~22~~ 19 to the issuing of a uniform visa; or

(iii) to issue a visa for reasons of urgency, although the prior consultation in accordance with Article ~~22~~ 19 has not been carried out;

or

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↓ 610/2013 Art. 6.3

(b) when for reasons deemed justified by the consulate, a new visa is issued for a stay during the same 180-day period to an applicant who, over this 180-day period, has already used a uniform visa or a visa with limited territorial validity allowing for a stay of 90 days.

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↓ 810/2009 (adapted)

2. A visa with limited territorial validity shall be valid for the territory of the issuing Member State. It may exceptionally be valid for the territory of more than one Member State, subject to the consent of each such Member State.

3. If the applicant holds a travel document that is not recognised by one or more, but not all Member States, a visa valid for the territory of the Member States recognising the travel document shall be issued. If the issuing Member State does not recognise the applicant's travel document, the visa issued shall only be valid for that Member State.

4. When a visa with limited territorial validity has been issued in the cases described in paragraph 1(a), the central authorities of the issuing Member State shall circulate the relevant information to the central authorities of the other Member States without delay, by means of the procedure referred to in Article 16(3) of ~~the VIS Regulation~~  (EC) No 767/2008 .

5. The data set out in Article 10(1) of ~~the VIS Regulation~~  (EC) No 767/2008  shall be entered into the VIS when a decision on issuing such a visa has been taken.

#### *Article ~~26~~23*

#### **Issuing of an airport transit visa**

1. An airport transit visa shall be valid for transiting through the international transit areas of the airports situated on the territory of Member States.

2. Without prejudice to Article ~~12~~11(a), the period of validity of the visa shall include an ~~additional~~ 'period of grace' of 15 days.

Member States may decide not to grant such a period of grace for reasons of public policy or because of the international relations of any of the Member States.

3. Without prejudice to Article ~~12~~11(a), multiple airport transit visas may be issued with a period of validity of a maximum six months.

4. The following criteria in particular are relevant for taking the decision to issue multiple airport transit visas:

(a) the applicant's need to transit frequently and/or regularly; and

(b) the integrity and reliability of the applicant, in particular the lawful use of previous uniform visas, visas with limited territorial validity or airport transit visas,

his economic situation in his country of origin and his genuine intention to pursue his onward journey.

5. If the applicant is required to hold an airport transit visa in accordance with the provisions of Article 3(2), the airport transit visa shall be valid only for transiting through the international transit areas of the airports situated on the territory of the Member State(s) concerned.

6. The data set out in Article 10(1) of ~~the VIS~~ Regulation ~~(EC)~~ No 767/2008 ~~(EC)~~ shall be entered into the VIS when a decision on issuing such a visa has been taken.

↓ 810/2009 (adapted)

#### Article ~~27~~24

### Filling in the visa sticker

1. When the visa sticker is filled in, ~~the mandatory entries set out in Annex VII shall be inserted and~~ the machine-readable zone shall be filled in, as provided for in ICAO document 9303, Part 2.

↓ new

2. The Commission shall by means of implementing acts adopt the details for filling in the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)

⇒ new

~~23.~~ 33. Member States may add national entries in the ‘comments’ section of the visa sticker, which shall ~~not~~ ~~(EC)~~ neither ~~(EC)~~ duplicate the ~~mandatory~~ entries ~~in Annex VII~~ ~~(EC)~~ established in accordance with the procedure referred to in paragraph 2 nor indicate a specific travel purpose ~~(EC)~~.

~~34.~~ 44. All entries on the visa sticker shall be printed, and no manual changes shall be made to a printed visa sticker.

~~45.~~ 55. A ~~(EC)~~ ~~(EC)~~ ~~(EC)~~ visa stickers ~~(EC)~~ ~~(EC)~~ for a single entry visa ~~(EC)~~ may be filled in manually only in case of technical force majeure. No changes shall be made to a manually filled in visa sticker.

~~56.~~ 66. When a visa sticker is filled in manually in accordance with paragraph 4 of this Article, this information shall be entered into the VIS in accordance with Article 10(1)(k) of ~~the VIS~~ Regulation ~~(EC)~~ (EC) No 767/2008 ~~(EC)~~.

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↓ 810/2009 (adapted)  
⇒ new

Article ~~28~~25

**Invalidation of a completed visa sticker**

1. If an error is detected on a visa sticker which has not yet been affixed to the travel document, the visa sticker shall be invalidated.
  2. If an error is detected after the visa sticker has been affixed to the travel document, the visa sticker shall be invalidated by drawing a cross with indelible ink on the visa sticker ⇒ , the optically variable device shall be destroyed ⇐ and a new visa sticker shall be affixed to a different page.
  3. If an error is detected after the relevant data have been introduced into the VIS in accordance with Article 10(1) of ~~the VIS~~ Regulation ☒ (EC) No 767/2008 ☒ , the error shall be corrected in accordance with Article 24(1) of that Regulation.
- 

↓ 810/2009 (adapted)

Article ~~29~~26

**Affixing a visa sticker**

1. The printed visa sticker containing the data provided for in Article ~~27 24~~ and Annex ~~VII~~ shall be affixed to the travel document ~~in accordance with the provisions set out in Annex VIII.~~
- 

↓ new

2. The Commission shall by means of implementing acts adopt the details for affixing the visa sticker. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).
- 

↓ 810/2009 (adapted)

3. Where the issuing Member State does not recognise the applicant's travel document, the separate sheet for affixing a visa shall be used.
4. When a visa sticker has been affixed to the separate sheet for affixing a visa, this information shall be entered into the VIS in accordance with Article 10(1)(j) of ~~the VIS~~ Regulation ☒ (EC) No 767/2008 ☒ .
5. Individual visas issued to persons who are included in the travel document of the applicant shall be affixed to that travel document.

6. Where the travel document in which such persons are included is not recognised by the issuing Member State, the individual stickers shall be affixed to the separate sheets for affixing a visa.

*Article ~~30~~27*

**Rights derived from an issued visa**

Mere possession of a uniform visa or a visa with limited territorial validity shall not confer an automatic right of entry.

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↓ 810/2009 (adapted)  
⇒ new

*Article ~~31~~28*

**~~Information of~~ ☒ Informing ☒ central authorities of other Member States**

1. A Member State may require that its central authorities be informed of visas issued by consulates of other Member States to nationals of specific third countries or to specific categories of such nationals, except in the case of airport transit visas.

2. Member States shall notify the Commission of the introduction or withdrawal of the requirement for such information ⇒ at the latest 15 calendar days ⇐ before it becomes applicable. This information shall also be given within local Schengen cooperation in the jurisdiction concerned.

3. The Commission shall inform Member States of such notifications.

~~4. From the date referred to in Article 46 of the VIS Regulation, information shall be transmitted in accordance with Article 16(3) of that Regulation.~~

*Article ~~32~~29*

**Refusal of a visa**

1. Without prejudice to Article ~~25~~22(1), a visa shall be refused:

(a) if the applicant:

(i) presents a travel document which is false, counterfeit or forged;

(ii) does not provide justification for the purpose and conditions of the intended stay;

(iii) does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is not in a position to acquire such means lawfully;

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↓ 610/2013 Art. 6.4

(iv) has already stayed for 90 days during the current 180-day period on the territory of the Member States on the basis of a uniform visa or a visa with limited territorial validity;

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↓ 810/2009 (adapted)

⇒ new

(v) is a person for whom an alert has been issued in the SIS for the purpose of refusing entry;

(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of the Schengen Borders Code  Regulation (EC) No 562/2006  or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds; ~~or~~

~~(vii) does not provide proof of holding adequate and valid travel medical insurance, where applicable;~~

or

(b) if there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or the veracity of their contents, the reliability of the statements made by the applicant or his intention to leave the territory of the Member States before the expiry of the visa applied for.

2. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex ~~VI~~ V.

3. Applicants who have been refused a visa shall have the right to appeal. Appeals shall be ~~conducted~~  instituted  against the Member State that has taken the final decision on the application and in accordance with the national law of that Member State. Member States shall provide applicants with  detailed  information regarding the procedure to be followed in the event of an appeal, as specified in Annex ~~VI~~ V.

~~4. In the cases referred to in Article 8(2), the consulate of the representing Member State shall inform the applicant of the decision taken by the represented Member State.~~

~~54.~~ Information on a refused visa shall be entered into the VIS in accordance with Article 12 of the VIS Regulation  (EC) No 767/2008 .

## CHAPTER V

### MODIFICATION OF AN ISSUED VISA

#### Article ~~33~~30

##### Extension

1. The period of validity and/or the duration of stay of an issued visa shall be extended where the competent authority of a Member State considers that a visa holder has provided proof of force majeure or humanitarian reasons preventing him from leaving the territory of the Member States before the expiry of the period of validity of or the duration of stay authorised by the visa. Such an extension shall be granted free of charge.
2. The period of validity and/or the duration of stay of an issued visa may be extended if the visa holder provides proof of serious personal reasons justifying the extension of the period of validity or the duration of stay. A fee of EUR 30 shall be charged for such an extension.
3. Unless otherwise decided by the authority extending the visa, the territorial validity of the extended visa shall remain the same as that of the original visa.
4. The authority competent to extend the visa shall be that of the Member State on whose territory the third-country national is present at the moment of applying for an extension.
5. Member States shall notify to the Commission the authorities competent for extending visas.
6. Extension of visas shall take the form of a visa sticker.
7. Information on an extended visa shall be entered into the VIS in accordance with Article 14 of ~~the VIS~~ Regulation  (EC) No 767/2008 .

#### Article ~~34~~31

##### Annulment and revocation

1. A visa shall be annulled where it becomes evident that the conditions for issuing it were not met at the time when it was issued, in particular if there are serious grounds for believing that the visa was fraudulently obtained. A visa shall in principle be annulled by the competent authorities of the Member State which issued it. A visa may be annulled by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such annulment.
2. A visa shall be revoked where it becomes evident that the conditions for issuing it are no longer met. A visa shall in principle be revoked by the competent authorities of the Member State which issued it. A visa may be revoked by the competent authorities of another Member State, in which case the authorities of the Member State that issued the visa shall be informed of such revocation.

3. A visa may be revoked at the request of the visa holder. The competent authorities of the Member States that issued the visa shall be informed of such revocation.
4. Failure of the visa holder to produce, at the border, one or more of the supporting documents referred to in Article ~~14~~13(4), shall not automatically lead to a decision to annul or revoke the visa.
5. If a visa is annulled or revoked, a stamp stating 'ANNULLED' or 'REVOKED' shall be affixed to it and the optically variable feature of the visa sticker, the security feature 'latent image effect' as well as the term 'visa' shall be invalidated by being crossed out.
6. A decision on annulment or revocation of a visa and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex ~~VI~~ V.
7. A visa holder whose visa has been annulled or revoked shall have the right to appeal, unless the visa was revoked at his request in accordance with paragraph 3. Appeals shall be conducted against the Member State that has taken the decision on the annulment or revocation and in accordance with the national law of that Member State. Member States shall provide applicants with information regarding the procedure to be followed in the event of an appeal, as specified in Annex ~~VI~~ V.
8. Information on an annulled or a revoked visa shall be entered into the VIS in accordance with Article 13 of ~~the VIS~~ Regulation ~~☒~~ (EC) No 767/2008 ~~☒~~ .

## **CHAPTER VI**

### **VISAS ISSUED AT THE EXTERNAL BORDERS**

#### *Article ~~35~~32*

#### **Visas applied for ~~☒~~ exceptionally ~~☒~~ at the external border**

1. In exceptional cases, visas may be issued at border crossing points if the following conditions are satisfied:
  - (a) the applicant fulfils the conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~ ~~☒~~ Regulation (EC) No 562/2006 ~~☒~~ ;
  - (b) the applicant has not been in a position to apply for a visa in advance and submits, if required, supporting documents substantiating unforeseeable and imperative reasons for entry; and
  - (c) the applicant's return to his country of origin or residence or transit through States other than Member States fully implementing the Schengen *acquis* is assessed as certain.



~~2. Where a visa is applied for at the external border, the requirement that the applicant be in possession of travel medical insurance may be waived when such travel medical insurance is not available at that border crossing point or for humanitarian reasons.~~

~~32.~~ A visa issued at the external border shall be a uniform visa, entitling the holder to stay for a maximum duration of 15 days, depending on the purpose and conditions of the intended stay. In the case of transit, the length of the authorised stay shall correspond to the time necessary for the purpose of the transit.

~~43.~~ Where the conditions laid down in Article 5(1)(a), (c), (d) and (e) of ~~the Schengen Borders Code~~  Regulation (EC) No 562/2006  are not fulfilled, the authorities responsible for issuing the visa at the border may issue a visa with limited territorial validity, in accordance with Article ~~2522~~(1)(a) of this Regulation, for the territory of the issuing Member State only.

~~54.~~ A third-country national falling within a category of persons for whom prior consultation is required in accordance with Article ~~22~~ 19 shall, in principle, not be issued a visa at the external border.

However, a visa with limited territorial validity for the territory of the issuing Member State may be issued at the external border for such persons in exceptional cases, in accordance with Article ~~2522~~(1)(a).

~~65.~~ In addition to the reasons for refusing a visa as provided for in Article ~~3229~~(1) a visa shall be refused at the border crossing point if the conditions referred to in paragraph 1(b) of this Article are not met.

~~76.~~ The provisions on justification and notification of refusals and the right of appeal set out in Article ~~3229~~(3) and Annex ~~VI~~ V shall apply.

↓ new

### Article 33

#### **Visas applied for at the external border under a temporary scheme**

1. In view of promoting short term tourism, a Member State may decide to temporarily issue visas at the external border to persons fulfilling the conditions set out in Article 32 (1) (a) and (c).

2. The duration of such a scheme shall be limited to 5 months in any calendar year and the categories of beneficiaries shall be clearly defined.

3. By way of derogation from Article 22(1), a visa issued under such a scheme shall be valid only for the territory of the issuing Member State and shall entitle the holder to stay for a maximum duration of 15 calendar days, depending on the purpose and conditions of the intended stay.

4. Where the visa is refused at the external border, the Member State cannot impose the obligations set out in Article 26 of the Convention Implementing the Schengen Agreement on the carrier concerned.

5. Member States shall notify the envisaged schemes to the European Parliament, the Council and the Commission at the latest three months before the start of their implementation. The notification shall define the categories of beneficiaries, the geographical scope, the organisational modalities of the scheme and the measures envisaged to ensure the verification of the visa issuing conditions.

The Commission shall publish this notification in the Official Journal of the European Union.

6. Three months after the end of the scheme, the Member State concerned shall submit a detailed implementation report to the Commission. The report shall contain information on the number of visas issued and refused (including citizenship of the persons concerned); duration of stay, return rate (including citizenship of persons not returning).

↓ 810/2009 (adapted)

#### Article ~~36~~34

### Visas issued to seafarers ~~in transit~~ at the external border

1. A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa ~~for the purpose of transit~~ at the border where:

(a) he fulfils the conditions set out in Article ~~35~~32(1); and

(b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.

2. Before issuing a visa at the border to a seafarer ~~in transit~~, the competent national authorities shall ~~comply with the rules set out in Annex IX, Part 1, and~~ make sure that the necessary information concerning the seafarer in question has been exchanged ~~by means of a duly completed form for seafarers in transit, as set out in Annex IX, Part 2.~~

↓ new

3. The Commission shall by means of implementing acts adopt operational instructions for issuing visas at the border to seafarers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009

~~34~~. This Article shall apply without prejudice to Article ~~35~~32(~~32~~), (~~43~~) and (~~54~~).

## TITLE IV

### ***ADMINISTRATIVE MANAGEMENT AND ORGANISATION***

#### *Article ~~37~~35*

#### **Organisation of visa sections**

1. Member States shall be responsible for organising the visa sections of their consulates.

In order to prevent any decline in the level of vigilance and to protect staff from being exposed to pressure at local level, rotation schemes for staff dealing directly with applicants shall be set up, where appropriate. Particular attention shall be paid to clear work structures and a distinct allocation/division of responsibilities in relation to the taking of final decisions on applications. Access to consultation of the VIS and the SIS and other confidential information shall be restricted to a limited number of duly authorised staff. Appropriate measures shall be taken to prevent unauthorised access to such databases.

2. The storage and handling of visa stickers shall be subject to adequate security measures to avoid fraud or loss. Each consulate shall keep an account of its stock of visa stickers and register how each visa sticker has been used.

3. Member States' consulates shall keep archives of applications. Each individual file shall contain the application form, copies of relevant supporting documents, a record of checks made and the reference number of the visa issued, in order for staff to be able to reconstruct, if need be, the background for the decision taken on the application.

Individual application files shall be kept for a minimum of two years from the date of the decision on the application as referred to in Article ~~33~~20(1).

#### *Article ~~38~~36*

#### **Resources for examining applications and monitoring of consulates**

1. Member States shall deploy appropriate staff in sufficient numbers to carry out the tasks relating to the examining of applications, in such a way as to ensure reasonable and harmonised quality of service to the public.

2. Premises shall meet appropriate functional requirements of adequacy and allow for appropriate security measures.

3. Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and up-to-date information on the relevant ~~Community~~  Union  and national law.

4. Member States' central authorities shall ensure frequent and adequate monitoring of the conduct of examination of applications and take corrective measures when deviations from the provisions of this Regulation are detected.

*Article ~~39~~37*

**Conduct of staff**

1. Member States' consulates shall ensure that applicants are received courteously.
2. Consular staff shall, in the performance of their duties, fully respect human dignity. Any measures taken shall be proportionate to the objectives pursued by such measures.
3. While performing their tasks, consular staff shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Article ~~40~~38*

**~~Forms of~~ ☒ Consular organisation and ☒ cooperation**

1. Each Member State shall be responsible for organising the procedures relating to applications. ~~In principle, applications shall be lodged at a consulate of a Member State.~~

2. Member States shall:

(a) equip their consulates and authorities responsible for issuing visas at the borders with the required material for the collection of biometric identifiers, as well as the offices of their honorary consuls, whenever they make use of them, to collect biometric identifiers in accordance with Article ~~42~~40; ~~and/or~~

(b) cooperate with one or more other Member States, ~~within the framework of local Schengen cooperation or by other appropriate contacts, in the form of limited representation, co-location, or a Common Application Centre in accordance with Article 41~~ ☐ under representation arrangements or any other form of consular cooperation ☐ .

~~3. In particular circumstances or for reasons relating to the local situation, such as where:~~

~~(a) the high number of applicants does not allow the collection of applications and of data to be organised in a timely manner and in decent conditions; or~~

~~(b) it is not possible to ensure a good territorial coverage of the third country concerned in any other way;~~

~~and where the forms of cooperation referred to in paragraph 2(b) prove not to be appropriate for the Member State concerned, a~~

☒ 3. A ☒ Member State may, ~~as a last resort,~~ ☒ also ☒ cooperate with an external service provider in accordance with Article ~~43~~41.

~~4. Without prejudice to the right to call the applicant for a personal interview, as provided for in Article 21(8), the selection of a form of organisation shall not lead to the applicant being required to appear in person at more than one location in order to lodge an application.~~

~~54. Member States shall notify to the Commission how they intend to organise the procedures relating to applications~~ ⇒ their consular organisation and cooperation ⇐ in each consular location.

↓ new

~~65. In the event of termination of cooperation with other Member States, Member States shall assure the continuity of full service.~~

↓ 810/2009 (adapted)  
⇒ new

### Article ~~8~~39

#### Representation arrangements

1. A Member State may agree to represent another Member State that is competent in accordance with Article 5 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~~ ☒ only ☒ for the collection of applications and the enrolment of biometric identifiers.

~~2. The consulate of the representing Member State shall, when contemplating refusing a visa, submit the application to the relevant authorities of the represented Member State in order for them to take the final decision on the application within the time limits set out in Article 23(1), (2) or (3).~~

~~32.~~ ⇒ Where the representation is limited to the collection of applications, ⇐ ~~the~~ collection and transmission of files and data to the represented Member State shall be carried out in compliance with the relevant data protection and security rules.

~~3.~~ A bilateral arrangement shall be established between the representing Member State and the represented Member State ~~containing the following elements~~ ☒ . That arrangement ☒ :

(a) shall specify the duration of ~~such~~ ☒ the ☒ representation, if only temporary, and ☒ the ☒ procedures for its termination;

(b) may, in particular when the represented Member State has a consulate in the third country concerned, provide for the provision of premises, staff and payments by the represented Member State;

~~(e) it may stipulate that applications from certain categories of third country nationals are to be transmitted by the representing Member State to the central authorities of the represented Member State for prior consultation as provided for in Article 22;~~

~~(d) by way of derogation from paragraph 2, it may authorise the consulate of the representing Member State to refuse to issue a visa after examination of the application.~~

54. Member States lacking their own consulate in a third country shall endeavour to conclude representation arrangements with Member States that have consulates in that country.

65. With a view to ensuring that a 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, Member States lacking their own consulate in that region or area shall endeavour to conclude representation arrangements with Member States that have consulates in that region or area.

76. The represented Member State shall notify the representation arrangements or the termination of ~~such~~  those  arrangements to the Commission  at least two months  before they enter into force or are terminated.

87. ~~Simultaneously,~~  The consulate of the representing Member State shall  , at the same time that the notification referred to in paragraph 6 takes place,  inform both the consulates of other Member States and the delegation of the ~~Commission~~  European Union  in the jurisdiction concerned about representation arrangements or the termination of such arrangements ~~before they enter into force or are terminated.~~

98. If the consulate of the representing Member State decides to cooperate with an external service provider in accordance with Article ~~4341~~, or with accredited commercial intermediaries as provided for in Article ~~4543~~, ~~such~~  that  cooperation shall include applications covered by representation arrangements. The central authorities of the represented Member State shall be informed in advance of the terms of such cooperation.

#### Article 41

### **Cooperation between Member States**

~~1. Where ‘co-location’ is chosen, staff of the consulates of one or more Member States shall carry out the procedures relating to applications (including the collection of biometric identifiers) addressed to them at the consulate of another Member State and share the equipment of that Member State. The Member States concerned shall agree on the duration of and conditions for the termination of the co-location as well as the proportion of the visa fee to be received by the Member State whose consulate is being used.~~

~~2. Where ‘Common Application Centres’ are established, staff of the consulates of two or more Member States shall be pooled in one building in order for applicants to lodge applications (including biometric identifiers). Applicants shall be directed to the Member State competent for examining and deciding on the application. Member States shall agree on the duration of and conditions for the termination of such cooperation as well as the cost-sharing among the participating Member States. One Member State shall be responsible for contracts in relation to logistics and diplomatic relations with the host country.~~

~~3. In the event of termination of cooperation with other Member States, Member States shall assure the continuity of full service.~~

## Article ~~42~~40

### Recourse to honorary consuls

1. Honorary consuls may ~~also~~ be authorised to perform some or all of the tasks referred to in Article ~~43(6)~~ 41(5). Adequate measures shall be taken to ensure security and data protection.
2. Where the honorary consul is not a civil servant of a Member State, the performance of those tasks shall comply with the requirements set out in Annex ~~X~~ VI, except for the provisions in point D(c) of that Annex.
3. Where the honorary consul is a civil servant of a Member State, the Member State concerned shall ensure that requirements comparable to those which would apply if the tasks were performed by its consulate are applied.

## Article ~~43~~41

### Cooperation with external service providers

1. Member States shall endeavour to cooperate with an external service provider together with one or more Member States, without prejudice to public procurement and competition rules.
2. Cooperation with an external service provider shall be based on a legal instrument that shall comply with the requirements set out in Annex ~~X~~ VI.

~~3. Member States shall, within the framework of local Schengen cooperation, exchange information about the selection of external service providers and the establishment of the terms and conditions of their respective legal instruments.~~

~~43.~~ The examination of applications, interviews (where appropriate), the decision on applications and the printing and affixing of visa stickers shall be carried out only by the consulate.

~~54.~~ External service providers shall not have access to the VIS under any circumstances. Access to the VIS shall be reserved exclusively to duly authorised staff of consulates.

~~65.~~ An external service provider may be entrusted with the performance of one or more of the following tasks:

- (a) providing general information on visa requirements and application forms;
- (b) informing the applicant of the required supporting documents, on the basis of a checklist;
- (c) collecting data and applications (including collection of biometric identifiers) and transmitting the application to the consulate;
- (d) collecting the visa fee;
- (e) managing ~~the~~ appointments for ~~appearance in person~~ ⇒ the applicant, where applicable, ⇐ at the consulate or at the external service provider;

(f) collecting the travel documents, including a refusal notification if applicable, from the consulate and returning them to the applicant.

~~76~~. When selecting an external service provider, the Member State(s) concerned shall scrutinise the solvency and reliability of the company, including the necessary licences, commercial registration, company statutes, bank contracts, and ensure that there is no conflict of interests.

~~87~~. The Member State(s) concerned shall ensure that the external service provider selected complies with the terms and conditions assigned to it in the legal instrument referred to in paragraph 2.

~~98~~. The Member State(s) concerned shall remain responsible for compliance with data protection rules for the processing of data and shall be supervised in accordance with Article 28 of Directive ~~95/46/EC~~.

Cooperation with an external service provider shall not limit or exclude any liability arising under the national law of the Member State(s) concerned for breaches of obligations with regard to the personal data of applicants or the performance of one or more of the tasks referred to in paragraph ~~65~~. This provision is without prejudice to any action which may be taken directly against the external service provider under the national law of the third country concerned.

~~109~~. The Member State(s) concerned shall provide training to the external service provider, corresponding to the knowledge needed to offer an appropriate service and sufficient information to applicants.

~~110~~. The Member State(s) concerned shall closely monitor the implementation of the legal instrument referred to in paragraph 2, including:

(a) the general information on visa requirements and application forms provided by the external service provider to applicants;

(b) all the technical and organisational security measures required to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the cooperation involves the transmission of files and data to the consulate of the Member State(s) concerned, and all other unlawful forms of processing personal data;

(c) the collection and transmission of biometric identifiers;

(d) the measures taken to ensure compliance with data protection provisions.

To this end, the consulate(s) of the Member State(s) concerned shall, on a regular basis, carry out spot checks on the premises of the external service provider.

~~121~~. In the event of termination of cooperation with an external service provider, Member States shall ensure the continuity of full service.

~~132~~. Member States shall provide the Commission with a copy of the legal instrument referred to in paragraph 2. ⇒ By 1st January each year, Member States shall report to the



Commission on their cooperation with and monitoring (as referred to in Annex VI, point C) of external service providers worldwide. ⇐

↓ 810/2009 (adapted)

⇒ new

## Article ~~444~~2

### Encryption and secure transfer of data

1. In the case of ~~representation arrangements between~~ ⇐ cooperation among ⇐ Member States and cooperation ~~of Member States~~ with an external service provider and recourse to honorary consuls, ~~the represented Member State(s) or~~ the Member State(s) concerned shall ensure that the data are fully encrypted, whether electronically transferred or physically transferred on an electronic storage medium ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned.~~

2. In third countries which prohibit encryption of data to be electronically transferred ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned,~~ the ~~represented Member State(s) or~~ the Member State(s) concerned shall not allow ~~the representing Member State or the external service provider or the honorary consul to~~ transfer data electronically.

In such a case, ~~the represented Member State(s) or~~ the Member State(s) concerned shall ensure that the electronic data are transferred physically in fully encrypted form on an electronic storage medium ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned~~ by a consular officer of a Member State or, where such a transfer would require disproportionate or unreasonable measures to be taken, in another safe and secure way, for example by using established operators experienced in transporting sensitive documents and data in the third country concerned.

3. In all cases the level of security for the transfer shall be adapted to the sensitive nature of the data.

4. The ~~Member States or the Community~~ ☒ Union ☒ shall endeavour to reach agreement with the third countries concerned with the aim of lifting the prohibition against encryption of data to be electronically transferred ~~from the authorities of the representing Member State to the authorities of the represented Member State(s) or from the external service provider or from the honorary consul to the authorities of the Member State(s) concerned.~~

Article ~~45~~43

**Member States' cooperation with commercial intermediaries**

1. Member States may ~~cooperate with~~  accept the lodging of applications by a private administrative agency, a transport company or a travel agency, such as a tour operator or a retailer (commercial intermediaries)  ~~for the lodging of applications~~, except for the collection of biometric identifiers.

2. ~~Such~~ ~~e~~Cooperation  with commercial intermediaries  shall be based on the granting of an accreditation by Member States' relevant authorities. The accreditation shall, in particular, be based on the verification of the following aspects:

(a) the current status of the commercial intermediary: current licence, the commercial register, contracts with banks;

(b) existing contracts with commercial partners based in the Member States offering accommodation and other package tour services;

(c) contracts with transport companies, which must include an outward journey, as well as a guaranteed and fixed return journey.

3. Accredited commercial intermediaries shall be monitored regularly by spot checks involving personal or telephone interviews with applicants, verification of trips and accommodation, ~~verification that the travel medical insurance provided is adequate and covers individual travellers~~, and wherever deemed necessary, verification of the documents relating to group return.

4. Within local Schengen cooperation, information shall be exchanged on the performance of the accredited commercial intermediaries concerning irregularities detected and refusal of applications submitted by commercial intermediaries, and on detected forms of travel document fraud and failure to carry out scheduled trips.

5. Within local Schengen cooperation, lists shall be exchanged of commercial intermediaries to which accreditation has been given by each consulate and from which accreditation has been withdrawn, together with the reasons for any such withdrawal.

Each consulate shall ~~make sure that~~ inform the public ~~is informed~~ about the list of accredited commercial intermediaries with which it cooperates.

Article ~~46~~44

**Compilation of statistics**

Member States shall compile annual statistics on visas, in accordance with ~~the table set out in~~ Annex ~~XII~~ VIII. These statistics shall be submitted by 1 March for the preceding calendar year.

Article ~~47~~45

**Information ☒ to be provided ☒ to the public**

1. Member States' central authorities and consulates shall provide the public with all relevant information in relation to the application for a visa, in particular:

- (a) the criteria, conditions and procedures for applying for a visa;
- (b) the means of obtaining an appointment, if applicable;
- (c) where the application may be submitted (~~competent consulate, Common Application Centre or external service provider~~);
- (d) accredited commercial intermediaries;
- ~~(e) the fact that the stamp as provided for in Article 20 has no legal implications;~~
- (~~f~~) the time limits for examining applications provided for in Article ~~23~~20(1), (2) and (3);
- (~~g~~) the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information;
- (~~h~~) that negative decisions on applications must be notified to the applicant, that such decisions must state the reasons on which they are based and that applicants whose applications are refused have a right to appeal, with information regarding the procedure to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;
- (~~h~~) that mere possession of a visa does not confer an automatic right of entry and that the holders of visa are requested to present proof that they fulfil the entry conditions at the external border, as provided for in Article 5 of ~~the Schengen Borders Code~~ ☒ Regulation (EC) No 562/2006 ☒ .

2. The representing and represented Member State shall inform the general public about representation arrangements as referred to in Article ~~8~~ 39 before such arrangements enter into force.

3. The Commission shall establish a standard information template for the implementation of the provisions of paragraph 1.

4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the application for a visa.

## TITLE V

### *LOCAL SCHENGEN COOPERATION*

#### *Article ~~48~~46*

#### **Local Schengen cooperation between Member States' consulates**

1. In order to ensure a harmonised application of the common visa policy taking into account, where appropriate, local circumstances, Member States' consulates and the Commission shall cooperate within each jurisdiction, ~~and assess the need to establish~~ in particular  to  :

- (a)  prepare  a harmonised list of supporting documents to be submitted by applicants, taking into account Article ~~14~~ 13 and Annex II;
- (b)  ensure a  common ~~criteria for examining applications in relation to exemptions from paying the visa fee in accordance with Article 16(5) and matters relating to the~~ translation of the application form in accordance with Article ~~11(5)~~ 10(6);
- (c) ~~an~~  establish  ~~exhaustive~~  the  list of travel documents issued by the host country, ~~which shall be updated~~  and update it regularly  .

~~If in relation to one or more of the points (a) to (c), the assessment within local Schengen cooperation confirms the need for a local harmonised approach measures on such an approach shall be adopted pursuant to the procedure referred to in Article 52(2).~~

2. Within local Schengen cooperation a common information sheet shall be established  on the basis of the standard information template drawn up by the Commission under Article 45(3)  ~~on uniform visas and visas with limited territorial validity and airport transit visas, namely, the rights that the visa implies and the conditions for applying for it, including, where applicable, the list of supporting documents as referred to in paragraph 1(a).~~

3. ~~The following information shall be exchanged tasks shall be carried out~~ Member States within local Schengen cooperation  shall exchange the following  :

- (a) ~~monthly~~  quarterly  statistics on uniform visas, visas with limited territorial validity, ~~and~~ airport transit visas  and touring visas   applied for,  issued, ~~as well as the number of visas~~  and  refused  ~~shall be compiled~~  ;
- (b)  ~~exchange of~~ information  with regard to the assessment of migratory and/or security risks, ~~information~~  in particular  on:
  - (i) the socioeconomic structure of the host country;

- (ii) sources of information at local level, including social security, health insurance, fiscal registers and entry-exit registrations;
- (iii) the use of false, counterfeit or forged documents;
- (iv) ~~illegal~~  irregular  immigration routes;
- (v) refusals;

(c) information on cooperation with transport companies~~3~~.

~~(d) information on insurance companies providing adequate travel medical insurance, including verification of the type of coverage and possible excess amount.~~

4. Local Schengen cooperation meetings to deal specifically with operational issues in relation to the application of the common visa policy shall be organised regularly among Member States and the Commission. These meetings shall be convened within the jurisdiction by the Commission, unless otherwise agreed at the request of the Commission.

Single-topic meetings may be organised and sub-groups set up to study specific issues within local Schengen cooperation.

65. Representatives of the consulates of Member States not applying the Union *acquis* in relation to visas, or of third countries, may on an ad hoc basis be invited to participate in meetings for the exchange of information on issues relating to visas.

56. Summary reports of local Schengen cooperation meetings shall be drawn up systematically and circulated locally. The Commission may delegate the drawing up of the reports to a Member State. The consulates of each Member State shall forward the reports to their central authorities.

⇒ 7. An annual report shall be drawn up within each jurisdiction by 31 December each year. ⇐ On the basis of these reports, the Commission shall draw up an annual report ~~within each jurisdiction~~ ⇒ on the state of affairs of local Schengen cooperation ⇐ to be submitted to the European Parliament and the Council.

## TITLE VI

### *FINAL PROVISIONS*

#### *Article ~~49~~47*

#### **Arrangements in relation to the Olympic Games and Paralympic Games**

Member States hosting the Olympic Games and Paralympic Games shall apply the specific procedures and conditions facilitating the issuing of visas set out in Annex ~~XI~~ VII.

## *Article 50*

### **Amendments to the Annexes**

~~Measures designed to amend non-essential elements of this Regulation and amending Annexes I, II, III, IV, V, VI, VII, VIII and XII shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 52(3).~~

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↓ new

## *Article 48*

### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. Powers to adopt delegated acts referred to in Article 3(2) and (9), shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of power referred to in Article 3(2) and (9) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 3(2) and (9) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

## *Article 49*

### **Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 48(5). In such cases, the Commission shall repeal the

act without delay following the notification of the decision to object by the European Parliament or the Council.

↓ 810/2009 (adapted)

Article ~~51~~ 50

### Instructions on the practical application of ~~the Visa Code~~ ☒ this Regulation ☒

~~Operational instructions on the practical application of the provisions of this Regulation shall be drawn up in accordance with the procedure referred to in Article 52(2).~~

↓ new

The Commission shall by means of implementing acts adopt the operational instructions on the practical application of the provisions of this Regulation ~~shall be drawn up in accordance with the procedure referred to in Article 52(2).~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(2).

↓ 810/2009 (adapted)  
⇒ new

Article ~~52~~ 51

### Committee procedure

1. The Commission shall be assisted by a committee (the Visa Committee). ⇒ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇐

2. Where reference is made to this paragraph, ~~Articles 5 and 7 of Decision 1999/468/EC~~ ⇒ Article 5 of Regulation (EU) No 182/2011 ⇐ shall apply, ~~having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Regulation.~~

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be three months.~~

~~3. Where reference is made to this paragraph, Articles 5a(1) to (4) and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

Article ~~53~~ 52

### Notification

1. Member States shall notify the Commission of:

(a) representation arrangements referred to in Article ~~839~~;

(b) third countries whose nationals are required by individual Member States to hold an airport transit visa when passing through the international transit areas of airports situated on their territory, as referred to in Article 3;

(c) the national form for proof of sponsorship and/or private accommodation referred to in Article ~~14(4)~~ 13(7), if applicable;

(d) the list of third countries for which prior consultation referred to in Article ~~22~~19(1) is required;

(e) the list of third countries for which information referred to in Article ~~31~~28(1) is required;

(f) the additional national entries in the ‘comments’ section of the visa sticker, as referred to in Article ~~27~~24(3);

(g) authorities competent for extending visas, as referred to in Article ~~33~~30(5);

(h) the ~~forms~~  choice  of  consular organisation and  cooperation ~~chosen~~ as referred to in Article ~~40~~38;

(i) statistics compiled in accordance with Article ~~46~~ 44 and Annex ~~XII~~ VIII.

2. The Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public via ~~a~~  the  constantly updated ~~electronic publication~~  Schengen visa website, referred to in Article 45(4) .

#### *Article 54*

#### **Amendments to Regulation (EC) No 767/2008**

~~Regulation (EC) No 767/2008 is hereby amended as follows:~~

~~1. Article 4(1) shall be amended as follows:~~

~~(a) point (a) shall be replaced by the following:~~

~~‘(a) “uniform visa” as defined in Article 2(3) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community code on Visas (Visa Code)<sup>25</sup>;’~~

~~(b) point (b) shall be deleted;~~

~~(c) point (c) shall be replaced by the following:~~

~~‘(c) “airport transit visa” as defined in Article 2(5) of Regulation (EC) No 810/2009;’~~

~~(d) point (d) shall be replaced by the following:~~

<sup>35</sup>

OJL 243, 15.9.2009, p. 1;



~~‘(d) “visa with limited territorial validity” as defined in Article 2(4) of Regulation (EC) No 810/2009;’;~~

~~(e) point (e) shall be deleted;~~

~~2. in Article 8(1), the words ‘On receipt of an application’, shall be replaced by the following:~~

~~‘When the application is admissible according to Article 19 of Regulation (EC) No 810/2009’;~~

~~3. Article 9 shall be amended as follows:~~

~~(a) the heading shall be replaced by the following:~~

~~**‘Data to be entered on application’;**~~

~~(b) paragraph 4 shall be amended as follows:~~

~~(i) point (a) shall be replaced by the following:~~

~~‘(a) surname (family name), surname at birth (former family name(s)), first name(s) (given name(s)); date of birth, place of birth, country of birth, sex;’;~~

~~(ii) point (e) shall be deleted;~~

~~(iii) point (g) shall be replaced by the following:~~

~~‘(g) Member State(s) of destination and duration of the intended stay or transit;’;~~

~~(iv) point (h) shall be replaced by the following:~~

~~‘(h) main purpose(s) of the journey;’;~~

~~(v) point (i) shall be replaced by the following:~~

~~‘(i) intended date of arrival in the Schengen area and intended date of departure from the Schengen area;’;~~

~~(vi) point (j) shall be replaced by the following:~~

~~‘(j) Member State of first entry;’;~~

~~(vii) point (k) shall be replaced by the following:~~

~~‘(k) the applicant’s home address;’;~~

~~(viii) in point (l), the word ‘school’ shall be replaced by: ‘educational establishment’;~~

~~(ix) in point (m), the words ‘father and mother’ shall be replaced by ‘parental authority or legal guardian’;~~

~~4. the following point shall be added to Article 10(1):~~

~~‘(k) if applicable, the information indicating that the visa sticker has been filled in manually.’;»~~

~~5. in Article 11, the introductory paragraph shall be replaced by the following:~~

~~‘Where the visa authority representing another Member State discontinues the examination of the application, it shall add the following data to the application file.’;»~~

~~6. Article 12 shall be amended as follows:~~

~~(a) in paragraph 1, point (a) shall be replaced by the following:~~

~~‘(a) status information indicating that the visa has been refused and whether that authority refused it on behalf of another Member State.’;»~~

~~(b) paragraph 2 shall be replaced by the following:~~

~~‘2. The application file shall also indicate the ground(s) for refusal of the visa, which shall be one or more of the following:~~

~~(a) the applicant:~~

~~(i) presents a travel document which is false, counterfeit or forged;~~

~~(ii) does not provide justification for the purpose and conditions of the intended stay;~~

~~(iii) does not provide proof of sufficient means of subsistence, both for the duration of the intended stay and for the return to his country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or is not in a position to acquire such means lawfully;~~

~~(iv) has already stayed for three months during the current six-month period on the territory of the Member States on a basis of a uniform visa or a visa with limited territorial validity;~~

~~(v) is a person for whom an alert has been issued in the SIS for the purpose of refusing entry;~~

~~(vi) is considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of the Schengen Borders Code or to the international relations of any of the Member States, in particular where an alert has been issued in Member States’ national databases for the purpose of refusing entry on the same grounds;~~

~~(vii) does not provide proof of holding adequate and valid travel medical insurance, where applicable;~~

~~(b) the information submitted regarding the justification for the purpose and conditions of the intended stay was not reliable;~~

~~(e) the applicant's intention to leave the territory of the Member States before the expiry of the visa could not be ascertained;~~

~~(d) sufficient proof that the applicant has not been in a position to apply for a visa in advance justifying application for a visa at the border was not provided.';>~~

~~7. Article 13 shall be replaced by the following:~~

~~*Article 13*~~

~~**Data to be added for a visa annulled or revoked**~~

~~1. Where a decision has been taken to annul or to revoke a visa, the visa authority that has taken the decision shall add the following data to the application file:~~

~~(a) status information indicating that the visa has been annulled or revoked;~~

~~(b) authority that annulled or revoked the visa, including its location;~~

~~(c) place and date of the decision.~~

~~2. The application file shall also indicate the ground(s) for annulment or revocation, which shall be:~~

~~(a) one or more of the ground(s) listed in Article 12(2);~~

~~(b) the request of the visa holder to revoke the visa.';>~~

~~8. Article 14 shall be amended as follows:~~

~~(a) paragraph 1 shall be amended as follows:~~

~~(i) the introductory paragraph shall be replaced by the following:~~

~~'1. Where a decision has been taken to extend the period of validity and/or the duration of stay of an issued visa, the visa authority which extended the visa shall add the following data to the application file:';>~~

~~(ii) point (d) shall be replaced by the following:~~

~~'(d) the number of the visa sticker of the extended visa;';>~~

~~(iii) point (g) shall be replaced by the following:~~

~~‘(g) the territory in which the visa holder is entitled to travel, if the territorial validity of the extended visa differs from that of the original visa;’<sup>36</sup>»~~

~~(b) in paragraph 2, point (c) shall be deleted;~~

~~9. in Article 15(1), the words ‘extend or shorten the validity of the visa’ shall be replaced by ‘or extend the visa’;~~

~~10. Article 17 shall be amended as follows:~~

~~(a) point 4 shall be replaced by the following:~~

~~‘4. Member State of first entry;’<sup>36</sup>»~~

~~(b) point 6 shall be replaced by the following:~~

~~‘6. the type of visa issued;’<sup>36</sup>»~~

~~(c) point 11 shall be replaced by the following:~~

~~‘11. main purpose(s) of the journey;’<sup>36</sup>»~~

~~11. in Article 18(4)(c), Article 19(2)(c), Article 20(2)(d), Article 22(2)(d), the words ‘or shortened’ shall be deleted;~~

~~12. in Article 23(1)(d), the word ‘shortened’ shall be deleted.~~

#### ~~Article 55~~

### ~~Amendments to Regulation (EC) No 562/2006~~

~~Annex V, Part A of Regulation (EC) No 562/2006 is hereby amended as follows:~~

~~(a) point 1(c), shall be replaced by the following:~~

~~‘(c) annul or revoke the visas, as appropriate, in accordance with the conditions laid down in Article 34 of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community code on visas (Visa Code)<sup>26</sup>’<sup>36</sup>»~~

~~(b) point 2 shall be deleted.~~

#### ~~Article 56~~53

### ~~Repeals~~

~~1. Articles 9 to 17 of the Convention implementing the Schengen Agreement of 14 June 1985 shall be~~  Regulation (EC) No 810/2009 is  repealed  and replaced by this Regulation from 6 months after the day of entry into force .

<sup>36</sup> OJL 243, 15.9.2009, p. 1;

## 2. The following shall be repealed:

~~(a) Decision of the Schengen Executive Committee of 28 April 1999 on the definitive versions of the Common Manual and the Common Consular Instructions (SCH/Com-ex (99) 13 (the Common Consular Instructions, including the Annexes);~~

~~(b) Decisions of the Schengen Executive Committee of 14 December 1993 extending the uniform visa (SCH/Com-ex (93) 21) and on the common principles for cancelling, rescinding or shortening the length of validity of the uniform visa (SCH/Com-ex (93) 24), Decision of the Schengen Executive Committee of 22 December 1994 on the exchange of statistical information on the issuing of uniform visas (SCH/Com-ex (94) 25), Decision of the Schengen Executive Committee of 21 April 1998 on the exchange of statistics on issued visas (SCH/Com-ex (98) 12) and Decision of the Schengen Executive Committee of 16 December 1998 on the introduction of a harmonised form providing proof of invitation, sponsorship and accommodation (SCH/Com-ex (98) 57);~~

~~(c) Joint Action 96/197/JHA of 4 March 1996 on airport transit arrangements<sup>27</sup>;~~

~~(d) Council Regulation (EC) No 789/2001 of 24 April 2001 reserving to the Council implementing powers with regard to certain detailed provisions and practical procedures for examining visa applications<sup>28</sup>;~~

~~(e) Council Regulation (EC) No 1091/2001 of 28 May 2001 on freedom of movement with a long stay visa<sup>29</sup>;~~

~~(f) Council Regulation (EC) No 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit<sup>40</sup>;~~

~~(g) Article 2 of Regulation (EC) No 390/2009 of the European Parliament and of the Council of 23 April 2009 amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications<sup>41</sup>;~~

~~References to the repealed instruments Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex XIII.~~

## Article 5754

### Monitoring and evaluation

1. ~~Two~~ ⇒ Three ⇐ years after all the provisions of this Regulation have become applicable ⇒ the date set in Article 55(2) ⇐, the Commission shall produce an evaluation of ~~its~~ ⇒ the ⇐ application ⇒ of this Regulation ⇐. This overall evaluation shall include an examination of

<sup>37</sup> OJL 63, 13.3.1996, p. 8.

<sup>38</sup> OJL 116, 26.4.2001, p. 2.

<sup>39</sup> OJL 150, 6.6.2001, p. 4.

<sup>40</sup> OJL 64, 7.3.2003, p. 1.

<sup>41</sup> OJL 131, 28.5.2009, p. 1.

the results achieved against objectives and of the implementation of the provisions of this Regulation, without prejudice to the reports referred to in paragraph 3.

2. The Commission shall transmit the evaluation referred to in paragraph 1 to the European Parliament and the Council. On the basis of the evaluation, the Commission shall submit, if necessary, appropriate proposals with a view to amending this Regulation.

3. The Commission shall present, three years after the VIS is brought into operation and every four years thereafter, a report to the European Parliament and to the Council on the implementation of Articles ~~13~~ 12, ~~17~~ 15, ~~38~~, 40 to ~~44~~ 42 of this Regulation, including the implementation of the collection and use of biometric identifiers, the suitability of the ICAO standard chosen, compliance with data protection rules, experience with external service providers with specific reference to the collection of biometric data, the implementation of the 59-month rule for the copying of fingerprints and the organisation of the procedures relating to applications. The report shall also include, on the basis of Article 17(12), (13) and (14) and of Article 50(4) of ~~the VIS~~ Regulation  (EC) No 767/2008 , the cases in which fingerprints could factually not be provided or were not required to be provided for legal reasons, compared with the number of cases in which fingerprints were taken. The report shall include information on cases in which a person who could factually not provide fingerprints was refused a visa. The report shall be accompanied, where necessary, by appropriate proposals to amend this Regulation.

4. The first of the reports referred to in paragraph 3 shall also address the issue of the sufficient reliability for identification and verification purposes of fingerprints of children under the age of 12 and, in particular, how fingerprints evolve with age, on the basis of the results of a study carried out under the responsibility of the Commission.

#### Article ~~58~~55

#### Entry into force

1. This Regulation shall enter into force on the ~~20th~~ day following  that of  its publication in the *Official Journal of the European Union*.

2. It shall apply from ~~5 April 2010~~  [6 months after the day of entry into force] .

3.  Article 51 shall apply from [3 months after the day of entry into force] .

~~3. Article 52 and Article 53(1)(a) to (h) and (2) shall apply from 5 October 2009.~~

~~4. As far as the Schengen Consultation Network (Technical Specifications) is concerned, Article 56(2)(d) shall apply from the date referred to in Article 46 of the VIS Regulation.~~

~~5. Article 32(2) and (3), Article 34(6) and (7) and Article 35(7) shall apply from 5 April 2011.~~

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the ~~Treaty establishing the European Community~~  Treaties .

Done at [...],

*For the European Parliament*  
*The President*

*For the Council*  
*The President*