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From:	General Secretariat of the Council
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Subject:	Report on the discussions on e-visas held in Visa Working Party and suggestions for in-depth assessments

The topic of e-visas has been the subject of discussions of one meeting of SCIFA and three meetings of the Visa Working Party during the Estonian Presidency (second semester 2017).

Following those discussions, the Presidency has prepared a draft report in 14268/17, in which the main outcomes of those discussions have been outlined with the aim of identifying the views within the Council with regard to e-visas and suggesting aspects which should be thoroughly assessed by the Commission, with a view to presenting concrete proposals for more detailed discussions at the Council.

The Presidency has then invited delegations to send the comments they might have on the draft report as set out in 14268/17.

Five delegations have replied and three out of them have suggested amendments. Those amendments have been taken into account in the attached final version of the report (see new point 14 and new point 55).

COREPER/Council is invited to take note of the attached report.

REPORT ON THE DISCUSSIONS ON E-VISAS HELD IN VISA WORKING PARTY AND SUGGESTIONS FOR IN-DEPTH ASSESSMENTS

I.   INTRODUCTION

1.   Within the general reflections on measures to enhance and modernise EU visa policy held during the Informal Joint Meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and High-Level Working Group on Asylum and Migration (HLWG) on 11-12 July 2017, the Estonian Presidency suggested that e-visas should be studied as a possible option for facilitating and enhancing the current Schengen visa application process.

2.   Consequently, the topic of e-visas has been the subject of discussions at three meetings of the Visa Working Party during the Estonian Presidency (second semester 2017): on 12 July (10520/17), on 18 September (11816/17) and on 24 October (ST 12546/17).

3.   During the first structured exchange of views on 12 July, the Presidency suggested that the discussions on e-visas should focus on two concrete areas: digital visas as an alternative to physical visa stickers and online applications as an alternative to paper-based applications. In-depth discussion on digital visas took place at the meeting of the Visa Working Party on 18 September and on online applications at the meeting of the Visa Working Party on 24 October.

4.   The purpose of this report is to outline the main outcomes of those discussions with the aim of identifying the views within the Council with regard to e-visas and suggesting aspects which should be thoroughly assessed by the Commission, with a view to presenting concrete proposals for more detailed discussions at the Council.

5.   The list of issues dealt with in this report is not exhaustive, as it summarises the main ideas. Furthermore, it is noted that the positions adopted by the delegations reflect their preliminary views and are without prejudice to their future positions.

II. DISCUSSIONS ON E-VISAS

A. *General reflections on e-visas*

6. All Member States welcomed the discussions on e-visas and agreed that the idea of adapting the current visa processes to use e-visas should be further explored. A number of delegations expressed the view that a technological approach is the future of EU visa policy and the discussions on e-visas are therefore timely. Nevertheless, several Member States stressed that priority should be given to the EES and ETIAS.

7. The suggestion to focus the discussion on e-visas on the possibility of digitalising the visa sticker and providing for an online application was broadly supported.

8. The general view was that the implementation of e-visas should take advantage of the deployment of the EES and ETIAS. It was also indicated that the EES and ETIAS should be developed with reusability in mind, allowing for the possible implementation of e-visas. Re-using the technical components or infrastructures of the EES and ETIAS should however not delay the implementation of those systems.

9. Some delegations were of the opinion that the discussions on e-visas should continue after the deployment of the EES and ETIAS, following the evaluation of those systems, with a view to taking into account the experience gained. Others considered that the implementation of e-visas should be envisaged simultaneously with the EES and ETIAS.

10. Most Member States agreed that digital visas and online applications could have advantages in facilitating and enhancing the current Schengen visa application process, although the associated challenges need to be carefully examined before launching the initiatives.

11. It emerged that privacy, data protection and IT security concerns are of particular importance. Several Member States called for a risk assessment and a privacy impact assessment to be carried out. The assessments conducted for the EES and ETIAS in this regards would, at least partially, also apply for e-visas.

12.   Since the implementation of the proposals will entail some regulatory changes, a thorough analysis of the norms affected would need to be carried out.

13.   It was also mentioned that due attention should be paid to the financial implications of the initiative, including the costs it would entail for the EU and the Member States. The suggestion to re-use the technical components for the ETIAS and EES for cost-saving purposes was widely supported. While the majority of Member States agreed that the introduction of e-visas would in general reduce the workload of consulates and facilitate the procedures, concerns were raised regarding the overall savings, in particular with regard to online applications. Several Member States indicated that a comprehensive view on the related costs of implementing e-visas is required. Allocating specific financial resources to support the Member States was suggested.

14.   Several delegations suggested that also national long-stay visas be included in the scope of e-Visas. Others thought that dematerialising the visa stickers should be limited to short stays. It was pointed out that inclusion of D-visas should be further discussed after the Commission has tabled the proposal amending the VIS legal framework, since the proposal might address the possibility of registering the information on D-visas in VIS.

15.   A vast majority of Member States advocated a step-by-step approach in which the Commission initiates an in-depth assessment covering *inter alia* the technical, financial, budgetary, data protection and security aspects of e-visas, with a view to presenting concrete proposals for more detailed discussions at the Visa Working Party. It was also indicated that the involvement of relevant committees such as the Article 6 Committee and border experts would be required. Some Member States recommended that the feasibility study could be based on a comparative method, providing an analysis of the similar existing systems in other third countries.

16.	Discussions showed that most Member States could consider digitalising the visa sticker as a possibility for the near future. The majority of Member States were generally open to the introduction of an online procedure in the long term. Some delegations suggested that a gradual approach be pursued – i.e. implementation of digital visas at a first stage, followed by implementation of an online application at a second stage.

### B.	*Digital visa*

17.	The concept of a digital visa (outlined in 11816/17) whereby a Schengen visa could be issued in the format of a simple VIS registration and an electronic notification sent to the applicant, received general support from the Member States.

18.	Several Member States pointed out that a digital visa would decrease the human resources needed to process the visa, relieve consulates of the procedures for management of the visa stickers (including printing and affixing visa stickers) and reduce the costs of purchasing, transporting and secure storage of visa stickers, as well as of purchasing and maintenance of relevant machinery. Discussions showed, however, that the risks and the impact of moving towards digital visas should be further studied.

19.	Most delegations agreed that the technical components of the EES and ETIAS relating to electronic notification, the travellers' website and the carriers' gateway should be re-used for digital visas. It was suggested that the practical arrangements for these synergies and compatibility of the mechanisms proposed and/or implemented with the ETIAS and EES be specified in a feasibility study.

20.	Delegations raised the issue of access to the data by the visa applicants and by authorised third parties, such as carriers, border guards, and law enforcement and immigration authorities. The technical possibilities for verifying the visa information need to be further clarified. Some Member States pointed out that the mechanisms proposed by the ETIAS and EES in this regards might not be sufficient. The necessity and possibilities for certain third parties, such as educational institutions, employers, hotels etc., to obtain information about the visa should be further examined.

21. With regard to access to visa information by third countries, some delegations questioned whether access to information on visas is needed at all and whether it would be in line with the data protection rules. Others saw access by third countries as a key question in alleviating possible risks of illegal migration and called for further studies on solutions which would allow third-country authorities to check the existence of visas before travellers arrive at border crossing points.

22. While some delegations saw the issue of VIS downtime as a concern, others were of the view that this should not be problematic, as there is already an obligation to verify the validity of the visa in VIS and the unavailability of VIS is currently rare. It was pointed out that eu-LISA has several initiatives underway to ensure that risks to central system unavailability are further diminished, and the availability issue should be further covered in the context of the EES. Nevertheless, further studies were called for on solutions to strengthen 24/7 availability for verification of visas by the competent authorities, in particular in difficult situations like in remote areas when the connection to the network is unstable or in case the VIS system is down. Some delegations suggested that in the event of the VIS database being unavailable, alternative ways of validating the visa (i.e. read-only database, web service, 2D barcode) should be considered. Certain delegations also pointed out that the possibility should be examined of other third parties needing to access visa information in the event of the relevant database being inaccessible.

23. The impact of implementing digital visas on border authorities was discussed. Whilst some Member States saw an increase in the workload of border control officials, others were of the view that digital visas would not entail an additional burden for border guards. It was pointed out that already today the central VIS has to be systematically checked and, after its implementation, the EES mechanism will be used to verify the traveller's visa/travel authorisation and the right to stay, using the traveller's passport number and biometrics. Thus the need for physical stickers and associated visa serial numbers would become less relevant.

24. Member States stressed that implementation of digital visas should be in full respect of data protection requirements. It was indicated that the scope of data to be provided to relevant third parties, specifically to carriers, needs to be carefully assessed, and if necessary, aligned with EES and ETIAS provisions. Compliance with data protection rules was also raised with regard to data transfer to third countries.

25. Some Member States also raised the issue of data security and indicated that more consideration should be given to the risks and vulnerabilities of mechanisms related to digital visas. The main security concern raised by some Member States was related to the possible challenges for Member State authorities to verify the validity of visas in difficult situations.

26. With regard to visa applicants' access to the internet, several delegations agreed that this should not be an issue and similar solutions to those for the ETIAS could be used. The suggestion to use courier services as an alternative for sending visas was deemed unnecessary.

27. The majority of Member States were of the view that travel document verification should remain the duty of the consulate. It was stressed that also in future, the authenticity of a passport should be verified prior to the visa holder's arrival at the border. It was indicated that implementation of digital visas could lead to forgery focused on travel documents, leading to an increase in fraudulent travel documents and problems of identity fraud, having thereby implications on document verification controls at consular posts and at the border.

28. With regard to roll-out, all Member States who took the floor were of the view that digital visas should be launched in pilot countries first. Most delegations agreed that following the successful testing phase in pilot countries, digital visas could be provided for all applicants. A few delegations believed digital visas should be issued only for certain categories of travellers (i.e. low immigration risk) or visa-required third countries, as such an implementation could make the conclusion of visa facilitation agreements more attractive or could reward the third countries who are cooperative on return.

29. The majority of Member States agreed that ETIAS and EES components should be used for cost-saving purposes. Whilst some delegations were of the view that implementation of digital visas would require important investments in IT systems, others were of the view that digital visas in principle already exist today and the economic gains from digitalisation of visa stickers outweigh the required investments. A cost-benefit analysis was called for.

30. All Member States called for a detailed assessment on the technical feasibility, the costs, the impact on borders, as well as the risk assessments with regard to data protection and security to be carried out by the Commission.

C. *Online application*

31. The concept of an online application (outlined in 12546/17) whereby the submission of the Schengen visa application and the payment of the fee could be done electronically, received positive feedback from the majority of Member States. Several delegations indicated that the transition from paper-based applications to electronic ones is the future of Schengen visas in the medium to long term. However, a few Member States questioned the added value of the online application, pointing out the potential costs and the risks of illegal migration this might entail.

32. Several Member States pointed out that the online application would improve data accuracy of the application and would address the data quality issues deriving from the current manual insertion process. The added value of real-time checks and automatic verifications against the VIS, SIS and other relevant databases was stressed. Nonetheless, it emerged from the discussions that there are important challenges that need be addressed and aspects to be developed before such an initiative can be implemented.

33. It emerged from the discussions that a number of Member States already have or will soon implement systems for applying for a visa through web applications. Whilst some systems in place allow only the application form to be submitted electronically, others also allow for the supporting documents to be sent electronically and/or the visa fee to be paid electronically.

34. While the proposal to introduce a single interface was supported by a number of delegations, others called for the already implemented national systems to be integrated.

35. The majority of Member States agreed that the underlying principles of the visa examination process should remain the same. One Member State suggested, however, that the goal should be the creation of a completely new common Schengen e-visa system rather than improving and altering the current paper-based visa application system and simply converting it into an electronic one.

36. Most delegations agreed that the existing infrastructure of the VIS and the technical components of the EES and ETIAS in regards to the public website, secure account service, online payment and electronic notification should be re-used. It was suggested that the practical arrangements for these synergies and the technical solutions of the services be further clarified in a feasibility study. The necessity of full and reliable functioning of the EES and VIS as a precondition for the introduction of online visa applications was reiterated.

37. In general, Member States supported the suggestion that electronic applications could be provided for all applicants, but first-time applicants and applicants whose travel document have not been verified or fingerprints registered for more than 59 months would be required to present themselves at the consulate to finalise the process. It was also pointed out that similar to first-time applicants, applicants who are registered in the VIS, but whose visa was refused, should be requested to present themselves at the consulate/External Service Provider (ESP).

38. There was general agreement that online applications should include the electronic transmission of supporting documents, travel medical insurance, copy of the travel document and electronic payment of the visa fee. It was also pointed out that in some cases, the originals of the supporting documents are already in electronic format, thus the originals and not the copies/scans of the supporting documents could be provided. One Member State suggested that as a first step, perhaps only the application form should be submitted electronically.

39. All Member States agreed that consulates must retain the right to ask any applicant to submit the original documents and to invite him/her for an interview. With regard to the possibility of carrying out internet-based video interviews, further studies were called for on the extent to which these interviews may replace personal interviews, as well as the technical possibilities of such video interviews to be conducted by consulates.

40. Several delegations stressed that the option of submitting an application or paying the fee directly at the consulate/ESP must be preserved, specifically in regions where internet access and electronic payment options are limited. Some Member States considered that parallel systems should be avoided. Certain delegations also stated that they are open to the idea of kiosks being set up in ESPs or commercial intermediaries for submission of electronic applications or payment of visa fees.

41. With regard to payment of the visa fee, it was pointed out that the applicants need to be fully aware and informed if they are exempt from the requirement to pay a visa fee. The technical solutions for applying exemptions need to be further clarified. It would need to be ensured that an application for an applicant that is exempted from the visa fee would not be blocked by the system and should be processed in the same amount of time as the other applications. It should be further assessed whether solutions implemented in the ETIAS in this regard could be applicable.

42. Several Member States stressed that safeguards against fraudulent documents must be put in place if a move is made towards electronic applications. Whilst some delegations pointed out that electronic copy might not be sufficient to assess the authenticity of the document, others indicated that paper-based documents can also easily be falsified, and thus this issue should not be an obstacle in moving towards electronic applications. It emerged from the discussions that pilot projects with regard to identifying fraud based on digitalised documents have been launched by some Member States, but it is still too early to analyse the results of these projects.

43. Several Member States were of the view that the travel document and the identity of the visa applicant should be verified before the arrival of the visa holder at the border. It was also mentioned that particular attention should be paid to the verification of travel documents of applicants who are already registered in the VIS, but whose travel document has been renewed. Some delegations pointed out the necessity of uploading all pages of the travel document, and not only the biographical page/s.

44. Member States stressed that the online application procedure must not result in a lowering of security or data protection standards, in particular with regard to identity verification and document authenticity checks. The question of data ownership was raised, as it needs to be clarified who the responsible authority is for changing the data and data quality. With regard to transmission of data, it was pointed out that secure communication channels must be ensured.

45. Most Member States agreed that the collection of fingerprint data should remain the competence of consulates/ESP. The idea that fingerprint data be collected in the future with the help of apps, kiosks and other alternative methods was received with scepticism, mainly due to security reasons, including the risks of identity fraud and poor data quality.

46. With regard to the collection of facial images, several Member States considered that the submission of a copy/scan of a photograph upon subsequent applications could lead to security risks (e.g. morphing), thus calling for facial images to be collected at the consulate/ESP for each application. Certain delegations mentioned that electronic submission of a photo would not allow authorities to ascertain that the photo was taken within the last six months. It was also pointed out that the possibility of submitting copies of photos would contradict the efforts of the Schengen States in the context of Smart Borders Concept, which suggests live capturing of facial images. As a solution, it was suggested that the collection of facial images be adapted to the fingerprint scheme, meaning that facial images would be captured every 59 months at the same time as fingerprints are collected.

47. Some delegations also raised concerns about the impact on consulates. It was indicated that verification of electronically submitted documents would cause a heavier workload for consulates, in terms of verification of documents as well as contact with applicants. While some delegations pointed out that requests for missing documents or better quality scans would lengthen the visa application process instead of making it more effective and efficient, others were of the view that automatic verification and the possibility of remote exchanges would allow communication with consulates to be streamlined and provide for swifter assessments of applications. The necessity of considering a limit on the number of applications submitted online during peak periods was stressed, in order to avoid situations where the consular staff would not be able to process all applications within the legal time limit.

48. Several Member States pointed out the impact that a move towards online applications might have on the ESPs. It was pointed out that the option to submit an online application would substantially reduce the volume of work of the ESP and consequently its profit, which could lead to reducing the number of Visa Application Centres (VACs) and/or pressure to increase the service fee.

49. It was also suggested that the issue of 'territorial competence' should be further investigated. Since with the online application the applicant would, in principle, no longer be required to attend the consulate or ESP, the question of jurisdiction might arise.

50. Several Member States were concerned about the financial implications. It was suggested that financial support should be available for Member States.

51. It was also suggested that an additional fee be requested for the possibility to use the online application, thereby covering some of the costs incurred for maintenance and improvement of the system.

52.   When it comes to the roll-out options, the vast majority of Member States preferred to start with a pilot project, with gradual roll-out thereafter. With regard to eligible applicants, the views of Member States diverged more. Some delegations found that online applications could be provided for certain low-risk countries/regions. Others were of the opinion that following a successful outcome in pilot countries, online applications could be introduced in all third countries, apart from for first-time applicants. The possibility of providing online applications for VIS-registered *bona fide* applicants was called for in the short term. It was also suggested that only submission of application forms be considered as a first stage.

53.   All Member States called for a detailed assessment on the technical feasibility, the overall added value and the costs/benefits, as well as risk assessments with regard to illegal migration, data protection and security to be carried out by the Commission.

III.   SUGGESTIONS FOR IN-DEPTH ASSESSMENT

Taking into account the outcome of the discussions in the Visa Working Party, the following suggestions should be taken into account when carrying out the in-depth assessment of e-visas:

General suggestions

A.   Based on the concepts outlined in documents 11816/17 and 12546/17, the technical solutions, practical arrangements and overall process for digitalising the visa sticker and implementing online applications should be further developed in detail.

B.   Synergies with the EES and ETIAS, in particular with regard to infrastructure and technical components, should be taken into account. In this regard, the compatibility of these mechanisms with e-visas should be further identified.

C.	A thorough assessment of the technical, financial, budgetary data protection and security aspects of digital visas and online application should be carried out, among other things outlining the overall added value of the digital visa and online application. The cost-benefit analysis should cover the short- and long-term perspective, and take into account the possible costs and benefits at both Member State and EU level. An analysis of similar existing systems in third countries should be included.

D.	The possibility of providing financial assistance to Member States should be assessed.

E.	The impact of digital visas and online applications for travellers, Member States' authorities (i.e. border authorities, consulates) and relevant third parties (i.e. ESPs, carriers) should be carefully assessed.

F.	Potential problems with applicants' internet access should be addressed.

G.	The need to amend the EU's legal framework, in particular the Visa Code and the VIS Regulation, should be assessed.

H.	Roll-out options, following the implementation in pilot countries, should be further elaborated.

Digital visa

I.	Technical solutions to ensure systematic access to visa information for travellers, Member States authorities and other relevant third parties, in particular carriers, must be further strengthened and developed.

J.	An assessment needs to be carried out of whether and to what extent data on visas are to be communicated to third countries and other third parties (i.e. employers, hotels etc.), in particular with regard to data protection rules.

Online application

K.   Electronic application systems already implemented in Member States should be studied with a view to identifying best practices.

L.   Safeguards to effectively counter document fraud should be developed.

M.   The possibility of collecting live facial images every 59 months should be assessed.

N.   The necessity and possibility of limiting the number of applications submitted online in exceptional circumstances (i.e. during peak periods) should be considered.

IV.   CONCLUSIONS

54.   The Commission is invited to carry out a thorough assessment on an implementation of digital visas and online applications, taking into account the outcome of the discussions in the Visa Working Party and the suggestions outlined in this document.

55.   The Commission is invited to provide the Member States with a detailed assessment and if appropriate, depending on the outcome of that assessment, concrete proposals on the implementation of e-visas at the latest by 2020. However, the Commission is encouraged, as far as possible, to take into account the above suggestions with regard to the possible future implementation of digital visas and online applications in the framework of the revision of the Visa Code and the VIS proposal to be tabled in 2018. In so far as possible, experience gained with the deployment of EES and ETIAS should be used for the implantation of e-visas.

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