



Brussels, 12 May 2023
(OR. en)

9279/23

Interinstitutional File:
2022/0132(COD)

VISA 101
FRONT 166
MIGR 163
COMIX 236
CODEC 840

'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 2)

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 1683/95, (EC) No 333/2002, (EC) No 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure

- Information of the European Parliament on the splitting of the original proposal into two texts

1. On 27 April 2022 the Commission submitted a legislative proposal¹ aimed at digitalising the visa procedure. The initiative fits with the general EU approach to encourage the modernisation and digitalisation of public services. The objectives of the proposal are to make the visa application procedure more efficient for both applicants and Member States and to improve the security of the Schengen Area, by replacing the visa sticker with a digital visa and by digitalising the visa application procedure.
2. The Commission proposal amends eight EU legal acts. One of them is Council Regulation (EC) 1683/95 on the uniform format for visas.

¹ 8568/22.

3. In accordance with Article 6 of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark participates in the adoption of this legal act. Denmark does not participate in the adoption of the other acts modified by this proposal.
4. In order to allow Denmark to exercise its right to vote on the amendments to Regulation 1683/95, it was necessary to split the original proposal into two texts, by inserting the provisions amending Council Regulation (EC) 1683/95 into a separate instrument.
5. At its 2891st meeting held on 29 March 2023, the Permanent Representatives Committee adopted a mandate on the texts included in the annexes to doc. 7905/23 with a view to negotiating with the European Parliament.
6. At the trilogue of 4 May 2023, the European Parliament provisionally agreed to split the Commission proposal, as proposed in the Council mandate, with no further changes. A letter from Coreper is needed so that the European Parliament can complete its internal procedure to confirm the split.
7. In view of the above, the Permanent Representatives Committee is therefore invited to agree to sending the letter in the Annex to this note to the European Parliament.

Brussels, 17 May 2023

Mr Matjaž NEMEC

Rapporteur on the Regulation on the digitalisation of the visa procedure, LIBE Committee,
European Parliament

Mr Juan Fernando LÓPEZ AGUILAR

Chairman, LIBE Committee, European Parliament

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009 and (EU) 2017/2226 of the European Parliament and of the Council, Council Regulations (EC) No 1683/95, (EC) No 333/2002, (EC) No 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure
- Information on the splitting of the original proposal into two texts

Dear Mr Nemeč and Mr López Aguilar,

In relation to the abovementioned file, as you know, when the Council adopted its mandate on 29 March 2023, it decided, for legal reasons, to split the proposal into two texts.

In accordance with Article 6 of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark participates in the adoption of this legal act. Denmark does not participate in the adoption of the other acts modified by this proposal. In order to allow Denmark to exercise its right to vote on the amendments to Regulation 1683/95, it was necessary to split the original proposal into two texts, by inserting the provisions amending Council Regulation (EC) 1683/95 into a separate instrument.

I welcome that the European Parliament, at the political trilogue of 4 May 2023, provisionally agreed, pending the completion of its internal procedures, to split the Commission proposal alongside to what was proposed by the Council in its mandate, for the reasons explained above.

This splitting does not affect in any way the substance of the proposal. It will simply result in the need for two COD numbers. The fact that the nature of the amendments to Council Regulation (EC) 1683/95 has considerably changed in the Council mandate compared to the Commission proposal is unrelated to the need for the split (and is due to the participation of the three Member States not fully applying the Schengen *acquis* in the digital visa).

For your easy reference, I attach the text regarding the amendments to Council Regulation (EC) 1683/95 as endorsed by Coreper on 29 March 2023.

Yours sincerely,

Lars Danielsson
Chair of the Permanent Representatives Committee (Part 2)

copy to:

Ms Monique PARIAT, European Commission

**Proposal for a
Regulation of the European Parliament and of the Council amending Council Regulation
(EC) No 1683/95, as regards the digitalisation of the visa procedure**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), point (a) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union's common visa policy has been an integral part of the establishment of an area without internal borders. Visa policy should remain an essential element in helping counter security risks and the risk of irregular migration to the Union, while facilitating tourism and business. To make Schengen visa application process smoother and more effective for third-country nationals and Member States authorities, it is necessary to allow Schengen visa applications to be lodged online, thereby making full use of recent legal and technological developments.
- (2) Visas should be issued in a uniform digital format only, as a 2D barcode, and contain the facial image of the holder. In order to ensure uniform conditions for the implementation of Regulation (EC) No 1683/95, 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 Council¹. The examination procedure should be used for the adoption of the technical specifications of the digital visa.

¹ 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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (3) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part and falls outside the scope of the measures provided for in Council Decision 2002/192/EC²; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (4) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*³ which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC⁴.
- (5) 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*⁵ 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/EC⁶.

² 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).

³ OJ L 176, 10.7.1999, p. 36.

⁴ Council Decision 1999/437/EC 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).

⁵ OJ L 53, 27.2.2008, p. 52.

⁶ 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).

- (6) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*⁷ 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 2011/350/EU⁸.
- (7) As regards Cyprus, and Bulgaria and Romania, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession and of Article 4(1) of the 2005 Act of Accession.

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Council Regulation (EC) No 1683/95⁹

Regulation (EC) 1683/95 is amended as follows:

- (1) Article 1 is replaced by the following:

“Article 1

1. Visas issued by the Member States in conformity with Article 5 ~~by the Member States which do not issue visas in digital format referred to in Article 26a of Regulation (EC) No 810/2009~~ shall be produced in the form of a uniform digital format (~~sticker~~). They shall ~~conform to the specifications~~ contain the data fields set out in the Annex.
2. The digital visa shall be issued as a 2D barcode, which shall be digitally signed by the issuing authority, and shall contain the facial image of the holder. Member States may add national entries in a specific ‘comments’ section.
3. The digital visa shall be printable.”;

⁷ OJ L 160, 18.6.2011, p. 21.

⁸ Council Decision 2011/350/EU 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).

⁹ 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).

(2) in Article 7, the following fourth paragraph is added:

~~“The use the uniform visa format for purposes other than those covered by Article 5 is without prejudice to issuing visas in digital format referred to in Article 26a of Regulation (EC) No 810/2009.”~~

Article 2 is replaced by the following:

“Article 2

1. The Commission shall establish further technical specifications for the uniform format for visas relating to the following:
 - (a) technical standards and methods for :
 - (i) encoding the data contained in the digital visa;
 - (ii) the facial image;
 - (b) specifications for generating the printable version of the digital visa.
2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 6(2).
3. In accordance with the examination procedure referred to in Article 6(2), the Commission may decide that the specifications referred to in paragraph 1 shall be secret and not be published. In that case they shall be made available only to persons duly authorised by a Member State or the Commission.”;

(3) Article 3 is deleted;

(4) in Article 4, paragraph 2 is deleted;

(5) the Annex is replaced by the following:

“Annex

The digital visa shall contain the following data fields:

- (1) issuing Member State;
- (2) surname, name;
- (3) surname at birth;
- (4) date of birth;
- (5) country and place of birth;

- (6) sex;
- (7) nationality of the visa holder;
- (8) nationality at birth;
- (9) type and number of travel document;
- (10) issuing authority of the travel document;
- (11) date of issue and of expiry of the travel document;
- (12) authority that issued the visa, including its location, and whether that authority issued it on behalf of another Member State;
- (13) place and date of the decision to issue the visa;
- (14) type of visa;
- (15) if applicable, the information indicating that the visa has been issued with limited territorial validity pursuant to Article 25(1)(b) of Regulation (EC) No 810/2009;
- (16) visa number
- (17) the territory in which the visa holder is entitled to travel;
- (18) the commencement and expiry dates of the validity period of the visa;
- (19) the number of entries authorised by the visa in the territory for which the visa is valid;
- (20) the duration of the stay as authorised by the visa;
- (21) if applicable, the status of the person indicating that the third-country national is a member of the family of UK national who is a beneficiary of the EU-UK Withdrawal Agreement in the host State for which the visa application is made;
- (22) national entries in comments section ;
- (23) in addition, for a valid visa confirmed in a new travel document:
 - Status information that the visa has been confirmed
 - authority that confirmed the visa;
 - place and date of the decision;
 - new travel document data, including number, issuing country and authority, issuing date, expiry date;
 - confirmation number.

(24) in addition, for an extended visa:

- status information indicating that the visa has been extended;
- the authority that extended the visa, including its location;
- place and date of the decision;
- visa number of the extended visa;
- the commencement and expiry dates of the extended period;
- period of the extension of the authorised duration of the stay;
- 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;
- the type of the visa extended.

(25) the facial image of the visa holder.

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

Article 2

Start of issuing visas in digital format

1. The Commission shall adopt a decision by means of an implementing act setting the date from which Member States shall issue digital visas pursuant to this Regulation, once the following conditions have been met:
 - (a) the technical specifications referred to in Article 1, point (3) have been adopted;
 - (b) eu-LISA has declared the successful completion of comprehensive tests;
 - (c) eu-LISA has validated the technical and legal arrangements for the start of issuing visas in digital format and notified them to the Commission.
2. The Commission decision referred to in paragraph 1 shall be published in the *Official Journal of the European Union*.

Article 3
Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from the date set by the Commission in accordance with Article 2(1).
3. By 1 December 2026 and every year thereafter until the decision of the Commission referred to in Article 2(1) has been taken, the Commission shall submit a report to the European Parliament and to the Council on the state of play of preparations for the full implementation of this Regulation. That report shall contain also detailed information about the costs incurred and information as to any risks which may impact the overall costs.

The Commission decision referred to in paragraph 2 shall be published in the Official Journal of the European Union.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
