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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	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 - Outcome of the European Parliament's first reading (Strasbourg, 16 to 19 October 2023)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) Juan Fernando LÓPEZ AGUILAR (S&D, ES) presented on behalf of LIBE a compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation, for which Matjaž NEMEC (S&D, SI) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

¹ OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 18 October 2023, the plenary adopted the compromise amendment (amendment number 2) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

P9_TA(2023)0371

Schengen area: amending the Visa Sticker Regulation

European Parliament legislative resolution of 18 October 2023 on the 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 (COM(2022)0658 – C9-0307/2023 – 2022/0132B(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0658),
- having regard to Article 294(2) and Article 77(2), point (a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0307/2023),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 26 October 2022¹,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 21 June 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to the decision by the Conference of Presidents of 6 July 2023 to authorise the Committee on Civil Liberties, Justice and Home Affairs to split the abovementioned Commission proposal and to draw up two separate legislative reports on the basis thereof,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0268/2023),

¹ OJ C 75, 28.2.2023, p. 150.

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 18 October 2023 with a view to the adoption of Regulation (EU) 2023/... 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,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 75, 28.2.2023, p. 150.

² Position of the European Parliament of 18 October 2023.

Whereas:

- (1) *The Union's common visa policy has been an integral part of the establishment of an area without internal borders. It is important that visa policy 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 the Schengen visa application process smoother and more effective for third-country nationals and Member State 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 visa holder. The 2D barcode should be cryptographically signed by the Country Signing Certificate Authority of the issuing Member State. Council Regulation (EC) No 1683/95³ should therefore be amended accordingly.***
- (3) *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 Council⁴. The examination procedure should be used for the adoption of the technical specifications of the digital visa.***

³ ***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).***

⁴ ***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).***

- (4) *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/EC⁵; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*
- (5) *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 latter's association with the implementation, application and development of the Schengen acquis⁶ which fall within the area referred to in Article 1, point B, of Council Decision 1999/437/EC⁷.*

⁵ 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).

⁶ OJ L 176, 10.7.1999, p. 36.

⁷ 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).

- (6) *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 acquis⁸ 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/EC⁹.*
- (7) *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 acquis¹⁰ 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/EU¹¹.*

⁸ OJ L 53, 27.2.2008, p. 52.

⁹ 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).

¹⁰ OJ L 160, 18.6.2011, p. 21.

¹¹ 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).

- (8) *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.*
- (9) *The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹² and delivered an opinion on 21 June 2022¹³,*

HAVE ADOPTED THIS REGULATION:

¹² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

¹³ OJ C 277, 19.7.2022, p. 7.

Article *I*
Amendments to Regulation (EC) No 1683/95

Regulation (EC) No 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 shall be produced in a uniform **digital** format (‘digital visa’). They shall **contain the data fields** set out in the Annex.
- 2. The digital visa shall:*
 - a)* be issued as a 2D barcode which shall be cryptographically signed by the Country Signing Certificate Authority of the issuing Member State;
 - b)* contain the facial image of the visa holder; and
 - c)* be printable.
- 3. Member States may add national entries in the ‘comments’ section in accordance with Article 10(1), point (n) of Regulation (EC) No 767/2008 of the European Parliament and of the Council.**

* *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 information between Member States on short-stay visas, long-stay visas and residence permits (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).’;*

(2) *Article 2 is replaced by the following:*

‘Article 2

1. The Commission shall adopt implementing acts to establish technical specifications for the uniform format for digital visas relating to the following:

(a) technical standards and methods for:

(i) encoding the data contained in the digital visa; and

(ii) the facial image;

(b) specifications for generating the printable version of the digital visa.

2. *The Commission may decide by means of implementing acts that the technical specifications referred to in paragraph 1 are to be secret and not be published. In that case those technical specifications shall be made available only to persons duly authorised by a Member State or by the Commission.*
3. *The implementing acts referred to in paragraphs 1 and 2 of this Article shall be adopted in accordance with the examination procedure to be applied as referred to in Article 6(2) of this Regulation in conjunction with the transitional provision in Article 13(1), point (c), of Regulation (EU) No 182/2011 of the European Parliament and of the Council*.*

* *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) *Article 3 is deleted;*
- (4) *in Article 4, paragraph 2 is deleted;*

- (5) *the Annex to Regulation (EC) No 1683/95 is replaced by the text set out in the Annex to this Regulation.*

Article 2

Start of issuing visas in digital format

- 1. *Once the following conditions have been met, the Commission shall adopt a decision, by means of an implementing act, setting the date from which Member States are to issue digital visas pursuant to Regulation (EC) No 1683/95 as amended by this Regulation:***
 - (a) the implementing acts laying down the technical specifications referred to in Article 2(1) of Regulation (EC) No 1683/95 have been adopted;***
 - (b) The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), established by Regulation (EU) 2018/1726 of the European Parliament and of the Council¹⁴ 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.***
- 3. *By 1 December 2026 and every year thereafter until the decision of the Commission referred to in paragraph 1 has been adopted, the Commission shall submit a report to the European Parliament and to the Council on the progress with regard to the implementation of this Regulation. That report shall contain detailed information about the costs incurred and information on any risks which impact the overall costs.***

¹⁴ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

Article 3

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from the date set by the Commission in accordance with Article 2(1), with the exception of Article 1, point 2, which shall apply from ... [the date of entry into force of this amending Regulation].

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX

The Annex to Regulation (EC) No 1683/95 is replaced by the following:

‘ANNEX

Data fields of the digital visa

- (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;*

- (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) *the authority that issued the visa, its location and whether that authority issued the visa on behalf of another Member State;*
- (13) *place and date of the decision to issue the visa;*
- (14) *type of visa;*
- (15) *if applicable, information indicating that the visa has been issued with limited territorial validity pursuant to Article 25(1) of Regulation (EC) No 810/2009;*

- (16) *number of the visa;*
- (17) *the territory in which the visa holder is entitled to travel;*
- (18) *the commencement and expiry date 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 family member of a Union citizen to whom Directive 2004/38/EC of the European Parliament and of the Council* applies or of a third-country national enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other.*
- (22) *if applicable, the status of the person indicating that the third-country national is a family member of a UK national who is a beneficiary of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community** (EU-UK Withdrawal Agreement) in the host State for which the visa application is made;*
- (23) *national entries in the ‘comments’ section;*

(24) *in addition, for a valid visa confirmed in a new travel document:*

- *status information indicating that the visa has been confirmed;*
- *the authority that confirmed the visa and its location;*
- *place and date of the decision to confirm a valid visa in a new travel document;*
- *new travel document data, including the number, issuing country and authority, issuing date, expiry date of the new travel document;*
- *confirmation number;*

(25) *in addition, for an extended visa:*

- *status information indicating that the visa has been extended;*
- *the authority that extended the visa and its location;*
- *place and date of the decision;*
- *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;*

(26) *the facial image of the visa holder.*

* 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, p. 77).

** Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7).