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**COMMISSION STAFF WORKING DOCUMENT**  
**EVALUATION**

**EU visa policy – evaluation of the Visa Code**

{SEC(2024) 146 final} - {SWD(2024) 109 final}

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## Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
ATV	Airport transit visa
BMVI	Border Management and Visa Instrument
CBA	Cost-benefit analysis
CJEU	Court of Justice of the European Union
DPA	Data Protection Authority
ECtHR	European Court of Human Rights
EDPS	European Data Protection Supervisor
EEAS	European External Action Service
EES	Entry-Exit System
EMWP	External Migration Working Party
ESP	External service provider
eu-LISA	European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice
FRA	European Union Agency for Fundamental Rights
FRONTEX	European Border and Coast Guard Agency
FTE	Full-time equivalent (referring to personnel)
HORECA	Hotels, restaurants, catering
IA	Impact assessment
IMEX	Integration Migration Expulsion
JHA	Justice and Home Affairs
LTV	Limited territorial validity
LSC	Local Schengen cooperation
MEV	Multiple-entry visa
SAC	Schengen Associated Country
SCM	Standard cost model
SEV	Single-entry visa

SIS	Schengen information system
SWD	Staff Working Document
TFEU	Treaty on the Functioning of the European Union
TMI	Travel medical insurance
VACs	Visa Application Centers
VFA	Visa Facilitation Agreement
VIS	Visa Information System
VWA	Visa waiver agreement

## 1. INTRODUCTION

### 1.1 Purpose and scope of the evaluation

Regulation (EC) No 810/2009 (the Visa Code)<sup>1</sup> entered into force in 2010 with the aim of establishing the procedures and conditions for issuing short-stay visas for intended stays on the territory of the Member States<sup>2</sup> having joined the Schengen Area. It defines the rules applicable for third-country nationals who must hold a visa when crossing the EU's external borders.

In 2019, the Visa Code was amended to ensure it remained fit for purpose and to adapt the rules to evolving challenges.

The main objectives of this revision of the Visa Code were to:

- contribute to a more harmonised, flexible and secure EU visa policy, in line with the ongoing digital transition;
- ensure that sufficient financial resources are available to cover the cost of Member States processing visa applications;
- improve cooperation with third countries in terms of readmission and returns, while countering security risks from and irregular migration of non-EU countries.

The revised Visa Code became applicable in February 2020. To achieve the objectives of the revision mentioned above, four major changes were introduced:

- **From the visa procedures perspective:** more flexibility and simplicity in visa procedures (possibility of submitting an application electronically, possibility to apply 6 months in advance of travel, etc.); harmonising the practices among Member States on issuing multiple entry visas with long validity for travellers with a positive visa history ('cascade rules');
- **From the financial resources perspective:** increasing and regularly revising the amount of the visa and service fees;
- **From the cooperation on readmission perspective:** creating a link between visa policy and cooperation on readmission by adapting visa application procedures and cost depending on the level of cooperation of third countries on return and readmission of irregular migrants.

Under the provisions set out in the amending Regulation<sup>3</sup> (Article 2(1)), an evaluation of the Visa Code had to be carried out by 2 August 2022, taking account of the results achieved against the objectives and implementation of the provisions of the Visa Code, as amended in 2019.

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<sup>1</sup> 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) (OJ L 243, 15.9.2009, p.1)

<sup>2</sup> For the purpose of this evaluation the term 'Member States' refers to those EU Member States applying the Schengen acquis in full and the Schengen Associated Countries (SAC)

<sup>3</sup> Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) (OJ L 188, 12.7.2019, p.25)

The Commission carried out this evaluation in the context the outbreak of the COVID-19 pandemic in March 2020, shortly after the amended Visa Code became applicable in February 2020, and the ensuing practical limitations in the issuance of short-stay visas by Member States (Schengen visa applications declined from 17 million in 2019 to 3 million in 2020).

The evaluation focuses on changes that entered into force in February 2020 and covers the period until the spring of 2023.

The evaluation assesses the implementation, effectiveness, efficiency, coherence, relevance and EU added value of the amended Visa Code a little more than two years after Regulation 2019/1155 became applicable. The assessment takes due regard of the impact of COVID-19 to the extent possible. It also assesses possible gaps in the current legislative framework influencing the extent to which the Visa Code is able to deliver on its intended objectives and draws up a list of lessons learnt and recommendations for future action.

Due to the extraordinary context of pandemic-related travel restrictions, the evaluation was not able to gather data and analyse all aspects of the 2019 revision of the Visa Code. However, it provides added value as it shows if and how the Commission and all Member States implemented the majority of the provisions of the new Visa Code changes since February 2020.

## **1.2 Methodology of the study**

The evaluation gathered evidence on the functioning of the amended Visa Code as a whole (and applied to all Member States<sup>4</sup>), in particular the abovementioned changes. However, the evaluation of the provisions concerning cooperation on readmission (Article 25a of the Visa Code), were subject to a specific evaluation method. For this part of the evaluation, the Commission did not assess the overall effectiveness of the mechanism linking readmission cooperation with visa policy, i.e. whether it induced positive changes in third countries' cooperation. This is due to two reasons: firstly, from the entry into force of Article 25a until the cut-off date of the evaluation, only three reports have been issued and two Council Implementing Decisions on the same third country have been adopted, in October 2021 and in December 2022 respectively. The fourth report was being drafted at the cut-off date for the assessment (April 2023). It would thus be premature to draw any definitive conclusions on the impact and overall effectiveness of the mechanism on this basis. Secondly, the sensitive nature of Article 25a- including the fact that the annual reports on readmission cooperation are RESTREINT UE/EU RESTRICTED- further affects and limits the scope of the evaluation. Nonetheless, as the processes developed for the implementation of Article 25a are fairly new and coincided with the outbreak of the COVID-19 pandemic, an analysis of these processes and a consideration of possible improvements is considered to be relevant and is included in this evaluation report.

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<sup>4</sup> For the purpose of this evaluation the term 'Member State' refers to those EU Member States applying the Schengen acquis in full and the Schengen associated states.

The assessment of the Article 25a process (excluding the overall effectiveness of the mechanism) was entrusted to the Audit and Compliance Unit of the Commission's Directorate General for Migration and Home Affairs. This unit has expertise in internal control and is not involved in the implementation of Article 25a measures. The analysis mostly relied on an in-depth review of available documentation, the results of a quantitative survey targeting Member State authorities, as well as interviews with stakeholders at Member State and EU level. The focus of the evaluation of the Article 25a mechanism was on the processes set up for its implementation, examining the effectiveness and efficiency of the process duration, as well as their coherence, the involvement of relevant stakeholders, the quality of data collected and the relevance of the Commission annual report on readmission cooperation to the Council.

In support of the evaluation of all other elements of the Visa Code revisions, an external study was carried out, following a call for services under a framework contract.

The external contractor carried out targeted consultations (Member States and relevant stakeholders) under the close supervision of the DG Migration and Home Affairs – Visa Policy unit. An inter-service group (ISG) was set up for the evaluation of the Visa Code and was consulted throughout the whole process. The evaluation study took into account and built upon the consultation activities carried out in 2017 and 2018 in the context of the preparation of the Commission proposal and impact assessment (see Annex 2 to Staff Working Document SWD (2018) 77).

The study was guided by an evaluation framework setting out the guidelines and principles for the analytical work (see Annex 3). That framework allowed the team to evaluate the amended Visa Code against the evaluation criteria (effectiveness, relevance, coherence, efficiency, and EU added value).

A full breakdown of the methodology and analytical tools can be found in Annex 2. As highlighted in the Annex, one of the major limitations faced during the study was the impact of COVID-19 on the overall evaluation period. The slowdown in global mobility greatly affected the volume of visa applications, making it difficult to draw clear conclusions on the effects of the introduced amendments solely on the basis of statistical data, thus relying more on the opinion of key stakeholders.

A second key limitation was the unwillingness of some key stakeholders to engage in the study (including limited engagement by Member State consulates). This limitation can be partially explained by the parallel legislative process on the digitalisation of the visa procedure, which absorbed most of the attention of Member States and other stakeholders in 2022/23. It should be noted that not all Member States responded to interviews and surveys. As regards surveys, 21/27 Member States's Ministries responded as well as 17/27 Consulate representatives. As regards interviews, 15/27 Member States' authorities responded.

Mitigation measures taken to respond to these limitations are also outlined in the Annex and referenced where relevant throughout the evaluation.

## **2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?**

### **2.1 Description of the intervention and its objectives**

Following the establishment of the Schengen area, the EU progressively developed and set up its own common visa policy as a compensatory measure. The Schengen acquis created a border-free area, abolishing checks at the EU's internal borders and requiring efficient monitoring of the EU's external borders to facilitate freedom of movement and



safeguard internal security. EU visa policy aims to facilitate the entry of legally authorised visitors to the EU and prevent entry of unauthorised individuals. Visa requirements are a tool to tackle different risks linked to security (such as terrorism, or crime) or irregular migration, which could result from the circulation of unauthorised persons within the territory of the Union.

The EU's competence to act in this area is enshrined in Article 77(2) of the Treaty on the Functioning of the European Union (TFEU), which allows the Union to adopt measures on the common policy on visas and other short-stay residence permits. Operating within the framework of the Schengen acquis, EU visa policy also comprises:

- Council Regulation (EC) 1683/95, laying down a uniform format for visas<sup>5</sup>;
- Regulation (EU) 2018/1806, establishing the visa-required and visa-exempt third countries<sup>6</sup>;
- Regulation (EU) 767/2008, setting up the visa information system (VIS)<sup>7</sup>.

The Visa Code entered into force on 5 April 2010, setting the rules and conditions on visas for intended stays of up to 90 days in any 180-day period within the Schengen area. It aimed to establish:

- Common definition of what constitutes a visa, and the implications of different types of visas (uniform visas, airport transit visas (ATVs), visas with limited territorial validity (LTV)) (Title I);
- Rules on airport transit visas (Title II);
- Common rules, procedures and conditions on visa applications, their examination and issuing (Title III);
- Common rules on the administrative management and organisation of services and authorities competent for examining applications and issuing visas (Title IV).

The EU subsequently adopted several related legislative and policy measures (see Figure 2.1).

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<sup>5</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>6</sup> Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303, 28.11.2018, p. 39)

<sup>7</sup> VIS stores data on visa applications and decisions, including applicants' personal data, and may be accessed by selected national authorities in relation to visa procedures, asylum procedures, border and identity checks.



Source: External study

Since 2010, the Visa Code has undergone periodic evaluation and review, including the Commission proposal of 2014 for the amendment of the Visa Code of 2009, culminating in the 2019 amending Regulation. The Visa Code was evaluated in 2014<sup>8</sup>, while in 2018, an impact assessment (IA) accompanied the Commission's proposal for a Regulation amending the Visa Code<sup>9</sup>. The IA features an updated analysis of the implementation of the Visa Code (Annex 4) providing a baseline for the current evaluation. Several challenges were identified:

- Administrative expenses incurred by Member States in visa processing are not fully covered by the visa fee;
- Due to an unclear legal basis and Member States' diverging interpretations, Member States have developed significantly divergent and often restrictive practices when issuing multiple-entry visas (MEVs);
- Low levels of readmission and return of irregular migrants to countries of origin.

<sup>8</sup> European Commission, Evaluation of the implementation of Regulation (EC) No 810/2009 of the European Parliament and Council establishing a Community Code on Visas (Visa Code), SWD(2014) 165 final.

<sup>9</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final.

Following the completion of the IA and a positive opinion by the Regulatory Scrutiny Board, the Commission tabled its proposal for a Regulation amending the Visa Code in March 2018<sup>10</sup>.

The amending Regulation was adopted by co-legislators in June 2019 and became applicable in February 2020. The main changes introduced were:

**- From the Visa procedures perspective:**

■ Greater flexibility and simplicity in visa procedures (Articles 4(1a), 9, 10, 11, 16, 23), by:

- Enabling digital visa applications (i.e. allowing applications to be signed digitally);
- Allowing travellers to submit their application up to six months in advance (nine months for seafarers), compared to three months previously;
- Possibility to exempt 6-18-year-olds from the visa fee;
- Allowing central authorities to process and take decisions on visa applications;

■ Harmonising practices among Member States on issuing multiple-entry visas (Article 24) with long validity in the same third country to alleviate the administrative burden for travellers with a positive visa history (“cascade rules”);

■ Strengthening the role of local Schengen cooperation (LSC) in drawing up proposals for the local harmonisation of practices and monitoring their implementation (Article 48);

**- From the financial resources perspective:**

■ Increasing the visa fee (Article 16) from EUR 60 to EUR 80 to address the gap in resources for visa processing (including regular revisions by delegated act every three years on the basis of objective assessment criteria);

■ Increasing the ceiling for service fees to EUR 40, EUR 80 or EUR 120 (Article 17) to encourage Member States to open more Visa Application Centers (VACs) by external service providers (ESPs), especially in countries without consular presence or representation. The aim is to allow applicants to lodge applications closer to their place of residence, saving travelling costs and time. The provisions on Member States’ monitoring of ESPs were also strengthened;

**- From the cooperation on readmission perspective:**

■ Improving cooperation on readmission of irregular migrants (Article 25a) by establishing an annual assessment process (by the Commission) on the level of cooperation of third countries on readmission. The assessment underpins the Commission’s decision on whether to submit a proposal to the Council for a more restrictive or more favourable application of certain provisions of the Visa Code for specific third countries, depending on whether cooperation is assessed as insufficient or satisfactory.

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<sup>10</sup> European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), COM(2018) 252 final.

Figure 2.2 below presents the intervention logic of the amended Visa Code. It summarises how the amending Regulation was expected to work at the time of its adoption, as well as its anticipated effects.

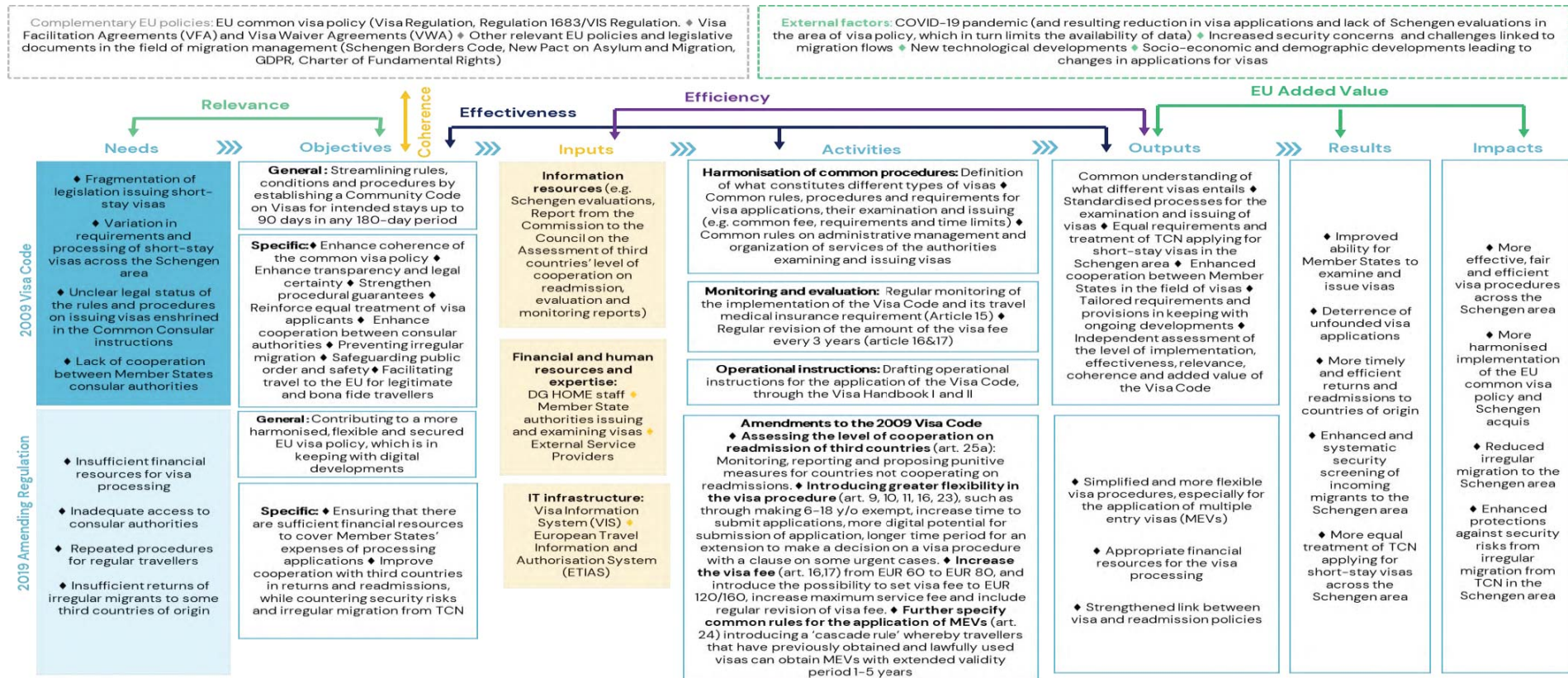


Figure 2.2 Intervention logic  
Source: External Study



The revised Visa Code was expected to make visa procedures easier, more harmonised and effective for both applicants and Member States. Through an increase in the number of locations where visa applications can be lodged, be they consulates or external service providers, applicants should be able to apply for a visa closer to their place of residence. Thus, the visa process should become easier for bona fide travellers. By increasing the share of multiple-entry visas, applicants need to apply less often, saving time and money.

Combined with higher revenue from the increased visa fee, these changes liberate time and resources for consulates to assess in depth the files of first-time and high-risk applicants. By increasing the level of scrutiny on such applications, the revision of the Visa Code was expected to contribute to the overall objective of the EU's common visa policy, namely the facilitation of legitimate travel while preventing risks to the EU.

Separately, the changes in the Visa Code were also intended to improve the cooperation on readmission of third countries. As explained above, however, the effectiveness of the measures in inducing positive change in the approach of third countries to readmission cooperation with the EU is out of the scope of this evaluation.

### **3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?**

Important changes in global mobility affected the period of implementation of the amended Visa Code, mainly due to the COVID-19 pandemic and Russia's full-scale invasion of Ukraine in February 2022.

These changes are reflected in 2022 visa statistics for some Member States, which further distort the overall picture over the evaluation period (see Figure 3.1).

This section looks at how the implementation of the amended Visa Code evolved between 2020 and 2022 and the external factors that may have impacted that implementation, including COVID-19. It summarises key trends in the digitalisation of visa procedures, the application of the MEV cascade rule and enhanced cooperation with ESPs.

#### **3.1 Trends in visa applications – the impact of COVID-19**

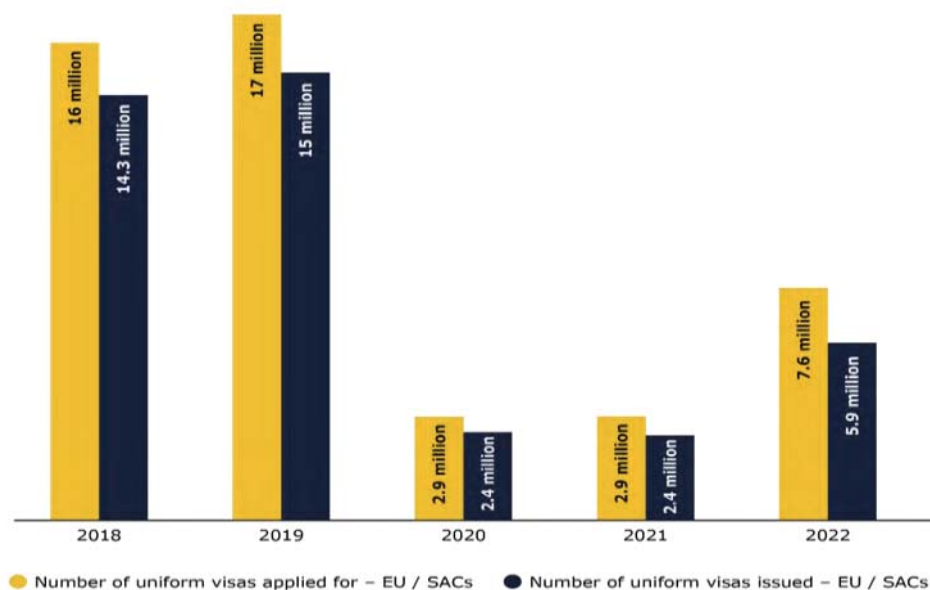
The period of implementation of the amended Visa Code saw significant changes in global mobility due to multiple factors, primarily the COVID-19 pandemic. One month after the Regulation became applicable, the World Health Organization (WHO) declared the coronavirus outbreak a global pandemic<sup>11</sup>, with immediately visible impacts on mobility and travel. As of early March 2020, Member States introduced border controls at internal Schengen borders and tightened controls and requirements at external borders<sup>12</sup>. One consequence was the exceptional reduction in the numbers of short-stay visa applications and issuances of visas by Member States.

Figure 3.1 shows the sharp decline in the number of applications since the outbreak of the COVID-19 pandemic, as well as the decrease in numbers of short stay visas issued, from almost 17 million in 2019 to fewer than 3 million in 2020. France, which has by far

<sup>11</sup> WHO, WHO Director-General's opening remarks at the media briefing on COVID-19, 2020, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

<sup>12</sup> European Parliamentary Research Service (EPRS), Briefing: Mobility, Transport and Coronavirus, 2020, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651908/EPRS\\_BRI\(2020\)651908\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651908/EPRS_BRI(2020)651908_EN.pdf)

the highest number of applications, received 83 % fewer applications in 2020, and 84 % fewer in 2021, compared to 2019<sup>13</sup>. According to the statistics collected by the European Commission, the number of applications increased in 2022, but remained significantly below pre-pandemic numbers.



**Figure 3.1 Number of uniform visa applications and uniform visas issued (2018-22)**

Source: External study, based on Commission statistics on short-stay visas issued by the Schengen States

Proportionally to the decrease in applications, Member States issued 83 % fewer visas in 2020 and 84 % fewer in 2021, compared to 2019. According to the published statistics, in 2022, the number of visas issued began to increase again. Around 6.1 million ATVs and uniform visas (including multiple ATVs, MEVs and LTVs) were issued, representing an increase of 144 % in comparison to 2021, although still considerably lower than pre-pandemic numbers – decrease of 60% compared to 2019 (see Table 3.1).

Typology	2019	2022
Total ATVs and uniform visas issued (including multiple ATVs, MEVs) and visas with limited territorial validity (LTVs)	15.2 million	6.1 million
	Decrease of 60 %	
Total uniform visas issued (including MEVs)	15 million	5.9 million
	Decrease of 60 %	
ATVs issued (including multiple)	4,600	13,000
	Increase of 184 % <sup>14</sup>	
Total LTVs issued	129,200	140,000
	Increase of 9 %	

**Table 3.1 Visas issued in 2019 and 2022**

Note: figures are rounded. Source: External study, based on European Commission statistics.

<sup>13</sup> According to the European Commission visa statistics, applications to France were 3,980,989 in 2019; 658,247 in 2020; and 652,331 in 2021.

<sup>14</sup> Brexit may be one of the potential explanations for the increase in ATVs, as the withdrawal of the UK from the EU means that UK visas and residence permits no longer exempt the holder from the ATV requirement.

The increase between 2021 and 2022 is clear for almost all Member States, with the exception of two countries. The number continued to decrease for Czechia and Estonia, possibly reflecting the impact of the entry restrictions on Russian tourists imposed following Russia's invasion of Ukraine (see Section 3.2).

Figure 3.2 presents an overview of the top countries of origin for visa applications in 2019 and 2022. The number of applications differs significantly between the two years, likely as a consequence of the COVID-19 pandemic. In the case of Russia, the decrease in the volume of visa applications also reflects the suspension of the VFA and guidelines on visa issuing, as explained in the section below.



**Figure 3.2 Top countries of origin for visa applications, 2019 and 2022**

Source: External study, based on European Commission data<sup>15</sup>.

These statistics show the major impact of COVID-19 on mobility during the evaluation period, limiting the number of visas applied for and issued, impacting the overall study and the findings. The timeframe of the evaluation coincides with the period of the pandemic, making it particularly difficult to evaluate the application of the Regulation as it would have applied in normal circumstances, or to draw clear conclusions from the collected statistical data.

This view was shared by a vast majority of responding consulates<sup>16</sup>, which confirmed that COVID-19 had indeed an effect on visa-issuing procedures, at least to some extent. Stakeholders consulted mentioned the following possible impacts on visa processing: reduced number of visa applications and travellers, inability to fully apply the Visa Code requirements (e.g. MEV cascades), lengthy verification of vaccination certificates when entering a Schengen country, higher refusal rates, increased use of forged documents, closure of ESPs' operations and decreased administrative burden and costs (due to the lower number of applicants).

### 3.2 Impact of Russia's war of aggression against Ukraine

Russia's war of aggression against Ukraine, which began in February 2022, also heavily impacted the implementation of the amended Visa Code. This led the Council of the

<sup>15</sup> European Commission, Visa Policy: Statistics on short-stay visas issued by the Schengen Member States, DG HOME, 2021, [https://ec.europa.eu/home-affairs/news/visa-statistics-pandemic-effect-short-stay-visas-2020-2021-05-09\\_en](https://ec.europa.eu/home-affairs/news/visa-statistics-pandemic-effect-short-stay-visas-2020-2021-05-09_en); [https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/visa-policy\\_en](https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/visa-policy_en)

<sup>16</sup> 20/21 consulates.



European Union to fully suspend the visa facilitation agreement between the EU and Russia in September 2022<sup>17</sup> and impose other sanctions, which resulted in a significant decrease of visa applications in Russia. Several EU countries imposed additional visa and entry restrictions on Russian tourists and the Commission issued guidelines on general visa issuance in relation to Russian applicants and on controls of Russian citizens at the external borders<sup>18</sup>. As of October 2022, the border with Russia was completely closed by Czechia, Estonia, Finland, Latvia and Lithuania. Issuance of tourists' visas was suspended by Belgium, Denmark, the Netherlands and Slovakia. Meanwhile, restrictions on visa issuance were imposed by Germany and Slovenia<sup>19</sup>. As one Member State reported, it also led, in some cases, to closure of consulates and the expulsion of consular staff, decreasing visa access points and processing capacity.

This is reflected in 2022 visa statistics for some Member States, which further distort the overall picture over the evaluation period. Russia has consistently been among the top countries of origin of visa applications (see Figure 3.2), thus countries like Czechia and Estonia saw an ongoing decline in visas issued in 2022. Based on one interview conducted with a Member State, during that period, some authorities also noted higher numbers of visa applicants from certain regions, such as India or the Gulf, showing a renewed interest in travel and creating unexpected pressures on consulates there.

### 3.3 Steps to implement the amended Visa Code

Member States reported taking a number of concrete measures to support the application of the amended Visa Code, including developing guidance documents, staff training, and developing implementation plans.

Overall, 17 responding Member States confirmed that they applied all new provisions in the amended Visa Code (others did not provide answers)<sup>20</sup>. They all reported undertaking several measures to ensure the correct implementation of the amended Visa Code<sup>21</sup>, including (in descending order of frequency):

- Developing guidance documents<sup>22</sup>;
- Training<sup>23</sup>;
- Checking that there is a common, standardised, harmonised translation of the application form<sup>24</sup>;
- Participation in meetings for the preparation, discussion and distribution of a list of supporting documents to be submitted by applicants, taking into account Article 14<sup>25</sup>;
- Drafting a common information sheet containing the information referred to in Article 47(1)<sup>26</sup>;

<sup>17</sup> Council of the European Union, Council adopts full suspension of visa facilitation with Russia, Press release, 9 September 2022, <https://www.consilium.europa.eu/en/press/press-releases/2022/09/09/council-adopts-full-suspension-of-visa-facilitation-with-russia/>

<sup>18</sup> C(2022) 7111 of 30.9.2022. Available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=C\(2022\)7111&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=C(2022)7111&lang=en)

<sup>19</sup> Map: Which EU countries have imposed visa & entry restrictions on Russian Tourists so far? October 2022, <https://www.schengenvisa.info.com/news/map-which-eu-countries-have-imposed-visa-entry-restrictions-on-russian-tourists-so-far/>

<sup>20</sup> Member State targeted survey, Q7 17/18 Member States.

<sup>21</sup> Member State targeted survey, Q6 (n=17).

<sup>22</sup> 17/17 Member States.

<sup>23</sup> 17/17 Member States.

<sup>24</sup> 16/17 Member States.

<sup>25</sup> 16/17 Member States.

- Preparation of local/national implementation plan for Article 24(2), on the issuing of MEVs<sup>27</sup>;
- Developing implementation plans<sup>28</sup>;
- Participation in Expert group meetings<sup>29</sup>

Four Member States out of seventeen undertook additional initiatives to ensure the implementation of the new provisions. For example, one Member State reported conducting regular evaluations of several chosen consular offices every year or sharing information on Article 47 on the webpages of its MFA and embassies, as well as with ESPs.

One or two out of seventeen Member States reported communicating and/or cooperating with the Commission on particular steps, including implementation plans<sup>30</sup>, expert group meetings<sup>31</sup>, preparing lists of supporting documents to be submitted by the applicant<sup>32</sup>, preparing, discussing and distributing a list of supporting documents to be submitted by applicants, taking into account Article 14, preparing local/national implementation plans for Article 24(2), checking a common translation of the application form<sup>33</sup>, establishing a list of travel documents to be filed by the applicant<sup>34</sup>, and drafting a common information sheet containing information referred to in Article 47(1)<sup>35</sup>.

The Commission supported EU Delegations in implementing the new provisions of the Visa Code related to local Schengen cooperation through training material and a joint note with the EEAS to Heads of Delegation. The Visa Committee stepped up its regulatory activity, giving opinions on draft Implementing Decisions for the local adaptations of the rules on issuing multiple-entry visas. Thus, the Commission adopted 7 Implementing Decisions establishing adapted rules on the issuing of multiple-entry visas for nationals of specific third countries (Algeria, Iran, Qatar, Saudi Arabia, Oman, Bahrain and Kuwait).

The Regulation provides for the possibility to waive or reduce the visa fee for different categories of applicants. According to thirteen Member States replying to the targeted survey, the provision has been applied to a different extent across the Member States, for the different categories.<sup>36</sup> These included:

- Visa fee waived for children between the age of 6 and 18 <sup>37</sup>;
- Visa fee waived for holders of diplomatic or service passports <sup>38</sup>;
- Visa fee waived for participants in seminars, conferences, sports, cultural or educational events organised by non-profit organisations, aged 25 years or less <sup>39</sup>;

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<sup>26</sup> 15/17 Member States.

<sup>27</sup> 15/17 Member States.

<sup>28</sup> 14/17 Member States.

<sup>29</sup> 14/17 Member States.

<sup>30</sup> 1/17 Member States.

<sup>31</sup> 2/17 Member States.

<sup>32</sup> 2/17 Member States.

<sup>33</sup> 1/17 Member States.

<sup>34</sup> 2/17 Member States.

<sup>35</sup> 2/17 Member States.

<sup>36</sup> Member State targeted survey, Q11 (n=13).

<sup>37</sup> 3/13 Member States.

<sup>38</sup> 13/13 Member States.

- Visa fee waived or reduced when to do so serves to promote cultural or sporting interests <sup>40</sup>;
- Visa fee waived or reduced when to do so serves to promote interests in the field of foreign policy, development policy <sup>41</sup>;
- Visa fee waived or reduced when to do so serves to promote other areas of vital public interest <sup>42</sup>;
- Visa fee waived or reduced for humanitarian reasons <sup>43</sup>;
- Visa fee waived or reduced because of international obligation <sup>44</sup>.

### 3.4 Main trends in the digitalisation of visa procedures

The amended Visa Code introduced greater flexibility in visa procedures, including enabling digital visa applications. According to Article 1(2) point (8) of Regulation 2019/1155, applicants may lodge their application electronically, where possible, and point (9) provides for the possibility to submit and sign the application form electronically.

Further digitalisation of the visa process remains a priority for the EU, as highlighted in the New Pact on Migration and Asylum, which proposed that the Commission set the objective of digitalising the visa procedure by 2025<sup>45</sup>. Further digitalisation of the visa process is also seen as a positive step in facilitating tourism to the Schengen area<sup>46</sup>.

In July 2021, new rules were adopted<sup>47</sup> allowing for more thorough background checks on applicants for visa and residence permits, using full interoperability with other EU-wide databases: all applicants will be automatically checked against all other EU information systems for security and migration, allowing to detect applicants using multiple identities and identify anyone posing risks in terms of security or non-respect of migration rules. The updated VIS will allow better information exchange between Member States by extending the scope of VIS database to include information on holders of long-stay visas and residence permits. This will allow border guards to quickly determine whether a long-stay visa or a residence permit used to cross the Schengen external borders is valid and in the hands of its legitimate holder, thus closing an important security gap. The revised system contains robust data protection safeguards, particularly for protecting biometric data of children, striking a crucial balance between limiting the access to biometric data of children and fighting against child trafficking.

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<sup>39</sup> 9/13 Member States.

<sup>40</sup> 12/13 Member States.

<sup>41</sup> 12/13 Member States.

<sup>42</sup> 10/12 Member States.

<sup>43</sup> 10/12 Member States.

<sup>44</sup> 13/13 Member States.

<sup>45</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>

<sup>46</sup> European Commission, Scenarios towards co-creation of transition pathways for tourism for a more resilient, innovative and sustainable ecosystem, SWD(2021) 164 final.

<sup>47</sup> Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System (OJ L 248, 13.7.2021, p.11)

In April 2022, the Commission adopted a proposal on the digitalisation of visa procedures<sup>48</sup>. The amending Regulations on the digitalisation of visa procedures were adopted by the European Parliament and the Council on 22 November 2023<sup>49</sup>, but their implementation will take a few years<sup>50</sup>. They will make the application process easier and more secure:

- Applicants may apply for visas online;
- A platform determining the Schengen country responsible for examining the application, providing up-to-date information on Schengen short-stay visas;
- In-person meeting at the consulate would remain mandatory only for first-time applicants to collect biometric identifiers and verification of travel documents;
- The new visa will be digital and will include state-of-the-art security features.

Achieving digitalisation of visas will also depend on the finalisation of interlinked processes, such as further development of the VIS, EES, ETIAS, etc., which one Member State sees as having more impact on visa procedures than the Visa Code itself. Finally, the overall process is linked to the ongoing interoperability programme of the EU<sup>51</sup>, allowing different EU information systems for borders and visas to work together and facilitating the effectiveness of further digitalising visa procedures.

On the implementation of digital visa procedures to date, the majority of the responding Member States confirmed that they had implemented or were planning to implement steps towards digitalising visa procedures<sup>52</sup>. However, only three provided data on the number of applications filed in digitally. An analysis of the percentages of in-person applications, both at the consulates and at ESPs, revealed that ‘in-person’ channels are still the most used. Member States that provided this information reported a 100 % in-person applications over the timeframe considered.

According to the impact assessment on the proposal for a Regulation regarding the digitalisation of the visa procedures published in April 2022,<sup>53</sup> none of the Member States had then digitalised the entire process.<sup>54</sup> The majority of the Member States who

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<sup>48</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_2582](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2582)

<sup>49</sup> Regulation (EU) 2023/2685 of the European Parliament and of the Council of 22 November 2023 amending Council Regulation (EC) No 1683/95 as regards the digitalisation of the visa procedure (OJ L, 7.12.2023) and Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 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 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure (OJ L, 7.12.2023)

<sup>50</sup> Implementation and secondary legislation on the development of the platform should take at least 4 years.

<sup>51</sup> Interoperability referenced as a key component of visa digitalisation during interview with 1 MS authority, referring to Regulation (EU) 2019/817 establishing a framework for interoperability between EU information systems in the field of borders and visa, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0817>

<sup>52</sup> Member States targeted survey, Q34. 13/19 Member States.

<sup>53</sup> European Commission, (2022), Impact Assessment Report Accompanying the Document Proposal for a Regulation of the European Parliament and the Council as regards the digitalisation of the visa procedure, SWD(2022) 658 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0658>

<sup>54</sup> Figures taken from the Impact Assessment SWD(2022) 658 final, p. 13: Automated guidance for TCNs 10 MS; Info about rules to apply 15 MS; Info about next appointment 3 MS; Personal account 10 MS; Error detection / quality checks 17 MS; Online application form 19 MS; Print-out option 14 MS; Data upload to VIS 12 MS; Upload supporting documents 4 MS; List of supporting documents 6 MS;

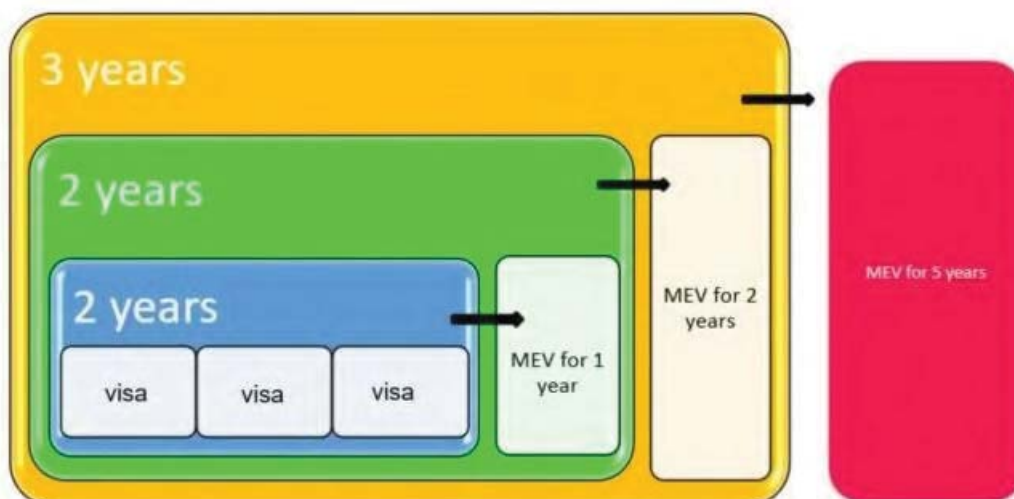
invested in digitalisation did so for the easiest and least expensive steps of the procedure (in particular by implementing an online application form).

Very few consulates allowed applicants to complete even part of the procedure digitally. In addition, not all consulates are always connected to the relevant national systems, thus the level of digitalisation may differ between consulates of the same Member State<sup>55</sup>.

### 3.5 Trends in MEVs and the application of the cascade rule

One of the major issues identified by the 2018 Impact Assessment was that an unclear legal basis had led to the development of significantly different practices when issuing Multiple-Entry Visas (MEVs). While explaining that issuing long-validity multiple-entry visas reduces administrative burdens for both applicants and consulates, and despite a slight increase in the share of MEVs issued, the 2018 analysis however stressed a significant and persisting variation in Member States' issuing practices. The Impact Assessment also underlined a lack of detailed data on the validity period of issued visas, making it difficult to draw definite conclusions on patterns for certain locations or certain Member States. In response, Regulation (EU) 2019/1155 amended the rules on MEVs, with Article 24 of the Visa Code introducing the so-called cascade rule (scheme below), clearly defining the criteria that Member States should follow in respect of MEV duration.

The new provisions introduced by the 2019 Visa Code revision aimed at increasing the share of multiple-entry visas, allowing applicants to apply less often, saving time and money. Combined with other measures, such as a higher revenue from the increased visa fee, these changes should have liberated time and resources for consulates to assess in depth the files of first-time and high-risk applicants. By increasing the level of scrutiny on such applications, the revision of the Visa Code was expected to contribute to the overall objective of the EU's common visa policy, namely the facilitation of legitimate travel while preventing risks to the EU.

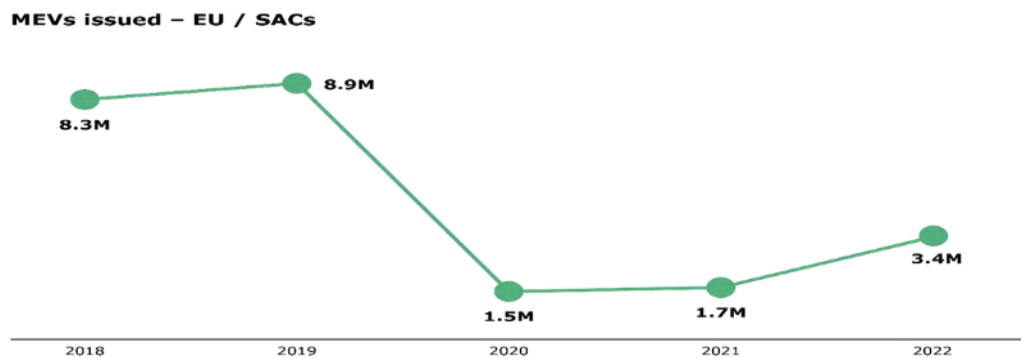


Online visa fee payment 3 MS; Appointment management 10 MS; Tick-box to certify info is correct 4 MS; ESP can correct data 9 MS.

<sup>55</sup> Targeted survey to Member States, Q8 (n=18).



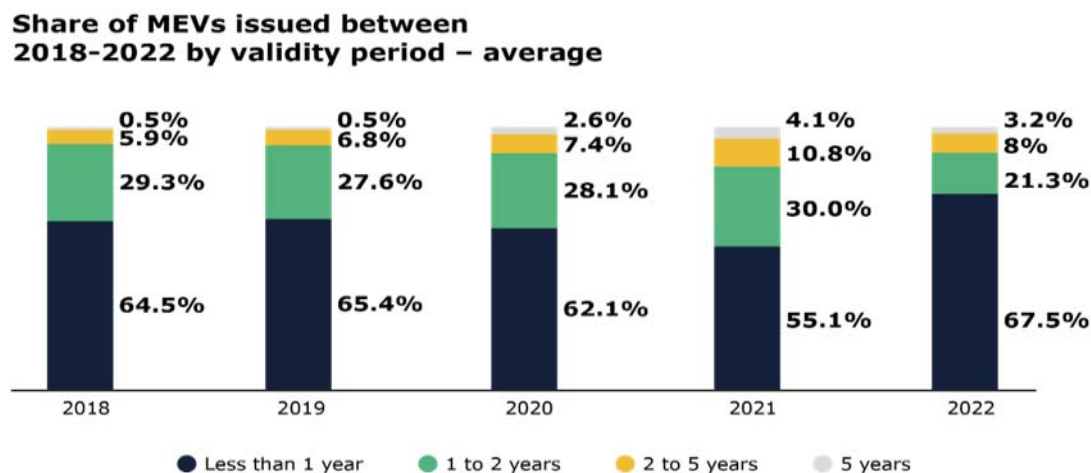
Figure 3.4 shows that the COVID-19 pandemic had a substantial effect on the number of MEVs issued. Again, this makes it difficult to draw conclusions on the application of the measures.



**Figure 3.4** Number of MEVs issued (2018-22)

Source: External study, based on European Commission statistics on short-stay visas.

Analysis of the data in the context of the study nevertheless provides some insights, particularly on the breakdown of MEVs issued per year of validity<sup>56</sup>. Figure 3.5 shows that, on average, Member States primarily issued MEVs for one year or less.



**Figure 3.5** Share of MEVs issued, 2018-2022 (validity period – average)

Notes: information provided by 13 MS; 2) figure presents an average of the shares indicated by Member States, thus shares may vary, e.g., in 2021, the majority of MEVs had a validity of less than one year.

Source External study, based on Member State targeted survey.

The average values conceal wide variations across Member States and over the years considered.

Member States responses to the targeted survey show that while MEVs with validity of less than one year remain the overwhelming majority throughout the entire period considered, there is a constant – if limited – increase in the share of MEVs with validity between one and two years, reaching 30 % of the total MEVs issued in 2021. They also show a steady and proportionally larger increase in the share of MEVs issued with a

<sup>56</sup> Data provided by the authorities of 13 Member States.

validity between two and five years in the period considered, with the share almost doubling, on average (from 5.9 % to 10.8 %), while the share of MEVs with a five-year validity remains very limited, although increasing.

The travel restrictions imposed to counteract the COVID-19 pandemic greatly impacted the volume of visas and MEVs applied for and issued in the years considered. Since the pandemic interrupted the travel history of otherwise bona fide frequent travellers, very few applicants could comply with the ‘cascade’ requirement of having obtained and used several visas in the two or three years before the visa application in order to qualify for a 1-year, 2-year or 5-year MEV. Hence, it is likely that most long-validity MEVs were not issued on the basis of Article 24(2) during the evaluation period, but rather on the basis of the flexibility clause of Article 24(2c), which allows consulates to issue MEVs outside the ‘cascade’ rules to applicants who justify their intention to travel frequently or regularly. Now that travel has resumed normally on a global level, it may be the case that the application of the cascade rule and the higher issuance of MEVs with longer validity period becomes standard practice among Member States. However, the aggression against Ukraine, related travel restrictions and the influx of refugees towards European countries seem to have further distorted the ‘normal’ application of the Visa Code and the related statistics for 2022. Data on the breakdown of MEVs for 2023 will provide further evidence.

### **3.6 Enhanced cooperation with ESPs and the service fee**

Another objective of the amended Visa Code was to encourage Member States to open more Visa Application Centers (VACs), in particular by enhancing their cooperation with ESPs. The 2018 analysis showed improvement since 2014, with a significant increase in ‘visa access points’, mainly through outsourcing to external service providers, and noted the possibility to strengthen the legal framework for cooperation with ESPs.

Based on the Member States notifications to the European Commission until spring 2023, there is an increase of 27% in the cooperation with ESPs since 2018. In locations where both Member States and ESPs are present, there is an increase of 9%. As for the consular presence of Member States worldwide, there is a decrease of 5% since 2018.

The possible increase of the service fee up to EUR 80 in certain cases provided for by the amended Visa Code aimed at increasing the number of locations where visa applications can be lodged, either consulates or external service providers<sup>57</sup>. Applicants should be able to apply for a visa closer to their place of residence. Thus, the visa process should become easier for bona fide travellers, and Member States should have sufficient financial resources to provide a good quality of service to applicants.

Based on the evaluation findings, the majority of the respondents to the Member States’ survey confirmed they had increased their cooperation with ESPs by using more ESPs<sup>58</sup> and for a greater number of applications<sup>59</sup>. This increased reliance on ESPs to collect visa applications requires that Member States properly apply the monitoring obligations stemming from the Article 43 of the Visa Code.

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<sup>57</sup> Recital 8 of the amending Regulation 2019/1155: “Third-country nationals subject to the visa requirement should be able to lodge their application in their place of residence even if the competent Member State has no consulate for the purpose of collecting applications, and is not represented by another Member State, in that third country.”

<sup>58</sup> Member State targeted survey, Q27 (n=13).

<sup>59</sup> Ibid., n=15.

While coverage has increased in some parts of the world, it has decreased in others (Russia, China) because of the fallout from COVID and the Russian war of aggression towards Ukraine, which has led to a closure of external service providers and consulates. According to the statistics provided by the Member States, there were very few cases where the service fee exceeded EUR 40. This means that the new provisions whereby the service fee can exceed half of the visa fee, in third countries where the competent Member State has no consulate for the purpose of collecting applications and is not represented by another Member State, are not yet widely used in practice, still leaving areas without consular or ESP presence.

The 2019 amendment of the Visa Code introduced a new reporting obligation for Member States regarding their cooperation with external service providers: the annual reports that Member States are now obliged to produce allow the Commission to gain an overview of the practical problems in the cooperation with external service providers and the measures Member States take to address them. This has been a key data source for the present evaluation.

However, the statistical reporting tools were not modified in 2019; hence the Commission does not have detailed data, for example, on visa applications by nationality or the validity of issued visas. While these limitations have hampered the present evaluation, they have been addressed by the regulation reforming the Visa Information System: once the revised VIS enters into operation, the Commission will have the possibility to request custom-made and detailed statistics from eu-LISA for analysis and reporting purposes. This will allow better monitoring of the implementation of the common visa policy, including the revised Visa Code.

Furthermore, recent Schengen evaluations have shown that the monitoring obligations are not always applied by Member States, increasing the risk of diverging practices by ESPs not in line with the Visa Code, putting at risk the integrity of the visa procedures. Schengen evaluations have also shown that the quality of service to applicants, as measured in the waiting time for an appointment, has not improved post-pandemic. This suggests that the increase of the visa fee has not had the desired effect<sup>60</sup>.

### **3.7 Implementation of Article 25a on “Cooperation on readmission”**

Following the entry into force of Regulation 2019/1155 amending the Visa Code, a cycle with new processes, divided into several stages, was developed to fulfil the requirements set out in Article 25a. The cycle has been built around the adoption of the assessment report by the Commission to the Council and runs annually. Article 25a was designed to be a key tool of the comprehensive approach to migration to build partnerships between Member States and third countries, with a view to improve third countries’ cooperation on readmission of illegally staying third country nationals. The established processes support efforts by the Commission and the EU to improve cooperation of third countries, which, as recognised in Article 25(a)(5), should be continuous.

For the purpose of this evaluation and for ease of description, the cycle has been divided into seven stages, as presented below.

- **Stage 1: Preparation & Data Collection**

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<sup>60</sup> Recital 7 of the amending Regulation 2019/1155: “The visa fee should ensure that sufficient financial resources are available to cover the expenses of processing applications, including of appropriate structures and of sufficient staff to ensure the quality and integrity of the examination of applications, as well as the respect for deadlines.”



- Stage 2: Drafting of Report
- Stage 3: Consultation and Approvals
- Stage 4: Adoption of Report
- Stage 5: Council Discussions
- Stage 6: Commission Proposals & Council Implementing Decisions
- Stage 7: Follow-up of Measures

The Commission continuously engages with third countries identified in need to improve cooperation.

For the purpose of this evaluation a cycle is considered to be concluded at the end of stage 6, with the adoption of Council Implementing Decisions.

The figure below presents briefly the stages of each cycle.

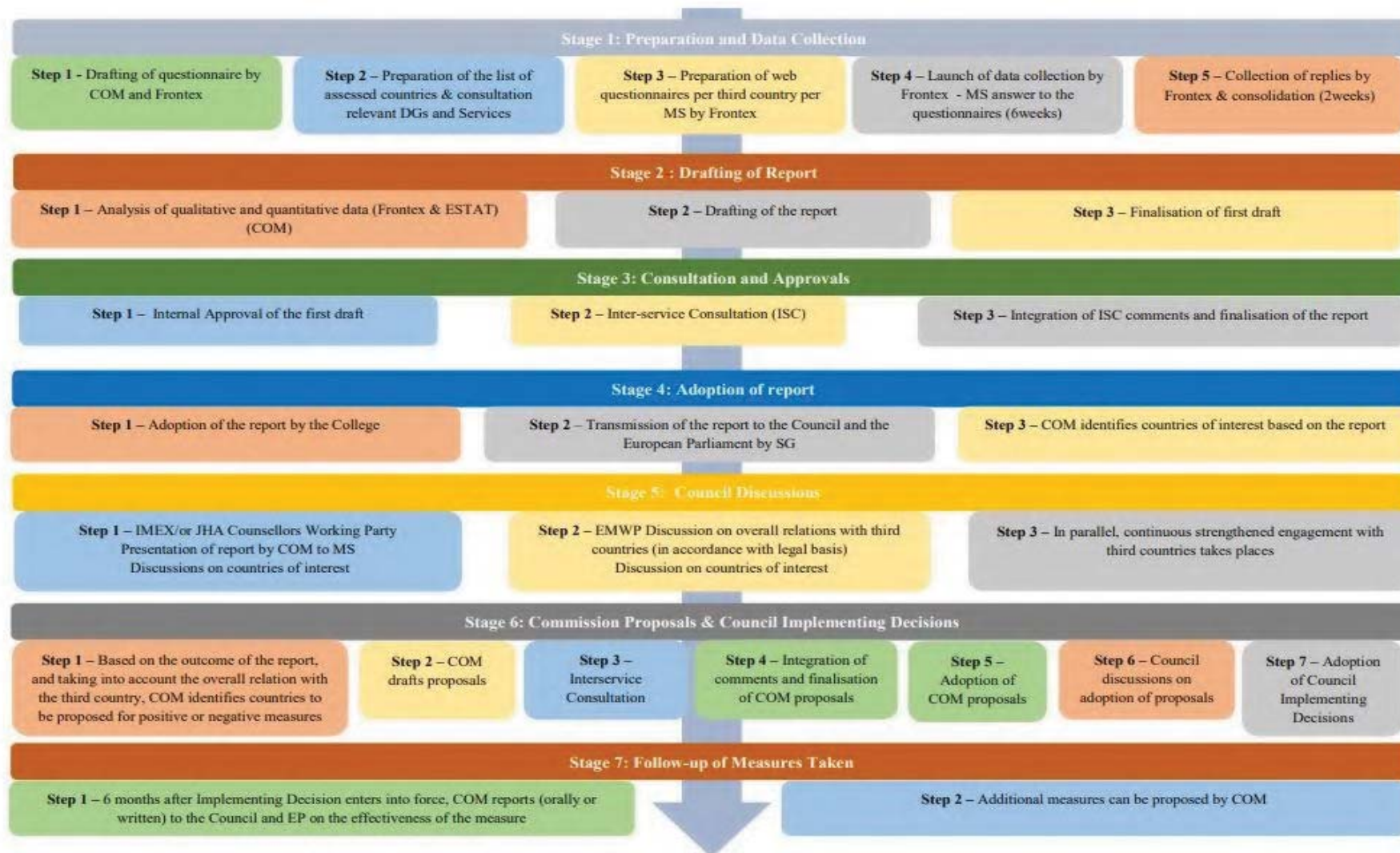


Figure 3.6 Description of the cycle stages as built for the implementation of Article 25a  
Source DG HOME Internal study

At the cut-off date of April 2023, two cycles had been completed and another two were ongoing. As a result, the Commission has adopted three annual reports so far, while the fourth cycle was at the end of the data collection phase. The first annual report from the Commission to the Council on the assessment of third countries' level of cooperation on readmission was adopted in February 2021 and covered the year 2019. The second report was adopted in December 2021, covering the year 2020 and the third in December 2022, covering the year 2021. The reports are RESTREINT UE/EU RESTRICTED.

In July 2021, following the adoption of the first report, the Commission adopted three proposals for Council Implementing Decisions for temporary restrictive measures on short stay visas for Bangladesh<sup>61</sup>, Iraq<sup>62</sup> and The Gambia<sup>63</sup>. Only the Gambia proposal was adopted by the Council in October 2021<sup>64</sup>, while the other two remain on the table of negotiations in the Council to this day.

In November 2022, following the adoption of the second report, the Commission adopted two additional proposals under Article 25a towards Senegal<sup>65</sup> and The Gambia<sup>66</sup> (additional measures<sup>67</sup>). Only the proposal on The Gambia has so far been adopted by the Council, in December 2022<sup>68</sup>.

At the cut-off date, the Commission had not proposed positive measures.

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<sup>61</sup> Proposal for a Council Implementing Decision on the suspension of certain provisions of Regulation (EC) 810/2009 of the European Parliament and of the Council with respect to Bangladesh, [COM\(2021\) 412](#)

<sup>62</sup> Proposal for a Council Implementing Decision on the suspension of certain provisions of Regulation (EC) 810/2009 of the European Parliament and of the Council with respect to Iraq, [COM\(2021\) 414](#)

<sup>63</sup> Proposal for a Council Implementing Decision on the suspension of certain provisions of Regulation (EC) 810/2009 of the European Parliament and of the Council with respect to The Gambia, [COM\(2021\) 413](#)

<sup>64</sup> Council Implementing Decision on the suspension of certain provisions of Regulation (EC) No 810/2009 of the European Parliament and of the Council with respect to The Gambia, [OJ L 360, 7.10.2021.p.124-127](#)

<sup>65</sup> Proposal for a Council Implementing Decision on the suspension of certain provisions of Regulation (EC) 810/2009 of the European Parliament and of the Council with respect to Senegal, [COM\(2022\) 631](#)

<sup>66</sup> Proposal for a Council Implementing Decision on the application of an increased visa fee with respect to The Gambia, [COM\(2022\) 632](#)

<sup>67</sup> See point (b) of Article 25a(5)

<sup>68</sup> Council Implementing Decision (EU) 2022/2459 of 8 December 2022 on the application of an increased visa fee with respect to The Gambia, [OJ L 321, 15.12.2022, p. 18–21](#)

## 4. EVALUATION FINDINGS (ANALYTICAL PART)

### 4.1 To what extent was the intervention successful and why?

This section looks at the main objectives of the amendments to the Visa Code introduced in 2019 and evaluates the extent to which each has been achieved successfully, in line with the evaluation criteria of effectiveness, efficiency and coherence.

Taking into consideration the objectives of the Visa Code, the section is divided as follows:

- Harmonised and flexible EU visa policy, including digital transformation;
- Costs and benefits from the implementation of the amended Visa Code and regulatory and administrative burden;
- Readmission cooperation – Processes set up for the implementation of Article 25a
- Internal and External Coherence

#### 4.1.1 Harmonised and flexible EU visa policy, including digital transformation

While the amended Visa Code has contributed to additional harmonisation of EU visa policy, additional steps are required to fully harmonise the application of the Schengen acquis across all Member States<sup>69</sup>. The lack of full harmonisation appears to be linked to Member States' varying implementation of the Visa Code rather than a need for changes to the Code itself. In a similar vein, the EU visa policy has contributed to some additional flexibility in the visa process, helping to facilitate travel to the Schengen area. However, there are still areas for improvement, as explored below, including the need for further harmonisation of the EU visa policy.

The main element introduced in 2019 to achieve additional harmonisation was the **MEV cascade rule**<sup>70</sup>. This followed the 2018 Impact Assessment conclusion that there was an 'unclear legal basis for issuing such MEVs', with diverging interpretations of the rules reported across the Member States which led to a persisting lack of harmonisation between Member States' issuing practices (see Annex 4 of the 2018 IA)<sup>71</sup>. Overall, Member States perceived the introduction of the MEV cascade as a positive step that contributed to harmonisation of the visa process. However, COVID-19 limited their ability to fully apply the rule, as travellers were unable to travel for prolonged periods and therefore did not meet the conditions to benefit from the "automatic" issuance of a long-validity MEV<sup>72</sup>. In addition, implementation of the cascade appears fragmented<sup>73</sup>, with some Member States reporting challenges in harmonising MEV issuance<sup>74</sup>, including a lack of clarity on certain aspects (e.g. whether a candidate has the right to a

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<sup>69</sup> New amendments led to visa procedures being further harmonised: 13/19 Member State; 5/19 neither agreed nor disagreed; 1 disagreed.

<sup>70</sup> Interviews with 6 Member States.

<sup>71</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. 18.

<sup>72</sup> See: [https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009\\_en](https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009_en)

<sup>73</sup> 13/17 Member States stated that the MEV cascade rule led to harmonisation to some extent; 4/17 agreed to a large extent.

<sup>74</sup> 3/16 Member States that responded to the question; i), interview with 1 Member State reported that its missions requested numerous clarifications about the issuance of MEVs.

new five-year visa after a five-year MEV or whether they can be issued a five-year MEV). For a breakdown of trends in MEV issuance, see section 3.5.

Overall, comparing statistics from the last pre-pandemic year 2019 with 2022 shows that the share of multiple-entry visas has now stagnated at just below 60%, after reaching up to 70% in 2020 and 2021. The travel restrictions during the pandemic meant that only bona-fide travellers were able to apply for and receive visas, in many cases for urgent or imperative travel needs, which distorted the figures. Furthermore, Member States significantly decreased the resources dedicated to visa processing during the years of the pandemic. Therefore, the revised rules on multiple-entry visas have not yet been fully effective in practice, and it is still too early to draw definite conclusions.

According to some stakeholders, the implementation of the Visa Code remains somewhat fragmented as visa procedures are still not fully harmonised<sup>75</sup>, which can be partially explained by local circumstances and different migratory pressures felt by various Member States in specific regions. This is further confirmed by the fact that five Member States continue to report visa shopping as a concern<sup>76</sup>. Visa shopping may be partially explained by varying capacities of different Member States, particularly overall workload and volume of applications received. This leads to different lengths of processing times that potentially incentivise travellers to apply for visas at less busy consulates, according to interviews conducted with two Member States. At the same time, it reflects the fact that not all Member States assess applications in the same way.

The amended Visa Code is seen as providing a more flexible EU visa policy that helps to facilitate legitimate travel to the Schengen area. In general, visa procedures of the revised Visa Code are seen as more streamlined by over 60% of respondents<sup>77</sup>, and, to a lesser extent, simpler (45% of respondents)<sup>78</sup> or more flexible (55% of respondents)<sup>79</sup> for applicants. It is worth noting that some authorities of the same Member State provided contradictory responses. The impact of COVID-19 makes it difficult to fully assess the effectiveness of the amendments to facilitate travel to the EU (see sections 3.1 and 3.2). As such, most respondents were uncertain if the amendments meant that travellers can now travel more easily to the Schengen area (only three out of nineteen Member States strongly or simply agreed)<sup>80</sup>, or whether travellers are more attracted to travel (five out of seventeen Member States strongly or simply agreed)<sup>81</sup>.

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<sup>75</sup> Confirmed by industry stakeholder survey.

<sup>76</sup> 5/20 Member States; interviews with Consulate 1, 2, 3.

<sup>77</sup> 12/19 Member States agreed that procedures are more streamlined; 7/19 neither agreed nor disagreed. Of these, different authorities of 2 Member States provided contradictory responses.

<sup>78</sup> 1/20 Member States strongly agreed that procedures are simpler for applicants; 8/20 agreed; 11/20 neither agreed nor disagreed. Of these, different authorities of 3 Member States provided contradictory responses.

<sup>79</sup> 1/20 Member States strongly agreed that procedures are more flexible for applicants; 10/20 agreed; 11/20 neither agreed nor disagreed; 1 disagreed. Of these, different authorities of 3 Member States provided contradictory responses.

<sup>80</sup> 1/19 Member States strongly agreed that travellers can travel more easily into the Schengen area; 2/19 agreed; 15/19 neither agreed nor disagreed; 1/19 disagreed. Of these, different authorities of 2 Member States provided contradictory responses.

<sup>81</sup> 2/17 Member States strongly agreed; 3/17 agreed; 12/17 neither agreed nor disagreed. Of these, different authorities of 1 Member State provided contradictory responses.



Industry representatives saw the amended Visa Code as contributing to more flexible visa policy, with key positive developments including new rules on MEVs<sup>82</sup> and the ongoing digitalisation of the visa procedure, which are seen as providing flexibility and further helping facilitate travel into the EU. They also valued the new rules on visa validity<sup>83</sup> and the option for applicants to submit their applications electronically<sup>84</sup>, all of which add flexibility in the process. Nevertheless, they highlighted remaining areas for improvement.

Further harmonisation of Member States' visa practice is being achieved via the **Local Schengen Cooperation (LSC)**<sup>85</sup>. This cooperation at local level was introduced by Article 48 of Regulation 810/2009, but the amended Regulation sought to further strengthen the role of the LSC. In particular, the new Regulation provides for a cooperation at local level between Member States and the Commission on the creation of a harmonised list of supporting documents to be submitted by applicants<sup>86</sup>; local adaptations of the default MEV rules where necessary; exchange of information such as statistics, data on the host country, use of false, counterfeit or forged documents, irregular immigration routes, etc.

Annex 4 of the 2018 Impact Assessment noted significant progress regarding the establishment of harmonised lists of supporting documents in specific countries since 2014. Further improvement was expected, with a foreseen increase in Commission Implementing Decisions giving legal effect to harmonised lists drawn up in LSC, thus fostering the convergence of consulates' practices and reducing issues reported by applicants.

The work of LSC in supporting harmonisation among Member States at local level has been evaluated somewhat positively by Member States and their consulates, despite regional differences. 60% consider LSC a useful platform supporting harmonisation of practices, while one consulate out of twelve stated that LSC is very effective and one that it is not effective at all. LSC supports Member States by providing a platform for coordination and information sharing on an ad hoc or regular basis, giving consulates the opportunity to discuss shared concerns. LSC also helps to develop harmonised lists of supporting documents to be submitted by visa applicants<sup>87</sup> with recent examples the ones for Egypt, Jordan and Kenya. While the total number of Commission Implementing Decisions giving legal effect to the harmonised lists drawn up in Local Schengen

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<sup>82</sup> Industry survey on the impact of MEV cascade rule: 17/27 'very positive'; 5/27 'positive'; 2/27 'no impact'; 15/27 rated this development as 'greatly effective'; 6/27 'effective'; 1/27 'average effectiveness'.

<sup>83</sup> Industry survey: 15/27 benefitted to a 'great extent'; 8/27 benefitted 'somewhat'; 1/27 benefitted 'very little'.

<sup>84</sup> Industry survey: 17/27 'very positive impact'; interviews with 4 Member State authorities.

<sup>85</sup> Article 48 of the Visa Code sets out the legal framework for LSC, as well as the division of tasks. LSC is a collective task shared among Member States' consulates and the Commission, in principle via EU Delegations. These tasks mainly concern the assessment of the need to harmonise lists of supporting documents to be submitted by visa applicants in a given country, common criteria for the implementation of optional visa fee waivers for certain categories of applicants, consistency of information provided to visa applicants, and exchange of relevant information among the Member State consulates at a given location.

<sup>86</sup> To be noted that these lists are not applicable to the family members of an EU citizen to whom Directive 2004/38/EC applies, nor to the family members of an EEA/CH national exercising his or her free movement rights.

<sup>87</sup> See: [https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009\\_en](https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009_en)

Cooperation covered 54 third countries in 2017, since 2020 there were additional Commission Implementing Decisions establishing the harmonised lists of supporting documents for 13 third countries (9 out of 13 were revised versions).

Based on an assessment in the context of the LSC for local circumstances and migratory risks, adapted rules on issuing of MEVs can be adopted as a Commission implementing decision, ensuring that a harmonised approach is maintained. Recent examples include adapted rules in the context of Iran<sup>88</sup>, Saudi Arabia<sup>89</sup>, and other countries<sup>90</sup>.

While LSC appears to be a useful mechanism, engagement differs across locations and depends on the capacity of the specific EU Delegations in charge of organising the process. This also results in different levels of satisfaction with LSC contributions to overall harmonisation and coordination<sup>91</sup>. The case studies and interviews indicate that when used effectively LSC can play an important role, but EU Delegation staff are not always sufficiently trained, nor do EU Delegations always have the staff to manage the process<sup>92</sup>.

In relation to its aim of introducing greater flexibility to visa procedures, the amending Visa Code also provides for the **possibility of digitalising the visa application process** with, in particular, the introduction in the Visa Code of the possibility to sign the application form electronically. It is not yet possible to determine the extent to which the changes introduced by the amended Visa Code were decisive in fostering the first transition steps towards digitalisation of visa procedures by Member States. This remains work in progress and is not always directly linked to the Visa Code itself.

The data so far suggest that more needs to be done at Member State and EU level. To date, limited progress is reported by consulates in the digitalisation of their visa processes, with very few using the option of electronic signatures (almost 60% of respondents explained not processing electronic signature applications). Two consulates explained that local circumstances often do not allow for this, given the low level of digitalisation in some third countries. The vast majority of consulates consulted (twenty-two out of twenty-five) indicated that no electronically filled applications were processed within their jurisdiction, chiefly due to the lack of technical capacity. This was confirmed in the European Commission's 2022 proposal for a Regulation on the digitalisation of the visa procedure, which states that 'most Member States only digitalised parts of the short-stay visa process and still rely heavily on paper-based procedures'<sup>93</sup> (see section 3.4).

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<sup>88</sup> Commission Implementing Decision C(2022) 29 of 12 January 2022, [https://home-affairs.ec.europa.eu/system/files/2022-01/C-2022-29\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-01/C-2022-29_en.pdf)

<sup>89</sup> Commission Implementing Decision C(2022) 8007 final of 24 November 2022, [https://home-affairs.ec.europa.eu/system/files/2022-11/C-2022-8007\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-11/C-2022-8007_en.pdf)

<sup>90</sup> For additional examples of Commission implementing decisions, see: [https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009\\_en](https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009_en)

<sup>91</sup> Case studies (1-3) reflect diverging experiences and satisfaction of Member State consulates with the work of LSC, depending on the specific location: Member States that consider LSC a useful platform supporting harmonisation of practices: 19/20 'very effective or somehow effective'; 10/12 consulates (5/20 'very effective'; 14/20 'somewhat effective'; 1/20 'not effective at all').

<sup>92</sup> Interviews with the European External Action Service (EEAS) 1,2; interviews with EU Delegations 01, 02, 03.

<sup>93</sup> European Commission, Impact assessment report accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009, and (EU) No 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

Further digitalisation of the visa process remains a priority for the EU<sup>94</sup> and is seen as a positive step towards facilitating tourism to the Schengen area<sup>95</sup>. Introducing the possibility for visa applicants to sign application forms electronically in the amended Visa Code was a first step to make possible the digital submission of visa applications and was followed in 2022 by the Commission proposal on the digitalisation of visa proposals that proposed an in-depth change to the visa procedures to make online applications the standard way to apply for a Schengen visa in the long run. The amending Regulations on the digitalisation of visa procedures were adopted by the European Parliament and the Council on 22 November 2023<sup>96</sup>, but their implementation will take a few years.

#### 4.1.2 Costs and benefits of the implementation of the amended Visa Code

This section focuses on the identification and analysis of the main categories of direct costs and benefits from the implementation of the amended Visa Code for the main stakeholders impacted. The main stakeholders are:

- Third-country nationals applying for a visa;
- Member State/SAC authorities and consulates;
- Industry stakeholders (primarily the tourism, transport and accommodation sectors).

Due to the limitations in the availability of data, the external study was only able to quantify a limited number of the direct costs and benefits, which do not give a reliable picture of costs and benefits across all stakeholder categories. The remaining direct benefits are assessed qualitatively, triangulating stakeholders' views, evidence from secondary sources (if any) and findings from related evaluation questions. Finally, there are some indications of (indirect) benefits for the broader set of stakeholders involved.

Figure 4.1 presents an overview of the main costs and benefits for the stakeholders listed above (to be noted that in the first column, the direct costs come from the visa procedure while on the second column, the direct benefits come after the revision of the Visa Code, e.g. lower costs due to the enhanced cooperation with the ESP).

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implementing the Schengen Agreement, as regards the digitalisation of the visa procedure, SWD(2022)658final,p.3,<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0658>

<sup>94</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020)609final,<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52020DC0609>

<sup>95</sup> European Commission, Scenarios towards co-creation of transition pathways for tourism for a more resilient, innovative and sustainable ecosystem, SWD(2021) 164 final.

<sup>96</sup> Regulation (EU) 2023/2685 of the European Parliament and of the Council of 22 November 2023 amending Council Regulation (EC) No 1683/95 as regards the digitalisation of the visa procedure (OJ L, 7.12.2023) and

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 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 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure (OJ L, 7.12.2023)



 Stakeholders	 Direct costs	 Direct benefits	 Indirect benefits
<b>Third-country nationals</b>	<ul style="list-style-type: none"> <li>› Visa fee and the service fee</li> <li>› Travel costs;</li> <li>› Costs for mailing the application and related documentation;</li> <li>› Time necessary to collect the required documentation, file the application and complete the process</li> </ul>	<ul style="list-style-type: none"> <li>› Simplification in the visa procedures</li> <li>› Lower waiting times</li> <li>› Less effort for collecting the visa documentation, file the application and complete the process.</li> <li>› Lower travel costs</li> </ul>	
<b>MSs, SAC and consulates</b>	<ul style="list-style-type: none"> <li>› One-off development costs, consisting primarily in setting-up or updating existing IT infrastructures and/or offering training to staff;</li> <li>› Recurring costs, which include costs for operating the systems mentioned above, as well as the staff costs for processing visa applications following the new procedures, such as the amount of time needed for processing visa applications.</li> </ul>	<ul style="list-style-type: none"> <li>› Increase in revenues from visa fees</li> <li>› Streamlining and harmonisation of visa procedures</li> <li>› Decreased the administrative costs (see section 4.1.3)</li> </ul>	
<b>Other stakeholders</b>			<ul style="list-style-type: none"> <li>› Higher number of travellers, thanks to simpler visa procedures</li> <li>› Higher revenue due to higher number of travellers</li> </ul>

**Figure 4.1 Costs and benefits for the main categories of stakeholders**

Source: External study, based on analysis and triangulation of data collected via desk research and stakeholder consultations.

## Main direct costs

### Costs for third-country nationals applying for a visa

The analysis of **costs for applicants** focuses on the visa and service fees, which the amended Visa Code has modified. Table 4.1 presents an overview of the information available on the evolution of the visa fee and service fee for selected Member States. Due to data availability issues, it needs to be read with caution. The analysis considers the maximum visa fee applicable, without possible reduction and waivers, which were difficult to estimate and would have increased the limitations<sup>97</sup>. Information about the ESP service fee for the 2018-2019 period is less detailed than for the 2020-2022 period, and reflects the average value reported in earlier studies<sup>98</sup>. It is likely overestimated, at least for some Member States. Information on the service fee provides the average value charged by ESPs, even though the service fees often differ, not only between Member States but also for the same Member State, depending on the third country considered.

For instance, the service fee that ESPs are allowed to charge in the case of Austria ranges from EUR 15 to EUR 40, from EUR 18 to EUR 40 in the case of Belgium, from EUR 12 to EUR 36.9 in the case of Czechia, from EUR 19.9 to EUR 40 in the case of Lithuania and from EUR 10 to EUR 30 in the case of Slovakia. Such variations in the service fees

<sup>97</sup> Reductions and waivers of visa fees are considered very limited, in line with previous studies.

<sup>98</sup> European Commission, Impact assessment supporting the review of the Unions' visa policy to facilitate legitimate travelling, 2013, Study prepared by ICF-GHK for DG HOME, available at: [https://home-affairs.ec.europa.eu/impact-assessment-study-supporting-review-unions-visa-policy-facilitate-legitimate-travelling\\_en](https://home-affairs.ec.europa.eu/impact-assessment-study-supporting-review-unions-visa-policy-facilitate-legitimate-travelling_en)

for the same Member State depend on the agreements with ESPs, as well as on the third country considered.

*Table 4.1 Visa and Service fee per application, 2018-2022 (EUR)*

	2018-2019			2020-2022		
	Visa fee	Service fee (average)	Cumulated fee (average)	Visa fee	Service fee (average)	Cumulated fee (average)
Austria	60	14.5	74.5	80	27.5	107.5
Belgium	60	14.5	74.5	80	29.0	100.0
Czechia	60	14.5	74.5	80	24.5	104.5
Estonia	60	14.5	74.5	80	24.5	104.5
Germany	60	14.5	74.5	80	30.8	110.8
Italy	60	14.5	74.5	80	40.0*	120
Latvia	60	14.5	74.5	80	30.0	110
Norway	60	14.5	74.5	80	30.0	110
Poland	60	14.5	74.5	80	11.5	91.5
Portugal	60	14.5	74.5	80	35.0	115.0
Slovakia	60	14.5	74.5	80	20.0	100.0
Spain	60	14.5	74.5	80	15.5	95.5
Average	60	14.5	74.5	80	27	107

*Notes: \*Maximum value reported; data on service fee for the 2020-22 period from targeted survey to Member States.*

*Data not available for: DK, FI, HU, LT, LU, MT, NL, SI, SE. Denmark*

*Source: External study, based on Member State survey and desk research.*

However, according to the 2022 data provided by the Member States to the European Commission under Art. 45 (11a) of the Visa Code, there were very few cases where the service fee exceeded EUR 40. This means that the new provisions whereby the service fee can exceed half of the visa fee, in third countries where the competent Member State has no consulate for the purpose of collecting applications and is not represented by another Member State, are not yet widely used in practice, still leaving areas without consular or ESP presence.

### **Costs for Member States' authorities and consulates**

National authorities have incurred specific costs for the implementation of the new provisions of the Visa Code. These costs primarily consisted of:

- One-off development costs to set-up or update existing IT infrastructure and/or train staff;
- Recurring costs, which include costs for operating systems and staff costs for processing visa applications following the new procedures (e.g. amount of time needed to process visa applications).

A more detailed analysis of the (limited) evidence of the impact of the amended Visa Code on the visa processing time for Member State authorities and related staff costs is provided in section 4.1.3. It is difficult to identify any major costs incurred by Member

State consulates to implement the amended Visa Code. The replies provided by national authorities suggest that they do not discern any major increase in costs due to the implementation of the amended Visa Code<sup>99</sup>. While in most cases Member States could not clarify whether additional costs resulted from implementing the new provision, in some cases, they reported no additional costs<sup>100</sup> and rarely reported significant additional costs for implementing the new provisions. The evidence is therefore inconclusive.

Information on other direct implementation costs for Member State consulates (such as training, hiring new staff) is scattered. The data show that few consulates hired new staff after 2020 to support the processing of visa requests<sup>101</sup>. However, the increasing reliance on ESPs in many Member States (see section 3.6) and, most importantly, the impacts on travel restrictions imposed during the COVID-19 pandemic impacted the workload of national authorities and consulates, requiring hiring plans to be revised. The increasing volumes of visa applications registered in 2022 could lead to the need for new resources.<sup>102</sup> In fact, the majority of the consulates stated that the resources currently employed are not sufficient to ensure a good quality of service to the public<sup>103</sup>. This is also shown by the results of the recent Schengen evaluations in the field of the common visa policy, which reveal that the maximum waiting time of two weeks for obtaining an appointment, as laid down in Article 9(2) of the Visa Code, is routinely exceeded in numerous locations. The delay between the need for new resources and the (successful) conclusion of the hiring procedures could help to explain this gap. In most Member States, the increase in visa fees was not used directly to support the consulates, so the additional resources need to be paid for from the general budget of Member States and ministries.

There is no evidence available on the training costs directly related to the implementation of the amended Visa Code for staff in national authorities and consulates. Nevertheless, the majority of the respondents considered training, guidance and capacity-building available to consular staff to be sufficient<sup>104</sup>. In some cases, the revenues raised from the increased visa fee were invested in staff training<sup>105</sup>.

Data limitations of the analysis and the consequences of the COVID-19 pandemic (and more recently, the Russian invasion of Ukraine) make it difficult to identify clear trends or discern large differences in implementation costs among Member States, in addition to those due to factors such as size and attractiveness of the country. The limited figures on the costs of the digitalisation process should be interpreted carefully, as they may include costs related to broader digitalisation rather than solely directly related to the amended Visa Code. Despite national differences, the information shows some convergence among Member States in respect of the effort needed to process visa applications, which was largely offset by external factors (see section 4.1.3).

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<sup>99</sup> Member States targeted survey, Q32 (n=15).)

<sup>100</sup> Member States targeted survey, Q 32 (n=15).)

<sup>101</sup> Consulate targeted survey, Q 32 (n=16).)

<sup>102</sup> In accordance with the outcome of the 2022 Schengen evaluations in the field of the common visa policy, the underlying reasons of the delays vary, but the core is probably staff shortages. In some Member States, a consultation requirement with the central authorities (or the decision-making power transferred to them) also leads to longer processing time and generates backlogs.

<sup>103</sup> Consulate targeted survey, Q 33 (n=18).)

<sup>104</sup> Consulate targeted survey, Q 37 (n=19).)

<sup>105</sup> Member States targeted survey, Q 16 (n=16).)

## **Main direct benefits**

### **Benefits for third-country nationals applying for a visa**

Despite the increases in fees, third-country nationals applying for a visa are likely to benefit from the simplification and harmonisation of the visa procedures and (expected) lower processing times, as well as reduced effort to collect visa documentation, file the application and complete the process. The increasing cooperation with ESPs (see section 3.6) has reduced the need for long-distance travel to apply for a visa. While digitalisation of the visa process is still limited (see section 3.4), it is expected to slightly reduce the burden (and thus the costs) for visa applicants even if they will have to travel for each application to provide their supporting documents and travel documents. However, the new rules on issuing MEVs with long validity mean that legitimate frequent travellers to the Schengen area will need to reapply less frequently.

### **Benefits for Member States**

The increase in fees for visa applicants corresponds to an increase in revenue for Member States (and ESPs). Data based on Member States' targeted survey and Eurostat data of 2023 shows that despite an increase in both visa and service fees from 2020, the combined revenues dropped in the 2020-2021 period and then increased again in 2022, albeit still below 2019 levels.

The direct effects on revenues from the increased visa fee for Member States would be difficult to discern in any case because they are typically included in the general State budget, and not earmarked for supporting the functioning of the visa process<sup>106</sup>.

In very limited cases, it is possible to link the additional revenue from the visa fee to earmarked relevant expenditures and/or activities, such as new IT equipment, new staff and staff training and development<sup>107</sup>. However, the additional revenue was not always sufficient to support the entire costs of such expenditure and/or activity<sup>108</sup>.

Additional direct benefits for Member States and consulates (and potentially for ESPs) are the simplification and streamlining of visa procedures, which should translate into reduced administrative costs for the authorities concerned.

Among Member States, there is a general consensus that the amended Visa Code streamlined and harmonised visa procedures to some extent, but the implications of such streamlining and harmonisation are less clear<sup>109</sup>. From the point of view of Member State authorities, the implementation of the amended Visa Code has led to more flexible procedures for applicants.<sup>110</sup> Moreover, the consulate targeted survey found general consensus that the amendments to the Visa Code at least reduced consulate administrative burden.<sup>111</sup> However, Member States overall still feel that the implementation does not seem to have introduced more flexible, less lengthy or less cumbersome procedures for consulates, nor has it noticeably lessened the overall administrative burden<sup>112</sup>. These aspects of the implementation are further explored in the

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<sup>106</sup> Member States targeted survey, Q16 (n=16).)

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Member States targeted survey, Q14 (n=19).)

<sup>110</sup> Member States targeted survey, Q14 (n=11).

<sup>111</sup> Consulate targeted survey, Q30: 7 out of 12 respondents replied that the new amendments simplify the administrative burden.

<sup>112</sup> Member States targeted survey, Q 32 (n=16).)

section below. Similarly, it is not clear whether the benefits and cost savings related to the amended Visa Code outweigh the implementation costs<sup>113</sup>.

Overall, it is not clear whether the amended Visa Code contributed to streamlining visa procedures and reducing the regulatory and administrative burden for authorities. A trend towards streamlining and alignment (and limited reduction of processing time for visa applications) appeared to be in place already, but, like the amended Visa Code, was offset by the consequences of the COVID-19 pandemic and, more recently, the Russian invasion of Ukraine, impacting mostly applications from Russian nationals.

### **Main benefits for consulates**

Overall, implementation of the new provisions appears to have simplified the administrative procedures for consulates at least to some extent (see section 4.1.3), even though the opinion on this is divided (with a slightly more positive view taken by consulates over Member States' national authorities). Moreover, it is hard to generalise on the basis of the small sample size.<sup>114</sup> There is scope for further simplification, including further digitalising procedures so that applicants do not systematically have to travel to the consulate or ESPs, except for providing their biometrics, mostly following the improvements in IT systems (such as VIS and EES), and advancements of the interoperability programme of the EU. Some consulates suggested that the EEAS could take a more active role in supporting visa processing at local level through more active LSC<sup>115</sup>.

### **Indirect benefits**

For industry, the new rules on visa validity facilitate mobility and therefore attract travellers. Industry stakeholders welcomed efforts to facilitate visa procedures and reported increased income mobility from simplified procedures. At the same time, some industry stakeholders suggested further amendments in the following areas<sup>116</sup>:

- Seafarers: according to some industry representatives, the visa issuing procedures should be further simplified and the period of application should be extended to more than nine months before the intended visit (i.e. 10 or 12 months);
- Digitalisation efforts should continue, with biometric data checked digitally with interviews held online, rather than in person.

### **4.1.3 Regulatory and administrative burden linked to implementation**

This section focuses on the effects of the amended Visa Code on the regulatory and administrative burden linked to the implementation of the new provisions. It examines the variation of direct costs during the period in scope (2018-2022) to assess whether these are commensurate with observable results and whether they correspond to simplification and reduction of the regulatory and administrative burden. Finally, it analyses whether there is scope for simplification and burden reduction.

The analysis focused on the direct regulatory costs for Member States, in particular the direct personnel costs for examining applications and issuing visas. To understand the

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<sup>113</sup> Ibid.

<sup>114</sup> Consulate targeted survey, Q 30 (n=12.).

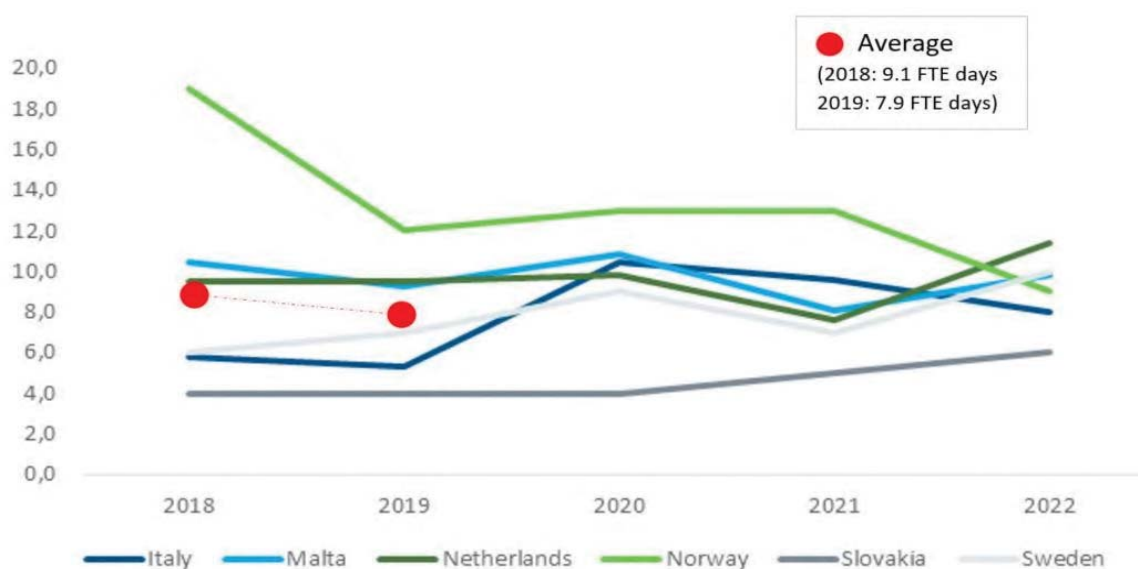
<sup>115</sup> Consulate targeted survey, Q 52; case., Case studies 1-3.

<sup>116</sup> Health test documentation: the procedures should be further harmonised across Member States and reduced to the minimum required for travellers;



effects of the amended Visa Code on the regulatory and administrative costs for Member States, this evaluation assessed the effort (in full-time equivalents (FTE)) necessary for Member States' staff to process visa applications during the period, and the extent to which such efforts (and related direct costs) evolved over the years. The new provisions had additional effects on other stakeholders, for example the administrative burden on applicants. However, these could not be quantified and were instead treated qualitatively (see section 4.1.3). It was not possible to quantify and monetise the total costs sustained by Member States for processing visa applications. This is because the breakdown of additional costs (IT, other equipment, training and other support personnel costs) are not always known from the State budget or the share that can be attributed to the visa process is unclear.

The analysis focused only on the applications submitted via the consulates in the five Member States that provided information on the FTEs necessary to process a visa application over time, thus the findings should be read with caution<sup>117</sup>. Figure 4.2 presents an overview of the FTEs necessary to process visa applications submitted via the consulates<sup>118</sup>.



**Figure 4.2 Average MS effort to process visa applications, FTE, 2018-2022**

Source: External study, based on Member States' targeted survey.

Analysis of the limited evidence shows that in the years immediately preceding the entry into force of the amendments to the Visa Code (2018 and 2019), the average processing effort shortened (from 9.1 to 7.9 FTE/days) and the differences between Member States reduced (standard deviation fell from 4.9 to 2.7). This seems to indicate that some streamlining and alignment of the visa processing was already in place. Data for the following years show less clear trends in processing effort and these cannot be linked directly to the Visa Code amendments.

<sup>117</sup> Findings refer to 6 Member States. It was not possible to carry out any analysis on the costs for ESPs. (see Annex 2 and Annex 4.)

<sup>118</sup> The figures on FTEs come from Member States targeted survey. As such, they do not cover the application collected by ESPs, but reflect the average processing time for the consulates around the world (for the countries concerned).

A second relevant finding is the small but consistent reduction in the difference in processing effort between Member States (standard deviation reduced to 1.7 in 2022), continuing after the amendments to the Visa Code came into effect. This seems to indicate some form of streamlining of the application process among Member States. The information does not allow for a clear explanation of such variation, but it likely reflects several factors, such as availability of resources, volumes of applications processed (by consulates rather than ESPs), degree of digitalisation of processes and consulates' access to relevant IT systems, as well as the demand for visas, which was strongly influenced by travel restrictions in the 2020-2021 period. Data on visa applications for 2022 signal an increase, albeit not back to pre-COVID-19 levels and likely affected by the Russian invasion of Ukraine.

FTE data on individual Member States for each of the years considered do not show clear trends, as they seem to increase or decrease from one year to the next. However, all five Member States that provided data show an increase in visa processing time in 2020 (compared to 2019 and often 2018). That increase was not fully absorbed in the following years and is still visible in 2022 data. One direct consequence of the COVID-19 pandemic was an increase in the health-related documents to be provided by applicants and checked by consulates, such as COVID-19 tests and proofs of vaccination, which impacted the visa application processing time. This, in addition to limited resources and the time needed to integrate new elements to the visa application process, explains much of the 2020-2021 data.

The aggregated data show a general reduction in costs over the period, which can be largely attributed to the (much) lower volume of visa applications processed in the 2019-2022 period compared to 2018. While much of the cost reduction for the period 2020-2021 stemmed from the travel restrictions imposed to combat the COVID-19 pandemic, other factors also need to be considered, i.e. the increasing share of applications received by ESPs (see section 3.6).

Overall, it is difficult to discern any direct effect of the amended Visa Code on the regulatory and administrative burden for Member States (ministries and consulates). A trend towards streamlining and alignment (and limited reductions in processing time for visa applications) seems to have been happening already. However, this trend, along with any further simplification and burden reduction, was offset by the consequences of the COVID-19 pandemic and, more recently, the Russian aggression against Ukraine. The findings suggest some consensus amongst consulates that the amended Visa Code simplified the visa process, thereby reducing differences between Member States.<sup>119</sup> As part of the new provisions, the increase in the visa fee (from EUR 60 to EUR 80) was intended to support Member States to meet the costs of the visa process and improve their service delivery (e.g. digitalisation, hiring new resources, staff training). External factors such as the COVID-19 pandemic and the Russian invasion of Ukraine greatly impacted the travel decisions of third-country nationals, with a significant effect on the allocation of resources for visa processes in Member States.

Table 4.2 presents an overview of the ratio between direct staff costs and revenue for Member States from visa applications at the consulates for the 2018-2019 period<sup>120</sup>. It shows the amount of revenue collected by Member States via the visa fee per euro spent on staff for visa processing.

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<sup>119</sup> Survey to Consulates, Q30 (n=7).

<sup>120</sup> No data on visa applications submitted to consulates for SK and SE in 2022.

Table 4.2 Revenue-cost ratio for visa applications (EUR), consulates, 2018-2022

	2018	2019	2020	2021	2022
<b>Italy</b>	0.04	0.06	0.03	0.04	0.04
<b>Malta</b>	0.04	0.06	0.05	0.07	0.05
<b>The Netherlands</b>	0.01	0.02	0.02	0.02	0.01
<b>Slovakia</b>	0.10	0.14	0.14	0.11	0.09
<b>Norway</b>	0.01	0.02	0.02	0.02	0.02

Source: Member States' survey.

When comparing the revenue for Member States from visa applications with the related direct staff costs, the data show that the ratio of costs covered by the visa fee changed little, remaining a small proportion of direct staff costs. While the contribution of the visa fee to the coverage of costs increased in 2019 compared to 2018, data are much more erratic for the following years. Internal factors (internal processes, digitalisation, cooperation with ESPs) and external factors (COVID-19 pandemic impacts on travel restrictions and health-related documentation) played a major role<sup>121</sup>.

Previous analysis showed some consensus that the amended Visa Code simplified the visa process, thereby reducing the differences between Member States. As mentioned above, overall, it is difficult to discern any direct effect of the amended Visa Code on the regulatory and administrative burden for Member States. However, in the view of consular staff, the new procedures have reduced the administrative burden<sup>122</sup>. The limited evidence on the effort needed to process visa applications shows a convergence among Member States, and an existing reduction that was offset by external factors (COVID-19 pandemic impacts on travel restrictions and health-related documentation).

The use of MEVs and the systematic application of the MEV cascade rule across Member States is expected to bring further simplification in the medium-term. While it may be more burdensome to process an application for a MEV (one year or less) compared to a standard Schengen visa, over time the processing time should decrease. The MEV cascade rule should favour the creation of progressively complete track records of individuals meeting the requirements for MEVs (of incrementally longer validity), simplifying processing of such requests. However, the data show that the use of MEVs with a validity of one year or longer remains relatively limited among Member States (see section 3.5) and these benefits may take longer than expected to materialise.

### Scope for simplification and administrative burden reduction

The evaluation has not found a clear direct effect of the amended Visa Code on the regulatory and administrative burden for Member States, even though some consulates highlight having experienced some simplification of the visa process, thereby reducing differences between Member States. Simplification and reduction of the administrative burden could come from the systematic application of the cascade rules for MEVs. However, there is no evidence during the evaluation period to support this hypothesis,

<sup>121</sup> The same analysis can consider revenues from all visa applications (including via ESPs). While the contribution of the fees in covering direct costs is higher, the overall conclusions remain the same. Given the uncertainties about the redistribution of the visa fee between ESPs and Member States (which could be total, partial or null), it was excluded from the report.

<sup>122</sup> Survey to consulates.



due to external factors (the COVID-19 pandemic and, more recently, Russia's war of aggression in Ukraine) and the still limited issuing of long-validity MEVs by Member States. According to the stakeholders consulted, broader simplification and reduction of the administrative burden is expected in the next years, linked to the digitalisation process of the visa system and further developments of relevant IT systems (such as VIS and EES), and advancements of the interoperability programme of the EU (see also sections 3.4 and 4.1.1).

#### **4.1.4 Readmission cooperation – Processes set up for the implementation of Art.25a**

When it comes to the effectiveness and efficiency of the processes set up for the implementation of Article 25a, three main aspects have been examined: the duration of the cycle processes -built based on the requirements set out in Article 25a-, the involvement of EU stakeholders, and the completeness and reliability of the data used.

As regards the **duration of the past cycles** until the cut-off date, these have so far exceeded one year, which has resulted in different stages of different cycles overlapping. As shown in the analysis below, this increases the complexity of the process. However, the Commission considers that there is a need for flexibility when it comes to exercising its and the Council's prerogative to propose and adopt decisions in the context of the Article 25a mechanism, including so that progress on readmission cooperation and further developments in the overall relations with a given third country can be factored into the decision-making process<sup>123</sup>.

The period between the adoption of the report by the Commission and the submission of the Commission proposals to the Council has caused the biggest delay in previous cycles. This long timespan has had several implications. Firstly, given that Commission proposals and Council implementing decisions are connected to the annual report, these have been adopted on the basis of information in the report which could have become outdated. Secondly, as measures were adopted two months before the adoption of the second annual report in the first cycle and on the same day as the adoption of the third annual report in the second cycle, the Commission has not been able to assess the effectiveness and results of EU measures implemented before publishing its next annual report. This timespan weakens the connection between the assessment included in the report and the proposals and implementing decisions adopted. Finally, so far, the timespan between the adoption of the annual report and the Commission proposals has resulted in discussions on the countries of interest taking place under different Council Presidencies compared to discussions on the proposals. This was the case both in the first and the second cycle. The change of presidency in the Council could bring about a change in priorities and could potentially spark discussions on a different basis. Whether the 'trio principle' is enough to mitigate this risk, is still to be assessed<sup>124</sup>.

Seven out of seventeen Member States interviewed have criticised the length of the cycle and have called for a shorter, more efficient cycle with a set timeline and deadlines<sup>125</sup>. This position has also been voiced both by the French and Czech Council Presidencies in the course of 2022, which put forward proposals to streamline the process and set a

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<sup>123</sup> The 2023 cycle (assessing 2022) was significantly shortened, with the adoption of the report in July and the Commission proposals adopted in September, paving the way for shorter cycles in the future.

<sup>124</sup> See: <https://eur-lex.europa.eu/EN/legal-content/glossary/trio.html>

specific timeframe for the annual exercise<sup>126 127</sup>. More specifically, in the IMEX Working Party meeting of October 2022, Member States discussed on a timeline -proposed by the Czech Presidency-, which spans between January and October of the same year, with the last stage being the adoption of the Council implementing decisions. Although the practical application of the timeline would be challenging for the Commission - considering the time needed for the drafting and relevant internal procedures-, its general acceptance by Member States shows the direction towards which change could be implemented. There seems to be a general consensus among stakeholders that the whole cycle should fit in one year<sup>128</sup>. The specific timeline also calls for discussions on the countries of interest, targeted engagement, adoption of Commission proposals and Council implementing decisions to all take place under one Presidency, i.e. within six months.

As regards the **involvement of stakeholders** in the processes set up under the annual cycle, several actors are involved in the different stages of the cycle, as shown also in figure 3.6. More specifically, stakeholders include Commission Services, EEAS, EU Delegations, the Council, Member States, Frontex. The EEAS is consulted on all stages of the cycle informally and formally at the stage of the interservice consultation and participates in discussions in the relevant working groups of the Council.

Article 25a requires that the Commission takes into account the EU's overall relations with a third country when deciding to propose measures but does not provide specifics on how and when this should be practically applied. In the past cycles, the assessment of the overall relations with third countries of concern has been particularly important during EMWP meetings, following the adoption of the report by the Commission and discussions in Integration Migration Expulsion (IMEX).

During stakeholders' interviews, EEAS considered it could be further involved in the exercise. According to the EEAS, this would allow it to provide expertise as regards the overall political situation in the assessed third countries at earlier stages of the cycle - including the drafting of the report. Three out of seventeen Member States interviewed also argued that the report should include information on the political context in third countries. According to the Commission, including this type of political analysis would detract from the current technical focus and factual nature of the reports. Such analysis is however included by the Commission in the proposals made so far for restrictive visa measures based on Article 25a. Currently, the legal basis does not explicitly call for the inclusion of such information in the report.

The EEAS also observed that the tight deadlines of the interservice consultations during the first three cycles and the procedures required for the handling of RESTREINT UE/EU RESTRICTED documents have posed challenges.

Finally, when it comes to the **data used in the annual assessment report**, these follow the indicators mentioned in the legal basis. For reporting on the number of return decisions and on effective returns, Eurostat data is used, while for reporting on the

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<sup>126</sup> French Presidency paper Annual implementation of the visa-remission mechanism and perspectives on readmission, 5983/22, 14.02.2022

<sup>127</sup> Czech Presidency discussion paper on streamlining the process under Visa Code Article 25a, 13692/22, 24.10.2022

<sup>128</sup> Following such discussions, the Commission addressed the issue and delivered on a more ambitious timeframe for the part of the process under its control, with the adoption of the fourth report in July 2023 and of the proposals in September of the same year.

number of readmission requests and travel documents issued, Frontex data is used. Additional indicators are included in the annexes of the report for contextualisation. The European Court of Auditors in its 2021 Special Report on EU Readmission Cooperation pointed to the fact that the data produced by the two often contain weaknesses<sup>129</sup>.

Moreover, according to Frontex, a number of Member States have not yet developed a robust, integrated electronic data collection system<sup>130</sup>. To improve the accuracy and completeness of the data reported, Frontex supports Member States with the development of a return case management system reference model based on which they are able to conduct gap analysis and understand what steps they would still need to take to develop an effective and efficient electronic data collection system.

Qualitative data which are aligned with the indicators listed in the Visa Code, are also included in the annual report. Frontex and the Commission carry out an annual collection of qualitative data through a questionnaire distributed to Member States' contact points. The content of the questionnaire is updated annually where needed, keeping the data collected relevant for the exercise<sup>131</sup>, while at the same time preserving the comparability of the reports.

For the purpose of this annual exercise, Member States have put in place mechanisms, which directly or indirectly help ensure the collection of accurate and complete data on cooperation on readmission. Nevertheless, Member States seem to face a number of challenges when responding to the questionnaire. The most prominent is connected to the additional administrative burden the exercise creates for national actors, which is due to the extensive coordination required for the data collection. The large number of countries assessed increases the requirements of the exercise.

The collection of data is an inherent consequence of the reporting on the indicators. Despite the heavy additional workload created for Member States<sup>132</sup>, the process has strengthened data collection and sharing in the area of readmission cooperation. The fact that 71% of Member States/SAC find the data collected relevant<sup>133</sup>, as well as the high response rate to the qualitative survey, further strengthen the benefits that the processes produce.

A few Member States expressed additional concerns when replying to the dedicated stakeholder survey. First, two out of seventeen Member States observed that some of the mandatory questions were not applicable to their cases<sup>134</sup> <sup>135</sup>. Second, four out of

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<sup>129</sup> European Court of Auditors, Special Report No 17/2021: EU readmission cooperation with third countries: relevant actions yielded limited results, p. 54

<sup>130</sup> Stakeholders' Interview

<sup>131</sup> Member State targeted survey, Q 39 (n=24): 'Strongly agree' 7/24, 'Agree': 10/24, 'Neither agree nor disagree': 7/24

<sup>132</sup> Member State targeted survey, Q38.1 (n=26): 'Yes': 15 → 8/15 mentioned the additional workload and effort required. This corresponds to 73% of respondents referring to challenges in the qualitative data collection

<sup>133</sup> Member State targeted survey, Q 39 (n=24): 'Strongly agree' 7/24, 'Agree': 10/24, 'Neither agree nor disagree': 7/24

<sup>134</sup> One of these questions concerns the validity period of travel documents and asks for an assessment of third country's cooperation based on the issuance of travel documents. However, for certain Member States, no travel documents have ever been issued by specific third countries, Member State targeted survey, Q38.1 1/15 & 1/17 MS Interviews

<sup>135</sup> This has been corrected in 2023 as follow up to the regular exercise to collect feedback from Member States carried out each year by Frontex.

seventeen Member States indicated that they might not always have a clear understanding of the inter-play between the qualitative and quantitative criteria to be used in their assessment of the overall cooperation on readmission with third countries. The same number of Member States have signalled that more clarity is needed when it comes to definitions, indicators, criteria on which their assessment should be based, and that the guidelines shared by Frontex do not cover all questions included in the questionnaire<sup>136</sup>. This has been also highlighted by Frontex, which runs the exercise<sup>137</sup>. The fact that a few Member States seem not to have full clarity on how to rate overall cooperation could reduce the comparability of the answers provided.

#### 4.1.5 Internal and External Coherence

The amended Visa Code is coherent and complementary with other policies at EU and international level, most notably migration policy and the Schengen acquis, digitalisation, and the management of the external borders.

The Visa Code is coherent and complementary with general orientations and specific policy interventions at EU level in the field of border management, although differences persist in how Member States implement certain provisions. The Visa Code coheres with the European Commission's strategy 'Towards a stronger and more resilient Schengen area'<sup>138</sup> (on the need to digitalise visa procedures) and the most recent proposals on visa digitalisation<sup>139</sup>, the Schengen Borders Code and the Commission's recent amendment proposal<sup>140</sup>, the Entry-Exit System (EES)<sup>141</sup>, and the reformed VIS.

The Visa Code has complementary objectives and approaches to these instruments. For example, like the Commission's strategy 'Towards a stronger and more resilient Schengen area' and the Commission's proposal on the digitalisation of visa procedures, the Visa Code supports the interoperability of information systems through more flexible visa procedures and the digitalisation of visa applications.

The amendments to the Visa Code that provide for more flexibility in the visa procedure and increase the visa and service fees are in line with the EES objective of helping Member States to cope with increased numbers of travellers to the EU. Similarly, Article

<sup>136</sup> Member State targeted survey, Q38.1 (n=26): 3 MS referred to unclear criteria, definitions, indicators for rating cooperation

Stakeholders' Interviews & 4/17 MS Interviews

<sup>137</sup> Stakeholders' Interviews: Frontex Interview

<sup>138</sup> European Commission, Towards a stronger and more resilient Schengen area, Press release, 2021.

<sup>139</sup> European Commission, 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, COM/2022/658 final.

<sup>140</sup> European Parliament and Council, Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) as amended by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa, Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017, and Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard (no longer in force); European Commission, Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, COM/2021/891 final.

<sup>141</sup> European Commission, Stronger and Smarter Borders for the European Union - The Entry-Exit System, Factsheet, 2016.

13 of the Visa Code supports the effective functioning of the VIS by providing clear rules on the enrolment of biometric identifiers in the VIS.

While five interviewees in the Member States' authorities generally viewed the amendments to the Visa Code as a positive contribution to more harmonised application of EU visa policy, six interviewees noted that the impact on the Schengen acquis is rather limited, with persistent differences in Member States' implementation of the different instruments and provisions.

The Visa Code is coherent and complementary with international general orientations and specific policy measures in fields such as aviation regulations and standards and international human rights instruments. It refers directly to the Chicago Convention on International Civil Aviation<sup>142</sup>, and to the standards for the collection of biometric identifiers set by the International Civil Aviation Organization<sup>143</sup>.

In terms of human rights standards, the Visa Code refers to international standards set out in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms<sup>144</sup> and in the United Nations (UN) Convention on the Rights of the Child<sup>145</sup>.

It also justifies exceptions to international practices and recognises the possibility for Member States to derogate from certain provisions in order to comply with their international obligations (e.g. Articles 19 and 25(1)(a) Visa Code).

The Visa Code is aligned with other EU policy instruments and legislation, particularly in relation to fundamental rights, data protection and the free movement of persons. This is done in compliance with EU fundamental rights standards and the principle of non-discrimination on the basis of gender, nevertheless with some concerns raised about ESPs' respect of applicants' right to data protection (further explored below)<sup>146</sup>.

When implementing EU law, Member States are bound to respect the rights and freedoms enshrined in the Charter of Fundamental Rights of the EU. Article 21 of the Charter states that 'Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited'. Article 8 of the Charter provides that Member States must process personal data fairly, for specified purposes, and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. The person concerned has the right to information and to request access, correction and deletion of their data. This obligation is also reflected in the General Data Protection Regulation (GDPR)<sup>147</sup>.

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<sup>142</sup> International Civil Aviation Organization, Convention on International Civil Aviation, 1944.

<sup>143</sup> International Civil Aviation Organization, Doc 9303 Machine Readable Travel Documents – Eight Edition, Part 1: Introduction, 2021.

<sup>144</sup> Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.

<sup>145</sup> UN General Assembly, Resolution 44/25 – Convention on the Rights of the Child, 1989.

<sup>146</sup> Sánchez-Barrueco, M., 'Business as usual? Mapping outsourcing practices in Schengen visa processing', *Journal of Ethnic and Migration Studies*, 2017.

<sup>147</sup> European Parliament and Council, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).



The Visa Code provides for non-discrimination obligations for consular staff and ESPs, which Member States are bound to respect (Article 39 and Annex X Visa Code). When implementing the Visa Code, Member States and their consular staff must act in compliance with data protection requirements as per GDPR, and in particular Articles 5 and 6 and Chapter III<sup>148</sup>.

Seven Member States interviewed reported that they have instructed their consular offices to put in place relevant measures to protect applicants' fundamental rights. The consular officers provided some examples of relevant measures implemented at local level<sup>149</sup>. Nevertheless, it emerged from desk research and interviews that issues persist with regard to the respect of data protection standards by ESPs and VACs<sup>150</sup>. Analysis of the interviews and the recommendations following the Schengen evaluation mechanism highlighted issues in relation to:

- ESPs' excessive retention of documents and the inadequate respect of protocols and procedures related to the destruction of such documents<sup>151</sup>;
- ESPs' retention of data that is not necessary for the purpose of the visa application process<sup>152</sup>;
- Failure to ensure that personal data are only transmitted through secure systems<sup>153</sup>;
- Decision to refuse a visa is communicated to applicants in a way that allows the ESP to know the outcome of the application<sup>154</sup>.

Some examples of practices to protect fundamental rights of applicants were collected through the study. One consulate mentioned that ESPs premises are regularly checked and they make sure that personal data is deleted on time, and the CDs with personal information are encrypted and destroyed. Another consulate explained that to make sure

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<sup>148</sup> Ibid.

<sup>149</sup> Interviews with consulates no. 1, 2, and 3.

<sup>150</sup> Sánchez-Barrueco, M., 'Business as usual? Mapping outsourcing practices in Schengen visa processing', *Journal of Ethnic and Migration Studies*, 2017.

<sup>151</sup> MFA: EE; see also Council of the European Union (2022), Council Implementing Decision setting out a recommendation on addressing the (serious) deficiencies identified in the 2022 evaluation of the Netherlands on the application of the Schengen acquis in the field of the common visa policy, 15816/22; Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovakia on the application of the Schengen acquis in the field of the common visa policy, 12450/20; Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Hungary on the application of the Schengen acquis in the field of the common visa policy, 9766/20; Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovenia on the application of the Schengen acquis in the field of the common visa policy, 9213/20.

<sup>152</sup> Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of Germany on the application of the Schengen acquis in the field of the common visa policy, 12392/20.

<sup>153</sup> Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Hungary on the application of the Schengen acquis in the field of the common visa policy, 9766/20.

<sup>154</sup> Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of Germany on the application of the Schengen acquis in the field of the common visa policy, 12392/20; Council of the European Union, Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovakia on the application of the Schengen acquis in the field of the common visa policy, 12450/20.

that GDPR rules are respected by ESPs to the best of their ability, they created a personal account which allows only authorized personnel to have access to personal data.

### ***Freedom of movement***

Overall, evidence collected during the study shows that the Visa Code is implemented in compliance with relevant EU policy and legislation on the free movement of EU citizens and their family members. With regard to the 2019 Visa Code amendment, two main issues emerged from the desk research and the interviews: 1) there was a reported imposition of visa fee on family members of mobile EU citizens coupled with a reported lack of access to consulates and/or the requirement to apply for a visa through an external service provider; and 2) the Visa Code does not yet take account of Part Two of the EU/United Kingdom (UK) Withdrawal Agreement, with only one stakeholder interviewed noting the possibility of considering further amendments to the Visa Code.

Article 1(2) of the Visa Code, which was not amended in 2019, already provided that the visa requirements for third country nationals should not preclude the right to free movement enjoyed by certain third country nationals, principally non-EU family members of mobile EU citizens.

Article 1(4) of the Visa Code, as amended in 2019, confirms the general principle that Member State shall act in full compliance with EU law, thus also Directive 2004/38/EC<sup>155</sup>.

As provided in Article 5(2) of Directive 2004/38/EC, Member States may require non-EU family members moving with or joining a mobile EU citizen to have an entry visa, in accordance with Regulation 2018/1806<sup>156</sup>. Such family members not only have the right to enter the territory of the Member State, but also have the right to obtain an entry visa<sup>157</sup>. This distinguishes them from other third country nationals, who have no such right. Moreover, under Article 5(2), Member States must grant such family members every facility to obtain the necessary visa, which must be issued free of charge, as soon as possible and on the basis of an accelerated procedure.

The Visa Code Handbook I clarifies the cases in which the Directive 2004/38/EC is applicable to as well as the specific rules that apply to such third country nationals.

In that vein, Recital 6 of the 2019 amended Visa Code states “*Member States should not be required to maintain the possibility of direct access for the lodging of applications at the consulate in places where an external service provider has been mandated to collect applications on its behalf, without prejudice to the obligations imposed on Member States by Directive 2004/38/EC of the European Parliament and of the Council (4), in particular Article 5(2) thereof.*”

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<sup>155</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 (Text with EEA relevance).

<sup>156</sup> Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303 28.11.2018, p. 39).

<sup>157</sup> Case C-503/03, *Commission v Spain*, ECLI:EU:C:2006:74, paragraph 42.

A recent study<sup>158</sup> analysed the main difficulties faced by EU citizens in the application of Directive 2004/38/EC. With regard to the 2019 Visa Code amendment (which encouraged Member States to make more use of external service providers but stressed the need to maintain the possibility of direct access to consulates for family members covered by Directive 2004/38/EC), it can be highlighted that the study reported as main difficulty the imposition of a visa fee coupled with a reported lack of access to consulates and/or the requirement to apply for a visa through an external service provider<sup>159</sup>.

The reviewed guidance on the right of free movement of EU citizens and family members<sup>160</sup> adopted on 6 December 2024 clarifies again the rules applicable to family members, in particular as regards the visa fee. Moreover, the amending Regulations on the digitalisation of the Schengen visa procedures - adopted on 22 November 2023 by the European Parliament and the Council- make clear that these non-EU family members are entitled to lodge the application in person, at their best convenience, either at the consulate or at the external service providers premises. The amending regulation on the digitalisation of the Schengen visa procedure provides also expressly for the non-applicability of the visa fee.

The Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union provides that no visa requirements are applicable by EU Member States to UK nationals, their family members and other persons holding a Withdrawal Agreement residence document or a Withdrawal Agreement frontier worker document<sup>161</sup>.

Where the host State requires family members joining EU or UK nationals after the end of the transition period to be in possession of an entry visa, the host State shall grant them every facility to obtain the necessary visas. Such visas shall be issued free of charge, as soon as possible, and on the basis of an accelerated procedure (Article 14(3) EU-UK Withdrawal Agreement).

The Visa Code does not explicitly specify these exemptions and facilities, which derive directly from the Withdrawal Agreement. Third-country national family members of UK nationals who do not hold a valid document issued under the Withdrawal Agreement will be required to obtain a visa to travel to the EU if their country of nationality is listed among those for which a visa is required. The Visa Code does not currently reflect the provisions that apply under Article 14(3) of the EU/UK Withdrawal Agreement.

However, the amending regulation on the digitalisation of the Schengen visa procedure-adopted in November 2023 by the European Parliament and the Council- addresses the matter.

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<sup>158</sup> Interview with DG JUST, which referenced the *Report to support the review of the guidance on the right of free movement of EU citizens and their families* :

[https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8\\_en](https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8_en)

<sup>159</sup> However, the main source of information for this difficulty did not always make clear whether the fee was imposed by the national administration or whether this was rather a service fee charged by an external service provider.

<sup>160</sup> Commission Notice– Guidance on the right of free movement of EU citizens and their families, C/2023/1392, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C\\_202301392](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202301392)

<sup>161</sup> UK/EU, Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 2019/C 384 I/01, Articles 14(2), 18 and 26.

### ***Internal Coherence of the amendments to the Visa Code introduced in 2019***

As mentioned above, the three main objectives of the 2019 revision of the Visa Code -on which the amendments were based- were to:

- contribute to a more harmonised, flexible and secure EU visa policy, in line with the ongoing digital transition;
- ensure that sufficient financial resources are available to cover the cost of Member States processing visa applications;
- improve cooperation with third countries in terms of readmission and returns, while countering security risks from and irregular migration of non-EU countries.

The third objective related to readmission cooperation was a new element introduced in the Visa Code. However, the link between visa policy and readmission cooperation has been embedded in Union policy since the early 2000s in parallel negotiations of visa facilitation agreements and readmission agreements. The two policy areas are closely connected as they are intrinsic to migration management and have a strong external dimension. In addition, the objectives of the 2019 revision are linked to the same underlying aim as set out in the legal basis: to help “*counter security risks and the risk of irregular migration to the Union*”<sup>162</sup>, responding in this way to challenges posed by irregular migration. The objective of improved cooperation on readmission is in this way complementary to the objective of a more secure EU visa policy.

Finally, the amendments to the Visa Code that provide for more flexibility in the visa procedure and increase the visa and service fees aim to further improve the application of the EU Visa policy. Facilitating travelling by creating faster and clearer procedures increases the power of the visa policy when used as a leverage to foster cooperation on readmission under the Article 25a mechanism.

#### ***Article 25a – Internal and External Coherence***

As regards external coherence, the mechanism under Article 25a – linking readmission cooperation and visa policy- is consistent with the comprehensive approach introduced by the New Pact on Migration and Asylum<sup>163</sup>. More specifically, the New Pact brings together policy in the areas of migration, asylum, integration, and border management. It recognises that the overall effectiveness depends on progress on all fronts, including in the relations with third countries. Finally, the New Pact calls for joint efforts to ensure that progress on readmission cooperation proceeds in parallel to progress in other areas of EU migration partnerships with third countries. The concept of linking visa policy and readmission cooperation had been already explored in the 2015 Action Plan on Return<sup>164</sup> and the 2016 Partnership Framework Communication<sup>165</sup>.

Concerning the internal coherence of the processes set up for the implementation of Article 25a, both the coherence between stages and that between cycles has been examined.

When looking at the processes running under each stage and their sequence, these appear to be generally consistent from one cycle to the next. The stage which seems to slightly vary in terms of processes, is stage 5: ‘Council Discussions’ that follows the adoption of

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<sup>162</sup> OJ L 188, 12.7.2019, p.25

<sup>163</sup> COM(2020) 609 final.

<sup>164</sup> COM(2015) 453 final, 9.9.2015.

<sup>165</sup> COM(2016) 385 final, 7.6.2016.

the annual report. The sequence of discussions in the Council, as decided by the respective Presidency, can change from cycle to cycle. This can result in discussions being repeated in different fora, according to three Member States interviewed. In the first two cycles, the report was first presented and discussed in the IMEX Working Party, followed by a discussion in the EMWP. However, the third report was first discussed in the JHA Counsellors meeting and then the presentation and discussion were repeated in IMEX. Thus, there may have been some overlap between the two meetings, as the basis and purpose of the discussions were similar. Three out of seventeen Member States interviewed have emphasised the need for a clear procedure in the Council, without repetition of discussions in the different fora.

When it comes to the duration of the various stages, this differs from one cycle to the next. From the first year of the cycle's implementation, the timeframe for the drafting and adoption of the annual report by the Commission has been significantly condensed. However, when it comes to the time span between the adoption of the annual report and the submission of the Commission proposals to the Council, this increased over the years<sup>166</sup>. Whilst this provides for flexibility, differences between the cycles could impact the efforts for clear communication with stakeholders.

As mentioned above, apart from the coherence between cycles, the coherence between the stages of the same cycle is also examined under this sub-section. The coherence between the stages of a cycle is connected with the principle that the output of one stage serves as an input for the next one. In practice, stages may not always be coherent. This becomes apparent in three phases of the cycle.

#### From Stage 4: 'Adoption of Report' to Stage 6: 'Commission Proposals and Council Implementing decisions'

After the adoption of the annual report, discussions on the outcome of the report and on the overall relations take place at working party level in the Council to identify third countries of interest for the Member States. There, Member States have the opportunity to voice their views. Member States' views and proposals on countries of interest may often be influenced by their relations to the third countries<sup>167</sup>.

#### Stage 6: From the identification of third countries of interest to the adoption of Commission Proposals

Based on the assessment and taking into account the EU's overall relations with the third countries concerned, including through the discussions in the Council, the Commission takes its decision on proposing visa measures. In this decision, the Commission is not limited to those countries identified during Council discussions. From the relevant provision of the Visa Code, it is clear that this decision is within the political discretion of the Commission. The Commission has in the past put forward proposals for third countries which had not been prioritised by all Member States during Council discussions.

#### From Council Implementing Decisions to the next Annual Report.

Finally, because of the long timespan between the adoption of the first report and the first Council implementing decision, the effects of the measures implemented were not taken into account in the second annual report. The Council Implementing Decision on The

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<sup>166</sup> The Commission and the Council have the institutional prerogative to time the issuance of the proposals and their eventual adoption, appropriately to the general context and the result of the engagement.

<sup>167</sup> Stakeholders' & MS Interviews



Gambia was adopted 8 months after the adoption of the first annual report and two months before the adoption of the second annual report, during which continuous engagement with The Gambia took place. For the measures to be assessed, more time would be needed. Thus, the results of Council Implementing Decisions were only taken into account in the third report, which was adopted in December 2022, the same month that the Council Decision for additional measures on The Gambia was also adopted.

#### **4.2 How did the EU intervention make a difference and to whom?**

This section assesses the “EU added value” evaluation criterion. The amended Visa Code provides rules for introducing greater flexibility to the visa procedures, which positively impacted Member States by harmonising and streamlining visa procedures. These amendments also had an overall positive impact for industry stakeholders and travellers, by making the procedures faster and more flexible. The study also found that more harmonisation was needed. In addition, amendments such as better definitions of the rule for the validity of MEVs contributed to strengthening legal clarity, benefitting authorities and travellers, although more harmonisation in the application of the measures is still needed. The enhanced role of LSC benefited Member States’ authorities by facilitating harmonisation, although more steps need to be taken.

The amended Visa Code generated added value by allowing the EU to better coordinate and harmonise the implementation of the visa policy. As highlighted in the 2018 Impact Assessment of the Visa Code, the ‘conditions and procedures for issuing short-stay visas are established by a regulation that is directly applicable to all Member States, namely the Visa Code<sup>168</sup>. None of the changes introduced in 2019 could have been achieved at Member State level alone.

One of the amendments introduced by Regulation 2019/1155 related to the introduction of greater flexibility to the visa procedures (see section 3). Thirteen out of nineteen responding Member States’ authorities indicated that visa procedures and conditions are now further harmonised across Schengen countries, more streamlined (twelve out of nineteen respondents), and more flexible for applicants (ten out of nineteen respondents). This shows a clear added value for the authorities.

This added value was confirmed by industry stakeholders, with the majority noting that the additional flexibility relating to short-stay visa applications benefited their industry between 2020 and 2022. One stakeholder shared that the changes make the visa application process faster and more convenient. Others agreed that the facilitation of short-stay visas has benefited their industry and added value, while emphasising the difficulty of a full evaluation given the impact of COVID-19 on the sector. Two stakeholders from the transport sector agreed that the facilitation of short-visa arrangements for third country nationals from visa-required countries has benefitted their industry (Industry targeted survey, Q. 9)<sup>169</sup>. Additionally, they shared that the possibility for seafarers to apply up to 9 months in advance, positively benefited the industry – although one noticed that 10 to 12 months would be even more beneficial<sup>170</sup>. However, some industry stakeholders emphasised that despite the positive intent of the amendments, there is room for further improvement, in particular in relation to the time

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<sup>168</sup> European Commission, Impact assessment accompanying the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p.21.

<sup>169</sup> Industry targeted survey, Q9 (n=23): ‘Strongly agree’: 11/23, ‘Agree’: 9/23, ‘Neither agree/nor disagree’: 1/23, ‘Disagree’: 2/23.

<sup>170</sup> Industry targeted survey, open question 8.

that it takes to process the applications<sup>171</sup>. One stakeholder pointed out that the travel industry would also benefit from further simplification of visa procedures for travellers<sup>172</sup>.

In relation to the aim of introducing greater flexibility to visa procedures, the amended Visa Code provides for the possibility of digitalising certain steps of the visa application process. The consultation found that fourteen out of nineteen Member States have implemented or are planning to implement steps towards digitalising their visa procedures. However, different stakeholders argued that there is no specific link between the amendments to the Visa Code and the digitalisation of the procedures, with only three consulates out of thirteen interviewed who replied that the digitalisation of visa processes is driven by the Visa Code amendments. They argued that visa digitalisation follows from other factors, such as digital practices implemented amid the COVID-19 crisis, and the broader digital policy at the core of current EU/national policy agendas. Nevertheless, numerous Member States' authorities argued that the new possibilities offered by the revised Visa Code regarding digitalisation (with the introduction of electronic signature of the application form) has undoubtedly been positive, as they make it easier to involve central authorities in visa decisions and reduce the burden on applicants, who are not systematically required to visit the consulate or ESP in person<sup>173</sup>. This suggests clear added value compared to the previous Regulation. However, according to stakeholders, it is unlikely that digital procedures are a direct consequence of the Visa Code amendment, i.e. the possibility to sign the application form electronically, and considering the broader digital policy agenda, the added value of the amendment is limited in that respect.

A few stakeholders from the transport sector emphasised the importance that easing and speeding visa procedures for travellers according to international standards and in an interoperable way, have for the sector.<sup>174</sup> specifying that the full interoperability of the tools and systems (e.g., EES, ETIAS) would enhance operational efficiency and border security.

As highlighted in the Commission's proposal on the digitalisation of visa procedures, 'the costs of non-action at EU level could increase over time. Without digitalisation, Member States would continue to face a heavy administrative burden to manage visa processes, visa applicants would continue to undergo costly and time-consuming procedures and the risks attached to the security of the visa sticker would continue to exist'<sup>175</sup>. As such, there is added value in further action at EU level to facilitate the digitalisation of the visa process.

Another objective of the new Regulation was to harmonise rules for the issuance of MEVs, given that the IA in 2018 had identified highly divergent procedures in the Member States (see section 3). In particular, a vast majority of responding Member States (thirteen out of seventeen) confirmed that the amended Article 24, introducing the cascade rule, has harmonised MEV issuance across the Schengen area "to some extent", while four consider it has done so "to a large extent". This was appreciated by more than 60% of the surveyed industry stakeholders (fifteen out of twenty-two), who argued that the new rules for issuing MEVs have been effective in attracting more travellers to the

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<sup>171</sup> Ibidem.

<sup>172</sup> Industry interview no. 2.

<sup>173</sup> Interviews with 4 Member States authorities.

<sup>174</sup> Industry targeted survey, Q. 15 – open question.

<sup>175</sup> European Commission, Proposal for a Regulation as regards the digitalisation of the visa procedure, COM(2022) 658 final 2022/0132 (COD), p.4.

EU<sup>176</sup>. However, the study has found that for instance the cascade rule is only one of many steps towards harmonisation of visa processes and procedures. At the same time, the Regulation introduced more legal clarity by defining the criteria to follow in respect of MEV duration. The added value of action taken at EU level is clear, given that the cascade rule clarifies and harmonises measures for MEV issuance for all Member States, which otherwise could continue to implement scattered and highly different procedures. Nevertheless, further harmonisation of measures (including for MEV issuance) by Member States is required.

Finally, the new Regulation provides for an enhanced role for LSC, particularly to ensure harmonised practices among Member States at local level. According to 70% of the responding consulates (fourteen out of twenty), the measures resulting from this cooperation enhance the harmonisation of local consular practices, at least to some extent<sup>177</sup>. Almost 90% of Member States' authorities (seventeen out of nineteen) emphasised that this is an important platform for the exchange of information and harmonisation of practices among Member States. Some representatives from EU Delegations, which steer LSC meetings, similarly noted that cooperation in the framework of LSC has improved and that Member States appreciate the importance of cooperating in this framework and are willing to do so<sup>178</sup>.

Even though more steps need to be taken to improve the implementation and harmonisation of practices, there is added value in adopting EU rules on local cooperation. It introduces the possibility of more systematic cooperation across all Member States that would otherwise cooperate without coordination between themselves but based on specific bilateral arrangements.

**As regards the cooperation on readmission**, the cycle built for the implementation of Article 25a has brought many benefits to the stakeholders involved. Although there is a need for further improvements related mainly to the effectiveness and the efficiency of the cycle, stakeholders recognise the value and usefulness of the processes set up<sup>179</sup>.

Firstly, the implementation of Article 25a has created new channels of and opportunities for communication among Member States, the Commission, the Council, EEAS, Frontex and third countries assessed. Examples of communication fora dedicated to discussing cooperation on readmission are: meetings among representatives of different Member States ahead of relevant Council Working Party discussions and Frontex Return Data Working Group meetings. The implementation of Article 25a has also created new incentives for the use of pre-existing channels of communication for the sharing of information on readmission requests between Member States, Frontex and the Commission. Furthermore, coordinated communication on readmission cooperation takes place in the various Council Working Parties where the report and the proposals are discussed among Member States, EEAS and the Commission. Finally, new opportunities have been created for ad hoc exchanges between Member States and third countries as preparation for the annual data collection exercise, as well as between the EU and third countries following the adoption of the report and the Commission proposals. Secondly, the annual assessment has encouraged more coordinated work on readmission cooperation at national level. The majority of Member States have appointed a national

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<sup>176</sup> Industry targeted survey, Q10 (n=22): 15/22 very effective.

<sup>177</sup> Consulate targeted survey, Q. 30 (n=20): 14/20 consulates: somehow effectively.

<sup>178</sup> Interviews with EU Delegations no. 1, 3.

<sup>179</sup> Stakeholders' Interviews & 4 MS Interviews

focal point to ensure coordination on issues linked to Article 25a and carry out joint work at national level to collect data connected to the annual qualitative questionnaire. Finally, the processes set up have established a system for the systematic collection of data on readmission cooperation with selected third countries at EU level. Before these processes were built, Member States, the Commission and Frontex shared operational information on readmission cooperation on an ad-hoc basis. However, as pointed out by the European Court of Auditors in its 2021 report, this information was incomplete and was not collected nor provided in a systematic manner<sup>180</sup>.

The cycle processes have strengthened data collection and sharing of information by Member States in the area of readmission cooperation. For the first time, quantitative and qualitative data on readmission cooperation with third countries are available at EU level. The production of an annual assessment on readmission cooperation has made it possible to produce a summary of consolidated data that will eventually help establish trends. The fact that the report is shared with relevant stakeholders (EEAS, EU Delegations, Member States) also allows for these consolidated data to be disseminated to all relevant parties and to strengthen their knowledge in their area of interest. The relevance of the data collected and the high response rate to the quantitative and qualitative survey, further strengthen the benefits that the processes produce. The above provide the basis for evidence-based policy-making in the area of readmission cooperation.

### **4.3 Is the intervention still relevant?**

This section assesses the ‘Relevance’ evaluation criterion.

The recent crises (COVID 19, aggression of Russia towards Ukraine) have shown the limited resilience of the current visa process to different types of crises which, in particular, make the presence of the applicant at the consulate difficult. This was acknowledged in the impact assessment accompanying the proposal on digitalisation of visa procedures that clearly highlighted that the current paper-based process proved not to be threat/risk proof.

The COVID-19 pandemic had a substantial impact on the current visa procedure as it requires systematic physical presence of the applicant in the office of a consulate or ESP when applying for a Schengen visa. Visa holders who were already in the Schengen area during the outbreak of the pandemic but were not able to travel back due to worldwide travel bans, had difficulty obtaining an extension of their visa. Because of the pandemic control measures taken by Member States (lockdowns, reduction of public services, teleworking, etc.), applying for an extension and affixing a visa sticker in the passport was a challenge for both visa holders and Member States.

In addition, the closure of many consulates or drastic reduction of staff in Belarus and Russia following the worsening of the EU-Belarus relations following the instrumentalisation of migrants by Belarus in the autumn 2022 and the aggression of Russia against Ukraine made the collection and processing of visas in these two countries very difficult. This was also true for bona fide travellers with valid reasons to travel as access to consulates or appointments in visa application centres (VAC) had become very difficult.

These two crises have shown the vulnerability of the current visa procedure to unexpected events such as large-scale health crises, localised emergencies or other

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<sup>180</sup> European Court of Auditors, Special Report No 17/2021: EU readmission cooperation with third countries: relevant actions yielded limited results

disruptions as it still relies heavily on visits of applicants to the consulate or VAC. The current Visa Code, which has only allowed the electronic signature of the application form, has proved that it was not fit for purpose to address the abovementioned issues highlighted by the current crises and had to be revised.

Nevertheless, the COVID-19 pandemic accelerated the internal reflection of the Commission to accelerate the work on the digitalisation of visa procedures, which led to a comprehensive and ambitious proposal on digitalisation adopted on 27 April 2022. The amending Regulations on the digitalisation of visa procedures were adopted by the European Parliament and the Council on 22 November 2023<sup>181</sup>.

The amending regulations that modify in-depth the Visa Code, the VIS regulation and the uniform format regulation adopted by the European Parliament and the Council of the European Union on 22 November 2023 on the digitalisation of visa procedures will address some of the issues uncovered by these crises. First the physical presence of the applicant will be required only for first time applicants for the collection of biometrics (and every five years from the first application), to validate a new travel document or in case of doubt by the competent Member State on the authenticity of the documents provided electronically. This will limit substantially the need for the applicant to travel to the VAC or consulate. Applicants will be able to carry out all steps of the application online (filling and signing the application form, paying the visa fee, providing supporting documents). In addition, once validated, applicants will not be obliged to leave their travel document at the consulate or VAC to apply for a new visa or an extension of their visa. The issued visa will be made available to them via electronic means as the visa sticker will be replaced by a digital visa.

These changes, once implemented, will address some of the issues that became particularly acute during the recent crisis due to the paper-based current procedure and the requirement for the applicants to be physically present to apply for a Schengen visa.

The inclusion of provisions relating to MEVs is a positive step as it would allow bona fide travellers to be able to travel to the Schengen area without having to apply for a new Schengen visa. As mentioned in the report, the work on local adaptation of the MEVs general rules will have to be continued to implement the new provisions on MEVs.

At the beginning of the Russian war of aggression against Ukraine, there was a risk of varying implementation of the Visa Code towards Russian visa applicants. In September 2022, the Commission issued guidelines recommending Member States to reinforce their scrutiny for certain categories of travellers and to adopt a restrictive approach in the issuing of visas towards applicants who do not have an essential reason to travel (tourists). Following the issuing of the guidelines, the number of visas issued to Russian nationals for tourism has dropped significantly. This shows that the Visa Code is sufficiently flexible to address such situations. Further lessons could be drawn from this

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<sup>181</sup> Regulation (EU) 2023/2685 of the European Parliament and of the Council of 22 November 2023 amending Council Regulation (EC) No 1683/95 as regards the digitalisation of the visa procedure (OJ L, 7.12.2023) and

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 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 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure (OJ L, 7.12.2023)



very specific situation once it is over. The issuance of guidelines compatible with the existing legal provisions have shown that VC was flexible to accommodate the main challenges created by these crisis situations.

Several of the changes in the revised Visa Code are relevant for better dealing with Visa Code objectives. However, given the impact of COVID-19 during 2020 and 2021 and the fact that implementation of certain aspects of the amendments introduced by the Visa Code are still ongoing (for instance, progress on digitalisation), the relevance of those amendments to the objectives cannot be fully assessed here.

One of the primary objectives of the amended Visa Code – to contribute to a more harmonised, flexible and secure EU visa policy – has resulted in visa procedures and conditions further harmonised across Schengen countries, according to a majority of responding Member States (thirteen out of nineteen). This assessment was confirmed by interviews with Member States and consulates, the majority of which<sup>182</sup> indicated that the amended Visa Code is suitable to better deal with the intended objectives to some extent. Nevertheless, respondents seem to perceive that the procedures for consulates have not yet achieved their objectives, as only three out of nineteen Member States indicate that procedures are less lengthy and cumbersome or and two consider them more flexible for consulates.

The objective of ensuring sufficient financial resources available to improve the quality of service to the applicants does not seem to have been achieved fully. However, the increase in the visa fee is seen as a relevant amendment, considering the increasing expenses for Member States, including in relation to the higher cost of living. Four Member States out of sixteen did not fully agree that the new provisions of the amended Visa Code have reduced the administrative expenses related to visa procedures and that the additional financial resources raised via the increased visa fee are sufficient to ensure more streamlined visa processes and better service quality, while one Member State strongly disagreed. This assessment was confirmed by the interviews with Member States, with four out of four interviewees indicating that while the increased visa fee is welcomed, it does not cover the costs of visa processing. One of the key arguments is that the visa fee does not reflect inflation, which has led to increases in operational expenditure, including wages. However, this did not lead stakeholders to conclude that the amendment was not relevant. Three out of three interviewees stated that the increased visa fee covered at least some of the added costs, enabling further investments in equipment and staff for visa processing.

The amended Visa Code appears aligned with current and future needs, challenges and developments relevant for the application of EU visa policy and the Schengen acquis. Three out of three interviewed Member States suggested that more detail should be included in the Visa Code Handbook accompanying the Regulation (or additional guidelines should be published), particularly on how to deal with exceptional situations, such as a pandemic or war.

The amended Visa Code is relevant to the growing trend of digitalisation of administrative procedures as it sets out the path towards further digitalisation of the visa process. By introducing the possibility for visa applicants to sign application forms electronically, the amended Visa Code has created the possibility for the digital

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<sup>182</sup> MFA: 7 MS, MFA/MOI: 3 MS; MOI: 1 MS; MOJ/Immigrations service: 1 MS; Consulate interviews no. 1, 2, 3.,

submission and processing of visa applications in the future, in line with expected EU-level developments (see sections 3.4 and 4.1.2).

Several relevant elements or challenges remain to be addressed. When asked about the challenges in improving the management of migration and security through visa policy, seven Member States and two consulates that were interviewed mainly focused on issues like visa shopping (resulting from lack of harmonised implementation of the common Visa Policy). Two Member States and two consulates mentioned other elements, such as preventing fraud with regard to the authenticity of certain documents. According to one Member State, determining the competent state to process the application remains a challenge, as well as the list of supporting documents that may be requested from the applicant – in view of technological developments, some documents might no longer be relevant.

Four Member States interviewed listed the lack of progress on digitalisation among remaining challenges, as well as:

- Delays in appointments and processing (two Member States): demand for visa appointment slots exceeds what Member States can handle, especially following the lifting of international travel restrictions but the delays in appointments and processing was also present before the pandemic<sup>183</sup>,
- Recruiting competent long-term staff in ESPs (one Member State).

It does not necessarily follow that these issues require further amendments to the Visa Code itself. They may be possible to resolve through further harmonisation of Member State practices and increased investment of resources in visa policy implementation.

The objectives of the Visa Code could not be better addressed by adopting other regulatory/non-regulatory measures. Eleven of the fifteen replying Member States indicated that similar results could not have been achieved by adopting different types of measures such as recommendations and opinions. Other stakeholders highlighted that options such as recommendations, guidelines and opinions have no mandatory character and do not contribute to harmonised EU policy. Four Member States responding to the survey of the external study did not support this opinion.

During the interviews, five Member States generally confirmed that the objectives of the Visa Code could not be better addressed by adopting other regulatory/non-regulatory measures. Nevertheless, three indicated that non-regulatory measures such as greater detail in the Visa Code Handbook accompanying the Regulation, or guidelines could also contribute to achieving the objectives of the Visa Code.

**As regards cooperation on readmission**, the relevance of the frequency of the annual assessment report, as well as of its content and structure, have been assessed.

On the frequency of the report, Article 25a mentions that the Commission needs to assess third countries' cooperation with regard to readmission *at least once a year*. Thus, since the Article entered into force, it was decided that the report would be adopted on an annual basis covering a full calendar year. The first two reports with data on years 2019

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<sup>183</sup> In accordance with the outcome of the 2022 Schengen evaluations in the field of the common visa policy, the underlying reasons of the delays vary, but the core is probably staff shortages. In some Member States, a consultation requirement with the central authorities (or the decision-making power transferred to them) also leads to longer processing time and generates backlogs, while the added value of such consultations (shifting of the decision-making) were far from evident for the Schengen evaluation teams.

and 2020 respectively were adopted in the same year. The third report was adopted in the year following the reporting period. This is also the case for the fourth report which was adopted in July 2023.

The majority of the Member States responding to the relevant targeted survey (twenty one out of twenty-four) support the annual character of the report and have so far found it relevant and useful<sup>184</sup>. However, the fact that the duration of past cycles has not allowed for the analysis of the effectiveness of measures implemented in connection to the previous year's report before adopting the next one, needs to be considered when assessing the relevance of the report's frequency. The feasibility of the application of such a timeline would have to be further explored, together with the possibility to produce an assessment report every two years instead. The production of more than one assessment per year is considered to be neither useful nor practically possible<sup>185</sup>.

As regards the content of the annual assessment report, it is highly technical and aims at presenting an objective image through the indicators listed in the legal basis. As such, it provides the basis to identify the countries where further action is needed to improve readmission cooperation. Such countries are the focus of further discussion, notably at the relevant Council working groups. During these discussions, Member States' positions reflect considerations on their overall relations with the concerned third countries.

Eight out of the seventeen responding Member States have suggested rethinking the content and structure of the report to increase its value. The main considerations focus on the:

- Lengthy, too detailed reporting (three Member States);
- Lack of information on the political context when assessing cooperation (three Member States);
- Lack of clear indications on third countries with whom cooperation needs to be improved (clustering of third countries based on assessment results) (three Member States);<sup>186</sup>
- Need for reduction of the number of countries assessed (two Member States).

EEAS is also among the stakeholders that have highlighted the lack of a political perspective in the information included in the report. EU external interests, the overall relations with the third countries assessed, as well as their political situation, need to be taken into account when decisions are made in the Council. According to the EEAS, this information should be incorporated in the report with an aim to increase its relevance. During past cycles, the assessment of the overall relations with third countries of concern has been carried out as a separate exercise prior to and during EMWP meetings, following the adoption of the report.

## **5. CONCLUSIONS AND LESSONS LEARNED**

The 2019 amendments to the Visa Code were in response to a number of identified challenges:

- Administrative expenses incurred by Member States in visa processing were not fully covered by the visa fee;

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<sup>184</sup> Member State targeted survey, Q38.1 (n=24): 'Yes, an annual assessment is needed': 21, 'No, the assessment should happen less often': 2, 'No, the assessment should happen more often': 1

<sup>185</sup> Member State targeted survey, Q38.2 (n=20)

<sup>186</sup> This has been addressed in the third and fourth report with a view to increasing clarity.

- Due to an unclear legal basis, Member States had developed significantly divergent and mostly restrictive practices when issuing MEVs;
- Low levels of readmission and return of irregular migrants to countries of origin and lack of cooperation of the countries.

At this stage, it is not possible to judge whether all the objectives of the amended Visa Code have been achieved, due to a number of issues, most notably the overall impact of COVID-19 on the evaluation period, as well as Russia's full-scale invasion of Ukraine in February 2022. The pandemic distorted global travel for the first two years of the implementation of the amendments, making it almost impossible to draw firm conclusions from statistical data.

Looking at the key objectives of the amendments, further **harmonisation** of EU visa policy has been partially achieved, including the introduction of the **MEV cascade rule**. **LSC** has also played a role in facilitating further harmonisation, including through the development of harmonised lists of supporting documents to be submitted by visa applicants, and local adaptations to the rules on issuing MEVs.

Nevertheless, the support for LSC appears to depend on the involvement of specific EU Delegations and Member State consulates in given locations and their successes therefore vary across countries. Consulates and industry continue to report that diverging practices prevail in how visas are assessed and issued by different Member States in the same third countries. This means that the practice of visa shopping remains a point of concern. As such, additional steps toward further harmonisation are required, including via improved cooperation at local level.

In addition, as delays in appointments and processing of visa applications still persist (given the fact that the finding pre-existed in the pre-pandemic period), further action is required by Member States, as this issue will not be resolved by legislative changes.

The **monitoring obligations** of the ESPs by Member States stemming from the Visa Code<sup>187</sup> should be systematically and continuously applied by Member States authorities. As Member States are increasingly relying on ESPs, some stakeholders raised concerns about the practices of ESPs in respect of data protection and the fees charged for their services. Recent Schengen evaluations have shown that the monitoring obligations included in the Visa Code in relation to ESPs are not always followed by Member States, increasing the risk of diverging practices by ESPs in the application of the Visa Code provisions. This fragmentation puts at risk the integrity of the visa procedure and could cause reputational damage to the EU.

In terms of achieving a more **flexible** EU visa policy, the amended Visa Code positively facilitated legitimate travel to the Schengen area. In general, visa procedures are seen as additionally streamlined, simpler and more flexible for applicants. At the same time, the implementation of the amended Visa Code does not seem to have introduced less lengthy and cumbersome procedures for consulates themselves, nor to have notably decreased administrative costs (even though the view of consulates was more positive than that of Member States themselves). Given the impact of COVID-19 on the evaluation period, most respondents were uncertain if the amendments mean travellers can now travel more easily to the Schengen area, or indeed whether travellers are more attracted to travel.

The amended Visa Code introduced greater flexibility in visa procedures, including enabling digital visa applications. Further **digitalisation** of the visa process remains a

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<sup>187</sup> Article 43 of the Visa Code.

priority for the EU<sup>188</sup> and is seen as a positive step in facilitating tourism to the Schengen area<sup>189</sup>. However, limited progress has been noted in further digitalising the visa process, due to limitations in certain third countries or gradual rollout of national strategies. Some Member States pointed out that further digitalisation of the visa process will require a number of additional steps outside of the Visa Code itself<sup>190</sup>. Most importantly, the amending Regulations on the digitalisation of visa procedures, adopted by the European Parliament and the Council on 22 November 2023<sup>191</sup>, will digitalise the visa application process<sup>192</sup> and replace the visa sticker with a digital one. These changes, once implemented, will address some of the issues that became particularly acute during the COVID-19 pandemic and following the Russian war of aggression against Ukraine due to the paper-based current procedure and the requirement for the applicants to be physically present to apply for a Schengen visa. Several Member States are waiting for this EU-level initiative to be finalised before taking national steps in order to ensure that their efforts are synchronised.

Data limitations to the analysis and the consequences of the COVID-19 pandemic (and more recently the Russian invasion of Ukraine) make it difficult to identify clear trends in costs and benefits or to discern large differences in implementation costs among Member States. Despite national differences, the information collected shows some convergence among Member States in respect of the effort needed to process visa applications, largely offset by external factors.

Similarly, it is not possible to draw conclusions on the extent to which the increased **visa fee** helped to offset costs incurred by Member States in visa processing. The data show that despite an increase in both visa and service fees from 2020, revenue dropped in the 2020-2021 period, then increased again in 2022, although not to 2019 levels. This reflects the direct effects of the COVID-19 pandemic and the related travel restrictions, which offset any direct effect of the amended Visa Code for the period. The direct effects on revenue from the increased visa fee for Member States cannot be clearly assessed because in the vast majority of the cases the revenue for visa fees are included in the general State budget, and not earmarked for the visa process.

The Visa Code amendments are internally coherent and are also complementary with the general orientation and specific policy interventions at EU level in the field of border management, although differences remain in how Member States implement certain provisions. The Visa Code coheres with the European Commission's strategy 'Towards a

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<sup>188</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>

<sup>189</sup> European Commission, Scenarios towards co-creation of transition pathways for tourism for a more resilient, innovative and sustainable ecosystem, SWD(2021) 164 final.

<sup>190</sup> Including revision of VIS and other pieces of legislation, as well as putting in place new processes, IT equipment as well as the development of the platform.

<sup>191</sup> Regulation (EU) 2023/2685 of the European Parliament and of the Council of 22 November 2023 amending Council Regulation (EC) No 1683/95 as regards the digitalisation of the visa procedure (OJ L, 7.12.2023) and

Regulation (EU) 2023/2667 of the European Parliament and of the Council of 22 November 2023 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 693/2003 and (EC) No 694/2003 and Convention implementing the Schengen Agreement, as regards the digitalisation of the visa procedure (OJ L, 7.12.2023)

<sup>192</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_2582](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2582)



stronger and more resilient Schengen area<sup>193</sup>, the Schengen Borders Code and the Commission's recent amendment proposal<sup>194</sup>, the EES<sup>195</sup>, and the reformed VIS<sup>196</sup>.

The amended Visa Code generated EU added value by allowing the EU to better coordinate and harmonise implementation of the visa policy. As highlighted in the 2018 IA, the 'conditions and procedures for issuing short-stay visas are established by a regulation that is directly applicable to all Member States, namely the Visa Code'<sup>197</sup>. None of the changes introduced in 2019 could have been achieved at Member State level.

Finally, several changes in the revised Visa Code can be considered relevant to addressing Visa Code objectives. However, given the impact of COVID-19 during 2020 and 2021 and the fact that implementation of certain aspects of the amendments introduced by the Visa Code is still ongoing, the relevance of those amendments remains to be assessed.

When it comes to **cooperation on readmission with third countries**, the processes built for the implementation of Article 25a have completely transformed the ways of working among stakeholders, bringing many benefits at EU and national level. More specifically, the implementation of Article 25a has created new channels and opportunities for communication among Member States, the Commission, the Council, EEAS, Frontex and third countries assessed. It has encouraged more coordinated work on readmission cooperation at national level and has led to the establishment of a framework for the systematic collection of data on readmission cooperation with selected third countries at EU level. However, the implementation of the processes could be further improved to ensure that the mechanism reaches its full potential. The duration of the past cycles has exceeded one year, which has resulted in stages overlapping and has disrupted the coherence between cycles. A need for more coherence between different cycles as well as the stages of the same cycle and more aligned processes has emerged from the above analysis. The Commission has highlighted that this needs to be balanced with the need to

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<sup>193</sup> European Commission, Towards a stronger and more resilient Schengen area, Press release, 2021.

<sup>194</sup> European Parliament and Council, Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) as amended by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa, Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017, and Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard (no longer in force); and European Commission, Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, COM/2021/891 final.

<sup>195</sup> European Commission, Stronger and Smarter Borders for the European Union - The Entry-Exit System, Factsheet, 2016.

<sup>196</sup> European Parliament and Council, Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) No 603/2013, (EU) 2016/794, (EU) 2018/1862, (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the Visa Information System, PE/45/2021/INIT and Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the Visa Information System, OJ L 248.

<sup>197</sup> European Commission, Impact assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. p.21.

maintain flexibility and the prerogatives of the Commission and the Council to propose and adopt measures at the time they consider to be appropriate, notably in light of progress with engaging third countries to achieve progress in readmission cooperation.

As regards the quality of the data collected in the context of the drafting of the annual report, the focus should be on its continuous improvement. For example, Member States' capacity to collect and report data timely could be improved by developing the necessary IT capacity. Moreover, concerning the qualitative data, three Member States have highlighted the need for more comprehensive guidelines for the assessment.

In addition, a number of stakeholders have highlighted the need to rethink the content and structure of the report, to further improve its relevance and practical value<sup>198</sup>. At the same time, other stakeholders have suggested to shorten the report and reduce the number of countries assessed.

Finally, the adequate involvement of stakeholders in relevant stages of the cycle needs to be ensured.

## **5.1 Lessons learned**

A number of useful lessons can be drawn from the evaluation of the Visa Code:

### **From the Visa procedures perspective:**

- LSC can play an important role in supporting harmonisation but its added value depends on the engagement of a given EU Delegation in charge of coordination;
- Training for EU Delegation staff could be helpful to enhance the work of the LSC;
- Further progress on the digitalisation of the Schengen visa process at EU level will help to continue streamlining and simplifying visa processes for Member States, in line with the EU data protection legislation;
- Additional clarifications on the implementation of the MEV cascade would be useful to ensure further harmonisation;
- Additional guidance and updates to the Visa Code Handbook could help in implementation and further harmonisation.
- Invest sufficient resources in the monitoring of ESPs.

Regarding the relevance of the Visa Code to crisis situations, the Visa Code has proven relevant to respond to the main challenges stemming from the on-going situations (such as the Russian war of aggression against Ukraine). Further lessons could be drawn from these crises once they are over.

### **From the financial resources perspective:**

- A second review of the impact of the amendments, including the increased visa fee in relation to Member States' budgets, could be conducted once sufficient time has passed, global mobility stabilises and the first Commission assessment and possible delegated act to revise the visa fee have been concluded;

### **From the cooperation on readmission perspective:**

Implementation of Article 25a:

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<sup>198</sup> The scope of the report is set out by the legislation

- The assessment cycle is relevant as it is, but efforts should be made to reduce as much as possible its duration to the maximum appropriate, whilst safeguarding the necessary flexibility and the prerogatives of the Commission and the Council on timing the proposal and adoption of the measures.
- Regularity, including predictability and consistency of the processes could further increase the efficiency and coherence of the mechanism and facilitate clear communication with stakeholders.
- As regards the coherence between stages of the same cycle, this could be further enhanced by increasing the relevance of the output of one stage to help transform it into the input of the next.
- Information and data quality could continue to improve, for example by:
  - complementing the existing guidelines to clarify criteria for Member States to use when assessing overall cooperation on readmission; and
  - encouraging Member States to build reliable return case management systems.
- The content and structure of the report should be continuously reviewed and refined, focussing on the purpose of the regulation and taking into account the workload created.
- The adequate and timely involvement of stakeholders in relevant stages of the cycle needs to be ensured.

#### Design of Article 25a:

- The benefits of an annual assessment compared to a biennial assessment report could be further explored.

## ANNEX I: PROCEDURAL INFORMATION

The evaluation is being carried out in compliance with Article 2(1) of Regulation 2019/1155, which states: “By 2 August 2022, the Commission shall produce an evaluation of the application of Regulation (EC) No 810/2009, as amended by this Regulation. This overall evaluation shall include an examination of the results achieved against objectives and of the implementation of the provisions of Regulation (EC) No 810/2009, as amended by this Regulation”. Due to the severe and unprecedented impact of the COVID-19 pandemic between 2020 and 2022, the Commission was unable to comply with the deadline of 2 August 2022 for producing the evaluation.

A Call for Evidence was published at the website of DG Migration and Home Affairs (DG HOME) in April 2022. The feedback period ended on 26 May 2022, and three submissions were received (two individuals and one association representing the shipping industry). The agenda planning (Decide) reference assigned to the evaluation is PLAN/2021/12656.

### Organisation and timing

As per the Better Regulation Guidelines, an inter-service group (ISG) was set up within the Commission to oversee the evaluation. Several Directorates-General (DGs) within the Commission<sup>199</sup> as well as EEAS were invited to nominate representatives to the ISG.

The meetings of the ISG were chaired by DG Migration and Home Affairs (DG HOME), Unit B4. The ISG was regularly consulted over the course of the evaluation, typically in conjunction with the submission of specific draft reports by the contractor responsible for carrying out the external study. These consultations took place both in the context of regular meetings, via email and telephone. The following list provides an overview of the ISG work over the course of the evaluation:

- The ISG was convened for the first time on 22 January 2022 in order to explain the legal requirement (Art. 2 of the amending regulation of the Visa Code) and discuss the process and content of the evaluation, namely: reasons for choosing a targeted over a public consultation; presentation of the call for evidence, terms of reference, consultation strategy; use of the Commission’s baseline analysis; timeline and different steps in the evaluation process until the submission of the final report as well as how the Commission intended to consult with different stakeholder groups in the context of the evaluation;

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<sup>199</sup> The Services invited to participate in the steering group included: the Secretariat-General of the Commission (SG); Legal Service (LS); DG JUST, MOVE, MARE, INTPA, NEAR, EAC, HOME A4 and C1 Units and EEAS.

- On 29 September 2022, the second ISG meeting took place, where DG HOME clarified that the implementation of the mechanism linking readmission cooperation with visa policy would be evaluated in terms of process and not in terms of outcome. DG HOME also underlined that there was not enough data for a proper analysis of effectiveness, as there was only one instance of measures towards a third country. ISG members received from the contractor a presentation of the draft Inception Report. This report was revised on the basis of the ISG feedback and subsequently accepted by the ISG.
- On 27 February 2023, the third ISG meeting took place to discuss and provide comments to the draft Interim report provided by ICF. ICF proceeded to a presentation of the Interim report, focusing on the methodological approach, the main data limitations and mitigation action as well as the preliminary findings and the next steps. The Interim report was revised on the basis of the ISG feedback and subsequently accepted by the ISG.
- On 27 April 2023, ISG convened to receive a presentation of the contractor's draft Final Report, on which ISG provided feedback. The participants were invited to provide additional written comments after the meeting;
- On 26 June 2023, a revised draft of the Final Report was circulated by email to the members of the ISG for final review. On 11 July 2023, DG HOME provided the contractor with the ISG comments and the Final Report on the Visa Code evaluation study was submitted on 14 July 2023 and accepted on 17 July 2023.
- On 19 September 2023, the ISG was convened to discuss the draft staff working document, and to provide comments in view of submission to the Regulatory Scrutiny Board.

The work of the contractor was extended by approximately 3 months, given the fact that the interviews and surveys were extended as there were an insufficient number of responses from the main stakeholders. In addition, Member States intended to centralise their responses (check and confirm the responses given by their Consulates), which delayed the whole process. This decision was made out of respect for the Better Regulation Guidelines and in order to allow the contractor adequate time to account for all responses to the Consultation (which ended on 16 June 2023).

### **Consultation of the Regulatory Scrutiny Board**

The Regulatory Scrutiny Board was consulted on 25 October 2023. On 26 October 2023, the RSB gave a positive opinion with recommendations for improvement.



The current document was then revised to better differentiate between the problems and conclusions related to the design of the initiative and those linked to its implementation. This recommendation was mainly addressed in Chapter 3.5 (*Trends in MEVs and the application of the cascade rule*) in the first and second paragraphs, in Chapter 3.6 (*Enhanced cooperation with ESPs and the service fee*) where all paragraphs were redrafted with some additions and in Chapter 4.1.1 (*Harmonised and flexible EU visa policy, including digital transformation*) with the addition of the third, eighth and ninth paragraphs.

In addition, the document was revised to better bring out the limitations of the evidence base and the representativeness of the conclusions. These recommendations were accommodated in Chapter 1.2, (*Methodology of the study*) with the addition of the paragraph before the last one and with many references throughout the SWD to the 2018 Impact Assessment that features an updated analysis of the implementation of the Visa Code (Annex 4) providing a baseline for the current evaluation.

Moreover, a section on the “Internal Coherence of the amendments to the Visa Code introduced in 2019” was added under subchapter 4.1.5., as well as an additional paragraph on the external coherence of Article 25a, mainly in connection to the New Pact on Migration and Asylum. Finally, under section 5.1 focusing on Article 25a, a clear distinction has been made between lessons learned relating to the design of the relevant Visa Code amendment and those related to its implementation.

Furthermore, new paragraphs were added at the beginning of the section 4.3 (*Is the intervention still relevant?*) assessing the functioning of the Visa Code under recent crises.

Finally, lessons learnt were modified.

### **Exceptions to the better regulation guidelines**

In conducting the evaluation, no exceptions from the usual procedural requirements described in the Better Regulation Guidelines were required.

### **Evidence used together with sources and any issues regarding its quality (i.e. has the information been quality assured?)**

The study relies on evidence from desk research, surveys and interviews. For additional information on the methodology used, the limitations faced and mitigation measures taken, please see Annex 2.

### **Use of external expertise**

A study underpinning the evaluation was commissioned by the Directorate General for Migration and Home Affairs. The Terms of Reference for engaging a contractor to carry out the external study as part of the evaluation were drawn up in the April 2022. A request for service was issued in

April 2022, and a contractor selected by an evaluation committee consisting of staff from DG HOME later during the spring. The study began in July 2022 and ended in spring 2023.

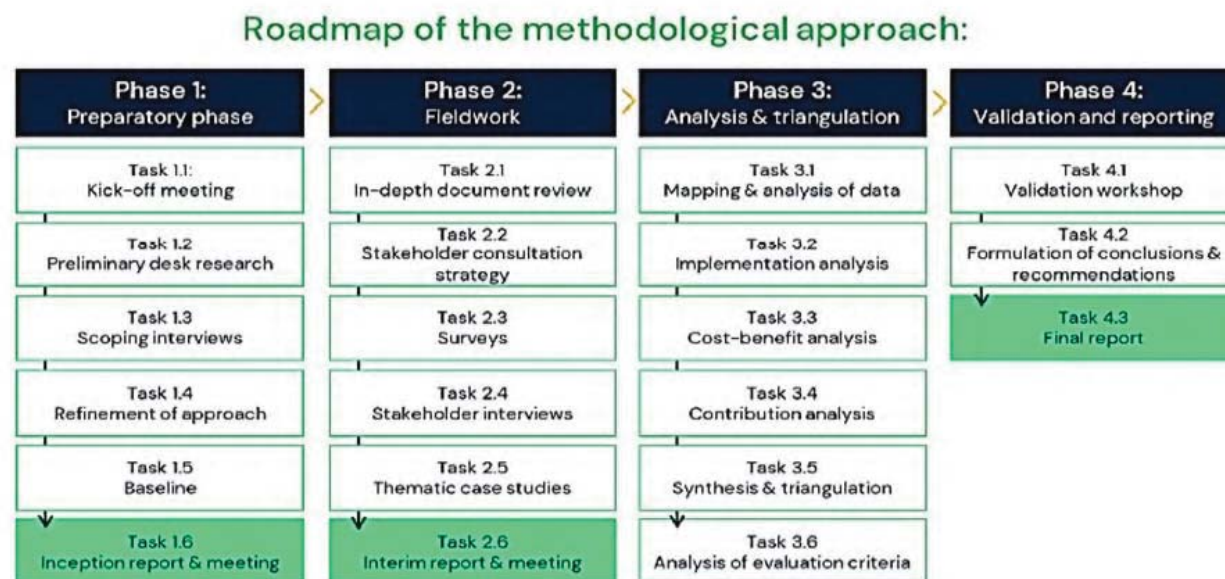
## ANNEX II. METHODOLOGY AND ANALYTICAL MODELS USED

In this annex, the methods and sources that were drawn upon in carrying out the evaluation are described, as well as the limitations that were encountered.

The external study was guided by an evaluation framework setting out the guidelines and principles for the analysis (see Annex 3). This allowed the team to evaluate the amended Visa Code against the evaluation criteria (effectiveness, relevance, coherence, efficiency, and EU added value).

To answer the questions of the analytical framework, the methodological approach was organised in four phases, in line with the original Terms of Reference (ToR): (1) Inception, (2) Fieldwork, (3) Analysis and triangulation, (4) Validation and reporting (see Figure A2.1).

**Figure A2.1 Roadmap for delivering this study**



Source: External study

## A2.2 In-depth document review

Preliminary desk research (Task 1.2) carried out by the contractors' team expanded the list of relevant sources and identified their relevance in relation to specific evaluation questions. It also identified available data and defined existing data gaps.

The team completed desk research involving three steps:

- **Gathering documents.** For each document, the team noted the name of the document, classified the type of source (e.g. legislative document, academic publication, EU documentation), and added a link to the source.
- **Organisation of the documents** collected for their relevance in answering the research questions and sub-questions, in accordance with the indicators.
- **Summary:** the team compiled summary content for each source.

To provide a quantitative and qualitative overview of the data collected, the team completed an in-depth review of legislative texts, Court of Justice of the European Union (CJEU) rulings, EU documents and academic publications. Relevant statistics were identified and used to develop the CBA, which fed into the efficiency criteria. (See Annex 7 for the full list of sources, mapped against evaluation questions).

### **Limitations of data collected via document review**

- Lack of statistical data on visas issued in 2022;
- Lack of desk research data to answer some evaluation questions;
- Impact of COVID-19 on data collected

### **Mitigation steps taken**

- Mapping of collected data via desk research against evaluation questions helped to identify additional data needs and map key data gaps and led to further refinement of interview questionnaires (where necessary);
- Statistical data were requested from Member States and consulates for 2022, as well as a more detailed breakdown of statistics for previous years to aid subsequent analysis

## A2.3 Surveys

Three surveys were launched as part of initial data collection targeting:

■ Member States/Schengen Associated Countries ministries (Ministries of Foreign Affairs; Ministries of the Interior).

■ Consulates;

■ Industry representatives

The surveys were launched (using Qualtrics, with a word document option) following their finalisation with the Commission in November. The stakeholders received the surveys on 1 December, with an initial deadline of 22 December 2022, which was subsequently extended to 10 January 2023 to allow stakeholders more time to respond. Member States and consulates also received a separate table requesting relevant statistics to feed into the CBA.

In early January, the study team noted a limited number of responses from consulates (17 responses received out of 228 consulates contacted in Egypt, India, Mali, Morocco, Saudi Arabia, Senegal, Turkey and the UK). The consulate survey was relaunched once more, with a deadline of 15 February 2023.

**Table A2.2 Overview of survey responses**

Stakeholder group	Survey inputs
Ministry representatives	43 responses from 21 Member States/Schengen Associated Countries: AT (3), BE (3), CH (1), CZ (1), DE (1), DK (2), EE (3), ES (1), FI (2), IT (2), LT (2), LU (1), LV (1), MT (3), NL (2), NO (3), PL (2), PT (2), SE (2), SI (1), SK (3)
Consulate representatives	27 responses from the consulates of: AT (1), BE (2), CH (2), CZ (3), DE (1), DK (1), EL (1), ES (3), FI (1), FR (1), HU (3), LT (1), MT (1), NL (2), PL (2), PT (1), SK (1).
Industry representatives	27

By the start of January 2023, very few statistics had been received from either Member States' ministries (four surveys) or consulates (zero surveys), which impacted the ability of the study team to conduct an efficiency analysis at the interim stage. Member States/Schengen Associated Countries and consulates were notified of an extension to the deadline for submission of statistics. The lack of responses was also raised by DG HOME at a meeting of the Visa Working Party on 19 January 2023, with DG HOME encouraging Member States and their



consulates to provide feedback to the study in the coming weeks and months. This resulted in 19 statistical tables being sent by Member States and six statistical tables sent by consulates.

Given that not all aspects related to the Visa Code always sit only with one Member State authority (especially as relates to Article 25a on returns and readmissions), several authorities in Member States were consulted simultaneously (mainly Ministries of Foreign Affairs and Ministries of Interior). As such, when replying to the survey, some Member States provided contradictory responses from different ministries, suggesting not enough time may have passed since the introduction of the amendments for Member States to have a consolidated opinion on their impact. Those contradictions are highlighted in the report footnotes, with a consolidated response presented where stakeholders responses matched within a Member State. Moreover, it is also worth noting that Member State authorities were given the option to respond only to those questions in the survey which corresponded to their specific competences. As such, some of the consulted national authorities provided answers only to aspects related to Article 25a on returns and readmissions, as this is their key area of responsibility. In other instances, national authorities responded to overarching questions related to the Visa Code's implementation but not to questions on Article 25a as they have responsibility for consular issues but not for returns.

The limited responses from consulates could be explained by the (expressed) reluctance of some Member States/Schengen Associated Countries to have their consulates provide data that may not be aligned with the view of the leading ministry.

#### **Limitations of data collected via surveys**

- Launch of data collection in December 2022 may have led to initially lower response rates;
- Unwillingness of some Member States/Schengen Associated Countries to allow their consulates to respond independently of the central authorities, leading to overall reluctance of some consulates to engage with the survey;
- Lack of statistics provided by Member States/Schengen Associated Countries or consulates;
- Impact of COVID-19 made it difficult to elicit responses to some questions, as highlighted in stakeholders' comments;
- Low response rate to some questions in the survey.

#### **Mitigation steps**

- Extension of survey deadlines to ensure better response rates, as well as repeated reminders sent to both ministries and consulates;
- Engagement of DG HOME with national authorities through the Visa Working Party to encourage Member States to engage with the study and provide data;
- Revision of interview questionnaires following initial analysis of survey results to address key data gaps and allow for a more in-depth discussion around topics that may be harder to address in a survey.

### A2.3.4 Stakeholder interviews

For this evaluation, the external contractor planned up to 58 interviews, including national authorities, consulates, EU-level stakeholders, industry representatives, External Service Providers, data protection authorities. In the end 39 interviews took place with 46 authorities (as some interviews included several national representatives or different industry stakeholders).

The following stakeholders were consulted as part of the interviews:

- Member State Ministries
- Consulates
- Industry representatives
- EU institutions and bodies

Regarding the interviews with Member States, several joint interviews were conducted, with the participation of representatives from Ministries of Foreign Affairs, Ministries of Interior, as well as for instance Immigration offices. In the case of two Member States, the interviewees did not show up to the organised meetings. In addition, four countries declined participation in the interviews since they were not fully implementing the Visa Code before joining Schengen 1 January 2023 or are not part of Schengen yet. Several other countries declined participation to the interview due to increased workload or lack of resources. Finally, several countries opted for the possibility to provide their feedback by filling out a written questionnaire, as opposed to participating to an interview.

Interviews with consulates focused on those Member States that have responded to the survey for follow-up interviews aiming to address the data gaps identified in the analysis of the survey responses. The consulates were also allowed to provide their answer to the interview questionnaire in writing in case of a preference to circulate the document internally. Nevertheless, only a small number of consulates participated in the organised interviews, as indicated in Table A2.2, with one consulate opting out to fill out the written questionnaire.

With regard to industry stakeholders, only a small number of industry representatives responded to requests for interviews, with one opting out to fill out the written questionnaire.

Given the low level of engagement from consulates, the study team engaged with a number of EU Delegations through the EEAS, to try to collect additional information on potential challenges Member States have faced with the Visa Code implementation and may have reported for discussion in the Local Schengen Cooperation. As a result, four EU Delegations were consulted through the interview process.

Despite repeated requests for an interview sent to a wide number of ESPs, it was not possible to conduct an interview with an External Service Provider. An invitation was sent to all the 122 ESPs, whose contact had been collected. None of them replied. As they are contracted by Member States, it is possible they may have felt it would be too sensitive to respond to questions about the implementation of the Visa Code itself.

National data protection authorities also either did not respond to requests for interviews. In total, 5 national data protection authorities were selected and contacted, according to evidence collected through desk research on their participation in the data collection process of studies on similar topics.

An overview of the number of interviews conducted and stakeholders consulted can be found in Table A2.2.

Table A2.3 Number of interviews conducted by stakeholder group

Stakeholder group	Number of interviews carried out
EU institutions and bodies	15 interviews <sup>200</sup>
Consulate representatives	3 interviews; 1 written questionnaire received
Ministry Representatives	15 interviews/questionnaires received with 22 authorities <sup>201</sup>
Industry representatives	5 interviews <sup>202</sup>

#### 1. Limitations of data collected via interviews

2. Difficulties in engaging with Consulates and some national authorities
3. No responses from ESPs,
4. Either no responses from contacted national data protection authorities or reluctance to take part in an interview due to lack of familiarity with the overall implementation of the Visa Code.

<sup>200</sup> DG HOME (4), DG JUST (2), DG INTPA, Frontex, EEAS (6), IMEX

<sup>201</sup> AT MFA, BE MFA/MOI/Immigration office, CZ MFA/MOI, EE MFA/MOI, DE MFA, EL MFA, ES MFA, FR MOI, IS MFA/MOI, LT MFA, LU MFA, NL MFA, SE MOJ/Immigration office, SI MFA/MOI, PL MFA

<sup>202</sup> CLIA, ECSA, IATA, Pearle, Carnival plc (UK)

## **5. Mitigation steps**

6. Extension of interviews until second half of March 2023
7. Additional interview requests sent to EU Delegations to receive feedback on local level cooperation via LSC
8. Option of counterparts to respond in written (which was preferred by some)
9. Several rounds of reminders to stakeholders

### **A2.3.5. Thematic case studies**

Four case studies were originally proposed. Three of the four examined the work of Member State consulates in selected third countries.

One case study was to focus on LSC, specifically how it promotes harmonisation of visa procedures across Member States. However, data showed that this varies significantly across regions and depends heavily on the engagement of a given EU Delegation. Given the limited data provided, it was not possible to conduct a case study that would generate relevant data for this study and it was not pursued.

Instead, the study team aimed to conduct a fourth case study focused on a fourth consulate. While a final interview was scheduled for 23 March 2023, it was cancelled due to unexpected illness of the consulate staff and it was not possible to reschedule within the timeframe of the study. Other consulates refused to engage despite repeated requests for an interview.

#### **Limitations with case studies**

Difficulties engaging with consulates, limited responses;  
Limited data collected on LSC.

#### **Mitigation steps taken**

Option for consulates to respond in writing;  
Additional outreach to consulates to collect more responses;  
Attempts to replace fourth case study with a different one, were unfortunately not successful due to time limitations and lack of engagement from consulates.

# ANNEX III. EVALUATION MATRIX AND, WHERE RELEVANT, DETAILS ON ANSWERS TO THE EVALUATION QUESTIONS (BY CRITERION)

Judgement criteria		Indicators	Data sources
EFFECTIVENESS			
Effectiveness	<b>EQ1. Application of the Visa Code, as amended by Regulation (EC) 2019/1155: How have Member States applied the new provisions of the Visa Code, as amended by Regulation (EU) 2019/1155?</b>		
	<b>EQ1.1.</b> To what extent have Member States taken steps to comply with the new provisions of the amended Visa Regulation?		
	<b>EQ1.2.</b> Are the new provisions applied effectively and in a harmonised way across all Member States?		
	<b>EQ1.3.</b> Have any factors affected the application of the amended Visa Code? If so, which factors?		
	[All / a majority of / a minority of / no] Member States have taken steps to implement the changes introduced by the amended Visa Code.	<b>Quantitative indicators:</b> Number of countries changed their policy / practices to comply with each of the four main changes introduced in 2019.	Desk research (e.g. practices reported by Member State authorities, evaluations and studies on the Visa Code / EU visa policy, legislative proposals and IA related to the Schengen acquis, academic and grey literature).
	The new provisions [introducing more flexible visa procedures (Arts. 4.,9, 10, 11, 16, 23) / on MEVs for frequent travellers (Art. 24) / on the increase in fees (Arts. 16 and 17)] are being effectively applied by [all / a majority of / a minority of / no] Member States.	<b>Qualitative indicators:</b> Typology of changes in legislation, policies and practices (including administrative circulars and instructions) enacted by Member States to implement each of the four main changes introduced in 2019. Level of implementation of the changes introduced by the amended Visa Code, by relevant provision / country. Identification of aspects of the visa application process affected by the 2019 amendment for which further harmonisation of Member States' practices can be achieved.	
	The new provisions (as listed above) [are / are not] being applied equally and in a harmonised manner.	List and typology of implementation-related issues faced by Member States. Typology of legal / political / socioeconomic / operational / external factors that affected positively / negatively the implementation of the new provisions (e.g. COVID-19, shifting political priorities, technical obstacles to implement electronic submission / signature).	Stakeholder feedback on visa practices (Member States' authorities responsible for the
	[Room / no room] for further harmonisation in the implementation of the new provisions (as listed above) has been found.	<b>Opinion-based indicators:</b> Share of stakeholders considering that the new provisions are being applied equally and in a harmonised manner across Member States. Stakeholders' and experts' views on how the identified factors have affected the implementation of the new provisions.	
	[All / a majority of / a minority of / no] Member States have faced difficulties when implementing the		



new provisions (as listed above) of the amended Visa Code. Legal / political / socioeconomic / operational / external factors have [positively / negatively] affected the implementation of the new provisions (as listed above).	implementation, consulates, European Commission). Case studies. ISG consultations.
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#### Answer:

Member States have taken different **concrete steps to support the application of the amended Visa Code**. According to the information provided by 17 Member States responding to the targeted survey, the following measures have been adopted: **Development of guidance documents** (17/17 Member States); **Training** (17/17 Member States); **Checking that there is a common, standardised, harmonised translation of the application form** (16/17 Member States); **Participation in meetings for the preparation, discussion and distribution of a list of supporting documents** (16/17 Member States); **Drafting of a common information sheet** (15/17 Member States); **Preparation of a local/national implementation plan on the issuing of MEVs** (15/17 Member States); **Development of implementation plans** (14/17 Member States); **Expert group meetings** (14/17 Member States). In several instances Member States communicated and cooperated with the European Commission on the implementation of measures.

However, the application of the Regulation 2019/1155 amending the Visa Code has been **impacted by multiple factors**.

Firstly, one of the major impacts was caused by the **outbreak of the COVID-19 pandemic**. The Regulation entered into force in February 2020, one month before the WHO's declaration of COVID-19 as a global pandemic. Following the increasing spread of the coronavirus, Member States started to introduce controls at both the internal and external borders, drastically affecting mobility. One of the consequences was the **exceptional reduction in the numbers of short-stay visa applications and issuances**. The number of visa applications decreased from around 17 million in 2019 to fewer than three million in 2020 and in 2021 – a decline of around 83 %. Similarly, the number of uniform visas issued declined proportionally, by 83 % in 2020 and 84 % in 2021, compared to 2019. **The number of visas issued started to increase again in 2022, but remained considerably lower than the pre-pandemic situation (5.9 million)**. Given that the entire timeframe of the evaluation coincides with the spread of the pandemic, it is **extremely difficult to draw clear conclusions** from the statistical data and to evaluate the Regulation as it would have applied in normal circumstances.

Another factor that impacted the implementation of the Visa Code was the **Russian invasion of Ukraine in 2022**. Among other sanctions against Russia, visa facilitation was fully suspended in September 2022 and numerous Member States imposed additional **visa and entry restrictions against Russian tourists**. This is **reflected in visa statistics, impacting the overall picture over the evaluation period**, particularly as Russia was consistently one of the top countries of origin of visa applications.

The amended Visa Code introduced **greater flexibility in visa procedures, including enabling digital visa applications**. In fact, the

digitalisation of the visa process is a priority for the EU, as highlighted in the New Pact on Migration and Asylum, and emphasised by the Commission's proposal for a Regulation on the digitalisation of the Schengen visa process. As of today, **the majority of the Member States have implemented or are planning to implement steps towards digitalising visa procedures**. Nevertheless, according to the data from the targeted survey, **'in-person' channels are still the most used**. According to the majority of the consulates that replied to the targeted survey and the Member States authorities interviewed, **the digitalisation process is not driven by the Visa Code amendments but, rather, is part of a broader digital policy agenda**. As explained in the Impact Assessment accompanying the proposal for a Regulation as regards the digitalisation of the visa procedure, while some Member States have digitalised only some of the steps of the application procedure, none of them has digitalised the entire process.

Article 24 of Regulation 2019/1155 introduced the so-called **cascade rule**, defining the criteria to be followed in respect of MEV duration. The aim was to ensure a more harmonised approach among Member States in the development of practices when issuing MEVs. However, **COVID-19 had a substantial impact on the number of MEVs issued from 2020, declining from almost nine million MEVs issued in 2019 to barely 1.5 million in 2020 and 1.7 million in 2021**. There was an **increase in the number of MEVs issued in 2022 – 3.4 million** – although **the number remained considerably lower than the pre-pandemic situation**. According to the data from the targeted survey, **on average the majority of the MEVs issued from 2018 to 2021 had a validity of less than 1 year**. However, **these average values conceal wide variations across Member States and over the years considered**. While MEVs with validity of less than one year remain the overwhelming majority throughout the entire period considered, there is a constant – if limited – increase in the share of MEVs with validity of between one and two years, reaching 30 % of the total MEVs issued in 2021. There was also a steady and proportionally larger increase in the share of MEVs issued with a validity of between two and five years in the period considered, with the share almost doubling, on average (from 5.9 % to 10.8 %), while the share of MEVs with a five-year validity remains very limited, although increasing. Data from 2022 seem to contradict such trends, with an increase in MEVs with validity of less than one year and a decrease in issuance of MEVs with longer validity periods.

The amended Visa Code also aimed to encourage Member States to open more Visa Application Centres by **cooperating with ESPs**. According to the **majority of the respondents to the targeted survey, most Member States increased their cooperation with ESPs**, using more ESPs and for more applications. Although **figures collected in the targeted survey appear to confirm that a large majority of in-person applications were submitted via the ESPs**, the years considered were the **most impacted by the COVID-19 pandemic, making it difficult to qualify cooperation with ESPs in normal circumstances**. This study did not collect any evidence of service fees exceeding EUR 40, concluding that **Member States appear to be compliant with the provision of the service cost not exceeding half of the visa fee**.

Regulation 2019/1155 finally aimed to **increase the level of cooperation among Member States and the Commission in the framework of the LSC**. According to the majority of the Member States replying to the targeted survey, **LSC is an important platform for the exchange of information**. However, the case studies for this evaluation reflect **diverging experiences and satisfaction of Member States' consulates with the work of the LSC, depending on the location**.

**EQ2. Achievement of objectives: To what extent were amendments to the Visa Code Regulation effective in achieving their intended purpose?**

**EQ2.1.** To what extent did the application of the amended Visa Code contribute to a more harmonised application of the Schengen acquis during

the evaluation period?

**EQ2.2.** To what extent did the application of the amended Visa Code contribute to facilitating legitimate travel to the Schengen area?

**EQ2.3** To what extent did the application of the amended Visa Code contribute to preventing irregular migration and security risks?

**EQ2.4.** To what extent did the changes introduced by the amended Visa Code – especially those related to electronic signatures and digital procedures – improve the adaptability of visa procedures to the ongoing digital transition?

**EQ2.5.** To what extent did the changes introduced by the amended Visa Code – more specifically the increase of fees – help ensure that sufficient financial resources are available to cover Member States' expenses of processing visa applications?

**EQ2.6.** To what extent did the amended Visa Code contribute to improve Member States' equipment and staff to ensure the quality and integrity of the examination of applications, as well as the respect for deadlines in comparison to what existed before the increase of the fees?

**EQ2.7.** To what extent did the increase and flexibility in the service fee lead to better global consular coverage via ESPs?

<p>Compared to the baseline:</p> <p>The level of harmonisation in the application of the (amended) Visa Code across Member States [increased / decreased / did not change].</p> <p>Member States applied the provisions on MEVs in a [more / less] harmonised manner.</p> <p>Visa procedures [became / did not become] less lengthy and cumbersome.</p> <p>Travelling to the Schengen area was [easier / more difficult / remained the same] for third-country nationals from visa-required countries.</p> <p>The quality and integrity of the examination of visa applications [increased / decreased / remained the same].</p> <p>The ability of Member States to identify irregular migration /</p>	<p><b>Quantitative indicators:</b></p> <p>Statistics on: a) visa applications (lodged / issued / rejected; nationality or country in which the application was lodged; type of travel (e.g. tourist, business, family visit); frequent / non-frequent travellers; length of the visa issued; visa applications submitted electronically) (per country); b) MEVs applied for / issued and their length (per country) and comparison with the baseline; c) the length of the visa procedure, and comparison to the baseline; d) number of visa applications processed at the border.</p> <p>Number of visa representation agreements between Member States.</p> <p>Share of visa applications in which the deadline for examination was respected.</p> <p>Changes in the number of VACs (consulates – including honorary consulates - or ESPs, representation agreements).</p> <p>Number of Member States relying on ESPs due to lack of resources.</p> <p>Data on identified visa over-stayers (EES not yet available).</p> <p>Proportion of consulates allowing electronic signature and whose visa procedures are [fully / partially] digitalised.</p> <p>Number of countries where the increased fees cover fully / do not fully cover expenses linked to the processing of visa applications.</p> <p>Additional resources allocated by Member States to improve their equipment and staff which can be attributed to the increase of fees.</p> <p><b>Qualitative indicators:</b></p> <p>Identification of divergent practices between Member States' consulates in the same location.</p> <p>Identification of provisions where progress towards harmonisation / room for further harmonisation can be observed.</p>	<p>Desk research (e.g. data from border management IT systems, e.g. VIS, SIS data / practices reported by Member State authorities, 2013 evaluation and 2014 and 2018 IA; evaluations and studies on the Visa Code / EU visa policy, legislative proposals and IA related to the Schengen acquis, academic and grey literature).</p>
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<p>security risks during the examination of visa applications [increased / decreased / remained the same].</p> <p>Visa procedures [became / did not become] more flexible.</p> <p>Progress towards the digitalisation of visa procedures [was / was not made].</p> <p>The progress observed was a result of [the changes introduced by the application of the amended Visa Code / other factors].</p> <p>Between 2020 and 2022, deadlines applicable to visa procedures were respected [in all / a majority / a minority / a few / no] cases.</p> <p>The increase of visa and service fees had [a positive / a negative / no impact] on the availability of resources to: a) cover Member States' expenses of processing visa applications and the level of efficiency of visa procedures, and b) invest in equipment and staff to facilitate the examination of visa applications.</p>	<p>Known cases in which individuals engaging in activities that pose a threat to the EU's internal security were holders of a short-stay visa.</p> <p>Nature of complaints lodged by visa applicants with respect to visa procedures.</p> <p>Mapping of changes signalling that visa procedures have become more digitalised.</p> <p>Extent to which the changes enacted were a result of the amended Visa Code.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that there was progress towards the achievement of the objectives of the amended Visa Code.</p> <p>Proportion of stakeholders who consider that the changes introduced by the amended Visa Code have facilitated visa procedures for Member State authorities / visa applicants.</p> <p>Stakeholders' and experts' views on the extent to which the progress observed can be attributed to the amended Visa Code.</p> <p>Perceptions from stakeholders on visa application procedures, compared to the baseline.</p>	<p>Stakeholder feedback on observed results of practices implemented (all stakeholder groups).</p> <p>Case studies.</p> <p>ISG consultations.</p>
<p><b>Answer:</b> The answer to this evaluation question is broken down according to the objectives of the introduced amendments.</p>		

### Harmonisation of EU visa policy:

The amended Visa Code contributed to more harmonised application of the Schengen acquis. The majority of the responding Member States<sup>203</sup> agreed that the new provisions of the amended Visa Code contributed to visa procedures and conditions being further harmonised across Schengen countries. The MEV cascade rule was seen as having successfully facilitated harmonisation, at least to some extent, by the majority of respondents<sup>204</sup>.

The work of LSC<sup>205</sup> in supporting harmonisation among Member States at local level was evaluated positively overall, with some regional differences<sup>206</sup>. Over half of the responding Member States consider LSC a useful platform for the exchange of information and harmonisation of practices among Member States (such as applying the MEV cascade rule or defining a harmonised list of documents for submission)<sup>207</sup>. LSC supports Member States by providing a platform for coordination and information-sharing on an ad hoc or regular basis, giving consulates the opportunity to discuss shared concerns. LSC also helps to develop harmonised lists of supporting documents to be submitted by visa applicants<sup>208</sup>. On the basis of an LSC assessment in the context of local circumstances and migratory risks, adapted rules on issuing MEVs can be adopted as a Commission implementing decision, ensuring that a harmonised approach is maintained locally. Recent examples include adapted rules for Iran<sup>209</sup>, Saudi Arabia<sup>210</sup>, and other countries<sup>211</sup>.

While LSC appears to be a useful mechanism, its use appears to differ across locations and depends on the capacity and level of engagement of the

<sup>203</sup> 13/19 Member States agreed that visa procedures are now more harmonised; 5/19 neither agreed nor disagreed; 1 disagreed; 2 MS provided contradictory responses from different authorities.

<sup>204</sup> 13/17 Member States stated that the MEV cascade rule led to harmonisation to some extent; 4/17 agreed to a large extent.

<sup>205</sup> Article 48 of the Visa Code sets out the legal framework for LSC, as well as the division of tasks. LSC is a collective task to be shared among Member States' consulates and the Commission, in principle via EU Delegations. These tasks mainly concern the assessment of the need to harmonise lists of supporting documents to be submitted by visa applicants in a given country, common criteria for the implementation of optional visa fee waivers for certain categories of applicants, consistency of information provided to visa applicants, and exchange of relevant information among the Member State consulates at a given location.

<sup>206</sup> Member States that consider LSC a useful platform supporting harmonisation of practices: 19/20 'very effective or somehow effective'; 10/12 consulates (5/20 'very effective'; 14/20 'somewhat effective'; 1/20 'not effective at all').

<sup>207</sup> 6/19 consulates stated that LSC contributes contribute to MEV harmonisation; 10/20 stated that the process of harmonisation with the help of LSC is ongoing; 3/20 stated that LSC did not help with MEV harmonisation; on creating a list of harmonised documents, this process is ongoing in 5/19 responding consulates, 10/19 confirmed it had been done and 4/19 stated it was not done.

<sup>208</sup> See: [https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009\\_en](https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009_en)

<sup>209</sup> Commission Implementing Decision C(2022) 29 of 12 January 2022, [https://home-affairs.ec.europa.eu/system/files/2022-01/C-2022-29\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-01/C-2022-29_en.pdf)

<sup>210</sup> Commission Implementing Decision C(2022) 8007 final of 24 November 2022, [https://home-affairs.ec.europa.eu/system/files/2022-11/C-2022-8007\\_en.pdf](https://home-affairs.ec.europa.eu/system/files/2022-11/C-2022-8007_en.pdf)

<sup>211</sup> See additional examples of Commission implementing decisions at: [https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009\\_en](https://home-affairs.ec.europa.eu/regulation-ec-no-8102009-european-parliament-and-council-13-july-2009_en)



specific EU Delegations that organise the process. This creates different levels of satisfaction with its contribution to overall harmonisation and coordination<sup>212</sup>. The case studies and interviews indicate that when used effectively, LSC can play an important role, but EU Delegation staff are not always sufficiently trained nor do they always have the staff needed to dedicate sufficient time to managing the process<sup>213</sup>.

One consulate emphasised that Member States continue to have different approaches to visa processing, informed by varying migratory influxes. This can reflect different views among consulate staff across Member States. Overall, consulates also ranked LSC as only ‘somewhat effective’ in enhancing the harmonisation of local consular practices on visas<sup>214</sup>.

#### **Facilitating legitimate travel to the EU:**

For industry representatives, the most positive developments of the amended Visa Code included new rules on MEVs and the ongoing digitalisation of the visa procedure. The new rules on MEVs to attract business travellers were seen as very positive by the majority of industry respondents<sup>215</sup>, who also valued the new rules on visa validity<sup>216</sup>. The ability of applicants to submit their application electronically was reported to have had a positive impact<sup>217</sup>.

Despite the improvements, 19 (of 27) industry respondents noted a need to further simplify the visa procedures for travellers:

- Further digitalisation (mentioned twice);
- Acceptance by all Member States of a Schengen visa issued by one State (mentioned twice).
- Supporting further harmonisation of visa issuance procedure in Member States’ third-country consulates;
- Simplifying terminology and removing duplication of some information requests;
- Improvements in the slow process, lack of visa staff and high service fees;
- Simpler application form;
- Further simplification for seafarers, including extending the application to 10/12 months before the intended visit (currently nine

<sup>212</sup> Case studies (1-3) reflect diverging experiences and satisfaction of Member State consulates with LSC, depending on the specific location; Member States that consider LSC a useful platform supporting harmonisation of practices: 19/20 ‘very effective or somewhat effective’; 10/12 consulates (5/20 ‘very effective’; 14/20 ‘somewhat effective’; 1/20 ‘not effective at all’).

<sup>213</sup> Interviews with EEAS 1,2; interviews with EU Delegations no. 1, 2, 3.

<sup>214</sup> Consulate survey: (5/19 ‘very effective’; 4/19 ‘somewhat effective’; 1/19 ‘not effective at all’).

<sup>215</sup> 17/27 Member States rated as ‘very positive’; 5/27 ‘positive’; 2/27 ‘no impact’; 15/27 rated this developed as ‘greatly effective’; 6/27 ‘effective’; 1/27 ‘average effectiveness’.

<sup>216</sup> 15/27 Member States benefitted to a ‘great extent’; 8/27 benefitted ‘somewhat’; 1/27 benefitted ‘very little’.

<sup>217</sup> 17/27 Member States noted a ‘very positive’ impact.

months).

The impact of the raised visa fee was viewed negatively by around half of the industry respondents<sup>218</sup>. When asked about its specific impact on their industries, only four respondents felt the measure had a negative impact that resulted in fewer travellers/ clients in their sector. Ten industry respondents noted that it had no effect and five did not know.

### **Preventing irregular migration and security risks:**

It is not yet possible to determine the extent to which the application of the amended Visa Code contributed to preventing irregular migration and security risks, in part because aspects related to the application of Article 25a are outside the scope of this study. The 2018 IA preceding the amendments to the Visa Code in 2019 concluded that ‘while migration and security-related objectives have become more important than in the past, one should not lose sight of the fact that the vast majority of visa applicants are not posing any security and/or migratory threat to the EU’<sup>219</sup>.

Nevertheless, in response to a question on whether there are any additional challenges that remain to be addressed to improve the management of migration and security through visa policies:

- Five Member States<sup>220</sup> referred to the continued practice of visa shopping;
- Two<sup>221</sup> pointed to the need to further harmonise the practices of consulates in different locations (different lists, consultation, acknowledged passports, etc);
- One cited the challenge of authenticating documents in some regions of the world (birth or marriage certificates).

### **Adaptability of visa procedures to the ongoing digital transition:**

It is not possible to determine the extent to which the changes introduced by the amended Visa Code have improved the adaptability of visa procedures to the ongoing digital transition. This remains a work in progress and is not always directly linked to the Visa Code itself. This was confirmed in the European Commission’s 2022 proposal for a Regulation on the digitalisation of the visa procedure, which states that ‘most Member States only digitalised parts of the short stay visa process and still rely heavily on paper-based procedures’<sup>222</sup>.

<sup>218</sup> 14/27 Member States stated that it had a ‘negative’ or ‘very negative’ impact.

<sup>219</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. 10.

<sup>220</sup> 5/20 Member States.

<sup>221</sup> 2/20 Member States.

<sup>222</sup> European Commission, Impact assessment report accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009, and (EU) No 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, SWD(2022) 658 final, p.3, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0658>

The data suggest that more needs to be done at Member State and EU level. Limited progress is reported by consulates in the digitalisation of their visa processes, with very few reportedly using the option of electronic signatures (local circumstances often do not allow for this, given the low level of digitalisation in some third countries)<sup>223</sup>.

Further digitalisation of the visa process remains a priority for the EU, as highlighted in the New Pact on Migration and Asylum, which proposed that the Commission set the objective of making the visa procedure fully digitalised by 2025<sup>224</sup>. That further digitalisation of the visa process is also seen as positive in facilitating tourism to the Schengen area<sup>225</sup>. As such, the Visa Code introducing the possibility for visa applicants to sign application forms electronically opens the way for digital submission and processing of visa applications later on.

Full digitalisation of the visa process will require a number of additional steps are outside the Visa Code itself. Although yet to be adopted, the Commission's proposal for a Regulation on the digitalisation of the Schengen visa process proposes introducing a fully digitalised visa application process<sup>226</sup>. That should lead to an easier and more secure application process:

- Applicants may apply for visas online;
- A platform determining the Schengen country that is responsible for examining the application;
- A platform providing up-to-date information on Schengen short-stay visas;
- In-person meetings at the consulate would remain mandatory only for first-time applicants to collect biometric identifiers;
- Visa to include state-of-the-art security features.

Achieving digitalisation of visas will depend on the finalisation of interlinked processes, such as further development of the VIS, EES, ETIAS, etc., which some see as more impactful in achieving further digitalisation<sup>227</sup>. Finally, the overall process is linked to the ongoing interoperability programme of the EU<sup>228</sup>, which will ensure interoperability of the different EU information systems in the field of borders and visas, thereby facilitating the effectiveness of further digitalising visa procedures.

Looking at achievements to date in the digitalisation of the visa process, the results appear limited and cannot be directly linked to the amended Visa Code. Rather, the main progress achieved by Member States appears to stem largely from national digitalisation strategies/efforts rather than specific changes in the Visa Code itself.

<sup>223</sup> 2/17 consulates (10/17 stated that they do not process any electronic signature applications; others did not respond).

<sup>224</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM(2020) 609 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0609>.

<sup>225</sup> European Commission, Scenarios towards co-creation of transition pathways for tourism for a more resilient, innovative and sustainable ecosystem, SWD(2021) 164 final.

<sup>226</sup> See: [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_2582](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2582)

<sup>227</sup> One Member State gave an example.

<sup>228</sup> Interoperability referenced as a key component of visa digitalisation during interview with one Member State, referring to Regulation (EU) 2019/817 establishing a framework for interoperability between EU information systems in the field of borders and visas, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R0817>

### **Increase in fees ensure sufficient financial resources to cover Member States' expenses:**

It is not possible to draw conclusions on the extent to which the increase in fees helped to ensure sufficient financial resources to cover Member States' expenses.

The lack of sufficient financial resources to support visa processing was highlighted as a key issue in the 2018 IA preceding the amendments to the Visa Code in 2019. It pointed to the increasing number of visa applications since 2009, with the financial resources available to Member States' visa authorities and consulates for visa processing (per application) remaining static (or even diminishing)<sup>229</sup>.

As the 2018 IA highlighted, Member States agreed that the visa fee should be increased but could not agree the precise amount (or whether it should be differentiated by location)<sup>230</sup>. The IA showed that it was 'virtually impossible to calculate the level of a common visa fee on the basis of national administrative costs' as these varied significantly (particularly staff costs)<sup>231</sup>.

Given the complexity of equating visa revenue to administrative costs, most respondents did not have a clear opinion or cost information (see Q8.1).

In view of the decrease in the number of visa applications between 2020 and 2022 as a result of COVID-19, two Member States<sup>232</sup> reported no additional revenue raised from visas, while consulates continued to pay staff. Three Member States<sup>233</sup> noted that the additional significant drop in applications from Russia in 2022 as a result of Russia's full-scale invasion of Ukraine meant further reductions in visa revenue (they usually received a high number of visa applications from Russia). A number of respondents also found it impossible to draw clear conclusions as their income from visas goes into the State budget, while funds for IT/systems development are sourced from a different budget<sup>234</sup>. One respondent stated that its overall expenses related to visa processing had increased since 2019<sup>235</sup>.

### **Improving Member States' equipment and staff:**

The data do not support the conclusion that the increased visa fee contributed to improving Member States' equipment and staff. When asked

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<sup>229</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. 12.

<sup>230</sup> Ibid., p. 18.

<sup>231</sup> Ibid., p. 24.

<sup>232</sup> 2/20 Member States.

<sup>233</sup> 3 Member States.

<sup>234</sup> 4/20 Member States.

<sup>235</sup> 1 Member States.

whether the income from the increased visa fee (raised to EUR 80 in 2019) led to the acquisition of additional staff or equipment, the majority said no<sup>236</sup>. Nevertheless, even those who responded positively stated that the revenue raised from the visa fees is not sufficient to fully fund human resources and IT development. Any additional revenue raised was reportedly used for training, staff reinforcement, or new IT equipment.

As highlighted in the 2018 IA, a lack of sufficient financial resources has led to shortages in consulates' visa sections, affecting the quality and integrity of the examination of visa applications and lengthening waiting times<sup>237</sup>. It does not appear that this issue has yet been resolved. Member States were not able to confirm whether the new provisions of the amended Visa Code actually helped to reduce the administrative costs related to visa procedures (thus increasing the quality and integrity of the process even with the same number of staff). Eight respondents<sup>238</sup> neither agreed nor disagreed, with four disagreeing<sup>239</sup> and only one agreeing<sup>240</sup>.

For more information on the impact of the increased visa fee – see EFFICIENCY criterion (EQ8 and EQ10).

#### **Increase and flexibility in the service fee leading to better global consular coverage via ESPs:**

The extent to which the increase in the visa fee has led to better consular coverage via ESPs is unclear. Of the responding Member States, 12<sup>241</sup> reported increasing their cooperation with ESPs since the introduction of the amended Visa Code, while three<sup>242</sup> reported decreasing their cooperation. Some see ESPs as increasing the efficiency of the visa procedures<sup>243</sup>. One Member State pointed to the amendments of the Visa Code as providing room to enhance this cooperation (rather than having ESPs as a last resort option)<sup>244</sup>. This increase was despite the drop in applications due to COVID-19<sup>245</sup>.

Reasons for increased cooperation with ESPs include:

- Inability of consular staff to ensure sufficient/harmonised quality service in recent years (even pre-COVID-19)<sup>246</sup>;
- Making visa procedures more efficient<sup>247</sup>;

<sup>236</sup> 13/16 Member States stated that the raised visa fee did not result in additional staff or equipment; 3/16 said the raised visa fee did contribute to additional staff or equipment.

<sup>237</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. 12.

<sup>238</sup> 8/20 Member States.

<sup>239</sup> 4/20 Member States.

<sup>240</sup> 1 Member State.

<sup>241</sup> 12/15 Member States increased their reliance on ESPs.

<sup>242</sup> 3/15 Member States decreased their reliance on ESPs.

<sup>243</sup> 1 Member State.

<sup>244</sup> 1 Member State.

<sup>245</sup> 2/15 Member States.

<sup>246</sup> 2 Member States.

<sup>247</sup> 1 Member State.

- Ensuring increased capacity and geographical presence<sup>248</sup>;
- Increased security measures in embassies of one Member State mean that very few applicants are allowed on embassy premises<sup>249</sup>.

At least half of the responding Member States reported increasing their VACs since 2020<sup>250</sup>. This was largely driven by factors other than the Visa Code, including foreign policy objectives and accessibility demands (increases) and closure of consulates in places like Russia (decreases)<sup>251</sup>.

**EQ3. Impact of the amended Visa Code on the EU's visa policy: To what extent did the application of the amended Visa Code result in an improvement in the application of the EU's visa policy, compared to the baseline?**

<p>The implementation of the amended Visa Code [led / did not lead] to a more harmonised application of the Schengen acquis, reducing the room for competition between Member States and the incentives for visa-shopping.</p> <p>The higher degree of harmonisation resulting from the application of the amended Visa Code had [a positive / a negative / no] impact on the situation of third-country nationals (especially family members of EU citizens) through the strengthening of the principle of equal treatment.</p> <p>The implementation of the amended Visa Code [contributed / did not contribute] to attracting travellers from third countries to the Schengen area.</p>	<p><b>Quantitative indicators:</b> Number of Member States implementing practices that diverge from the common rules, to attract (or discourage) travellers (e.g. from visa-required countries). Number of visa applications lodged / issued.</p> <p><b>Qualitative indicators:</b> Extent to which visa-shopping is a common practice among nationals from visa-required countries, compared to the baseline. Evidence of third-country nationals from visa-required countries engaging in visa-shopping practices.</p> <p><b>Opinion-based indicators:</b> Perceptions from experts and stakeholders representing third-country nationals / industry on differences in the visa requirements applied across Member States. Expert and stakeholder perceptions of the impact of the amended Visa Code on the situation of third-country nationals, especially with respect to the application of the principle of equal treatment. Proportion of stakeholders considering that the amended Visa Code had a positive impact on the application of the EU's visa policy / the reduction of fragmentation and room for competition between Member States when applying the EU's visa policy / the ability of Member States to tackle irregular migration and security risks / strengthening the application of the principle of equal treatment for third-country nationals.</p>	<p>Desk research (e.g. 2013 evaluation and 2014 and 2018 IA; evaluations and studies on the Visa Code / EU visa policy, legislative proposals and IA related to the Schengen acquis, academic and grey literature).</p> <p>Stakeholder feedback on the observed impact of the amended Visa Code (all</p>
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<sup>248</sup> 1 Member State.

<sup>249</sup> 1 Member State.

<sup>250</sup> 9/18 Member States increased the number of VACs; 9/18 did not. 1 Member State provided contradictory responses by different authorities.

<sup>251</sup> 1 Member State reporting increase; 1 Member State reporting decrease.



The implementation of the amended Visa Code [had / did not have] an observable [positive / negative] impact on the ability of Member States to tackle irregular migration and security risks.

stakeholder groups).  
Case studies.  
ISG consultations

**Answer:**

In view of the amended Visa Code's two primary objectives – to contribute to a more harmonised, flexible and secure EU visa policy that fits the ongoing digital transition, and to ensure that sufficient financial resources are available to cover the Member States' expenses of processing visa applications – it appears to have improved application of the EU visa policy to some extent compared to the baseline. However, it is difficult to draw definitive conclusions, particularly given the impact of COVID-19. In the targeted survey of national authorities, Member States often did not express an opinion on several questions, suggesting that more time may be needed to reach definitive conclusions on the effectiveness of the changes.

As outlined above (EQ2), the application of the amended Visa Code resulted in some level of further harmonisation in the application of EU visa policy (including the new MEV cascade rule), but this process of harmonisation is ongoing, supported by the work of LSC.

In relation to creating a more flexible visa policy that facilitates legitimate travel, EQ2 shows some improvement compared to the baseline (including ongoing digitalisation of the visa process, simplifications introduced via the MEV cascade rule, improved rules for seafarers and further harmonisation of documents to be submitted by applicants, facilitated by LSC). Evidence from the Member State survey shows that, according to most respondents, visa procedures and conditions are considered further harmonised<sup>252</sup> across Schengen countries, more streamlined<sup>253</sup>, flexible<sup>254</sup> and simpler<sup>255</sup> for applicants. Nevertheless, respondents believe that the procedures for consulates have not yet achieved their objectives, as only a small number of Member States indicated that procedures are less lengthy and cumbersome<sup>256</sup> or more flexible<sup>257</sup> for consulates.

The data suggest (summarised in EQ2) that more needs to be done at Member State and EU level on digitalisation. To date, limited progress was reported by consulates in the digitalisation of their visa processes, with very few using electronic signatures<sup>258</sup>. Further action at EU level should help to drive the process.

<sup>252</sup> 13/19 Member States

<sup>253</sup> 12/10 Member States

<sup>254</sup> 10/20 Member States.

<sup>255</sup> 8/20 Member States.

<sup>256</sup> 3/17 Member States.

<sup>257</sup> 2/19 Member States.

<sup>258</sup> 2/17 consulates (10/17 reported that they did not process electronic signature applications; others did not respond).

The increased fee to EUR 80 does not appear to cover Member States' costs associated with visa processing (see EQ2 and EQ9). However, the aim of the amendment was to find a balance between the costs incurred by Member States while not posing barriers to travel, which itself generates revenue for many Member States. Responses from industry representatives suggested that while viewed negatively, the increased visa fee did not have a detrimental impact on travel. However, Member States continue to face challenges in terms of insufficient human resources in their consulates.

**EQ4. Factors impacting effectiveness: Are there any factors that hindered / facilitated the effectiveness of the amended Visa Code? If so, what are these, what is their root cause and which stakeholders do they involve?**

<p>[Internal (e.g. gaps in the Visa Code, inconsistencies, lack of clarity, etc.) / external (e.g. COVID-19 pandemic, EU legislative and policy developments, Schengen evaluations, diverging objectives of Member States, technical obstacles affecting electronic procedures or the input of data into VIS) have [positively / negatively] affected the ability of the amended Visa Code to achieve its objectives to [some / a large] extent.</p> <p>Legal / socioeconomic / operational / other factors (e.g. outbreak of the COVID-19 pandemic) have positively / negatively affected the effectiveness of the amended Visa Code.</p> <p>Identifiable factors involve [EU authorities or stakeholders / national or regional authorities / businesses or industry representatives / third-country nationals / other stakeholders].</p>	<p><b>Qualitative indicators:</b></p> <p>Typology of other internal / external factors that had an effect on the ability of the amended Visa Code to achieve its objectives and have an impact on the application of the Schengen acquis.</p> <p>Typology of other internal / external factors that had an effect on the easiness / difficulty for visa-required third-country nationals to travel to the Schengen area for legitimate purposes.</p> <p>Typology of other internal / external factors that had an impact on the ability of Member States to identify and tackle irregular migration and security risks.</p> <p>Identification and typology of other factors that have contributed to the digitalisation of visa procedures.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that the effectiveness of the amended Visa Code was positively / negatively impacted by internal/external factors.</p> <p>Opinions on what factors may have boosted / hindered the effectiveness of the amended Visa Code.</p>	<p>Desk research (e.g. evaluations and studies of the Schengen acquis, literature and academic documents).</p> <p>Stakeholder feedback on factors affecting the results and impacts of the amended Visa Code (all stakeholder groups).</p> <p>Case studies.</p> <p>ISG consultations</p>
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**Answer:**

As highlighted under EQ1, the main factors impacting the implementation of the Visa Code were COVID-19 and the full-scale war in Ukraine. This was confirmed by Member States<sup>259,260</sup>, which pointed to COVID-19 as a factor impacting implementation. More than half of the respondents had not encountered any major obstacles in the application of the amended Visa Code<sup>261</sup>.

When asked to specify the types of difficulties encountered, four Member States reported issues linked to the implementation of the MEV cascade rule:

- Uncertainty about the issuance of MEVs after five years;
- Application of the MEV cascade rule very time-consuming for local staff;
- Inability to integrate the MEV cascade into IT software used by consulates;
- Lack of a harmonised approach in application across different consulates;
- Inability to apply the MEV cascade rule, given national COVID-19 restrictions.

One respondent indicated some issues with the new division of the old refusal grounds, which prolonged case processing times (no further details were provided). One Member State, during an interview, pointed to minor technical difficulties, as their systems required updates to accommodate the new provisions.

Of the responding consulates, seven viewed COVID-19 as impacting the implementation of the amended Visa Code to a very large extent, six to a large extent, seven to some extent, and one stated it had no impact. One consulate reported that while there were fewer applications overall, they had to deal with more exceptions in the processing of visas<sup>262</sup>. The lengthy verification of vaccinations was also noted as a challenge<sup>263</sup>. In addition, some ESPs reportedly closed during the pandemic<sup>264</sup>.

Member States continued to face challenges in human and technical capacity, which were not sufficiently offset by the increased visa fee. Consulates also pointed to the difficulties in including the MEV cascade rule in their IT systems.

When it comes to the ongoing digitalisation of the visa process, some Member States reported waiting for further action at EU level before proceeding with their own plans.

#### **EQ5. To what extent have the processes set up under the art. 25a mechanism been effective?**

**EQ5.1.** To what extent is the duration of the cycle effective?

**EQ5.2.** To what extent are stakeholders sufficiently involved throughout the cycle?

**EQ5.3.** To what extent are data included in the annual assessment report complete and reliable?

- |  |                                |               |
|--|--------------------------------|---------------|
| ▪ Each stage of the cycle takes place in a set | <b>Qualitative indicators:</b> | Desk research |
|--|--------------------------------|---------------|

<sup>259</sup> 5/18 Member States.

<sup>260</sup> Two responses were received from different authorities in two Member States, with the respective national authorities contradicting one another.

<sup>261</sup> 13/18 Member States.

<sup>262</sup> 1 Member State.

<sup>263</sup> 1 Member State.

<sup>264</sup> 1 Member State.

<p>timeframe, which allows for the achievement of the objectives.</p> <ul style="list-style-type: none"> <li>▪ All relevant stakeholders are sufficiently involved in the respective stages of the cycle, where their involvement is relevant.</li> <li>▪ Commission and Frontex questionnaire is clear, relevant, specific and succinct.</li> <li>▪ Data received from MS are comparable and assessment criteria are clear among all relevant stakeholders.</li> <li>▪ MS have put in place mechanisms to ensure the quality of data provided.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Timeframe for the completion of each stage as well as the whole cycle (from data collection to Council Implementing Decisions and follow-up).</li> </ul> <p><b>Opinion-based indicators:</b></p> <ul style="list-style-type: none"> <li>▪ Perception of stakeholders who consider they are/are not sufficiently involved in the respective stages of the cycle where their involvement is relevant.</li> <li>▪ Perception of stakeholders on the effectiveness of the defined processes.</li> <li>▪ Share of MS/SAC who find the questionnaire clear, specific, relevant and succinct.</li> <li>▪ Share of stakeholders involved who have a common understanding of the assessment criteria.</li> <li>▪ Share of MS with mechanisms in place involving relevant actors for the purpose of the exercise.</li> </ul>	<p>Stakeholder interviews</p> <p>Stakeholder quantitative survey</p>
<p><b>Answer:</b></p> <p><b><u>Timeframe for the completion of each stage &amp; cycle:</u></b></p> <p>For the purpose of this evaluation, the following 7 stages comprise a full cycle: Stage 1 - Data Collection; Stage 2 - Drafting of report; Stage 3 – Consultation and Approvals; Stage 4 – Adoption of Report; Stage 5 – Council Discussions; Stage 6 – Commission Proposals and Council Implementing Decisions; Stage 7 – Follow-up of Adopted Measures.</p> <p>Cycle 1 commenced in February 2020 and was concluded in October 2021, when the Council Implementing Decision on The Gambia was adopted. The first stage (data collection) was completed in June of the same year (5 months duration). The report was adopted in February 2021 (8 months) and the Commission Proposals in July of the same year (5 months). The Council Implementing Decision on the Gambia was adopted in October 2021 (3 months), while the remaining two proposals are still on the table in the Council. Finally, the European Parliament was informed about the progress achieved in the Gambia’s cooperation on readmission during the LIBE Committee meeting of December 2022 (14 months after</p>		

the adoption of the Council Decision). The whole cycle lasted about 22 months -excluding the follow-up to the implementing decision on the Gambia-.

Cycle 2 commenced in January 2021 and was concluded in December 2022. The first stage (data collection) was completed in May 2021 (5 months). The second annual report was adopted in December 2021 (6 months) and the Commission Proposals in November 2022 (11 months). The Council adopted follow-up measures on the Gambia in December 2022 (1 month). By the cut-off date of this evaluation, no follow-up to the European Parliament and the Council has taken place, as the 6-month period has not yet been completed. The cycle lasted about 23 months - excluding the follow-up to the measures on The Gambia-.

Cycle 3 commenced in January 2022 and has not yet been concluded. The first stage (data collection) was completed in June 2022 (6 months) and the third annual report was adopted in December 2022 (5 months). By end April 2023, no Commission Proposals had been drafted nor adopted. All stages leading to the adoption of the report were completed in a period of 11 months.

As regards Cycle 4, at the cut-off date of this evaluation, only the first stage (collection of data) has been completed, which lasted about 4 months.

**Perception of stakeholders who consider they are/are not sufficiently involved in each stage of the cycle:**

From the qualitative assessment carried out for the purpose of this evaluation, EEAS and the EU Delegations (as represented by EEAS) seem to consider not to be sufficiently involved in the processes leading to the adoption of the annual report. Different actors in EEAS expressed their view that they needed to be further involved in the process of drafting the annual report in order to be able to contribute their expertise as regards the overall political situation in the assessed third countries<sup>265</sup>. The two EEAS directorates also highlighted the challenges of the involvement of Delegations, which are connected to the tight interservice consultation deadlines prior to the adoption of the report (48h-5 days)<sup>266</sup>. As the EEAS is responsible for coordinating the comments provided by EU Delegations on the report, it would be necessary for them to have enough time to conduct the exercise in a complete and effective manner.

The Council also highlights the importance of the involvement of EU Delegations in the process, especially after the adoption of the report, when they are required to further engage with the assessed third countries<sup>267</sup>.

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<sup>265</sup> Stakeholders' interviews

<sup>266</sup> Ibid

<sup>267</sup> Ibid

Stakeholders (3 MS & Frontex) call for better communication towards them as well as third countries<sup>268</sup>. More specifically, Frontex asked for more information regarding the decision making in the Commission. One Member State asked that the Commission carries out interviews with Member States for the collection of qualitative data and another one, for a closing meeting at the end of the data collection process to discuss lessons learnt<sup>269</sup>.

### **Data Quality**

#### **Share of MS/SAC who find the questionnaire clear, specific, relevant and succinct:**

When asked about the relevance of the questionnaire in assessing the cooperation on readmission with the third countries concerned, 71% of Member States/SAC replied that they find the content relevant<sup>270</sup>. It is worth mentioning that except for 2021, when one Member State refused to answer questions on a specific third country, the response rate to the qualitative assessment has generally been close to 100%<sup>271</sup>. This means that all Member States respond to the questionnaire, but not for all third countries.

At the same time, 58% of respondents highlighted the fact that they face a number of difficulties when reporting data<sup>272</sup>. Although the question asked to Member States/SAC referred to both qualitative and quantitative reporting, the high majority of those referring to challenges (79%) focused specifically on qualitative data collection<sup>273</sup>.

Below there is a presentation of the main challenges described as regards the qualitative assessment:

**Resource-demanding & time-consuming:** 73% of respondents mentioning challenges connected to the qualitative data collection, focus on the additional time-demanding workload this creates for national actors<sup>274</sup>. This is also confirmed by the fact that 63% of Member States/SACs representatives replied under a different question that collection requires additional efforts and extensive coordination between different parts of

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<sup>268</sup> Stakeholders' & 3/17 MS/SAC Interviews

<sup>269</sup> MS/SAC Interviews

<sup>270</sup> Member State targeted survey, Q39 (n=24): 'Strongly agree': 6/24, 'Agree': 9/24, 'Neither agree/nor disagree': 5/24, 'Disagree': 3/24. 'Strongly disagree': 1/24

<sup>271</sup> Stakeholders' Interviews - Frontex

<sup>272</sup> Member State targeted survey, Q38.1 (n=26): 'Yes': 15 'No': 11

<sup>273</sup> Member State targeted survey, Q38.1

<sup>274</sup> Ibid



national administrations.

Ambiguity: 36% of respondents mentioned challenges connected to the lack of clarity when assessing the cooperation with third countries<sup>275</sup>. In their replies, Member States/SAC referred to: questions not applicable to respondents where a reply is obligatory (2 MS) and unclear criteria, definitions, indicators for rating cooperation (3 MS/SAC). Concerns about the lack of clarity were also expressed by MS/SAC representatives. 2 2 Member States indicated an issue with the questionnaire, where a few questions not applicable to their case are mandatory.

Other challenges that came up both in the quantitative survey and during the interviews were connected to:

- technical difficulties posed by the platform e.g. inability to download the questionnaires;
- need for better categorisation of questions e.g. division of voluntary and forced returns (mentioned by 2 different MS/SAC);
- need for revision of questions to focus only on essential points (2 MS/SAC)
- repetition of replies already provided in previous years.

Share of stakeholders involved who have a common understanding of the assessment criteria, definitions:

According to the legal basis, when assessing third countries' cooperation with regard to readmission, the following indicators (qualitative and quantitative) need to be taken into account:

- (a) *the number of return decisions issued to persons from the third country in question, illegally staying on the territory of the Member States;*
- (b) *the number of actual forced returns of persons issued with return decisions as a percentage of the number of return decisions issued to nationals of the third country in question including, where appropriate, on the basis of Union or bilateral readmission agreements, the number of third country nationals who have transited through the territory of the third country in question;*
- (c) *the number of readmission requests per Member State accepted by the third country as a percentage of the number of such requests submitted to it;*
- (d) *the level of practical cooperation with regard to return in the different stages of the return procedure, such as:*
  - i) *assistance provided in the identification of persons illegally staying on the territory of the Member States and in the timely issuance of travel documents;*
  - ii) *acceptance of the European travel document for the return of illegally staying third-country nationals or laissez-passer;*
  - iii) *acceptance of the readmission of persons who are to be legally returned to their country;*
  - iv) *acceptance of return flights and operations.*

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<sup>275</sup> Ibid

#### Qualitative Assessment:

During interviews, stakeholders were asked about the criteria taken into account when assessing the overall cooperation with third countries. The criteria mentioned by stakeholders like the Council and two different directorates in EEAS were not aligned. Some pointed to quantitative criteria mentioned in the legal basis, while others to more general political criteria, diminishing the importance of quantitative criteria<sup>276</sup>. As mentioned above, when consulted 4 Member States/SAC also pointed to the lack of clarity when it comes to the definitions, indicators, criteria the assessment should be based on<sup>277</sup>.

This has been confirmed by Frontex too. Following the 2022 exercise, the agency highlighted the fact that in Frontex view Member States may use different definitions and criteria when rating the level of cooperation with third countries. Frontex concludes that further guidance is needed<sup>278</sup>.

#### Quantitative Assessment:

The quantitative indicators are generally covered in the report, with few differences. e.g. on point (b), there is no differentiation between forced and voluntary returns.

As regards the data collection process, when interviewed, Frontex explained that it encounters a number of challenges, mostly connected to: timeliness, accuracy and completeness.

#### Accuracy - Comparability

In its annual report, the Commission uses statistical data from Frontex and Eurostat for different indicators. For reporting on the number of return decisions and on effective returns, Eurostat data is used, while for reporting on the number of readmission requests and travel documents issued, Frontex data is used. Additional indicators are used in the annexes of the report, such as the asylum recognition rate by Frontex and irregular border crossings by Frontex. Frontex gathers data monthly, while Eurostat quarterly and its reports are public.

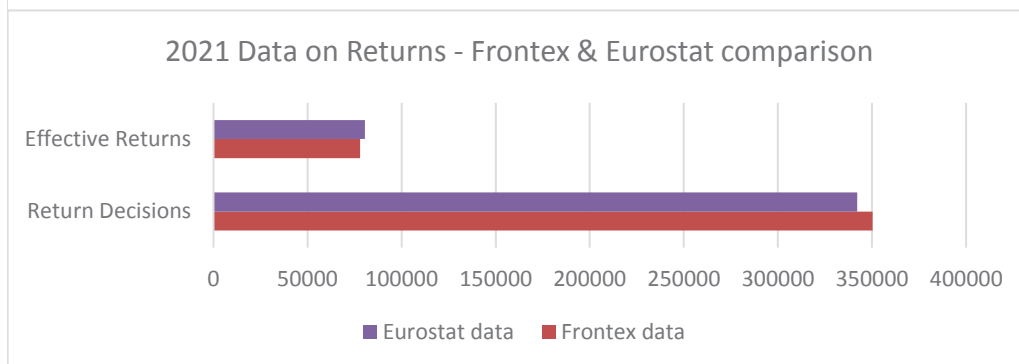
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<sup>276</sup> Stakeholders' Interviews

<sup>277</sup> 4/17 MS/SAC Interviews

<sup>278</sup> Stakeholders' Interviews

Eurostat and Frontex use different definitions for Return Decisions and Effective Returns, as explained by Frontex. The source used is clearly indicated in the report.



The European Court of Auditors in its 2021 Special Report on EU Readmission Cooperation also pointed to the differences in the methodologies used by Frontex and Eurostat and the fact that the data produced by the two are not comparable and often contain weaknesses<sup>279</sup>.

#### Completeness

As regards completeness, the response rate during the quantitative data collection is high. However, the Frontex data used in the reports do not represent all Member States. On this, Frontex mentioned that one Member State does not provide monthly data, despite efforts made by the Commission<sup>280</sup>. However, according to the Commission, yearly data are provided, and they are the ones used for the report.

#### Share of MS with mechanisms in place involving relevant actors and managing to provide complete data on time

Out of 20 countries (usually represented by more than one actor), one country replied that they are not aware of any mechanisms put in place for the contribution to the assessment under art 25a<sup>281</sup>. Thus, 95% of the countries participating in the survey seem to have more than one mechanism

<sup>279</sup> Special Report No 17/2021: EU readmission cooperation with third countries: relevant actions yielded limited results pg 54

<sup>280</sup> Stakeholders' Interviews

<sup>281</sup> Member State targeted survey, Q37 (n=20): 'ad-hoc meetings with third country representatives on return and visa policies': 10/20; 'ad-hoc meetings within the Member State and/or jointly with representatives of other Member States ahead of Council Working Group meetings dedicated to discuss cooperation on readmission and the process under Art. 25a':

in place, which directly or indirectly help ensure the collection of accurate and complete data on cooperation with third countries on readmission. Such mechanisms include among others: ad-hoc meetings with third country representatives on return and visa policies; ad-hoc meetings within the Member State and/or jointly with representatives of other Member States ahead of Council Working Group meetings dedicated to discuss cooperation on readmission and the process under Art. 25a; regular sharing of information on readmission requests through Frontex, or directly to DG HOME; joint work on responding to Commission questionnaire on Art. 25a; national focal point ensuring coordination on issues linked to Art. 25a; participation in the Return Data Working Group (Frontex).

On the other hand, when it comes to mechanisms connected to the collection of quantitative data, Frontex reported during interviews that Member States have limited IT capacity and that a number of them have not yet developed a robust and integrated electronic data collection system. These Member States rely on paper files. To support Member States, the agency has developed a return case management system reference model based on which they are able to conduct gap analysis and understand what steps Member States would still need to take to develop an effective and efficient electronic data collection system. An electronic Return Case Management System (RCMS) would reduce the workload created by the exercise and provide up-to-date statistics and information at any time<sup>282</sup>. At the same time, reference was made to the fact (1 MS & EEAS) that often there are political differences at national level between MoIs and MFAs.

RELEVANCE			
Relevance	<b>EQ6. Relevance of Regulation (EU) 2019/1155 to address needs identified in 2018: To what extent were the changes introduced by the amended Visa Code suitable to address the challenges and needs identified in 2018?</b>		
	<b>EQ6.1.</b> To what extent do Member States consider that the revision of the Visa Code (including the increase in fees) was suitable to deal with Visa Code objectives?		
	<b>EQ6.2.</b> Would Member States prefer other options to deal with these objectives?		
	<b>EQ6.3.</b> To what extent were the changes introduced by the amended Visa Code suitable to address the challenges identified in 2019 as affecting the implementation of the EU's visa policy and the Schengen acquis?		
	The changes introduced by the amended Visa Code [were / were not] suitable to strengthen the application of the EU's visa policy (e.g. harmonising and enhancing	<b>Qualitative indicators:</b> Mapping and typology of challenges identified in the period leading up to the adoption of Regulation (EC) 2019/1155 in legislative, policy and other documents adopted at EU level concerning the implementation of the EU's visa policy and the Schengen acquis.	Desk research (e.g. 2018 update on the Implementation of the Visa

10/20; 'regular sharing of information on readmission requests through Frontex, or directly to DG HOME': 16/20; 'joint work on responding to Commission questionnaire on Art. 25a': 15/20; 'national focal point ensuring coordination on issues linked to Art. 25a': 12/20; 'participation in the Return Data Working Group (Frontex)': 17/20.

<sup>282</sup> Stakeholders' Interviews

<p>coherence and transparency of its application, strengthening procedural guarantees, reinforcing equal treatment of third-country nationals, enhancing cooperation between consular authorities).</p> <p>The amendments to Arts. 9, 10, 11, 16, 17, 23 and 24 of the Visa Code [were / were not] suitable to address the main problems and challenges affecting the application of the EU visa policy highlighted in the 2018 IA, including the insufficient financial resources to support Member States' processing, divergent practices among Member States with respect to MEV and repeated visa procedures for regular travellers.</p> <p>The changes introduced by the amended Visa Code [were / were not] suitable to address other problems and challenges identified in the 2018 Update on the implementation of the Visa Code as well as other evaluations and studies of elements of the Schengen acquis conducted prior to 2018.</p> <p>The changes introduced by the amended Visa Code [were / were not] in line with the specific objectives of the Visa Code of facilitating legitimate travel while</p>	<p>Degree of alignment between the objectives of the amended Visa Code and the problems identified in 2018 and the changes introduced by the amended Visa Code.</p> <p>Identification of amendments that do not correspond to the objectives of the Visa Code.</p> <p>Identification and mapping of alternative measures to achieve the objectives of the Visa Code not reflected in the amendments.</p> <p>Suitability of the amended Visa Code to support the objectives of the Visa Code.</p> <p><b>Opinion-based indicators:</b></p> <p>Perceptions from stakeholders and experts considering that the changes – including the increase of fees – introduced by the amended Visa Code were suitable to achieve the objectives of the Visa Code.</p> <p>Stakeholders' and experts' views on the suitability of other regulatory / non-regulatory measures that could be used to address the objectives of the Visa Code.</p> <p>Stakeholder and expert perception on whether there was room for further alignment between the amendments introduced in 2019 and the objectives of the Visa Code / needs identified in 2018.</p>	<p>Code and IA, evaluations and studies of the Schengen acquis).</p> <p>Stakeholder feedback on the suitability of the amendment to address needs in 2018 (all stakeholder groups, particularly Member State authorities, EU stakeholders).</p> <p>Case studies.</p> <p>ISG consultations.</p>
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preventing irregular migration and security risks.

The objectives of the Visa Code [could / could not] be better addressed by adopting other regulatory / non-regulatory measures.

**Answer:**

Several of the **changes in the revised Visa Code can be considered relevant to dealing better with Visa Code objectives**. However, considering the impact of COVID-19 during 2020 and 2021 and the fact that implementation of certain aspects of the amendments introduced by the Visa Code is still ongoing, the relevance of those amendments to the objectives remains to be assessed.

Considering one of the primary objectives of the amended Visa Code (**contribute to a more harmonised, flexible and secure EU visa policy**), evidence from the Member State survey shows that, according to most respondents, visa procedures and conditions are considered further harmonised<sup>283</sup> across Schengen countries, more streamlined<sup>284</sup>, as well as more flexible<sup>285</sup> and simpler<sup>286</sup> **for applicants**. This assessment was confirmed by the interviews with Member States and consulates, where the majority of stakeholders<sup>287</sup> indicated that the amended Visa Code deals better with the Visa Code to some extent. Nevertheless, respondents seem to perceive that the procedures for consulates have not yet achieved their objectives, as only a small number of Member States indicate that procedures are less lengthy and cumbersome **for consulates**<sup>288</sup> or that they are more flexible **for consulates**<sup>289</sup>.

The objective of ensuring **sufficient financial resources to cover the Member States' expenses of processing visa applications** seems not to have been achieved fully but at the same time the increase in the visa fee continues to be seen as a relevant amendment, considering the higher cost of living. In particular, stakeholders did not agree that the new provisions of the amended Visa Code have reduced the administrative expenses related to visa procedures and that the additional financial resources raised via the increased visa fee are sufficient to ensure more streamlined visa processes and better service quality<sup>290</sup>. This assessment was confirmed by the interviews with Member States, during which a number of interviewees<sup>291</sup> indicated that although the increased visa fee is a positive development, it does not meet the costs of visa processing.

<sup>283</sup> 13/19 Member States.

<sup>284</sup> 12/10 Member States.

<sup>285</sup> 10/20 Member States.

<sup>286</sup> 8/20 Member States.

<sup>287</sup> Interviews with 12 Member States; Consulate 1, Consulate 2, Consulate 3.

<sup>288</sup> 3/17 Member States.

<sup>289</sup> 2/19 Member States.

<sup>290</sup> 4/16 Member States disagreed; 1/16 Member States strongly disagreed.

<sup>291</sup> Interviews with 4 Member States.



Among the arguments raised were that the visa fee does not reflect the higher cost of living in recent years, or rising wages and capacity issues, and that the visa fee should cover all costs of visa processing. Nevertheless, some interviewees<sup>292</sup> indicated that, overall, the raised visa fee is seen as relevant and that the fee is sufficient to cover the costs and that the increase has, for instance, allowed them to invest in more equipment and staff. While the evidence on addressing administrative expenses shows that the objective has not been fully achieved, this finding is also impacted by the small number of visas issued during the COVID-19 period and a small window during which the assessment could be made.

It appears that **the objectives of the Visa Code could not be better addressed by adopting other regulatory/non-regulatory measures**. The majority of Member States<sup>293</sup> responding to the survey indicated that similar results could not have been achieved by adopting different types of measures, such as recommendations and opinions.

During the interviews, Member States<sup>294</sup> generally confirmed that the objectives of the Visa Code could not be better addressed by adopting other regulatory / non-regulatory measures. Nevertheless, some Member States<sup>295</sup> indicated that non-regulatory measures, such as including more details in the Visa Code Handbook accompanying the Regulation or guidelines, could also contribute to achieving the objectives of the Visa Code. According to interviewees, guidelines on exceptional situations such as pandemics or war could be useful. In addition, the following aspects require further clarification in the Handbook:

- It is unclear whether the current exemptions included in Article 16 of the amended Visa Code are applicable to ATVs;
- It is unclear whether exemptions for EU family members for ATVs are applicable within the EU or also for entering from a third country, as well as the category of family member to whom the exemption applies;

It appears that the **changes introduced by the amended Visa Code were relevant to address the challenges identified in 2019 to some extent**.

The **challenge of administrative expenses incurred by Member States in visa processing not being fully covered by the visa fee seems not to have been addressed fully**, nevertheless the increase in the visa fee continues to be seen as a relevant amendment by stakeholders, considering the increased cost of living.

The continued challenge of **harmonising visa practices** indicates that amendments aimed at bringing more clarity to the issuance of MEVs were relevant, although some implementation challenges persist. While Member States overall perceive the introduction of the MEV cascade as a positive development (see section 4.1.1), there remains further room for alignment on the implementation of the cascade rule. The majority of respondents to the Member States survey<sup>296</sup> indicated that the cascade rule led to the harmonisation of MEV issuance to some extent. External factors such as COVID-19 and the war in Ukraine, as well as remaining challenges such as visa-shopping, have also contributed to the lack of

<sup>292</sup> Interviews with 3 Member States.

<sup>293</sup> 11/15 Member States.

<sup>294</sup> Interviews with 5 Member States.

<sup>295</sup> Interviews with 3 Member States.

<sup>296</sup> 13/17 Member States, while 5 Member States indicated there is harmonisation to a 'large extent'.

harmonisation among Member States, according to stakeholders.

**EQ7. Relevance of the amended Visa Code to address current and emerging needs: To what extent is the amended Visa Code suitable to address current and emerging challenges affecting the application of the EU's visa policy/Schengen acquis?**

**EQ7.1.** How aligned is the amended Visa Code with current and future needs and challenges in the field of visas and more broadly, the application of the Schengen acquis?

**EQ7.2.** To what extent is the amended Visa Code suitable to adapt to the growing trend of digitalisation of administrative procedures?

<p>The challenges, needs and priorities related to the application of the EU visa policy and the Schengen acquis [have / have not] evolved since 2019.</p> <p>The amended Visa Code addresses current and future needs and developments which are relevant for the application of the EU's visa policy and the Schengen acquis (for instance, full digitalisation of the visa procedure by 2025, interoperability of IT systems, heightened security and irregular migration risks, etc.) to [full / a large / some / no] extent.</p>	<p><b>Qualitative indicators:</b></p> <p>Level of coverage of challenges, problems and objectives related to Schengen acquis, reflected in official documents adopted at EU level before / after the amendment of the Visa Code (e.g. 2020 Schengen evaluation).</p> <p>Level of coverage of other current and emerging challenges, problems and objectives related to the Schengen acquis, not reflected in official documents.</p> <p>Mapping and typology of new and emerging challenges identified since 2020 identified in legislative, policy and other documents adopted at EU level concerning the implementation of EU visa policy and the Schengen acquis.</p> <p>Identification and typology of current and expected future challenges and needs linked to the application of the Schengen acquis (including security, migration, economic development, digitalisation, interoperability of large-scale IT systems, etc.).</p> <p><b>Opinion-based indicators:</b></p> <p>Perceptions from stakeholders and experts that the changes introduced by the amended Visa Code addressed the problems and challenges existing at the time of its adoption.</p> <p>Stakeholder and expert perceptions of whether there was room for further alignment between the changes introduced by the amended Visa Code and the problems and needs identified in 2018.</p> <p>Perceptions from stakeholders and experts that the amended Visa Code addresses current problems and challenges linked to the application of the visa policy or in related policy areas.</p> <p>Stakeholder and expert perceptions of whether there is room for further alignment between the amended Visa Code and current and expected future challenges and needs identified.</p>	<p>Desk research (e.g. EU legislative and strategic documents, including the New Pact on Migration and Asylum and the EU Security Union Strategy, 2020 Schengen evaluation and other evaluations and studies of elements of the Schengen acquis).</p> <p>Stakeholder feedback on the ability of the amended Visa Code to address current and emerging challenges and needs related to</p>
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the Schengen  
acquis.

ISG  
consultations.

#### Answer:

The amended Visa Code appears to be aligned with **current and future needs, challenges and developments relevant for the application of EU visa policy and the Schengen acquis to some extent.**

Stakeholders<sup>297</sup> indicated that it is not yet possible to determine the extent to which the new amendments contribute to **preventing irregular migration and heightened security risks**, due to the COVID-19 pandemic and the war in Ukraine, which impacted the assessment. Several stakeholders<sup>298</sup> indicated that there has been no change registered in the area. Nevertheless, one stakeholder<sup>299</sup> expressed the opinion that security and irregular migration risks have worsened in the years following the amendment of the Regulation. This was confirmed by desk research showing that approximately 200,000 illegal crossings were recorded at the external borders of the EU in 2021, an increase of 57 % compared to 2020 and 38 % compared to 2019<sup>300</sup>. As a consequence of the increasing uncertainty in major countries of origin and the economic decline due to the COVID-19 pandemic, this trend continued in 2022, when 330 000 irregular border crossings were detected, the highest number since 2016 and an increase of 64 % from the previous year<sup>301</sup>. Overall, a number of stakeholders<sup>302</sup> perceive that the amended Visa Code has been relevant in tackling irregular migration and security risks at the time of its adoption, yet also mentioned the unexpected impact of current and emerging challenges such as COVID-19 and the war in Ukraine. As such, some stakeholders<sup>303</sup> suggested that more detail needs to be included in the Handbook accompanying the Regulation, or guidelines, particularly on exceptional situations such as pandemic or war. In order for the Visa Code to remain relevant, an update of the Handbook would be needed, based on recent developments and challenges.

The amended Visa Code is relevant **to the growing trend of digitalisation of administrative procedures** in that it sets out the path towards

<sup>297</sup> Interviews with 5 Member States.

<sup>298</sup> Interviews with 4 Member States.; Consulate 1.

<sup>299</sup> Consulate 1

<sup>300</sup> ICMPD, Twelve migration issues to look out for in 2022, Migration Outlook Report, 2022, p.1, <https://www.icmpd.org/news/migration-outlook-report-57-rise-in-2021-irregular-migration-growing-crises-at-borders-and-key-elections-signal-eu-migration-pivot-in-2022>

<sup>301</sup> Frontex, EU's external borders in 2022: Number of irregular border crossings highest since 2016, 2023, <https://frontex.europa.eu/media-centre/news/news-release/eu-s-external-borders-in-2022-number-of-irregular-border-crossings-highest-since-2016-YsAZ29> <https://frontex.europa.eu/media-centre/news/news-release/eu-s-external-borders-in-2022-number-of-irregular-border-crossings-highest-since-2016-YsAZ29>

<sup>302</sup> Interviews with 3 Member States.

<sup>303</sup> Interviews with 3 Member States.

further digitalisation of the visa process, but this process is still ongoing. While the environment of visa policy has changed significantly, with migration and security challenges increasing in recent years, the European Commission's 2022 proposal for a Regulation on the digitalisation of the visa procedure<sup>304</sup> underlines that important technological developments provide new opportunities to make the visa application process easier for both travellers and consulates. By introducing the possibility for visa applicants to sign application forms electronically, the amended Visa Code has created the possibility for the digital submission and processing of visa applications in the future, making it relevant in the context of wider EU efforts. Nevertheless, most Member States have only digitalised parts of the short-stay visa process and still rely heavily on paper-based procedures. So far, only a small number of consulates process electronic signature applications (see section 4.1.5).

**EQ8. Gaps: Are there any other needs or issues that should be addressed by the Visa Code?**

**EQ8.1.** Were there any relevant elements or challenges affecting the application of the EU visa policy identified in 2018, which should be further addressed in the Visa Code?

**EQ8.2.** Are there any new elements or circumstances, including the outbreak of the COVID-19 pandemic, that could not be foreseen when the Visa Code was amended and that should be taken into account due to their potential impact on visa processing?

Some of the problems identified prior to 2018 and which were not captured in the amended Visa Code should have been explicitly addressed by the amendment of the Visa Code (e.g. requirement of TMI, automatic representation of Member States not present in a location, collection of more detailed data).	<p><b>Quantitative indicators:</b> Number of current or emerging needs or problems that are not addressed by the amended Visa Code.</p> <p><b>Qualitative indicators:</b> Typology of current or emerging elements or problems impacting / potentially impacting the application of the Visa Code and visa processing. Degree to which the current problems identified were reported / reflected in evaluations and studies prior to 2019. Degree of importance of the identified gaps, in terms of their potential impact on visa processing.</p>	Desk research (e.g. evaluations and IA of the Visa Code, EU legislative and strategic documents, including the New Pact on Migration and Asylum and the EU Security Union Strategy, 2020 Schengen
New challenges or elements identified (including the outbreak of the COVID-19 pandemic, difficulties submitting visa information into the VIS) [are / are not] likely to	<p>Suitability of the Visa Code to cover the identified, unaddressed problems.</p> <p><b>Opinion-based indicators:</b> Proportion of stakeholders and experts who consider that there are gaps or unaddressed issues / needs which impact / will potentially impact visa processing. Stakeholders' and experts' opinion on the suitability of the Visa Code to address these</p>	

<sup>304</sup> European Commission, Impact assessment report accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 767/2008, (EC) No 810/2009, and (EU) No 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, SWD(2022) 658 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52022PC0658>

<p>affect the application of EU visa policy in the coming years. The Visa Code [is / is not] a suitable tool to address the new challenges or elements identified.</p>	<p>gaps. Stakeholders' and experts' views on the suitability of other regulatory / non-regulatory measures that could be used to address the objectives of the Visa Code.</p>	<p>evaluation and other evaluations and studies of elements of the Schengen acquis).  Stakeholder feedback on the suitability of the Visa Code to address challenges and objectives currently not covered.  ISG consultations.</p>
<p><b>Answer:</b></p> <p>Findings show that <b>certain challenges affecting the application of the EU visa policy identified in 2018 should be further addressed in the Visa Code</b>. When asked about challenges to be addressed to improve the management of migration and security through visa policies, Member States and consulates mainly focused on issues like <b>visa shopping</b> (resulting from a lack of full harmonisation of visa policy)<sup>305</sup>. Other elements reported were <b>preventing fraud</b><sup>306</sup> in relation to the authenticity of certain documents.</p> <p>According to one Member State interviewed<sup>307</sup>, the topic of <b>determining the competent state to process the application</b> remains an unaddressed challenge, as does the list of supporting documents which may be requested from the applicant, given technological developments that may make some documents irrelevant. Other challenges indicated include:</p> <ul style="list-style-type: none"> <li>▪ Lack of <b>human resources</b><sup>308</sup>;</li> </ul>		

<sup>305</sup> 7 Member States, 2 consulates.

<sup>306</sup> 2 Member States, 2 consulates.

<sup>307</sup> Joint interview with 1 Member State

- No provisions in case of **exceptional circumstances** such as pandemic or war<sup>309</sup>;
- Appointment and processing **delays**<sup>310</sup> (demand for visa appointment slots exceeds what Member States can handle, especially following the lifting of international travel restrictions);
- Challenge **to recruit competent, long-term staff** in ESPs<sup>311</sup>.

It does not necessarily follow that these issues require further amendments to the Visa Code itself but may be possible to resolve through further harmonisation of Member State practices.

**The COVID-19 pandemic and the war in Ukraine are the two elements that should be taken into account, due to their potential impact on visa processing.**

The majority of consulates<sup>312</sup> perceived that **COVID-19** had an effect on visa issuing procedures. The view was supported by most of the stakeholder interviews<sup>313</sup>, indicating that the pandemic impacted visa issuing. More specifically, it was underlined that the COVID-19 pandemic could not be disregarded, as it covers almost the entire period since the introduction of the amendments<sup>314</sup>. The following negative and positive impacts on visa processing were reported by stakeholders:

- Reduced numbers of applications and travellers;
- Inability to fully apply the Visa Code requirements (e.g. MEV cascades);
- Lengthy verification of vaccinations when entering a Schengen country;
- Higher refusal rates;
- Increased use of forged documents;
- Closure of ESPs' visa applications centers (VACs);
- Decreased administrative burden and costs;
- More time for assessment due to lower numbers.

Another factor that was not foreseen according to a number of stakeholders<sup>315</sup> was the **war in Ukraine**, which led to changes in the number of applications, for instance a decrease of applications from Russia and Belarus and an increase of applications from Ukrainian nationals. It was

<sup>308</sup> Interviews with 3 Member States.

<sup>309</sup> Interviews with 1 Member States.

<sup>310</sup> Interviews with 2 Member States.

<sup>311</sup> Interviews with 1 Member States.

<sup>312</sup> 20/21 consulates.

<sup>313</sup> 11 national authorities; 4 industry representatives.

<sup>314</sup> Interviews with 3 Member States.

<sup>315</sup> Interviews with 6 Member States.



reported that the whole market is bound to the situation, which led to the consequent increase of prices and decrease in numbers of people travelling<sup>316</sup>.

Overall, while stakeholders do not perceive that additional amendments to the Visa Code are necessary to accommodate these new developments, it would be useful to include more details in the Handbook accompanying the Regulation, or guidelines on exceptional situations such as pandemics or wars.

**EQ9. To what extent is the design of the cycle still relevant?**

**EQ9.1.** To what extent is the frequency of the assessment report still relevant?

**EQ9.2.** To what extent is the content and structure of the report still relevant ?

**EQ9.3.** To what extent does the report inform decisions taken for the adoption of COM proposals and Council Implementing Decisions?

<ul style="list-style-type: none"><li>▪ The annual character of the assessment report is fit-for-purpose.</li><li>▪ The content and structure of the report facilitates Council discussions [including on definition of countries of interest] (evidence-based policy)</li><li>▪ The annual report forms the basis for decisions taken regarding adoption of COM proposals and Council Implementing Decisions.</li></ul>	<p><b>Opinion-based indicators:</b></p> <ul style="list-style-type: none"><li>▪ Perception of stakeholders on frequency of report</li></ul> <p>Perception of MS/SAC on relevance of the content of the annual assessment report</p>	<p>Stakeholder interviews</p> <p>Stakeholder quantitative survey</p>
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**Answer:**

Perception of stakeholders on frequency of report

Member States/SAC were asked as part of the survey whether they consider the frequency of the annual assessment report to still be relevant and useful. 88% of Member States/SAC replied that indeed an annual assessment is meaningful, 8% considers the assessment should be carried out less often, while 4% considers it should be carried out more often.

The majority of Member States claimed that the production of more than one assessment per year would neither be useful nor practically possible. During interviews, Frontex also supported the annual character of the assessment report.

<sup>316</sup> Interviews with 1 Member States.

### Perception of MS/SAC on relevance of the content of the annual assessment report

During the interviews conducted, about half of the Member States/SAC (47%) emphasised the importance of rethinking the content and structure of the report to make it more useful, especially for Council discussions following the adoption.

In their view, while the adoption of the report officially kickstarts discussions for the identification of countries of interest, discussions in the Council reflect overall relation considerations. Many stakeholders expressed the opinion that decisions are made on the basis of political priorities.(COM, MS/SAC, Council, EEAS).

As suggestions for the improvement of the relevance and usefulness of the report, Member States/SAC proposed the following:

- 1) Analysis of political aspects/context when assessing the cooperation with third countries (18%)
- 2) Leaner, more succinct report (18%)
- 3) Inclusion of summary/clustering of countries in categories (18%)
- 4) Reduction of number of countries assessed (12%)

When it comes to the addition of a political perspective, EEAS also supported this view, expressing its intention to be further involved in the drafting of the report. The assessment is currently carried out on the basis of the indicators listed in the legal basis, which cover exclusively readmission cooperation. In the EEAS opinion, for any decisions to be taken, the overall political context needs to be considered. Their involvement in the drafting of the report, they believe, would help enrich the content with political information which would facilitate discussions: EU external interests, the overall relations with and the political situation in the assessed third countries.

Finally, in one of its replies to the survey, one MS among those not interviewed also questioned the usefulness of the report in its current form.

### EFFICIENCY

#### Efficiency

#### **EQ10. Implementation costs and benefits: What costs and benefits were generated by the application of the amended Visa Code?**

**EQ10.1.** What are the implementation costs and benefits of the amended Visa Code in each Member State and overall?

**EQ10.2.** Are there any particular differences in costs and benefits across Member States? If so, what causes these differences?

**EQ10.3.** Is the increased amount of the visa and service fees that has been allowed according to the new Regulation appropriate (i.e. cover expenses without leading to inadequate and overestimated measures and equipment)?

The application of the amended Visa Code [generated / did not generate] [quantifiable / non-quantifiable] costs / benefits for [EU authorities]

#### **Quantitative indicators:**

Quantifiable costs and benefits linked to the application of the amended Visa Code generated for each of the stakeholder groups, i.e. cost of lodging applications (including cost of travel), as well as in connection with frequency of having to

Desk research (2020 Schengen evaluation and other

<p>/ Member State authorities / external service providers / industry representatives / third-country nationals / other stakeholders].</p> <p>Application costs / benefits are linked to the changes seeking to make visa procedures more flexible / harmonising the application of the MEV rules / ensuring sufficient financial resources to support visa processing.</p> <p>The application of certain amendments introduced by the amended Visa Code was particularly costly / beneficial.</p> <p>Significant variances in the application costs incurred / benefits generated by Member States can / cannot be identified.</p> <p>The variances in costs / benefits generated by the application of the amended Visa Code across Member States are linked to internal factors (e.g. existing practices at the time the amendment was adopted, available resources, presence in third countries, policies implemented, digitalisation of the visa application process, reliance of external service providers, agreements with third countries and with other Member States).</p> <p>The variances in costs / benefits</p>	<p>apply for new visas, cost of verifying evidentiary requirements, cost linked to the examination / decision / communication of the decision, cost of visa issuance, other costs of implementation (e.g. training, investments in technical equipment); benefits include: revenues from visa fees, economic benefits for the tourism industry and other sectors).</p> <p>Quantifiable costs and benefits linked to the implementation of the changes introduced by the amended Visa Code.</p> <p>Costs incurred by Member States and / or ESPs to process and examine visa applications.</p> <p>Number of countries in which the costs of processing and examining visa applications is higher than the service and visa fees applicable (and vice-versa), and comparison to the baseline.</p> <p>Level of investment by consular authorities over the period to modernise, train and or digitalise visa processing.</p> <p><b>Qualitative indicators:</b></p> <p>Extent to which the costs and benefits and results linked to the application of the amended Visa Code can be quantified.</p> <p>Extent to which revenues derived from visa fees cover the cost of processing visas.</p> <p>Identification of unquantifiable costs and benefits linked to the application of the amended Visa Code (e.g. qualitative benefits include: increased tourism, increased cultural, educational, political, and religious exchanges).</p> <p>Typology of quantifiable / unquantifiable costs and benefits generated by the application of the amended Visa Code.</p> <p>Extent to which the costs and benefits linked to the application of the amended Visa Code varied across Member States.</p> <p>Identification and typology of internal / external factors that affected the level of costs and benefits generated by the amended Visa Code.</p> <p>Typology of internal / external factors explaining the significant discrepancies in costs / benefits identified.</p> <p>Extent to which the increase in the visa and service fees was appropriate to cover – while not overestimating – the costs of visa procedures for Member States / ESPs.</p> <p><b>Opinion-based indicators:</b></p> <p>Opinions of stakeholders on the typology of costs and benefits linked to the application of the amended Visa Code.</p> <p>Stakeholder and expert feedback on the existence of changes or provisions that are</p>	<p>evaluations and studies of elements of the Schengen acquis, cost data reported by Member States).</p> <p>Stakeholder feedback on the costs and benefits generated by the implementation of the amended Visa Code (Member State authorities, EU stakeholders).</p> <p>Case studies.</p>
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<p>generated by the application of the amended Visa Code across Member States are linked to external factors (e.g. number of visa applications, origin of visa applicants, level of security and irregular migration risks).</p> <p>The amount of the increase in visa and service fees [is / is not] considered appropriate (i.e. it covers but does not overestimate the costs linked to the processing of visas).</p> <p>[There are / there are no] wide discrepancies in the perceived appropriateness of the current amounts.</p> <p>A revision of the [visa / service] fees [is / is not] required.</p>	<p>particularly costly.</p> <p>Stakeholder and expert perceptions of the extent to which the costs and benefits linked to the application of the amended Visa Code varied across countries, and the reasons that explain the discrepancies.</p> <p>Proportion of stakeholders and experts considering that the costs not covered by the increase of fees are recouped indirectly through the revenue generated by third-country nationals from visa-required countries who travel to the Schengen area.</p>
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**Answer:**

The analysis identified direct costs and benefits related to the implementation of the amended Visa Code for third-country nationals applying for a visa and for Member States and consulates processing the visa requests, as well as indirect benefits for the broader set of stakeholders (mostly tourism and transport-related industry). Due to the limitations in the data availability, the analysis has managed to quantify and monetise only a limited number of the direct costs and benefits identified.

The amended Visa Code created **an increase in the visa fee (from EUR 60 to EUR 80) and service fee for visa applicants**, of different amounts depending on the Member State and the third country where the ESP is located. The amended Visa Code provides some flexibility for Member States in fixing the service fee, which can be raised up to EUR 120 under particular conditions. None of the Member States for which information is available used this possibility (with very limited exceptions, the service fees remain below the EUR 40 threshold). Despite the increase in both the visa fee and the average service fee, the total of the fees charged to third-country nationals under the amended Visa Code was lower than the visa fee charged by the US (USD 160, approximately EUR 150) and Australia (AUD 150 for travellers and AUD 1,200 for the frequent travellers' stream, approximately EUR 92 and EUR 738, respectively). Despite this increase in application costs, third-country nationals applying for a visa are likely to **benefit from the simplification and harmonisation of the visa procedures and (expected) lower processing times**, as well as less effort to collect the visa documentation, file the application and complete the process. In addition, the increasing cooperation with ESPs (see section 3.6) has reduced the need for long-distance travel for the visa application. While digitalisation of the visa

process is still limited (see section 3.4), it is also expected to reduce the burden (and thus the costs) for visa applicants.

**National authorities have incurred specific direct costs for the implementation of the new provisions of the Visa Code, mostly one-off costs** (consisting primarily of setting-up or updating existing IT infrastructures and/or training staff), and **recurring costs** (costs for operating the systems mentioned above, staff costs for processing visa applications following the new procedures). Based on the evidence collected, it is not possible to identify major implementation costs directly related to the amended Visa Code.

The evidence available on the **costs incurred for the digitalisation of the visa process** shows very different figures among Member States. For instance, Belgium reported a value of EUR 2 million, Slovenia about EUR 600,000 and Germany EUR 1.65 million covering costs of digitalisation and the operational costs of the national visa system. These figures need to be read cautiously because it is not entirely clear how much of these costs is directly linked to the implementation of the amended Visa Code and what relates to the more general digitalisation process ongoing in national administrations. In fact, **a broader digitalisation process seems to be the stronger driver, boosted by the need to respond to the COVID-19 pandemic** (see section 3.4). Several Member States reported that the digitalisation process of their visa system is on hold while waiting for upcoming EU provisions and related updates in procedures (new prepared Regulation on digitalisation of visa procedure). Information on other direct implementation costs for Member States and consulates (such as training, hire of new staff) is provided in EQ9.

Data limitations in the analysis and the consequences of the COVID-19 pandemic (and more recently, the Russian invasion of Ukraine) make it **difficult to discern large differences in implementation costs among Member States, in addition to those due to contingent factors, such as country size and attractiveness**. The limited figures on the costs of the digitalisation process need to be interpreted carefully, as they may include broader costs related to digitalisation, rather than those directly related to the amended Visa Code. Despite national differences, the information shows some convergence among Member States in respect of the effort needed to process visa applications, largely offset by external factors (see section 1.4.3).

**The increase in fees for visa applicants corresponds to an increase in revenue for Member States (and ESPs), as the visa and service fees are essentially a transfer from one category of stakeholder to another.** The analysis included an estimation of maximum revenues from the combination of visa and service fees for the 2018-2022 period (see section 4.1.2), which needs to be read with caution. In addition to the limited comparability of data on visa and service fees for applicants, it is not clear whether and to what extent the visa fee for applications via ESPs is retained (entirely or partially) by them or transferred to Member States. Therefore, the two streams of revenues are aggregated. The analysis shows that despite an increase in both visa and service fees from 2020, the combined revenues dropped in the 2020-2021 period, then increased in 2022, although still below 2019 levels. This shows the direct effects of the COVID-19 pandemic and the related travel restrictions, which offset any direct effect of the amended Visa Code for the period. Direct effects on revenues from the increased visa fee for Member States would be difficult to discern in any case because the revenue for visa fees are typically included in the general State budget and are not earmarked for the visa process. In very limited cases, it is possible to link the additional revenues from the visa fee to earmarked relevant expenditures and/or activities, such as new IT equipment, new staff and staff training and development. The additional revenue was not always sufficient to support the entire costs of such expenditure and/or activity.

Among Member States, there is a general consensus that the **amended Visa Code brought a streamlining and harmonisation of visa procedures, but the views on the implications of such streamlining and harmonisation for consulates and national authorities are less**

**clear.** The limited evidence available on the effort needed to process visa applications shows a convergence among Member States, and an initial reduction, to a large extent offset by external factors (mostly the COVID-19 pandemic and its impacts on travel restrictions, as well as on health-related documentation) (see EQ9 and EQ10).

For the industry, the new rules on visa validity positively contributed to facilitating mobility and attracting travellers. Industry stakeholders welcomed efforts to facilitate visa procedures and reported increased income mobility from simplified procedures. While it was not possible to quantify such effects, they are consistent with the industry expectations on the amended Visa Code, as identified during the impact assessment phase. Travel and industry stakeholders had identified lengthy visa procedures as deterrent for tourism (causing up to 21% of abandonments of travel plans to the EU from tourist from emerging markets)<sup>317</sup>.

**EQ11. Efficiency of the implementation:** Was the amended Visa Code applied in an efficient manner?

**EQ11.1.** Have the results that can be attributed to the amended Visa Code been achieved at a reasonable cost? Are the costs justified and proportionate to the benefits?

**EQ11.2.** To what extent has the increase of fees resulted in the increase of appropriate structures and staff and improved the quality and integrity of the examination of applications?

**EQ11.3.** What factors have influenced the efficiency of the amended Visa Code? How? To what extent?

<p>The costs incurred by EU stakeholders / Member States / external service providers / industry representatives / third-country nationals [are / are not] considered reasonable, proportionate and justified in light of the results achieved by the amended Visa Code.</p> <p>The evaluation [identifies / does not identify any] inefficiencies in the application of the amended Visa Code.</p> <p>The increase of visa fees had [a positive / a negative / no impact] on the efficiency levels of visa authorities.</p>	<p><b>Quantitative indicators:</b> Ratio of quantifiable costs and benefits, per stakeholder group and per Member State.</p> <p><b>Qualitative indicators:</b> Extent to which quantifiable costs are higher than quantifiable benefits, per stakeholder group. Extent to which quantifiable and non-quantifiable benefits justify the costs incurred by each stakeholder group. Identification of inefficiencies in the application of the amended Visa Code, per provision / change where possible. Identification and typology of factors resulting in efficiencies in the application of the amended Visa Code. Identification of stakeholder groups affected by the inefficiencies identified.</p> <p><b>Opinion-based indicators:</b> Share of stakeholders considering that the results were achieved in the most cost-effective way possible. Share of stakeholders who identify inefficiencies in the application of the amended</p>	<p>Desk research (2020 Schengen evaluation and other evaluations and studies of elements of the Schengen acquis, cost data reported by Member States).</p> <p>Stakeholder feedback on costs and</p>
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<sup>317</sup> SWD(2018) 77 final, p. 13



Internal factors [have / have not] been identified which resulted in inefficiencies in the implementation of the amended Visa Code.	<p>Visa Code.</p> <p>Opinion of stakeholders on the type of inefficiencies identified and the internal / external factors that explain them, and the degree to which they influenced the efficiency of the application of the Visa Code.</p>	<p>benefits generated by the implementation of the amended Visa Code (all stakeholder groups).</p> <p>ISG consultations.</p>
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**Answer:**

Member States agreed that the amended Visa Code brought a streamlining and harmonisation of visa procedures, but the views on the implications of such streamlining and harmonisation for consulates and national authorities are less clear. The implementation of the amended Visa Code does not seem to have introduced more flexible, less lengthy and cumbersome procedures for consulates, nor to have notably decreased administrative costs. Similarly, it is not clear whether the benefits and cost savings related to the amended Visa Code outweigh the implementation costs.

The evidence available does allow for to conclude that the amended Visa Code contributed to more harmonised and more streamlined procedures across Member States, streamlining of visa procedures at least to some extent (especially as regards MEVs) . There is some evidence that the new provisions have also reduced the administrative burden for consular authorities, though the extent is still unclear. A trend towards streamlining and alignment (and limited reduction of processing time for visa applications) seems to have been in place already, but this and any further simplification brought by the amended Visa Code was offset by the consequences of the COVID-19 pandemic and, more recently, the Russian invasion of Ukraine (see section 1.4.3).

The data show that only four consulates hired new staff after 2020 to support the processing of visa requests. However, the increasing reliance on ESPs in many Member States and, most importantly, the impacts on travel restrictions imposed during the COVID-19 pandemic, impacted the workload of national authorities and consulates, likely prompting the revision of hiring plans. The increasing volumes of visa applications registered in 2022 could lead to the need for new resources, although this is not yet evident. In fact, the majority of the consulates affirmed that the resources currently employed are not sufficient to ensure a good quality of service to the public. The delay between the need for new resources and the (successful) conclusion of the hiring procedures could explain this gap.

There is no information available on the training costs directly related to the implementation of the amended Visa Code for staff in national authorities and consulates. Nevertheless, the majority of the respondents considered the training, guidance and capacity-building available to consular staff to be sufficient.

**EQ12. Regulatory and administrative burden:** What effect had the amended Visa Code on the regulatory and administrative burden linked to the application of the Code?

**EQ12.1.** Is the regulatory burden on Member States created by the application of the amended Visa Code commensurate with observable results?

**EQ12.2.** Has the amended Visa Code simplified or reduced administrative burden without undermining the intended objectives of the intervention?

<p>The amendment of the Visa Code [resulted / did not result] in an additional regulatory burden.</p> <p>The regulatory burden affected [EU authorities / Member State authorities / external service providers / industry / third-country nationals / other stakeholders].</p> <p>The regulatory burden generated by the amendment of the Visa Code [is / is not] considered justified in light of the results achieved by the intervention.</p> <p>The amended Visa Code led to [an increase / a reduction] of the administrative burden at EU / national level.</p> <p>The [reduction / increase] of administrative burden [undermined / did not undermine] the objective sought by the intervention.</p> <p>The [increase / decrease] of administrative burden affected [EU authorities / Member State authorities / ESPs / industry / third-country nationals / other stakeholders].</p> <p>[There is / there is no] room for further simplification or reduction of administrative burden in a way that</p>	<p><b>Quantitative indicators:</b></p> <p>Number of Member States reporting an increase / a reduction in the administrative burden as a result of the amended Visa Code.</p> <p>Number of Member States reporting regulatory burden caused by the implementation of the amended Visa Code.</p> <p><b>Qualitative indicators:</b></p> <p>Extent to which the regulatory burden caused by the implementation was an obstacle to achieving the intended results.</p> <p>Identification and typology of aspects affected by the increase / reduction of administrative burden, disaggregated by stakeholder group where possible.</p> <p>Typologies of synergies, procedural simplifications and reductions in obligations resulting from the amended Visa Code.</p> <p>Identification of aspects where administrative procedures and structures could be further simplified.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that the regulatory burden created by the 2019 amendment of the Visa Code is justified in light of the results achieved.</p> <p>Proportion of stakeholders considering that the changes to the Visa Code introduced in 2019 reduced the administrative burden for EU authorities / Member State authorities / ESPs / industry representatives / third-country nationals / other stakeholders.</p>	<p>Desk research (2020 Schengen evaluation and other evaluations and studies of elements of the Schengen acquis, cost data reported by Member States).</p> <p>Stakeholder feedback on the effect of the 2019 amendment on the regulatory and administrative burden (all stakeholder groups).</p> <p>Case studies.</p> <p>ISG consultations.</p>
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does not undermine the objectives of the amended Visa Code.

**Answer:**

The analysis only focused on the direct regulatory costs for Member States, in particular on the direct personnel costs for examining the applications and issuing the visas, using the efforts (measured in FTE) necessary for Member States' staff to process the visa applications in the years in scope (2018-2022), for the applications submitted via the consulates in the five Member States that provided information (Italy, Malta, Netherlands, Slovakia, Sweden and Norway). The detailed results of the analysis including tables and figures are provided in section 4.1.3.

Analysis of the limited evidence shows that in the years immediately preceding the entry into force of the amendments to the Visa Code (2018 and 2019), the average processing time shortened (from 9.1 to 7.9 FTE/days) and the differences between Member States reduced (standard deviation fell from 4.9 to 2.7). This seems to indicate that some streamlining and alignment of the visa processing was in place already, and has continued under the implementation of the amended Visa code, albeit to a somewhat limited extent. The information available does not allow for a clear explanation of year-to-year variations, but it likely reflects several factors, such as availability of resources, volumes of applications processed (by consulates rather than ESPs), degree of digitalisation of processes and consulates' access to relevant IT systems, as well as the demand for visas, which was strongly influenced by travel restrictions in the 2020-2021 period. The limited evidence collected pointed to the contribution of the amended Visa Code to the streamlining of visa procedures at least to some extent (especially as regards MEVs), and to the reduction of administrative burden for consular authorities, though the extent is still unclear. However, external factors have impacted greatly this process. **Data on visa applications for 2022 shows an increase, albeit not back to pre-COVID-19 levels, and affected by the Russian invasion of Ukraine. All five Member States show an increase in visa processing time in 2020 (compared to 2019 and often 2018). That increase was not fully absorbed in the following years and is still visible in 2022 data. One direct consequence of the COVID-19 pandemic was an increase in the health-related documents to be provided by applicants and checked by consulates, such as COVID-19 tests and proofs of vaccination, which impacted the visa application processing time. This, in addition to limited resources and the time needed to integrate new elements to the visa application process, explain much of the 2020-2021 data.**

When considering the direct staff costs for visa processing, a simple standard cost model (SCM) can be applied to the effort data over salary costs and the number of visa applications submitted to consulates. The lack of data limited the analysis, with results to be read cautiously. The aggregated data show a general reduction in costs over the period, which can be largely attributed to the (much) lower volume of visa applications processed in the 2019-2022 period compared to 2018. Other factors also need to be considered, i.e. the increasing share of applications processed by ESPs (see section 3.6). **Overall, it is difficult to discern any direct effect of the amended Visa Code on the regulatory and administrative burden linked to the application of the amended Visa Code for Member States (ministries and consulates). A trend towards streamlining and alignment (and limited reduction of processing time for visa applications) seems to have been happening already. It was offset by the COVID-19 pandemic and, more recently, the Russian invasion of Ukraine.**

The findings suggest some consensus that the amended Visa Code simplified the visa process and reduced differences between Member States. As part of the new provisions, the increase in the visa fee (from EUR 60 to EUR 80) was intended to support Member States to meet the costs of the visa process and improve their service delivery (e.g. digitalisation, hiring new resources, staff training). External factors such as the COVID-

19 pandemic and the Russian invasion of Ukraine greatly impacted the travel decisions of third-country nationals, with a significant effect on the allocation of resources for visa processes in Member States.

**When comparing the revenue for Member States from visa applications with direct staff costs, the data show that the ratio of costs covered by the visa fee changed little over the period considered (even following the increase to EUR 80), remaining a small proportion of direct staff costs.** While the contribution of the visa fee to the coverage of costs increased in 2019 compared to 2018 (an effect of the fee increase to EUR 80), data are much more erratic for the following years. Internal factors (internal processes, digitalisation, cooperation with ESPs) and external factors (COVID-19 pandemic impacts on travel restrictions and health-related documentation) played a major role.

Previous analysis (EQ8) showed some consensus that the amended Visa Code simplified the visa process and reduced the differences between Member States. This view was confirmed by the survey to consulates, which found general consensus that the amendments to the Visa Code simplified the process and somewhat reduced the administrative burden.

The limited evidence on the effort needed to process visa applications shows a convergence among Member States, and an initial reduction already happening that was subsequently offset by external factors (COVID-19 pandemic impacts on travel restrictions and health-related documentation).

The use of MEVs and the systematic application of the MEV cascade rule across Member States is expected to bring further simplification in the medium-term. While it may be more burdensome to process a request for an MEV (one year or less) than a normal visa, over time the processing time should decrease. The MEV cascade rule should favour the creation of progressively complete track records of individuals meeting the requirements for MEVs (of incrementally longer validity), simplifying the processing of such requests. However, the data show that the use of MEVs with a validity of one year or longer remains relatively limited among Member States (see section 3.5) and these benefits may take longer than expected to materialise.

### **EQ13. To what extent have the processes set up under the art. 25a mechanism been efficient?**

**EQ13.1.** To what extent is the duration of the cycle efficient?

**EQ13.2.** What effect had the implementation of Article 25a have on the Member States in terms of additional administrative burden?

<ul style="list-style-type: none"> <li>Each stage of the cycle takes place in a set time frame, which allows for the achievement of the objectives.</li> <li>The implementation of article 25a processes has not led to a substantial increase of the administrative burden at EU level.</li> </ul>	<p><b>Qualitative indicators:</b></p> <ul style="list-style-type: none"> <li>Timeframe for the completion of each stage as well as the whole cycle (from data collection to Council Implementing Decisions and follow-up)</li> </ul> <p><b>Opinion-based indicators:</b></p> <ul style="list-style-type: none"> <li>Perception of stakeholders on the efficiency of the defined processes.</li> <li>Share of MS that report challenges connected to the additional administrative burden</li> </ul>	<p>Desk research</p> <p>Stakeholder interviews</p> <p>Stakeholder quantitative survey</p>
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created by the exercise at national level.

## Answer

### Timeframe for the completion of each stage & cycle:

For the purpose of this evaluation, it is considered that a cycle is completed at stage 6, with the adoption of implementing decisions.

The following 7 stages comprise a full cycle: Stage 1 - Data Collection; Stage 2 - Drafting of report; Stage 3 – Consultation and Approvals; Stage 4 – Adoption of Report; Stage 5 – Council Discussions; Stage 6 – Commission Proposals and Council Implementing Decisions; Stage 7 – Follow-up of Adopted Measures.

Cycle 1 commenced in February 2020 and was concluded in October 2021, when the Council Implementing Decision on The Gambia was adopted. The first stage (data collection) was completed in June of the same year (5 months duration). The report was adopted in February 2021 (8 months) and the Commission Proposals in July of the same year (5 months). The Council Implementing Decision on the Gambia was adopted in October 2021 (3 months), while the remaining two proposals are still on the table of negotiations in the Council. Finally, the European Parliament was informed about the progress achieved in the Gambia's cooperation on readmission during the LIBE Committee meeting of December 2022 (14 months after the adoption of the Council Decision). The whole cycle lasted about 22 months -excluding the follow-up to the implementing decision on the Gambia-.

Cycle 2 commenced in January 2021 and was concluded in December 2022. The first stage (data collection) was completed in May 2021 (5 months). The second annual report was adopted in December 2021 (6 months) and the Commission Proposals in November 2022 (11 months). The Council adopted follow-up measures on the Gambia in December 2022 (1 month). By the cut-off date of this evaluation, no follow-up to the European Parliament and the Council has taken place, as the 6-month period has not yet been completed. The cycle lasted about 23 months - excluding the follow-up to the measures on The Gambia-.

Cycle 3 commenced in January 2022 and has not yet been concluded. The first stage (data collection) was completed in June 2022 (6 months) and the third annual report was adopted in December 2022 (5 months). By end April 2023, no Commission Proposals had been drafted nor adopted. All stages leading to the adoption of the report were completed in a period of 11 months.

As regards Cycle 4, at the cut-off date of this evaluation, only the first stage (collection of data) has been completed, which lasted about 4 months.

### Perception of Stakeholders

During interviews, stakeholders were asked about the possibility to shorten the first stage of the cycle, by shortening the deadline for the completion of the questionnaire. The majority of Member States/Schengen Associated Countries (SAC) responded negatively to this (70% of countries interviewed). This is connected mostly to the fact that data collection requires additional efforts and extensive coordination between different parts of national administrations, according to 63% of the Member States/SACs representatives asked. Frontex also agreed with the

Member States'/SAC position. Two of the countries interviewed mentioned that if the questionnaire structure and content was different and the number of assessed countries shorter, then the time given for responding to the questionnaire could potentially be minimised.

79% of Member States/SAC asked, confirmed that the data requested are available at the beginning of the year when they receive the questionnaire. More specifically, 70% replied that data is available in Q1 of the next year. 48% of these Member States/SAC went further and specified that data is available in January/February. Only the representatives of one Member State replied that data becomes available in Q2.

Seven Member States/ SAC referred to the duration of the cycle as a whole, highlighting the need for a shorter, more efficient cycle with a set timeline and deadlines. This position was also expressed both by the French and Czech Council Presidencies in the course of 2022, in an effort to streamline the process and set a specific timeframe for the annual exercise<sup>318</sup>. More specifically, in the IMEX Expulsion Working Party meeting of October 2022, Member States discussed on a timeline which spans between January and October of the same year, with the last stage being the adoption of the Council Implementing Decisions. The timeline was generally welcomed by Member States. However, according to the Commission, the timeline cannot be practically implemented, as it does not take into account the time needed to carry out internal Commission procedures: drafting and approval of the report.

#### Administrative burden:

58% of respondents highlighted the fact that they face a number of difficulties when reporting data. Although the question asked to Member States/SAC referred to both qualitative and quantitative reporting, the high majority of those referring to challenges (79%) focused specifically on qualitative data collection.

The main challenge described as regards the qualitative assessment was the following:

Resource-demanding & time-consuming: 73% of respondents mentioning challenges connected to the qualitative data collection, focus on the additional time-demanding workload this creates for national actors. This is also confirmed by the fact that 63% of Member States/SACs representatives replied under a different question that collection requires additional efforts and extensive coordination between different parts of national administrations.

## COHERENCE

### Coherence

**EQ14. Coherence and complementarity with other interventions with related objectives: To what extent is the amended Visa Code coherent with, and complementary to, other interventions at EU and international level with related objectives (i.e. in relation to the Schengen acquis, migration policy, economic development, digitalisation, etc.)?**

<sup>318</sup> FR Pres paper on better implementation of the mechanism, February 2022 & CZ PRES paper on the timeline for 25a, October 2022



<p><b>EQ14.1.</b> To what extent is the amended Visa Code coherent with, and complementary to, EU-level general orientations and specific policy interventions in relevant fields?</p>		
<p><b>EQ14.2.</b> To what extent is the amended Visa Code coherent with, and complementary to, international general orientations and specific policy interventions in relevant?</p>		
<p>[(No) inconsistencies] have been identified between the objectives of the amended Visa Code, and general EU-level objectives in relevant policy areas (i.e. Schengen, migration policy, economic development, digital transition).</p> <p>The objectives of the amended Visa Code [build on or support / do not build on or support] EU-level objectives in the area of [Schengen / migration / border management / internal security / digital transition / interoperability / economic development and tourism policy].</p> <p>The objectives, activities and results of the Visa Code [are / are not] coherent with those of other EU-level interventions adopted in the abovementioned fields (e.g. New Pact on Migration and Asylum, VIS Regulation and other EU information systems for border management and security, Border Management and Visa Instrument (BMVI), EU Security Union Strategy, EU Industrial Strategy), including the interoperability project.</p> <p>Synergies between the implementation</p>	<p><b>Qualitative indicators:</b></p> <p>Degree to which the objectives and challenges identified as affecting the application of the Visa Code, at EU / international level were reflected in the amended Visa Code.</p> <p>Extent to which the problems and needs captured in the IA accompanying the 2018 proposal reflected the objectives and challenges highlighted in other relevant EU-level and international policy and other official documents at the time (e.g. evaluations and reports assessing the implementation of the Schengen acquis, documents laying down the EU's internal security strategy, migration policy, trade and economic objectives and the digitalisation and interoperability project).</p> <p>Evidence of meetings and exchanges between the unit responsible for the development and application of the Visa Code and other Commission services, EU institutions and EU agencies active in the field (e.g. Working Parties within the Council of the European Union, European Parliament's relevant committees, Frontex, Europol, etc.).</p> <p>Identification and typology of inconsistencies and duplications / complementarities and synergies identified between the objectives, activities and results of the amended Visa Code and other EU-level interventions (as listed in the judgement criteria).</p> <p>Existence and nature of inconsistencies / synergies identified between the amended Visa Code and other interventions with related objectives adopted at international level.</p> <p>Existence of unexploited synergies between the amended Visa Code and other relevant international and EU-level interventions.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that the objectives and application of the amended Visa Code is coherent with other EU-level and international initiatives with related objectives.</p> <p>Proportion of stakeholders considering that the objectives and application of the amended Visa Code is coherent with other EU-level and international initiatives with related objectives.</p> <p>Stakeholder opinion on the existence and nature of unexploited synergies between the</p>	<p>Desk research (e.g. EU-level legislative and policy documents related to the Schengen acquis and other related policy areas).</p> <p>Stakeholder feedback on the level of alignment with the objectives and interventions related to the Schengen acquis and other related policy areas, as well as the priorities and activities of EU stakeholders active in the field (all stakeholder groups).</p>

<p>of the amended Visa Code and other EU-level interventions with related objectives in the abovementioned relevant policy areas [have / have not] been found.</p> <p>Inconsistencies between the objectives and implementation of the amended Visa Code and general orientations and policy interventions adopted at international level [have / have not] been found.</p> <p>Synergies between the objectives and implementation of the amended Visa Code and general orientations and policy interventions adopted at international level in the fields [have / have not] been found.</p> <p>[There is / there is no] room for further synergies between the amended Visa Code and other relevant EU-level / international objectives or interventions.</p>	<p>amended Visa Code and other relevant international and EU-level interventions.</p>	<p>ISG consultations.</p>
<p><b>Answer:</b></p> <p>The amended Visa Code is coherent and complementary with other policies at EU and international level with related objectives (in particular migration policy and the Schengen acquis, digitalisation, the management of the EU external borders).</p> <p>More specifically, the Visa Code is coherent and complementary with general orientations and specific policy interventions at EU level in the field of migration management (EQ11.1), although differences persist in how Member States implement certain provisions.</p> <p>The Visa Code has complementary objectives and approaches to the European Commission's strategy 'Towards a stronger and more resilient Schengen area'<sup>319</sup> (need to digitalise visa procedures) and the most recent proposals on visa digitalisation<sup>320</sup>, the Schengen Borders Code and the</p>		

<sup>319</sup> European Commission, Towards a stronger and more resilient Schengen area, Press release, 2021.

Commission's recent proposal to amend it<sup>321</sup>, the EES<sup>322</sup> and the reformed VIS<sup>323</sup>. The Commission's strategy 'Towards a stronger and more resilient Schengen area' and the Commission's proposal on the digitalisation of visa procedures, and the Visa Code all support the interoperability of information systems through more flexible visa procedures and the digitalisation of visa applications.

Interviewees reported the amendments to the Visa Code as a positive contribution to harmonised application of EU visa policy<sup>324</sup>. However, some noted that the impact on the Schengen acquis is rather limited and that differences remain in the way Member States implement the different instruments and provisions in practice<sup>325</sup>.

The Visa Code is also coherent and complementary with international general orientations and specific policy measures in fields such as aviation regulations and standards and international human rights instruments (EQ11.2). It refers to relevant international general orientations and policy instruments, notably the Chicago Convention on International Civil Aviation<sup>326</sup>, and to the standards for the collection of biometric identifiers set by the International Civil Aviation Organization<sup>327</sup>. It also takes into consideration international human rights standards, particularly those set out

<sup>320</sup> European Commission, 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, COM/2022/658 final.

<sup>321</sup> European Parliament and Council, Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) as amended by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa, Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017, and Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard (no longer in force); European Commission, Proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders, COM/2021/891 final.

<sup>322</sup> European Commission, Stronger and Smarter Borders for the European Union - The Entry-Exit System, Factsheet, 2016.

<sup>323</sup> European Parliament and Council, Regulation (EU) 2021/1133 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EU) No 603/2013, (EU) 2016/794, (EU) 2018/1862, (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the Visa Information System, PE/45/2021/INIT and Regulation (EU) 2021/1134 of the European Parliament and of the Council of 7 July 2021 amending Regulations (EC) No 767/2008, (EC) No 810/2009, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1860, (EU) 2018/1861, (EU) 2019/817 and (EU) 2019/1896 of the European Parliament and of the Council and repealing Council Decisions 2004/512/EC and 2008/633/JHA, for the purpose of reforming the visa information system, OJ L 248; the Commission performed the IA of the proposed reform of the VIS and the Visa Code in parallel due to the strong connections between the two instruments (European Commission, Impact assessment Accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 767/2008, Regulation (EC) No 810/2009, Regulation (EU) 2017/2226, Regulation (EU) 2016/399, Regulation XX/2018 [Interoperability Regulation], and Decision 2004/512/EC and repealing Council Decision 2008/633/JHA, SWD(2018) 195 final, p. 6).

<sup>324</sup> Interviews with 5 Member States.

<sup>325</sup> Interviews with 6 Member States;

<sup>326</sup> International Civil Aviation Organization, Convention on International Civil Aviation, 1944.

<sup>327</sup> International Civil Aviation Organization, Doc 9303 Machine Readable Travel Documents – Eight Edition, Part 1: Introduction, 2021.

in in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms<sup>328</sup> and in the UN Convention on the Rights of the Child<sup>329</sup>. Finally, it provides for the possibility for Member States to derogate from certain provisions of the Visa Code in order to comply with their international obligations (Article 19 and 25(1)(a) Visa Code).

**EQ15. Coherence and complementarity with other EU policy and legislation: To what extent is the amended Visa Code aligned with other relevant EU policy and legislation?**

**EQ15.1.** Has the amended Visa Code been implemented in compliance with EU-level obligations regarding the protection of fundamental rights, especially in relation to gender issues and non-discrimination?

**EQ15.2.** Has the amended Visa Code been implemented in a way that is compliant with EU law concerning the protection of personal data, especially of third-country nationals from visa-required countries?

**EQ15.3.** Is the amended Visa Code and the way that it has been implemented aligned with other EU relevant policy and legislative interventions, including Directive 2004/38/EC and the Withdrawal Agreement between the EU and the UK?

<p>The amended Visa Code is [fully / partially / not] coherent with, and complementary to, other relevant EU policy and legislation related to [the protection of fundamental rights / data protection / the internal market / the EU's external action / other relevant areas].</p> <p>The objectives and application of the amended Visa Code [are / are not] in line with GDPR provisions and EU-level requirements related to the collection and processing of personal data.</p> <p>The objectives and application of the amended Visa Code was done in compliance with the EU Charter of Fundamental Rights as well as EU-level obligations stemming from Directives protecting specific</p>	<p><b>Quantitative indicators:</b></p> <p>Number of complaints lodged by third-country nationals before ombudsman offices (at national or EU level), as well as national authorities and judges competent for appeals against a visa refusal, which concern issues concerning the protection of fundamental rights or personal data.</p> <p>Number of cases before the CJEU or the European Court of Human Rights (ECtHR) for (alleged) infringements of fundamental rights in the context of visa procedures.</p> <p><b>Qualitative indicators:</b></p> <p>Extent to which fundamental rights / data protection issues were raised by stakeholders during the negotiations leading up to the amendment of the Visa Code.</p> <p>Evidence of issues raised in literature or by relevant stakeholders concerning a (potential) lack of compliance with EU-level fundamental right standards or data protection rules.</p> <p>Degree of alignment between the objectives and provisions of the amended Visa Code and other EU relevant policy and legislative interventions which are indirectly relevant to the application of the EU's visa policy.</p> <p><b>Opinion-based indicators:</b></p> <p>Share of stakeholders considering that the amended Visa Code has been implemented in compliance with EU-level obligations regarding the protection of fundamental rights and the protection of personal data.</p>	<p>Desk research (e.g. FRA reports, academic literature, CJEU and ECtHR literature, EDPS reports and publications).</p> <p>Stakeholder feedback on the level of compliance and alignment with EU standards for the protection of fundamental</p>
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<sup>328</sup> Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.

<sup>329</sup> United Nations General Assembly, Resolution 44/25 – Convention on the Rights of the Child, 1989.

<p>fundamental rights (including non-discrimination and equality before the law, equality between women and men, integration of persons with disabilities, etc.).</p> <p>The objectives and application of the amended Visa Code was in line with other relevant policy and legislative interventions, including Directive 2004/38/EC and the Withdrawal Agreement between the EU and the UK.</p> <p>Room for further synergies between the amended Visa Code and EU-level interventions in other relevant fields [has been / has not been] identified.</p>	<p>Stakeholder and expert feedback on issues that have arisen from the implementation of the amended Visa Code related to the protection of fundamental rights and of personal data.</p> <p>Stakeholder and expert opinion on the existence of provisions which are potentially at odds with EU-level obligations regarding the protection of fundamental rights and personal data.</p> <p>Proportion of stakeholders considering that the amended Visa Code was in line with other EU relevant policy and legislative interventions (including the Withdrawal agreement).</p> <p>Stakeholder and expert opinion on the existence of further room for alignment between the amended Visa Code was in line with other EU relevant policy and legislative interventions (including the Withdrawal Agreement).</p>	<p>rights and personal data (all stakeholder groups).</p> <p>ISG consultations.</p>
<p><b>Answer:</b></p> <p>The Visa Code is implemented in compliance with other EU policy instruments and legislation, particularly in relation to protection against discrimination, data protection and free movement of persons.</p> <p>Member States implement the Visa Code in compliance with EU fundamental rights standards in non-discrimination on the basis of gender (EQ12.1), with some concerns raised about the respect of applicants' right to data protection by ESPs (EQ 12.2).</p> <p>The Charter of Fundamental Rights of the EU requires Member States to respect fundamental rights, including the principle of non-discrimination (Article 21) and the right to data protection (Article 8), when they are implementing EU law. Accordingly, the Visa Code requires Member States to ensure that their consular staff and ESPs' staff comply with EU fundamental rights standards, particularly with the principle of non-discrimination on the basis of gender (Article 39 Visa Code and Annex X to the Visa Code). When implementing the Visa Code, Member States and their consular staff must act in compliance with data protection requirements as per the GDPR (Articles 5 and 6 and Chapter III)<sup>330</sup>.</p>		

<sup>330</sup> European Parliament and the Council, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). The obligations set out in the GDPR are applicable to the processing of personal data in the context of the implementation of the Visa Code. Indeed, the GDPR applies to activities of a controller or a processor

Member States interviewed reported that their consular offices had put in place relevant measures to protect applicants' fundamental rights<sup>331</sup>. Conversely, some stakeholders raised concerns about ESPs' respecting of data protection standards. The analysis of the interviews and of the recommendations following the Schengen evaluation highlighted several issues:

ESPs' excessive retention of documents and inadequate respect of protocols and procedures related to the destruction of such documents<sup>332</sup>;

ESPs' retention of data that is not necessary for the purpose of the visa application process<sup>333</sup>;

Failure to respect applicants' privacy by ensuring that personal data are only transmitted through secure systems<sup>334</sup> and that the decision to refuse a visa is communicated to applicants in a way that does not allow the ESP to know the outcome of the application<sup>335</sup>.

During the interviews, consulates provided additional information about the methods adopted to ensure that ESPs respect data protection standards (e.g. periodic monitoring and reporting systems, on-site visits, training on standards and procedures)<sup>336</sup>.

Overall, the Visa Code is aligned and implemented in compliance with relevant EU policy and legislation on the free movement of EU citizens and their family members (EQ15.3).

With regard to the 2019 Visa Code amendment, two main issues emerged from the desk research and the interviews: 1) there was a reported imposition of visa fee coupled with a reported lack of access to consulates and/or the requirement to apply for a visa through an external service

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in the Union, regardless of whether or not the processing takes place in the Union (Article 3(1)) and by a controller not established in the Union, but in a place where Member State law applies by virtue of public international law (Article 3(3)).

<sup>331</sup> Interviews with 6 Member State; consulates provided additional practical examples on measures implemented at local level: interviews with consulates no. 1, 2, and 3.

<sup>332</sup> 1 Member State; see also: Council Implementing Decision setting out a recommendation on addressing the (serious) deficiencies identified in the 2022 evaluation of the Netherlands on the application of the Schengen acquis in the field of the common visa policy, 15816/22; Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovakia on the application of the Schengen acquis in the field of the common visa policy, 12450/20; Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Hungary on the application of the Schengen acquis in the field of the common visa policy, 9766/20; Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovenia on the application of the Schengen acquis in the field of the common visa policy, 9213/20.

<sup>333</sup> Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of Germany on the application of the Schengen acquis in the field of the common visa policy, 12392/20.

<sup>334</sup> Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Hungary on the application of the Schengen acquis in the field of the common visa policy, 9766/20.

<sup>335</sup> Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2020 evaluation of Germany on the application of the Schengen acquis in the field of the common visa policy, 12392/20; Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of Slovakia on the application of the Schengen acquis in the field of the common visa policy, 12450/20.

<sup>336</sup> Interviews with consulates no. 1, 2, and 3.



provider; and 2) the Visa Code does not yet take account of Part Two of the EU/United Kingdom (UK) Withdrawal Agreement, with stakeholders noting the possibility of considering further amendments to the Visa Code<sup>337</sup>.

Article 1(2) of the Visa Code, which was not amended in 2019, already provided that the visa requirements for third country nationals should not preclude the right to free movement enjoyed by certain third country nationals, principally non-EU family members of mobile EU citizens.

Article 1(4) of the Visa Code, as amended in 2019, confirms the general principle that Member State shall act in full compliance with EU law, thus also Directive 2004/38/EC<sup>338</sup>.

As provided in Article 5(2) of Directive 2004/38/EC, Member States may require non-EU family members moving with or joining a mobile EU citizen to have an entry visa, in accordance with Regulation 2018/1806<sup>339</sup>. Such family members not only have the right to enter the territory of the Member State, but also have the right to obtain an entry visa<sup>340</sup>. This distinguishes them from other third country nationals, who have no such right. Moreover, under Article 5(2), Member States must grant such family members every facility to obtain the necessary visa, which must be issued free of charge, as soon as possible and on the basis of an accelerated procedure.

The Visa Code Handbook I clarifies the cases in which the Directive 2004/38/EC is applicable to as well as the specific rules that apply to such third country nationals.

In that vein, Recital 6 of the 2019 amended Visa Code states “ *Member States should not be required to maintain the possibility of direct access for the lodging of applications at the consulate in places where an external service provider has been mandated to collect applications on its behalf, without prejudice to the obligations imposed on Member States by Directive 2004/38/EC of the European Parliament and of the Council (4), in particular Article 5(2) thereof.*”

According to DG JUST, they have concluded a study<sup>341</sup> which analysed the main difficulties faced by EU citizens in the application of Directive 2004/38/EC. Taking into account the 2019 Visa Code amendment (which encouraged Member States to make more use of external service providers but stressed the need to maintain the possibility of direct access to consulates for family members covered by Directive 2004/38/EC), it

<sup>337</sup> Interviews with 1 Member State.

<sup>338</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 (Text with EEA relevance).

<sup>339</sup> Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 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 303 28.11.2018, p. 39).

<sup>340</sup> Case C-503/03, *Commission v Spain*, ECLI:EU:C:2006:74, paragraph 42.

<sup>341</sup> Interview with DG JUST, which referred to the *Report to support the review of the guidance on the right of free movement of EU citizens and their families* : [https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8\\_en](https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8_en)

can be highlighted that the study reported as main difficulty the imposition of a visa fee coupled with a reported lack of access to consulates and/or the requirement to apply for a visa through an external service provider<sup>342</sup>.

The reviewed guidance on the right of free movement of EU citizens and family members to be adopted should again clarify the rules applicable to family members, in particular as regards the visa fee. Moreover, the 2022 Commission's proposal on Visa Digitalisation makes clear that these non-EU family members are entitled to lodge the application in person, at their best convenience, either at the consulate or at the external service providers premises. The proposal on visa digitalisation provides also expressly for the non-applicability of the visa fee.

The **Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union** provides that no visa requirements are applicable by EU Member States to UK nationals, their family members and other persons holding a Withdrawal Agreement residence document or a Withdrawal Agreement frontier worker document<sup>343</sup>.

Where the host State requires family members joining EU or UK nationals after the end of the transition period to be in possession of an entry visa, the host State shall grant them every facility to obtain the necessary visas. Such visas shall be issued free of charge, as soon as possible, and on the basis of an accelerated procedure (Article 14(3) EU-UK Withdrawal Agreement).

The Visa Code does not explicitly specify these exemptions and facilities, which derive directly from the Withdrawal Agreement. Third-country national family members of UK nationals who do not hold a valid document issued under the Withdrawal Agreement will be required to obtain a visa to travel to the EU if their country of nationality is listed among those for which a visa is required. The Visa Code does not currently reflect the provisions that apply under Article 14(3) of the EU/UK Withdrawal Agreement.

However, the Commission's proposal for a Regulation 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 (COM(2022) 658 final) addresses the matter

On the implementation of Directive 2004/38/EC in the context of visa procedures for third-country national family members of EU (mobile) citizens, one interviewee<sup>344</sup> referred to a study which reported difficulties in submitting applications directly to the consulate under an accelerated procedure and without additional costs or fees, as provided for in the Visa Code Handbook<sup>345</sup>.

<sup>342</sup> However, the main source of information for this difficulty did not always make clear whether the fee was imposed by the national administration or whether this was rather a service fee charged by an external service provider.

<sup>343</sup> UK/EU, Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 2019/C 384 I/01, Articles 14(2), 18 and 26.

<sup>344</sup> Interview with DG JUST, Report to support the review of the guidance on the right of free movement of EU citizens and their families : [https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8\\_en](https://commission.europa.eu/document/c465c8d0-2044-4927-ad8a-c546cf47b7b8_en)

<sup>345</sup> Visa Code Handbook I, pp. 107-110.

Consulates confirmed that they have introduced accelerated procedures for applicants applying under Directive 2004/38/EC<sup>346</sup>. However, one interviewee reported that local situations and visa-shopping practices may limit the effectiveness of the mechanism<sup>347</sup>.

Under the UK/EU Withdrawal Agreement, no visa requirements are applicable by EU Member States to UK nationals, their family members and other persons holding a Withdrawal Agreement residence document or a Withdrawal Agreement frontier worker document<sup>348</sup>. Where the host State requires family members joining EU or UK nationals after the end of the transition period to be in possession of an entry visa, the host State shall grant them every facility to obtain the necessary visa. The Visa Code does not explicitly specify these exemptions and facilities, which derive directly from the Withdrawal Agreement. Third-country national family members of UK nationals but who do not hold a valid document issued under the Withdrawal Agreement will be required to obtain a visa to travel to the EU if their country of origin is listed among those for which a visa is required.

**EQ16. To what extent have the processes set up under the art. 25a mechanism been coherent?**

**EQ16.1.** To what extent are the different stages of the cycle coherent with one another?

**EQ16.2.** To what extent are the stages of the cycle coherent from one cycle to the next?

<ul style="list-style-type: none"> <li>▪ Each stage complements the next.</li> <li>▪ The steps of each stage are coherent/specific from one year to the next.</li> <li>▪ Each cycle involves clear stages, milestones, deadlines.</li> </ul>	<p><b>Qualitative indicators:</b></p> <ul style="list-style-type: none"> <li>▪ Correspondence between output of one stage and input of the next.</li> <li>▪ Comparison of development of cycle stages and duration between the past three cycles.</li> <li>▪ Clear timeline of the cycle exists and all stakeholders are informed about it.</li> </ul>	Desk research
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**Answer:**

Correspondence between output of one stage and input of the next:

From Stage 1: Data collection to Stage 4: Adoption of Report

For the Commission to start drafting the annual report, it is necessary to first receive all Member States/SAC data collected by Frontex and ESTAT. Thus, data collected form the input required for producing the annual report. In the third country fiches appearing in the report, the text is focused on presenting the data collected from Member States/SAC.

<sup>346</sup> Interviews with consulates no. 1, 2, and 3.

<sup>347</sup> Interview with consulate no. 3.

<sup>348</sup> Articles 14(2), 18 and 26 UK/EU Withdrawal Agreement.

#### From Stage 4: Adoption of Report to Stage 6: Identification of third countries of interest

After the adoption of the annual report, discussions take place at working party level in the Council to identify third countries of interest. As explained above, the Commission identifies a number of third countries where further action is needed based on the assessment. During the working party discussions, Member States have the opportunity to voice their views and opinions, further informing the Commission's position. Five Member States/SAC expressed the view during interviews that in the Council discussions, limited reference to the annual report has been made over the past three cycles and that the report itself would not be enough for decisions to be made. Member States' views and proposals during the Council discussions, often concern the relation with the third country.

EEAS also expressed the opinion during interviews that all decisions made throughout the cycle are purely political.

#### Stage 6: From the identification of third countries of interest to the adoption of Commission Proposals

Based on the assessment and taking into account the steps taken by the Commission to improve the level of cooperation of the third country concerned in the field of readmission and the Union's overall relations with that third country, the Commission decides on the third countries for which visa measures will be proposed. In its decision, the Commission is not limited to those countries identified during Council discussions. From the description of the procedure, it becomes clear that this is a political decision.

#### Stage 6: From Commission Proposals to Council Implementing Decisions

For a Council Implementing Decision to be adopted, a Commission proposal needs to be submitted first. As mentioned above, Commission proposals may remain under consideration in the Council without being adopted nor rejected.

#### From Council Implementing Decisions to the next Annual Report

The delay between the adoption of the first annual report and the first Council implementing decision did not allow the Commission to take into account the effects of the measures implemented in the coming year's report. More specifically, the Council Implementing Decision on The Gambia was adopted 8 months after the adoption of the first annual report and two months before the adoption of the second annual report. For the measures to take effect and have visible results that could be assessed, more time would be needed. Thus, the results were only taken into account in the third report, which was adopted in December 2022, the same month that the Council Decision for additional measures on the Gambia was also adopted. The legal basis specifies that The Commission shall continuously assess and report on the basis of the indicators set out in paragraph Article 25a 2 whether substantial and sustained improvement in the cooperation with the third country concerned on readmission of irregular migrants can be established.

### Comparison of cycle stages between the past three cycles

#### Processes set-up under each stage

As described above, since article 25a entered into force in February 2020, a clear process with concrete stages has been set up.

The processes running under each stage seem to be generally consistent from one cycle to the next.

The stage which seems to slightly vary from one cycle to the next is stage 5: Council Discussions following the adoption of the annual report. In the first two cycles, the report was first presented and discussed in the IMEX Working Party and then in the EMWP. However, the third report was first discussed in the JHA Counsellors meeting and then the presentation and discussion were repeated in IMEX as both meeting were focused on discussing readmission cooperation with third countries.

Three Member States asked for a clear procedure in the Council, without repetition of the discussion in different fora. It was requested that discussions always start in IMEX, which was the case during the first two cycles.

#### Duration of stages

When comparing the duration of stages throughout the three cycles, as well as the fourth cycle currently running, there seem to be some improvements over the years especially when it comes to the drafting and adoption of the annual report. More specifically, in the first cycle the drafting, consultation and adoption lasted 8 months with a 48 hours interservice consultation. By the third cycle, the period had been reduced to 5 months, with an interservice consultation of 5 days.

However, when it comes to the time period between the adoption of the annual report and the submission of Commission proposals to the Council, this significantly increased over the years. The first Commission proposals were adopted 5 months after the adoption of the first annual report. The second ones were adopted 11 months after the second annual report (120% increase). At the cut-off date, 5 months after the adoption of the third annual report, no Commission proposals have been submitted to the Council.

#### Clear timeline of the cycle exists and all stakeholders are informed about it

At the same time, there is no clear timeline with milestones and deadlines that has been communicated among all stakeholders involved. So far, there has been no fixed date for the adoption of the report.

As mentioned above, there has been a clear intention and efforts from the side of the Council to streamline the process and set a specific timeframe

for the cycle, which would not go beyond one year. Several discussions have taken place at WP level and a specific timeline proposal was discussed in the IMEX Expulsion Working Party meeting of October 2022. The proposed timeline describes an annual cycle with duration from January to October of the same year. The timeline was welcomed by Member States, which in general are in favour of accelerating the process. During interviews, 7 MS expressed the need to increase the efficiency of the cycle in order to improve its credibility and value.

However, according to the Commission the Council timeline cannot be practically implemented, as it does not take into account the time needed to carry out internal Commission procedures related to the drafting and approval of the report.

Despite this, Member States, the Commission and the Council, all seem to be in favour of reducing the duration of the cycle to one calendar year or less. The support of Member States for the Council timeline shows also the need for a set timeframe with benchmarks and deadlines. Better communication and common expectations among stakeholders are necessary (2 MS).

#### EU ADDED VALUE

##### **EQ17. EU added value compared to the previous version: To what extent has the amended Visa Code generated added value compared to the former version of the Visa Code, particularly in relation to the implementation of common rules and standards for visa policy at EU level?**

<p>The amended Visa Code [has / has not] generated added value compared to the former version of the Visa Code.</p> <p>The amended Visa Code has facilitated the implementation of common rules and standards for the EU visa policy across Member States, as compared to the baseline.</p> <p>In the absence of amendments to the Visa Code, Member States would face further difficulties to implement common rules and standards related to the EU's visa policy.</p>	<p><b>Quantitative indicators:</b></p> <p>Number of Member States reporting that the changes enacted leading to a higher degree of harmonisation in the application of the Visa Code would have been adopted in the absence of the amendments to the Visa Code.</p> <p>Number of Member States indicating that the adoption of amendments to the Visa Code brought further clarity and facilitated the implementation of the EU's visa policy, compared to the former version of the Visa Code.</p> <p><b>Qualitative indicators:</b></p> <p>Extent to which amendments to the Visa Code eliminated or reduced obstacles identified prior to 2019 which hindered the application of common rules and standards related to the EU's visa policy.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that the amended Visa Code adds value to the implementation of common rules and standards for the EU visa policy, compared to what would have been achieved by the former version of the Visa Code.</p> <p>Proportion of stakeholders considering that similar results could have been achieved</p>	<p>Stakeholder feedback on the value generated by the amended Visa Code (all stakeholder groups).</p> <p>ISG consultations.</p>
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In the absence of amendments to the Visa Code, Member States would have implemented the common rules and standards laid down in the Visa Code in a less harmonised manner over the evaluation period.

had the Visa Code not been amended.

Stakeholder opinion on the most likely evolution of the situation since 2019 had the Visa Code not been amended.

Stakeholder opinion on the main added value of the amended Visa Code compared to what could have been achieved by the former version of the Visa Code.

With regard to introducing **greater flexibility to the visa procedures, according to Member States, added value has been generated**, particularly because of procedures and conditions being further harmonised,<sup>349</sup> streamlined<sup>350</sup> and more flexible<sup>351</sup> for applicants across the Schengen countries. Added value of the current Regulation compared to the previous version was **confirmed by the majority of the industry stakeholders consulted**. They noted that the facilitation of short-visa arrangements benefited their industry between 2020 and 2022.<sup>352</sup> Some, however, pointed to **room for improvement, in particular in relation to further simplification** of visa procedures.

According to different stakeholders, **there is no specific link between the amendments to the Visa Code and the digitalisation of procedures**. Rather, this is largely the result of other factors, such as digital practices implemented to combat COVID-19, and a broader digital policy agenda. **Nevertheless, according to Member State authorities, the effects of the new digital procedures have been positive for central authorities**, which can be more easily involved in the decisions relating to visas, **and for travellers**, by reducing possible burden. This suggests that **there is added value compared to the previous Regulation in introducing the possibility to digitalise processes**. However, according to stakeholders, **these digital procedures are not a direct consequence of the amendments**, suggesting **limited added value in relation to the broader digital policy agenda**. **Nevertheless, this does not call into question the added value of the EU action**, given that the costs of non-action at EU level could leave Member States facing heavy administrative burdens, with applicants required to undertake costly and time-consuming procedures<sup>353</sup>.

With regard to **MEVs and the cascade rule** introduced under Article 24 of the Regulation, the study emphasises **the need to take more steps to achieve harmonisation**. However, this does not call into question the **added value of the new measures, which introduced more legal clarity**. **The value added stems from the fact that the cascade rule clarifies and harmonises measures for all Schengen countries**, which would otherwise continue to implement scattered and differentiated procedures.

With regard to the **enhanced role of the LSC in ensuring harmonised approaches at local level**, the majority of consulates believed that

<sup>349</sup> Member State targeted survey, Q14 (n=19): 13/19 Member States.

<sup>350</sup> Ibid., 12/19 Member States.

<sup>351</sup> Ibid., 10/19 Member States.

<sup>352</sup> Industry targeted survey, Q9 (n=23): 'Strongly agree': 11/23, 'Agree': 9/23, 'Neither agree/nor disagree': 1/23, 'Disagree': 2/23.

<sup>353</sup> European Commission, Proposal for a Regulation as regards the digitalisation of the visa procedure, COM(2022) 658 final 2022/0132 (COD), p.4.

measures resulting from this cooperation are **believed to somewhat enhance the harmonisation of local consular practices**. At the same time, **the case studies showed that more steps need to be taken to improve the harmonisation** of practices in the framework of the LSC. **Added value comes from the adoption of rules on local cooperation at EU level**, because it introduces the possibility of **more systematic cooperation, spread across all of the Schengen countries**.

**EQ18. EU added value compared to what could be achieved at Member State level: To what extent has the amended Visa Code generated added value by allowing the EU to better coordinate and harmonise the implementation of the visa policy, as opposed to what could have been achieved at Member State level?**

<p>The amended Visa Code generated added value compared to what could be achieved at Member State level.</p> <p>In the absence of the amended Visa Code, Member States [would / would not] face further difficulties to coordinate their visa-related policies.</p> <p>In the absence of the amended Visa Code, the degree of harmonisation in the implementation of the visa policy would be [lower / higher].</p>	<p><b>Qualitative indicators:</b></p> <p>Nature and extent of challenges related to coordination and harmonisation existing prior to the amended Visa Code, and extent to which the amendment successfully addressed them (including via local Schengen cooperation).</p> <p>Extent to which the (amended) Visa Code is perceived to facilitate coordination and achieve a higher degree of harmonisation in the implementation of the EU's visa policy (including via local Schengen cooperation).</p> <p>Evidence of actions enacted by Member States as a result of the adoption of the amended Visa Code, which contributed to a higher degree of coordination and harmonisation.</p> <p><b>Opinion-based indicators:</b></p> <p>Proportion of stakeholders considering that in the absence of the (amended) Visa Code Member States would effectively coordinate and harmonise the implementation of the visa policy.</p> <p>Proportion of stakeholders considering that local Schengen cooperation helped to facilitate harmonisation of practices at local level.</p> <p>Stakeholder and expert feedback on the likely consequences of the absence of the (amended) Visa Code and its impact on Member States' visa policy.</p>	<p>Stakeholder feedback on the value generated by the amended Visa Code (all stakeholder groups).</p> <p>ISG consultations.</p>
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**Answer:**

The amended Visa Code generated added value by allowing the EU to better coordinate and harmonise the implementation of visa policy. As highlighted in the 2018 IA, the ‘conditions and procedures for issuing short-stay visas are established by a regulation that is directly applicable to all Member States, namely the Visa Code’<sup>354</sup>. None of the changes introduced in 2019 could have been achieved at Member State level alone.

The amended Visa Code foresees rules for introducing greater flexibility to the visa procedures, which positively impacted Member States by harmonising and streamlining visa procedures. These amendments also had an overall positive impact for industry stakeholders and travellers, by making the procedures more flexible and faster. Nevertheless, the study also found that more harmonisation is needed. In addition, amendments such as better definitions of the rule for the validity of MEVs contributed to strengthening legal clarity, benefiting authorities and travellers, although the study found that more harmonisation in the application of the measures is still needed. The enhanced role of the LSC benefited Member State authorities by facilitating harmonisation, although more steps need to be taken to improve the harmonisation of practices.

**EQ19. To what extent has the process set up in the context of the implementation of art 25a mechanism produced clear benefits for the stakeholders (mainly MS/SAC) in terms of data collection, sharing of information, coordinated work at EU level?**

**EQ19.1.** To what extent have the processes set up brought together stakeholders to work on a shared goal?

**EQ19.2.** To what extent does the annual report provide additional useful information to stakeholders which help them inform decisions made?

<ul style="list-style-type: none"> <li>▪ New processes have been set up which involve stakeholders that would otherwise not work together in a coordinated manner and EU level.</li> <li>▪ The annual report provides stakeholders with additional information which they find useful for fulfilling the purpose of the cycle.</li> </ul>	<p><b>Quantitative indicators:</b></p> <ul style="list-style-type: none"> <li>▪ Share of stakeholders that find the process set up for the implementation of art 25a useful for the purpose of the mechanism.</li> <li>▪ Involvement of all relevant stakeholders in each stage of the cycle.</li> <li>▪ Strengthened data collection at EU level.</li> </ul> <p><b>Opinion based indicators:</b></p> <p>Perception of stakeholders on added-value of the annual assessment report.</p>	<p>Desk research</p> <p>Stakeholder interviews</p> <p>Stakeholder quantitative survey</p>
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**Answer:**

<sup>354</sup> European Commission, Impact Assessment accompanying the Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), SWD(2018) 77 final, p. p.21.

#### Perception of stakeholders on the usefulness of the process set up for the implementation of art 25a as regards the purpose of the mechanism

4 MS and the Council believe that the processes set up under the cycle are useful. However, the majority of Member States call for improvements related mainly to the effectiveness and the efficiency of the cycle and the content of the report.

#### Involvement of all relevant stakeholders in each stage of the cycle

The processes set up have created new fora and opportunities for MS/Commission/Frontex communication:

- 50% (10/20) of MS/SAC replied to the quantitative survey that they set up ad-hoc meetings at national level and/or jointly with representatives of other other MS ahead of the Council Working Group Meetings dedicated to discussing cooperation on readmission and the process under art 25a
- 85% (17/20) participate in the Return Data Working Group of Frontex
- 80% of MS/SAC (16/20) regularly shared information on readmission requests through Frontex or directly to DG HOME

Coordinated communication on readmission cooperation also takes place in the various Working Parties where the report and the proposals are discussed among MS, EEAS, Commission.

It has also provided incentives for more coordinated work at national level:

- 60% of MS/SAC (12/20) have appointed a national focal point to ensure coordination of issues linked to art 25a
- 75% (15/20) of MS/SAC mentioned that they carry out joint work on responding to the Commission questionnaire

Finally, it created additional communication opportunities for MS and third countries:

- 50% of MS/SAC (10/20) have ad-hoc meetings with third country representatives on return and visa policies as preparation for the assessment under article 25a
- Strengthened data collection at EU level.

Another benefit is the systematic collection of data on readmission cooperation with selected third countries at EU level. Before the processes under art 25a were built, Member States, the Commission and Frontex would share operational information on readmission cooperation with priority third countries at regular meetings. However, as pointed out by the European Court of Auditors in its 2021 report, this information was incomplete and was not collected nor provided in a systematic manner.

The process has strengthened data collection and sharing by Member States in the area of readmission cooperation. For the first time, quantitative

and qualitative data on readmission cooperation with third countries are available at EU level. The production of an annual assessment of cooperation has made it possible to produce a summary of consolidated data that will eventually help establish trends in readmission cooperation. The fact that the report is shared with numerous stakeholders (EEAS, EU Delegations, MS/SAC, ...) also allows for this consolidated data to be disseminated to all relevant parties and to strengthen their knowledge in their area of interest.

The fact that 71% of Member States/SAC find the data collected relevant, as well as the high response rate to the qualitative survey, further strengthen the benefits that the processes produce.

Finally, the process set up and the sequence of stages builds the basis for evidence-based policy-making in the area of readmission cooperation.

Perception of stakeholders on added-value of the annual assessment report

As mentioned above, numerous Member States highlighted during interviews the need for rethinking the content and structure of the report to increase its relevance and importance in the decision-making steps that follow its adoption. Practically, it seems that little reference is made to the content of the report during Working Party meetings, while decisions taken are solely political.

One Member State also mentioned that the information provided in the report is also shared through other fora throughout the year.

This annex sets out the methodology and sources used to analyse the costs and benefits of the implementation of the amended Visa Code and its effects on the regulatory costs (direct compliance costs, mostly adjustment costs, administrative costs and charged for visa applicants) and administrative burden (i.e. part of the process and costs of collecting and processing information that stems directly from legal obligations and would not exist otherwise<sup>355</sup>.

### A.4.1 Sources

The analysis was carried out using multiple sources and triangulating data where possible. The main sources used were:

- Desk research, including analysis of references in Annex 8;
- Targeted survey to Member State ministries (MFAs, MOIs);
- Targeted survey to consulates;
- Targeted survey to industry representatives;
- EU-level statistics, notably on short-stay visas issued by Member States for 2018-2022<sup>356</sup>.

### A4.2 Focus of the analysis

Based on the data and information collected, and in view of on the overlap of the bulk of the evaluation period with the outbreak of the COVID-19 pandemic and resulting travel restrictions, it was not possible to carry out the CBA initially envisaged.

The analysis focused on the quantification and monetisation of the key direct cost and benefit items for which information was available, which concerned (some of) the direct costs and benefits for the main stakeholders. The remaining costs and benefits were assessed qualitatively.

The main stakeholders identified were:

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<sup>355</sup> Better Regulation Toolbox, Tool #56 and Tool #58

<sup>356</sup> European Commission, Visa Policy: Statistics on short-stay visas issued by the Schengen Member States, DG HOME, 2021, [https://ec.europa.eu/home-affairs/news/visa-statistics-pandemic-effect-short-stay-visas-2020-2021-05-09\\_en](https://ec.europa.eu/home-affairs/news/visa-statistics-pandemic-effect-short-stay-visas-2020-2021-05-09_en); [https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/visa-policy\\_en](https://ec.europa.eu/home-affairs/policies/schengen-borders-and-visa/visa-policy_en)



- Third-country nationals applying for a visa;
- Member State authorities and consulates;
- Industry stakeholders (chiefly in the tourism, transport and accommodation sectors).

#### A4.2.1 Definition of the baseline for the evaluation

The study found that the implementation of the amended Visa Code (2020-2022) was quite limited overall, with aggregated statistics for 2022 not fully available at the beginning of the evaluation, though they were published the end of the study and were reflected in the final findings.

The evaluation was also heavily affected by the international situation and its impacts on travel patterns worldwide, and for Member States in particular. The bulk of the implementation period for the amended Visa Code (2020-2021) coincided with the outbreak of the COVID-19 pandemic. In addition, the Russian invasion of Ukraine impacted visa policies and travel patterns, albeit to a different extent, worldwide and to Member States.

The comparison between the baseline for the evaluation and the implementation period was therefore likely to be skewed by several external factors. In order to reduce possible bias in the analysis, both 2018 and 2019 were used to define the baseline situation, as having a slightly longer baseline period would help in identifying trends directly related to the Visa Code and its amendments, while separating the effects of external factors.

#### A4.2.2 Main costs and benefits identified

Table A4.1 Direct costs and benefits for the main categories of stakeholders

Stakeholders	Direct costs	Direct benefits
Third-country nationals	<ul style="list-style-type: none"> <li>▪ <b>Visa fee and service fee;</b></li> <li>▪ Travel costs for approaching the Consulate or ESP (when the applicant lives far away);</li> <li>▪ Costs for mailing the application and related documentation;</li> <li>▪ Time to collect the required documentation, file the application and complete the process.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Simplification of visa procedures;</li> <li>▪ Lower waiting times;</li> <li>▪ Less effort to collect visa documentation, file the application and complete the process;</li> <li>▪ Lower travel costs.</li> </ul>
Member States and consulates	<ul style="list-style-type: none"> <li>▪ <b>One-off development costs</b>, consisting primarily of setting-up or updating existing IT infrastructures and/or offering training to staff;</li> <li>▪ <b>Recurring costs</b>, which include costs for operating systems, as well</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Increase in revenue from visa fees;</b></li> <li>▪ Streamlining and harmonising visa procedures;</li> </ul>

	as the staff costs for processing visa applications following the new procedures, such as the amount of time needed to process visa applications.	<ul style="list-style-type: none"> <li>▪ <b>Decreased administrative costs.</b></li> </ul>
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Indirect benefits were identified for industry stakeholders, i.e. higher revenues due to the increased influx of travellers to Member States following the simplification of visa procedures (attributable to the amended Visa Code).

### A4.2.3 Analysis of main direct costs

#### Costs for third-country nationals in applying for a visa

The analysis of **costs for applicants** focused on the visa and service fee, which were modified by the amended Visa Code. It compared the (combined) costs of the visa and service fees for the 2018-2019 period and those for the 2020-2022 period.

Due to data availability, the analysis considered the maximum visa fee applicable, without possible reduction and waivers, which were difficult to estimate and would have increased the study limitations<sup>357</sup>. Information about the ESPs' service for the 2018-2019 period was derived from secondary sources and was less detailed than for the 2020-2022 period, reflecting the average value reported in earlier studies<sup>358</sup>. It is likely that the analysis overestimated that value, at least for some Member States. Information on the service fee represents the average value charged by ESPs, even though the service fees often differ among Member States and even for the same Member State, depending on the third country. There were uncertainties about whether and to what extent the visa fee for applications via ESPs is retained (entirely or partially) by them or transferred to Member States. Accordingly, the two streams of revenues were presented in aggregated form.

#### Direct costs for Member States and consulates

The analysis identified two main categories of costs incurred by national authorities in the implementation of the new provisions of the Visa Code:

One-off development costs, consisting primarily of setting-up or updating existing IT infrastructures and/or offering training to staff;  
 Recurring costs, which include costs for operating systems, as well as the staff costs for processing visa applications following the new procedures, such as the amount of time needed to process visa applications.

<sup>357</sup> Reductions and waivers of the visa fees are considered very limited in any case, in line with previous studies.

<sup>358</sup> European Commission, Impact Study Assessment supporting the review of the Unions' visa policy to facilitate legitimate travelling, Study prepared by ICF-GHK for DG HOME, 2013, [https://home-affairs.ec.europa.eu/impact-assessment-study-supporting-review-unions-visa-policy-facilitate-legitimate-travelling\\_en](https://home-affairs.ec.europa.eu/impact-assessment-study-supporting-review-unions-visa-policy-facilitate-legitimate-travelling_en)

Due to the very limited data available from the different sources, the analysis focused on the direct financial benefits to the national authorities - as an effect of the increased visa and service fees - and on (possible) reduction of regulatory and administrative costs.

It was difficult to identify any major costs incurred by Member States and consulates to implement the amended Visa Code. The replies provided by national authorities showed that national authorities struggle to discern any major increase in costs incurred due to the implementation of the amended Visa Code<sup>359</sup>. While in most cases Member States could not clarify whether additional costs resulted from implementing the new provision, in some cases they reported not having incurred additional costs<sup>360</sup> and rarely reported incurring significant additional costs for implementing the new provisions. The evidence therefore is inconclusive.

### **Effects on regulatory and administrative costs**

This part of the analysis focused on the effects of the amended Visa Code on the regulatory and administrative burden linked to the implementation of the new provisions. It examined the variation of direct costs during the period in scope (2018-2022) to assess whether these were commensurate with observable results and whether they corresponded to simplification and reduction of the regulatory and administrative burden.

To understand the effects of the amended Visa Code on the regulatory and administrative costs for Member States, this evaluation assessed the effort (measured in FTE) necessary for Member States' staff to process visa applications in the years in scope (2018-2022), and the extent to which such efforts (and related direct costs) evolved over the years. Effects on other stakeholders (e.g. burden and direct costs for visa applicants) could not be quantified. It was not possible to quantify and monetise the total costs sustained by Member States for processing visa applications. This is because the share of additional costs (such as IT, other equipment, training and other support personnel costs) attributable to the visa process (either before or after the amendments to the Visa Code) was not available. It was not known to the stakeholders consulted, and other sources did not provide usable parameters for estimation.

The analysis focused solely on the applications submitted via the consulates in the five Member States that replied to the targeted survey and provided information on the FTEs necessary to process a visa application over time (Italy, Malta, the Netherlands, Slovakia and Norway) thus the findings should be read with caution<sup>361</sup>. Sweden provided data on FTEs, but not on the breakdown of visa applications between consulates and ESPs, and was therefore excluded. The analysis focused only on the visa applications filed via consulates, as little to no information was available for ESPs. Previous studies did not report much usable data, and none of the ESPs contacted for the study replied (see Annex 2).

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<sup>359</sup> Member States targeted survey, Q32 (n=15).)

<sup>360</sup> Member States targeted survey, Q32 (n=15).)

<sup>361</sup> Findings refer to 6 Member States. It was not possible to carry out any analysis on the costs for ESPs.

The quantification of the direct administrative costs for Member States followed the following formula, adapted by the SCM approach:

$$\text{Total costs for national authorities} = \text{Number of FTE days per processing one visa application} * \text{daily wages} * \text{Number of applications processed.}$$

The number of days (FTEs) necessary to process a visa application, as well as the number of visa applications filed via consulates, was provided by a small number of Member States via the targeted survey.

The daily wages were derived from Eurostat salary data for 2020 for the public sector<sup>362</sup>, with a 25 % increase applied to account for overhead costs (as per the Better Regulation Guidelines). The analysis applied salary data for 2020 (the most recent available) to the whole period, which discounts any difference due to sudden increases in the inflation rate. It was assumed that a full-day FTE consisted of eight hours.

Due to the lack of more detailed breakdown on the FTEs for each step of visa processing, the analysis focused on comparing the direct administrative costs in the 2018-2019 period with those for 2020-2022. To assess whether any change identified could be attributed to the amended Visa Code, the analysis triangulated the data with other sources and stakeholders' views from the targeted surveys.

#### **A4.2.4 Analysis of main direct benefits**

The increase in fees for visa applicants corresponded to an increase in revenue for Member States (and ESPs) because the visa and service fees are essentially a transfer from one category of stakeholder to another.

It was decided to aggregate the two revenue streams. It is likely that the agreements between Member States and ESPs differ between countries, and also between different ESPs working for the same Member State in different third countries.

The results showed that, despite an increase in both visa and service fees from 2020, the combined revenues dropped in the 2020-2021 period, then increased again in 2022, albeit still below 2019 levels. This was interpreted as a clear indication of the direct effects of the COVID-19 pandemic and the related travel restrictions, which offset any direct effect of the amended Visa Code for the period.

The direct attribution of any effects of the increased visa fee introduced by the amended Visa Code was further complicated by the fact that in the vast majority of cases, revenue for visa fees is included in the general State budget and is not earmarked for the visa process<sup>363</sup>.

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<sup>362</sup> Eurostat, Labour cost, wages and salaries, direct remuneration (excluding apprentices) by NACE Rev. 2 activity [LC\_NCOST\_R2\_custom\_5497612], [https://ec.europa.eu/eurostat/databrowser/view/LC\\_NCOST\\_R2\\_custom\\_5497612/default/table](https://ec.europa.eu/eurostat/databrowser/view/LC_NCOST_R2_custom_5497612/default/table)

<sup>363</sup> Member States targeted survey, Q16 (n=16).

A4.3 Limitations and mitigation steps

Due to the limitations in data availability, the analysis could quantify and monetise only a limited number of the direct costs and benefits identified, and only for some of the stakeholder categories. The remaining direct benefits are assessed in a qualitative manner, triangulating stakeholders’ views, evidence from secondary sources (if any), and findings from evaluation questions, where applicable. Finally, there are some indications of (indirect) benefits for the broader set of stakeholders involved.

The lack of data on the processing of visa by ESPs limits the validity of the findings on the effects of the amended Visa Code on applicants and on processing authorities. Applicants could have benefited from a simplification of procedures and possibly by a reduction in the administrative burden – including for applications filed via ESPs – potentially offsetting the increase in visa and service fees. Similarly, the effects on Member States are only partial, due to the uncertainties about the visa fee redistributions for applications filed via ESPs.

The 2020-2022 period was heavily impacted by the COVID-19 pandemic and related travel restrictions, and, more recently, by the Russian invasion of Ukraine and its effects on visa policies and travel patterns. Therefore, most of the expected effects of the amended Visa Code did not clearly manifest. The evidence available was not sufficient to attribute the effects identified to the amended Visa Code (e.g. simplification of visa processes).

The analysis of the costs and benefits relied heavily on qualitative information and on triangulation of evidence collected via different sources, which allowed only limited analysis. The data limitations are reflected in the overall analysis and conclusions drawn, highlighting the preliminary nature of some of the findings provided.

The table below shows the main costs and benefits identified by the evaluation for the different categories of stakeholders. As mentioned earlier, a robust quantification was not possible. The 2020-2022 period was heavily impacted by the COVID-19 pandemic and related travel restrictions, and, more recently, by the Russian invasion of Ukraine and its effects on visa policies and travel patterns. Therefore, most of the expected effects of the amended Visa Code did not clearly manifest. The evidence available was not sufficient to attribute the effects identified to the amended Visa Code (e.g. simplification of visa processes), and the analysis had to rely mostly on qualitative information and stakeholders’ opinions.

Table A4.2 Overview of costs and benefits identified in the evaluation

Overview of costs and benefits identified in the evaluation			
	Citizens (third country nationals)	Schengen countries authorities and consulates	Other stakeholders

		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Visa application process							
Costs identified	Direct compliance costs (adjustment, administrative regulatory charges): one-off	N/A	N/A	N/A	In the limited figures collected on the IT set-up costs it is not possible to disentangle those related to broader digitalisation from those directly related to the amended Visa Code.	N/A	N/A
	Direct compliance costs (adjustment, administrative regulator charges): recurrent	Visa fee increased to EUR 80 (from EUR 60)  There is limited evidence of increases in service fees as well.	The final effect is not possible to quantify, due to external factors and differences in service fees between Member States but also for the same Member State, depending on the third country considered.	N/A	Costs for operating systems and staff costs for processing visa applications following the new procedures.  The evidence available is too limited to have a robust estimation	N/A	N/A



Overview of costs and benefits identified in the evaluation							
	Citizens (third country nationals)			Schengen countries authorities and consulates		Other stakeholders	
	Quantitative	Comment		Quantitative	Comment	Quantitative	Comment
Visa application process							
			Visa fees are treated as transfers from applicants to Schengen countries (where they represent direct financial benefits), so the net effect is null <sup>364</sup>				
	Enforcement costs (monitoring, inspection,	N/A	N/A	N/A		N/A	N/A

<sup>364</sup> The increase in fees for visa applicants corresponds to an increase in revenue for Member States (and ESPs) because the visa and service fees are essentially a transfer from one category of stakeholder to another. Overall, the purely financial effect is zero, since the same amount goes from one group of stakeholders to another. It is consistent with the view of considering TCNs as key stakeholders (citizens) as in the table. If the preference is to emphasise the transfer from outside the EU to the EU, then it is a net positive transfer to the EU

Overview of costs and benefits identified in the evaluation							
		Citizens (third country nationals)		Schengen countries authorities and consulates		Other stakeholders	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Visa application process							
	litigation): one-off						
	Enforcement costs (monitoring, inspection, litigation): recurrent			N/A			
	Indirect costs (indirect compliance or transaction costs)	-	-	N/A	-		
Benefits identified	Direct benefits: one-off	N/A	N/A	N/A	N/A	N/A	N/A

Overview of costs and benefits identified in the evaluation							
		Citizens (third country nationals)		Schengen countries authorities and consulates		Other stakeholders	
		Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
Visa application process							
	Direct benefits: recurrent	N/A	Reduced effort to collect visa documentation, file the application and complete the process. The increasing reliance on ESPs has reduced the need for long-distance travel to apply for a visa.  There is no strong evidence of overall simplification in the visa process	Increase in revenues from visa service fees (EUR 80 instead of EUR 60), whose effects have been offset by external factors.  The direct effects on revenues from the increased visa fee for Member States would be difficult to discern in any case because they are	Visa fees are treated as transfers from applicants to Schengen countries (where they represent direct financial benefits), so the net effect is null.	N/A	N/A

Overview of costs and benefits identified in the evaluation							
	Citizens (third country nationals)			Schengen countries authorities and consulates		Other stakeholders	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	
Visa application process							
				typically included in the general State budget, and not earmarked for supporting the functioning of the visa process			
	Indirect benefits: one-off	N/A	N/A	N/A	N/A	N/A	N/A
	Indirect benefits: recurrent	N/A	N/A	N/A	N/A	N/A	New rules on visa validity facilitate mobility and therefore attract travellers. Industry stakeholders welcomed efforts

Overview of costs and benefits identified in the evaluation							
	Citizens (third country nationals)			Schengen countries authorities and consulates		Other stakeholders	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	
Visa application process							
							to facilitate visa procedures and reported increased inbound mobility from simplified procedures

## A5.1 Introduction

This Synopsis Report provides an overview of the results of the stakeholder consultation carried out as part of the evaluation of the application of the Visa Code - Regulation (EC) No 810/2009 - as amended by Regulation (EC) 2019/1155 of 20 June 2019. This Synopsis Report accompanies the Draft Final Report of the evaluation. Section 2 presents the approach to the consultation and Section 3 summarises the results.

## A5.2 Consultation strategy and consultation activities

The consultation strategy, as agreed with the inter-service steering group, identified the relevant stakeholders and selected the appropriate consultation methods and tools. The strategy identified as the main stakeholders Member States' authorities responsible for the implementation of the amending Regulation. Other important stakeholders are relevant Directorate Generals within the Commission, the European External Action Service, EU Delegations and business representatives. As for the consultation methods and tools, the strategy proposed as a minimum to carry out targeted surveys, structured interviews and case studies.

Table 5.1 presents an overview of the consultation activities and the main stakeholder groups targeted. Stakeholders were selected to be as comprehensive and representative as possible, and all relevant groups (EU, national and international level) were given an opportunity to provide their views and experiences of the functioning and impacts of the amended Visa Code. The consultation comprised a mix of complementary methods, including online surveys, semi-structured interviews and case studies.

**Table A5.1 Consultation activities and tools, by stakeholder group**

Stakeholder group	Consultation activity/tool	Answers received/ interviews carried out
<b>EU institutions and bodies</b>	Interviews (including scoping interviews)	15 interviews <sup>365</sup>
<b>Consulate representatives</b>	Interviews	3 interviews; 1 written questionnaire received
	Online survey	27 responses <sup>366</sup>
	Case studies	3 case studies

<sup>365</sup> DG HOME (4), DG JUST (2), DG INTPA, Frontex, EEAS (6), IMEX.

<sup>366</sup> Consulates of BE (2), CZ (3), DK (1), DE (1), EL (1), ES (3), FR (1), LT (1), HU (3), MT (1), NL (2), AT (1), PL (2), PT (1), SK (1), FI (1) and CH (2).)



Stakeholder group	Consultation activity/tool	Answers received/ interviews carried out
Ministry representatives	Interviews	15 interviews/questionnaires received with 22 authorities <sup>367</sup>
	Online survey	43 responses from 21 Member States <sup>368</sup>
Industry representatives	Interviews	5 interviews <sup>369</sup>
	Online survey	27 responses

### A5.2.1 Online surveys

Three surveys were launched as part of the initial data collection, targeting:

- Member State ministries (MFAs and MOIs);
- Consulates;
- Industry representatives.

The three surveys were launched on 1 December 2022, with an initial deadline of 22 December 2022. To allow stakeholders more time to respond, the deadline was extended until 10 January 2023. The surveys were launched using Qualtrics. However, stakeholders from Member States were also given the possibility to respond to the survey by completing a word document version. Member States and consulates also received a separate table, requesting them to share relevant statistics to feed into the cost-benefit analysis.

In early January 2023, the study team noted a limited number of responses from consulates (17 responses from 228 Member State consulates contacted in Egypt, India, Mali, Morocco, Saudi Arabia, Senegal, Turkey and the UK). The consulate survey was relaunched, with a deadline of 15 February 2023. The overall limited responses from consulates could be explained by the (expressed) reluctance of some Member States to have their consulates provide data that may not be aligned with the view of the leading ministry.

Very few statistics were received from either Member State ministries or consulates (with just four surveys received at the beginning of January 2023), which impacted the ability of the study team to conduct efficiency analysis at interim stage. A reminder was sent to Member States and

<sup>367</sup> MFA: DE, EL, ES, LT, LU, NL, AT, PL; MFA/MOI/Immigration office: BE; MFA/MOI: CZ, EE, SI and IS; MOI: FR; MOJ/Immigration office: SE.

<sup>368</sup> BE (3), CZ (1), DK (2), DE (1), EE (3), ES (1), IT (2), LV (1), LT (2), LU (1), MT (3), NL (2), AT (3), PL (2), PT (2), SK (3), SI (1), FI (2), SE (2) and CH (1), NO (3).)

<sup>369</sup> CLIA, ECSA, IATA, Pearle, Carnival plc (UK).)

consulates, extending the deadline for submission of statistics. The lack of responses was also raised by DG HOME at a meeting of the Visa Working Party on 19 January 2023, with DG HOME encouraging Member States and their consulates to provide feedback to the study in the coming weeks and months. This resulted in 19 statistical tables being sent by Member States and six statistical tables by consulates.

Given that not all aspects related to the Visa Code always sit only with one Member State authority (especially as relates to Article 25a on returns and readmissions), several authorities in Member States were consulted simultaneously (mainly Ministries of Foreign Affairs and Ministries of Interior). As such, when replying to the survey, some Member States provided contradictory responses from different ministries, suggesting not enough time may have passed since the introduction of the amendments for Member States to have a consolidated opinion on their impact. Those contradictions are highlighted in the report footnotes, with a consolidated response presented where stakeholders responses matched within a Member State. Moreover, it is also worth noting that Member State authorities were given the option to respond only to those questions in the survey which corresponded to their specific competences. As such, some of the consulted national authorities provided answers only to aspects related to Article 25a on returns and readmissions, as this is their key area of responsibility. In other instances, national authorities responded to overarching questions related to the Visa Code's implementation but not to questions on Article 25a as they have responsibility for consular issues but not for returns.

#### **A5.2.2 Targeted interviews and questionnaires**

For this evaluation, the external contractor planned up to 58 interviews with national authorities, consulates, EU-level stakeholders, industry representatives, ESPs and data protection authorities. A total of 39 interviews took place with 46 authorities (some interviews included several national representatives or different industry stakeholders).

The following stakeholders were interviewed:

- Member States' ministries;
- Consulates;
- Industry representatives;
- EU institutions and bodies.

The interviews with Member States specifically targeted countries that did not contribute to the survey, in order to ensure that their views were represented to the extent possible. Several joint interviews were carried out with representatives from MFAs, MOIs and immigration offices (among others). In the case of two Member States (Norway and Portugal), the interviewees did not attend the organised meetings. In addition, four countries (Bulgaria, Croatia, Cyprus, Romania) declined to participate because they were not yet fully implementing the Visa Code (joining Schengen on 1 January 2023, or not part of Schengen yet). Several other countries (Denmark, Latvia and Switzerland) declined to participate due to increased workload or lack of resources. Finally, several countries (France, Slovenia and Iceland) opted to provide their feedback in written questionnaire format.

Interviews with consulates focused on those Member States that responded to the survey in order to address any data gaps identified. The consulates also had the option to answer in writing if they preferred to consult their ministry before responding. Ministries were included in the correspondence inviting consulates for interviews, to allow for better coordination between the consulates and their central-level representatives. Nevertheless, only a small number of consulates participated in the organised interviews (see Table 5.1), with one consulate opting to use the written questionnaire.

The industry stakeholders that responded to the survey were invited to participate in an interview. Only a small number of industry representatives responded to that request, with one opting out to fill out the written questionnaire.

Given the low level of engagement from consulates, the study team engaged with a number of EU Delegations through the EEAS to try to collect additional information on potential challenges Member States faced in implementing the Visa Code and raised with the LSC. As a result, three EU Delegations were interviewed.

Despite repeated requests for an interview to a wide number of ESPs, none were interviewed. Initially, six ESPs were identified based on geographical representation and number of visas, and when they did not respond a further three were contacted, together with a reminder to the original six. None of the nine replied. Consequently, an invite was sent to all 122 ESPs, but again none replied. As they are contracted by Member States, they may have felt it would be too sensitive to respond to questions about the implementation of the Visa Code itself.

Similarly, national data protection authorities did not respond to requests for interview or stated that they did not have the necessary expertise to comment on the overall implementation of the Visa Code. Five national data protection authorities were selected and contacted, according to evidence collected through desk research on their participation in the data collection process of studies on similar topics.

Table 5.1 presents an overview of the stakeholders interviewed.

Stakeholder group	Consultation activity/tool	Answers received/ interviews carried out
EU institutions and bodies	Interviews (including scoping interviews)	15 interviews <sup>370</sup>
Consulate representatives	Interviews	3 interviews; 1 written questionnaire received

<sup>370</sup> DG HOME (4), DG JUST (2), DG INTPA, Frontex, EEAS (6), IMEX.

Stakeholder group	Consultation activity/tool	Answers received/ interviews carried out
Ministry representatives	Online survey	27 responses <sup>371</sup>
	Case studies	3 case studies
	Interviews	15 interviews/questionnaires received with 22 authorities <sup>372</sup>
Industry representatives	Online survey	43 responses from 21 Member States <sup>373</sup>
	Interviews	5 interviews <sup>374</sup>
	Online survey	27 responses

### A5.2.3 Case studies

Three case studies were conducted as part of the consultation activities, targeting Member State consulates in selected third countries.

One case study was to focus on LSC, specifically its promotion of harmonisation of visa procedures across Member States. However, data showed that this varies significantly across regions and depends heavily on the engagement of a given EU Delegation. Given the limited data provided, it was not possible to conduct a case study that would generate relevant data for this study, and it was put aside. Instead, the study team planned a fourth case study, with an interview scheduled for 23 March 2023. That interview was cancelled due to unexpected illness of the consulate staff and it was not possible to reschedule within the timeframe of the study. Other consulates refused to engage, despite repeated requests for an interview.

The case studies focused on the implementation of the new amendments, challenges faced during implementation, remaining challenges, and the impact on LSC. Finally, they highlighted a number of good practices and laid out recommendations raised by stakeholders.

<sup>371</sup> Consulates of BE (2), CZ (3), DK (1), DE (1), EL (1), ES (3), FR (1), LT (1), HU (3), MT (1), NL (2), AT (1), PL (2), PT (1), SK (1), FI (1) and CH (2).)

<sup>372</sup> MFA: DE, EL, ES, LT, LU, NL, AT, PL; MFA/MOI/Immigration office: BE; MFA/MOI: CZ, EE, SI and IS; MOI: FR; MOJ/Immigration office: SE.

<sup>373</sup> BE (3), CZ (1), DK (2), DE (1), EE (3), ES (1), IT (2), LV (1), LT (2), LU (1), MT (3), NL (2), AT (3), PL (2), PT (2), SK (3), SI (1), FI (2), SE (2) and CH (1), NO (3).)

<sup>374</sup> CLIA, ECSA, IATA, Pearle, Carnival plc (UK).)

## A5.3 Main stakeholder feedback per evaluation criterion

### A5.3.1 Effectiveness

On the **harmonisation of EU visa policy**, several national authorities interviewed felt that the main element introduced in 2019 to achieve additional harmonisation was the **MEV cascade rule**<sup>375</sup>. Nevertheless, they noted that implementation of the cascade is fragmented<sup>376</sup>. Some Member States reported challenges in harmonising MEV issuance<sup>377</sup>, including a lack of clarity on certain aspects (e.g. whether a candidate has the right to a new five-year visa after a five-year MEV or whether they can be issued a five-year MEV).

Overall, industry stakeholders perceived that the implementation of the Visa Code remains somewhat fragmented<sup>378</sup>, with a number of Member States reporting visa shopping as a concern<sup>379</sup>. However, some ministries indicated that visa shopping may be partially explained by different capacities of different Member States and overall workload and volume of applications received, leading to different lengths of processing times that potentially incentivise travellers to apply for visas at less overloaded consulates<sup>380</sup>.

The Member State and consulate surveys indicated that the work of LSC in supporting harmonisation among Member States at local level was viewed positively, despite regional differences<sup>381</sup>. LSC supports Member States by providing a platform for coordination and information sharing on an ad hoc or regular basis, giving consulates the opportunity to discuss shared concerns. While LSC appears to be a useful mechanism, engagement differs across locations and depends on the capacity of the specific EU Delegations in charge of organising the process. This also results in different levels of satisfaction with LSC contribution to overall harmonisation and coordination<sup>382</sup>. The case studies and interviews indicate that when used effectively, LSC can play an important role, but EU Delegation staff are not always sufficiently trained, nor do they always have the staff to dedicate sufficient time to managing the process<sup>383</sup>.

<sup>375</sup> Interviews with 6 Member States.

<sup>376</sup> 13/17 Member States stated that the MEV cascade rule led to harmonisation to some extent; 4/17 agreed to a large extent.

<sup>377</sup> 3/16 Member States that responded to the question; Interview with 1 Member State reported that its missions requested numerous clarifications about the issuance of MEVs.

<sup>378</sup> Confirmed by industry stakeholder survey.

<sup>379</sup> 5/20 Member States; interviews with consulate 1, 2, 3.

<sup>380</sup> Interviews with 2 Member States.

<sup>381</sup> Member States that consider LSC a useful platform supporting harmonisation of practices: 12/20; 10/12 responding consulates (1/12 stated that LSC is very effective; 1/12 stated that it is not effective at all).

<sup>382</sup> Case studies (1-3) reflect diverging experiences and satisfaction of Member State consulates with the work of LSC, depending on the specific location: Member States that consider LSC a useful platform supporting harmonisation of practices: 19/20 'very effective or somehow effective'; 10/12 consulates (5/20 'very effective'; 14/20 'somewhat effective'; 1/20 'not effective at all').

<sup>383</sup> Interviews with EEAS 1,2; interviews with EU Delegations 1, 2, 3.

Among industry representatives, the most positive developments of the amended Visa Code included new rules on MEVs<sup>384</sup>, as well as the ongoing digitalisation of the visa procedure. They also valued the new rules on visa validity<sup>385</sup> and the option for applicants to submit their applications electronically<sup>386</sup>.

Despite these positives, the overall opinion was that the visa process can be further improved to facilitate legitimate travel to the Schengen area<sup>387</sup>, including:

- Further digitalisation of the process;
- Supporting further harmonisation of visa issuance procedures by different Member State consulates operating in the same third country;
- Simplifying terminology and removing duplication of some information requests;
- Improving the slow process, lack of visa staff and high service fees;
- Simplifying the application form;
- Further simplifying the process for seafarers, including extending the application to 10/12 months before the intended visit (currently nine months).

While the visa fee increase was viewed negatively<sup>388</sup>, it was not believed to have had a negative impact or to have limited travellers<sup>389</sup>.

On **digitalisation**, stakeholders generally perceived that more needs to be done at Member State and EU level. Consulates, in particular, indicated limited progress in the digitalisation of their visa processes, with very few using the option of electronic signatures<sup>390</sup>. The majority<sup>391</sup> indicated that no electronically filled applications were processed within their jurisdiction<sup>392</sup>, chiefly due to the lack of technical capacity to process electronically signed applications<sup>393</sup>. Only three consulates indicated that the digitalisation process was driven by the Visa Code amendments, with the majority stating that it was part of a broader digital policy agenda<sup>394</sup>.

<sup>384</sup> Industry survey on the impact of MEV cascade rule: 17/27 'very positive'; 5/27 'positive'; 2/27 'no impact'; 15/27 rated this development as 'greatly effective'; 6/27 'effective'; 1/27 'average effectiveness'.

<sup>385</sup> Industry survey: 15/27 benefited to a 'great extent'; 8/27 benefited 'somewhat'; 1/27 benefited 'very little'.

<sup>386</sup> Industry survey: 17/27 'very positive impact'; interviews with ES, LU, PL, SE authorities.

<sup>387</sup> 19/27 industry respondents noted a need for further simplification of visa procedures for travellers.

<sup>388</sup> 14/27 industry respondents stated it had a negative or very negative impact.

<sup>389</sup> 4/27 industry respondents stated that the raised visa fee resulted in fewer travellers, 10/27 noted it had no effect, 5/27 did not know.

<sup>390</sup> 2/17 consulates (10/17 stated that they do not process electronic signature applications; others did not respond).

<sup>391</sup> 22/25 consulates.

<sup>392</sup> Consulate targeted survey, Q23 (n=25).

<sup>393</sup> Consulate targeted survey, Q23.1 (n=20).

<sup>394</sup> Consulate targeted survey, Q21.1 (n=13).



### A5.3.2 Relevance

Stakeholders generally perceived that the changes introduced in the revised Visa Code are **relevant to deal better with Visa Code objectives**. Respondents to the Member State survey considered that visa procedures and conditions are now further harmonised<sup>395</sup> across Schengen countries, more streamlined<sup>396</sup>, more flexible<sup>397</sup> and simpler<sup>398</sup> for applicants.

Some interviewees<sup>399</sup> indicated that, overall, the increased visa fee is relevant, that the fee is sufficient to cover the costs, and that the increase allowed investment in more equipment and staff needed to process visas. However, other interviews with Member States<sup>400</sup> indicated that while the increased visa fee is a positive development, it does not meet the costs of visa processing. Arguments included the fact that the visa fee does not reflect the higher cost of living in recent years, constant wage growth, and capacity issues. They also noted that the visa fee should cover all costs of visa processing, which is not the case at the moment.

Overall, stakeholders perceived that the amended Visa Code appears aligned with **current and future needs, challenges and developments relevant for the application of the EU's visa policy and the Schengen acquis**<sup>401</sup>. During the interviews with Member States, stakeholders<sup>402</sup> indicated that it is not yet possible to determine the extent to which the new amendments contribute to preventing irregular migration and heightened security risks, particularly in light of the COVID-19 pandemic and the war in Ukraine. Some ministries and consulates<sup>403</sup> perceived no change, but one stakeholder<sup>404</sup> believed that security and irregular migration risks persist and have worsened since the amendment to the Regulation.

Stakeholders generally perceived that the amended Visa Code is relevant **to the growing trend of digitalisation of administrative procedures**, in that it sets out a path toward further digitalisation of the visa process. This process is ongoing: for instance, only a small number of consulates indicated that they process electronic signature applications, while evidence from the surveys and interviews shows that only a small number of stakeholders<sup>405</sup> believed that the digitalisation of visa processes was driven by the Visa Code amendments.

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<sup>395</sup> 13/19 Member States.

<sup>396</sup> 12/10 Member States.

<sup>397</sup> 10/20 Member States.

<sup>398</sup> 8/20 Member States.

<sup>399</sup> Interviews with 3 Member States.

<sup>400</sup> Interviews with 4 Member States.

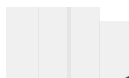
<sup>401</sup> Interviews with 3 Member States.

<sup>402</sup> Interviews with 5 Member States.

<sup>403</sup> Interviews with 4 Member States; Consulate 1.

<sup>404</sup> Consulate 1.

<sup>405</sup> Three consulates.



**Certain challenges affecting the application of the EU visa policy identified in 2018 should be further addressed in the Visa Code**, according to some stakeholders. When asked about challenges to be addressed to improve the management of migration and security through visa policies, Member States and consulates mainly focused on issues like **visa shopping** (resulting from a lack of full harmonisation of visa policies)<sup>406</sup>. Other elements reported were **preventing fraud**<sup>407</sup> in relation to the authenticity of certain documents.

According to one Member State<sup>408</sup> interviewed, **determining the competent State to process the application** remains an unaddressed challenge, as does the list of supporting documents that may be requested from the applicant. In light of technological developments, some documents may no longer be relevant. The aspect of **digitalisation** also requires further efforts, according to national authorities<sup>409</sup>.

Stakeholders stated that **the objectives of the Visa Code could not be better addressed by adopting other regulatory/non-regulatory measures**. The majority of Member States<sup>410</sup> responding to the survey indicated that similar results could not have been achieved by adopting different types of measures, such as recommendations and opinions. One respondent<sup>411</sup> specified that a regulation is the only EU instrument automatically adopted by the Member States applying the Schengen acquis in full, and while a directive is an alternative, it then needs to be transposed into national legislation. Only a minority of Member States<sup>412</sup> did not support this opinion. For instance, one stakeholder<sup>413</sup> indicated that the introduction of new databases such as EES, ETIAS and ECRIS-TCN would have a larger impact than the amended Visa Code, while another specified that it does not matter what measures are adopted, as Member States will continue to apply the Visa Code in different ways. During the interviews, Member States<sup>414</sup> generally confirmed that the objectives of the Visa Code could not be better addressed by adopting other regulatory/non-regulatory measures. Nevertheless, some<sup>415</sup> indicated that non-regulatory measures, such as including more details in the Visa Code Handbook accompanying the Regulation or guidelines, could help to achieve the objectives of the Visa Code. According to interviewees, guidelines on exceptional situations such as pandemic or war could be useful.

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<sup>406</sup> 7 Member States; 2 consulates.

<sup>407</sup> 2 Member States, 2 consulates.

<sup>408</sup> Interview with 1 Member State.

<sup>409</sup> Interviews with 4 Member States.

<sup>410</sup> 11/15 Member States.

<sup>411</sup> Interviews with 1 Member States.

<sup>412</sup> 4/15 Member States.

<sup>413</sup> Interviews with 1 Member State.

<sup>414</sup> Interviews with 5 Member States.

<sup>415</sup> Interviews with 3 Member States.

### A5.3.3 Coherence

Stakeholders generally perceived the amended Visa Code as **coherent and complementary with other policies at EU and international level**. While interviews with Member States showed that the amendments to the Visa Code were seen as a positive contribution to more harmonised application of the EU visa policy<sup>416</sup>, some ministries noted that the impact on the Schengen acquis is rather limited, with persistent differences in Member States' implementation of the different instruments and provisions<sup>417</sup>.

Interviews with stakeholders revealed that the **Visa Code is implemented in compliance with other EU policy instruments and legislation, particularly in relation to fundamental rights, data protection and the free movement of persons**. The Member States and consulates interviewed reported that their consular offices have put in place relevant measures to protect applicants' fundamental rights<sup>418</sup>. The main challenge that emerged from the interviews related to the respect of data protection standards by ESPs and visa application centres (VACs). In addition, one ministry highlighted issues in relation to ESPs' excessive retention of documents and the inadequate respect of protocols and procedures related to the destruction of such documents<sup>419</sup>. Interviews with consulates revealed the methods adopted to ensure that ESPs respect applicants' right to data protection, such as periodic monitoring and reporting systems to verify the procedures implemented by ESPs, and training staff on the standards to be respected<sup>420</sup>.

Overall, stakeholders perceived that **the Visa Code is aligned and implemented in compliance with relevant EU policy and legislation on the free movement of EU citizens and their family members**. All consulates interviewed confirmed that they had introduced accelerated procedures for applicants applying under Directive 2004/38/EC<sup>421</sup>. One consulate explained that EU family members may decide not to make use of the accelerated procedure because of the waiting time, or in order to apply with friends who do not benefit from the same accelerated procedure<sup>422</sup>.

Finally, one ministry indicated that the Visa Code Handbook needs to be updated and some aspects clarified, such as the application of exemptions from ATVs for EU family members (Articles 3 and 16 Visa Code) and the categories of family members covered by the Directive<sup>423</sup>.

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<sup>416</sup> Interviews with 5 Member States.

<sup>417</sup> Interviews with 6 Member States.

<sup>418</sup> Interviews with 6 Member States., consulates 1, 2, and 3.

<sup>419</sup> Interviews with 1 Member States.

<sup>420</sup> Interviews with consulates 1, 2, and 3.

<sup>421</sup> Interviews with consulates 1, 2, and 3.

<sup>422</sup> Interview with consulate 3.

<sup>423</sup> Interviews with 1 Member States.

### A5.3.4 Efficiency

National authorities indicated that it is challenging to determine any major increase in costs incurred due to the implementation of the amended Visa Code<sup>424</sup>. Nevertheless, some Member States reported not having incurred additional costs<sup>425</sup>, and rarely indicated significant additional costs for implementing the new provisions.

The evidence available on the costs incurred for the digitalisation of the visa process shows very different figures among Member States, with Belgium reporting a value of EUR 2 million, Slovenia about EUR 600,000 and Germany EUR 1.65 million, covering costs of digitalisation and the operational costs of the national visa system<sup>426</sup>.

Information on other direct implementation costs for Member States and consulates (e.g. training, hiring new staff) is quite scattered. A small number of consulates indicated that new staff were hired after 2020 to support the processing of visa requests<sup>427</sup>. The majority stated that the resources currently employed are not sufficient to ensure a good quality of service to the public<sup>428</sup>.

While no evidence emerged from the consultation on the training costs directly related to the implementation of the amended Visa Code for staff in national authorities and consulates, the majority of the respondents considered the training, guidance and capacity-building available to consular staff to be sufficient<sup>429</sup>. In some cases, the revenue from the increase visa fees were invested in training staff<sup>430</sup>.

### A5.3.5 EU added value

Stakeholders generally perceived that the amended Visa Code generated some added value by allowing the EU to better coordinate and harmonise implementation of the visa policy. On the added value of flexibility, the majority of the Member State authorities surveyed considered that visa procedures and conditions are now further harmonised<sup>431</sup> across Schengen countries, more streamlined<sup>432</sup>, more flexible<sup>433</sup> and simpler<sup>434</sup> for applicants. In addition, most of the industry stakeholders surveyed indicated that the facilitation of short-visa arrangements

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<sup>424</sup> Member States targeted survey, Q32 (n=15).)

<sup>425</sup> Member States targeted survey, Q32 (n=15).)

<sup>426</sup> Member States targeted survey, Q34 (n=19).)

<sup>427</sup> Consulate targeted survey, Q32 (n=16).)

<sup>428</sup> Consulate targeted survey, Q33 (n=18).)

<sup>429</sup> Consulate targeted survey, Q37 (n=19).)

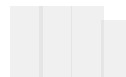
<sup>430</sup> Member States targeted survey, Q16 (n=16).)

<sup>431</sup> 13/19 Member States.

<sup>432</sup> 12/10 Member States.

<sup>433</sup> 10/20 Member States.

<sup>434</sup> 8/20 Member States.



benefited their industry between 2020 and 2022<sup>435</sup>, with one noting that the changes made the visa application process faster and more convenient. Similarly, during the interviews with industry stakeholders, some indicated that the facilitation of short-stay visas following the amendments benefited their industry, suggesting added value of the new measures. They emphasised the difficulty in making a full evaluation, given the impacts of COVID-19 on the sector<sup>436</sup>. Other industry stakeholders highlighted that, despite the positive intent of the amendments, there is still room for improvement, particularly in relation to the time that it takes to process applications<sup>437</sup>. One stakeholder pointed out that the travel industry would definitely benefit from further simplification of visa procedures for travellers<sup>438</sup>.

There seems to be less EU added value in the context of digitalisation of the visa application process, according to stakeholders. Consulates replying to the targeted survey did not believe that the digitalisation of the visa procedures was driven by the Visa Code amendments<sup>439</sup>. In addition, most of the national authorities interviewed indicated that they had already started to digitalise their processes even before the Regulation amendments<sup>440</sup>. Nevertheless, Member States authorities also noted that the effect of the new digital procedures made it easier to involve central authorities in the decisions relating to visas, and reduced the burden on applicants, who no longer necessarily have to travel to the consulate or to the ESPs premises<sup>441</sup>.

Finally, the majority of the Member States perceived some degree of EU added value in the harmonisation of MEV issuance across the Schengen area<sup>442</sup>. This change was particularly appreciated by industry stakeholders, with a large majority replying that the new rules for issuing MEVs have been very effective in attracting travellers to the EU<sup>443</sup>.

### **Feedback received on the Call for evidence**

Three stakeholders submitted feedback on the evaluation call for evidence (feedback period 28 April 2022 - 26 May 2022). One stakeholder represented a business association, one an EU citizen and the third one a non-EU citizen. All of them supported the evaluation procedure while two of them submitted issues to be taken into account in the evaluation as well as proposals for further improvement of the Visa Code Regulation.

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<sup>435</sup> Industry targeted survey, Q9 (n=23): 'strongly agree'. Strongly agree: 11/23, 'agree': 9/23, 'neither agree/nor disagree': 1/23, 'disagree': 2/23

<sup>436</sup> Industry interviews 3,4.

<sup>437</sup> Industry targeted survey, open question 8.

<sup>438</sup> Industry interview 2.

<sup>439</sup> Consulate targeted survey, Q21.1 (n=13): 3/13 replied that the digitalisation of visa processes is driven by the Visa Code amendments.

<sup>440</sup> Interviews with 7 Member States.

<sup>441</sup> Interviews with 4 Member States.

<sup>442</sup> Member State targeted survey, Q10 (n=17): 13/17 'to some extent'; 4/17 'to a large extent'.

<sup>443</sup> Industry targeted survey, Q10 (n=22): 15/22 'very effective'.

**No public consultation** was undertaken for this evaluation because the Digitalisation Public Consultation contained related questions. A public consultation for the digitalisation of visa procedures was conducted through an internet-based survey between March and June 2021. The public consultation targeted visa applicants and citizens or organisations who wish to give their input on the modernisation of the EU's visa policy. As of 3 June 2021, the Public Consultation (PC) had a total of 515 respondents out of which 341 were non-EU citizens and 98 EU citizens. 81% of the respondents are very positive about the initiative and 14% are positive about digitalising the visa procedure and making it less paper-based. Only 2% have a negative opinion on the digitalisation with the fact of losing personal contact as a main argument and 3% are neutral. 96% of respondents believe that the introduction of an online application procedure would facilitate the process of applying for a Schengen visa. Hardly 2% of respondents do not agree with this statement and 2% are neutral.

This public consultation contained questions related to the application of the VC namely the need to travel in person to Consulate or VAC and difficulties in completing the visa application file. 29% of respondents said that the application process was complicated. This showed that there is a continuous need to streamline the application procedure and that the applicants should be able to submit their application close to their place of residence since travel cost is a major factor.

In terms of the data provided by respondents on the costs and time they spent on previous applications, the following findings were made:

- The average distance travelled to get to the next consulate or visa application centre: 123km.
- Average cost of transport to and from the consulate (return trip): EUR 28
- Average number of hours spent travelling: 6.5 hours
- Average cost for accommodation associated with taking a trip for the visa: EUR 39
- Average courier costs for delivery of travel document: EUR 25
- Average transport costs to pick-up the travel document at the consulate: EUR 22

Other costs mentioned by respondents were:

- Food: particularly in the case where a TCN had to travel to another country, food was a significant cost;
- Copying and translation of documents;
- The loss involved in taking time off work to travel to the consulate.



Overall, the results of a public consultation on the **digitalisation proposal**, show a very strong support for the digitalisation process, both regarding the digital visa and the possibility to apply online). Both the introduction of an online application platform and a digital visa are seen as very positive developments which would facilitate the short-stay visa application procedure and traveling to the EU for visa holders.