



Council of the
European Union

180971/EU XXVII. GP
Eingelangt am 19/04/24

Brussels, 19 April 2024
(OR. en)

6253/24
ADD 1

VISA 14
MIGR 190
RELEX 558
COMIX 61

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	19 April 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2024) 109 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE EVALUATION EU Visa Policy - evaluation of the Visa Code

Delegations will find attached document SWD(2024) 109 final.

Encl.: SWD(2024) 109 final

Brussels, 19.4.2024
SWD(2024) 109 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE EVALUATION

EU Visa Policy - evaluation of the Visa Code

{SEC(2024) 146 final} - {SWD(2024) 108 final}

Background to the evaluation

Regulation (EC) No 810/2009 (the Visa Code)¹ 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 States² 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 and irregular migration from non-EU countries.

The revised Visa Code became applicable in February 2020. 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 Regulation³ (Article 2(1)), The Commission had to carry out an evaluation of the Visa Code 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.

The evaluation period coincided with 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.

¹ 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)

² 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)

³ 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)

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 shows how Member States implemented the new provisions of the Visa Code applicable since February 2020.

Main findings

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

- Administrative expenses incurred by Member States in visa processing were not fully covered by the visa fee;
- 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 evaluation criteria of **effectiveness, efficiency and coherence**, further harmonisation of EU visa policy has been partially achieved, including the introduction of the rules on issuing multiple-entry visas. Local Schengen cooperation 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 multiple-entry visas.

Nevertheless, 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, delays in appointments and processing of visa applications still persist, requiring further action by Member States.

The amended Visa Code positively facilitated legitimate travel to the Schengen area. The new 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. Given the impact of COVID-19 on the evaluation period, most respondents were uncertain if the amendments meant that travellers could now travel more easily to the Schengen area, or indeed whether travellers were more attracted to travel as a result of lifted travel restrictions.

The amended Visa Code introduced greater flexibility in visa procedures, including enabling digital visa applications. Further digitalisation of the visa process remains a priority for the EU⁴ and is seen as a positive step in facilitating tourism to the Schengen area⁵. However,

⁴ 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>

further digitalisation of the visa process will require a number of additional steps outside of the Visa Code itself⁶. Most importantly, implementation of the digitalisation of visa procedures, agreed by the European Parliament and the Council in June 2023, will digitise the visa application process⁷ and replace the visa sticker with a digital one.

Data limitations to the analysis and the consequences of the COVID-19 pandemic (and more recently Russia's war of aggression against Ukraine) make it difficult to identify clear trends in costs and benefits or to discern large differences in implementation costs among Member States.

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.

As concerns the **coherence**, the Visa Code is coherent and 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.

As regards the **EU added value**, the amended Visa Code generated EU added value by allowing the EU to better coordinate and harmonise implementation of the visa policy. None of the changes introduced in 2019 could have been achieved at Member State level.

As regards the **relevance**, several of the 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**, 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 processes built for the implementation of the corresponding provisions have completely transformed the ways of working among EU and Member State stakeholders, bringing many benefits at EU and national level. More specifically, 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. 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 through its consistent use. Efforts should be made to reduce the duration of the exercise to the maximum appropriate, whilst safeguarding the necessary flexibility and the prerogatives of the Commission and the Council on timing the proposal and the adoption of the measures. Regularity, including predictability and consistency of the processes could further increase the efficiency and coherence of the

⁵ European Commission, Scenarios towards co-creation of transition pathways for tourism for a more resilient, innovative and sustainable ecosystem, SWD(2021) 164 final.

⁶ 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.

⁷ See: https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2582

mechanism and facilitate clear communication with stakeholders. 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. Data quality should be further improved.