

Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council establishing a touring visa and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 562/2006 and (EC) No 767/2008’

COM(2014) 163 final — 2014/0095 (COD)

and the ‘Proposal for a Regulation of the European Parliament and of the Council on the Union Code on Visas (Visa Code)’

COM(2014) 164 final — 2014/0094 (COD)

(2014/C 458/07)

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On 3 April and 21 May 2014 respectively, the European Parliament and the Council of the European Union decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

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The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 27 August 2014.

At its 501st plenary session, held on 10 and 11 September 2014 (meeting of 10 September), the European Economic and Social Committee adopted the following opinion by 175 votes in favour and 1 abstention.

1. Conclusions and recommendations

1.1 The EESC wholeheartedly supports these two proposals for a regulation, the first of which seeks to establish touring and multiple entry visas and to amend the Convention implementing the Schengen Agreement, and the second of which seeks to recast the Visa Code in order to improve it, thereby promoting growth and new jobs.

1.2 The EESC fully supports the recommendations made by the European Council on 23 June 2014 concerning the need for the common visa policy ‘to be modernised by facilitating legitimate travel and reinforced local Schengen consular cooperation while maintaining a high level of security and implementing the new Schengen governance system’.

1.3 The EESC is convinced of the need to support all measures — including visa policy — to simplify and facilitate the entry of people who, having the right and the means to do so, wish to come to the EU for whatever legitimate reasons.

1.4 Europe is part of a globalised, interconnected world where international mobility is set to increase: hence the need to ensure better synergies with other strategic sectors, such as trade, tourism and culture, and to promote legitimate and secure entry on the basis of full reciprocity.

1.5 The authorities should direct their attention to young people from non-European countries in particular, including through financial support and procedural facilitations, which would make it possible for the EU to influence new generations with its own values and enable a culture of respect and tolerance among nations and to stem extremism in any form.

1.6 A secure and informed entry policy requires the EU — building on the process of unification constructed and supported by the Member States following the traumatic events of the first half of the ‘Short Twentieth Century’ — to become the place that delivers the actual dream not only of peace, progress, democracy and respect for all citizens, but also of growth, employment and competitiveness.

1.7 A smart policy for entry into the European area of freedom and justice should follow from the Nobel Prize awarded to the EU as a tangible sign of its accomplishments in terms of human rights, gender equality, recognition of people as intelligent consumers, sustainable development, protection and respect for the different faiths and sexual orientations of all people and the security of EU citizens.

1.8 The EESC, in its capacity as the ‘forum’ of civil society, believes that the smart and secure simplification of procedures applied to various third-country nationals entering EU territory should be able to contribute to growth and economic and social welfare, but moreover to help to spread the values that enable EU citizens to live together.

1.9 The EESC is convinced that we are approaching the time when it will be possible to move beyond the cultural and political reasons which led European states to establish national embassies, and that a single EU representation in third countries would constitute a qualitative leap forward in the way the EU addresses the rest of the world, giving new impetus to Europe’s unification process, also with respect to entry policy, which would solve many problems associated with different visa procedures and boost esteem and respect for the Union’s full political integration.

1.10 As a result, the EESC has the following recommendations for the European Commission, the European Parliament and the Council.

- Supporting documents for visa applications should be harmonised.
- More accurate data should be collected for the purposes of appropriate statistical monitoring.
- Touring visas and multiple entry visas should be introduced to facilitate tourism, performance, culture and business.
- Straightforward and streamlined procedural guarantees should be strengthened and uniformly applied.
- A Schengen visa website should be created in order to make it possible to submit applications online.
- Binding rules to distinguish different categories of applicants should be established to enable applicants with a ‘visa history’ to enjoy flexibility in terms of supporting documents.
- Adequate flexibility should be allowed for granting visas at the border for seafarers and single entry short-stay tourist visas.
- A secure legal framework should be established to facilitate the granting of visas for family visits.
- Consular cooperation should be strengthened to improve flexibility and with a view to introducing the principle of mandatory representation by taking concrete steps towards a single EU representation.

2. Introduction

2.1 A common policy on visas is a basic ingredient in the creation of a common area without internal borders and is integral to Articles 77(2) a) and 79 of the TFEU, which confer upon the EU the power to act in the area of visas and residence permits in the context of legal short-term stays in an EU Member State, under Title V of the TFUE ‘Area of Freedom, Security and Justice’.

2.2 The Schengen *acquis* regarding policy on visas, built up through intergovernmental cooperation under Schengen, has thus been built into the EU's institutional and legal framework: the Visa Code and the common policy on visas currently cover only visas for short-term stays (Schengen visas for stays of up to 90 days in a 180-day period) and concern visas issued by 22 Member States and four associated states. They do not apply to Bulgaria, Croatia, Cyprus, Ireland, Romania or the United Kingdom ⁽¹⁾.

2.3 In 2013 the 26 current Schengen members issued over 16,1 million Schengen visas in response to 17 204 391 applications. The land borders of the Schengen area cover 7 702 km, the sea borders 41 915 km, and there are 644 air border points. According to recent studies ⁽²⁾, a total of 6.6 million potential travellers were 'lost' in 2012 as a result of the complexity of visa issuing procedures, with a lost increase in entries of between 30 and 60 % and lost revenue of up to EUR 130 billion.

2.4 The main measures adopted under Schengen include:

- the abolition of internal border controls for people;
- a common set of rules applying to people crossing the external borders;
- harmonisation of entry conditions and the rules on visas for short stays;
- enhanced police cooperation, including rights allowing cross-border surveillance and hot pursuit;
- stronger judicial cooperation with a faster extradition system and transfer of enforcement of criminal judgments; and
- the creation and development of the Schengen Information System (SIS).

2.5 The Visa Code ⁽³⁾, which establishes harmonised procedures and conditions for issuing visas for short stays, is the fruit of the recasting and consolidation of all the legal acts governing conditions and procedures for the issuing of such visas and has replaced the obsolete elements of the Schengen *acquis*.

2.6 The Visa Code's declared aim is to reinforce the coherence of the common visas policy, in order to boost transparency and legal certainty, strengthen the procedural guarantees and equality of treatment of visa applicants, securing a high quality service and establishing the principle of a one-stop shop for applications, so as to facilitate legitimate travel, stem irregular immigration and maintain public order and security.

2.7 The bolstering of the Schengen Area, the agreement on a common European asylum system, the improvement of the common policy on visas, and the reinforcement of European cooperation in the fight against organised crime and its most dangerous manifestations (terrorism, human trafficking, cybercrime, etc.) all represent important progress, but it is still not enough. Greater cooperation is necessary within the Schengen area and with third countries. The common policy on visas also aims to:

- lay down common rules on external border controls, and
- promote the removal of internal border controls.

2.8 More specifically, visa policy is connected with the EU's border policies, as third country citizens requiring visas are subject to an initial check intended to establish whether they meet the conditions for entry into the EU at the time that their visa application is considered.

2.9 Application of Visa Code procedures has revealed various shortcomings, including:

- the failure to waive the requirement to lodge visa applications in person by simply providing certain supporting documents, owing to the issue of entrusting the evaluation of 'integrity' and 'reliability' to external services;

⁽¹⁾ Despite already being a signatory to the Schengen Agreement, Denmark can choose whether or not to apply every new measure arising from Title V of the TFEU.

⁽²⁾ Impact assessment supporting revision of the European Union's visa policy in order to facilitate legitimate travel, 18 July 2013.

⁽³⁾ OJ L 243, 15.9.2009, p. 1.

- the absence of general measures to facilitate procedures for first-time applicants, while maintaining a high level of security;
- the absence of collection and processing points for visa applications in many third countries;
- the absence of measures to facilitate mobility in cases of family visits;
- the absence of measures to facilitate the issue of multiple entry visas of a longer duration.

2.10 Europe is part of a globalised, interconnected world where international mobility is set to increase: for that reason, better synergies need to be secured with other strategic sectors, such as trade, tourism and culture, and short trips for highly-qualified service providers should be promoted. The number of potential legitimate visitors, staying over 90 days in a 180 day period without the intention of taking up residence in one of the Schengen states for a longer period is set to increase.

2.10.1 Above all, young people should be given the legal and financial possibility to enter — without difficulty — a Europe that is no longer a fortress but a school for democracy and tolerance in the world.

2.11 The new governance system for Schengen must ensure that the public and the European economy continue to reap the full benefits of border-control-free movement within the Schengen area, promoting opportunities for legitimate travel by modernising the visa policy and implementing the 'intelligent borders' initiative, while also maintaining a high level of security and meeting visa applicants' legitimate expectations.

2.12 Faced with the forecast increase in visa applicants, the proper functioning of the Schengen Information System (SIS) and the Visa Information System (VIS) will play a decisive role in narrowing the possibilities for visa applicants to seek the easiest way into the Schengen area by heading for those states that are perceived as least strict or where the procedures are quicker and less cumbersome.

3. Proposals under the new Visa Package

3.1 The main elements of the package proposed by the Commission can be summed up as follows:

- a reduction in maximum decision-making time from 15 to 10 days from the time of lodging an application to a decision being taken;
- the possibility of lodging a visa application in the consulate of another EU Member State if the Member State responsible for processing the visa application is not present or represented in the applicant's country;
- the possibility for frequent travellers to benefit from a number of preferential measures, including the mandatory issue of a multiple entry visa valid for three years;
- the introduction of a simplified application form;
- the possibility for Member States to introduce specific systems for issuing visas at borders, valid for a maximum of 15 days and for a single Schengen state;
- the opportunity for Member States to facilitate the issue of visas to visitors taking part in major events;
- the introduction of a new type of visa — a touring visa — that allows legitimate visitors to move around within the Schengen area for a maximum period of one year (for a maximum of 90 days within a 180-day period within the same Member State);
- the introduction of multiple entry visas and the possibility of granting visas at the border;
- the waiver of visa fees for clearly defined categories and facilitation for seafarers and cruise workers.

4. General comments

4.1 The EESC considers a common visa policy to be fundamental to the establishment of a common area without internal borders: this builds the Schengen *acquis* regarding visa policy, established within the framework of Schengen intergovernmental cooperation, into the institutional and legal context of the EU, within the meaning of the Treaty.

4.2 The necessary increase in consular cooperation must be accompanied by greater interoperability and concrete steps towards a single EU representation in many countries around the world. This would send a clear signal of political growth and would allow considerable savings, in addition to simplifying and standardising procedures.

4.2.1 Furthermore, the European External Action Service (EEAS), which has been operational since 1 January 2011, has 140 delegations around the world in addition to its Brussels headquarters, 3 292 staff members and a budget of EUR 519 million for 2014.

4.3 Bringing all the legislation on the processing of visa applications for short stays into one instrument and changing the rules on the issuing of visas clearly contributes to simplifying legislation, improving transparency and boosting legal certainty.

4.4 The Committee endorses the Visa Code's general objective of ensuring that the common visa policy is genuinely common and that all the Member States apply it in the same way in all places, using a set of legal provisions and operational instructions.

4.5 The EESC would stress the economic benefits in terms of boosting growth and generating jobs that arise from facilitating legitimate travel, within a clear legal framework, not only for stays of up to 90 days in any 180-day period.

4.6 Third country applicants with legitimate reasons for staying longer, such as artists, entrepreneurs, teachers, researchers, students or pensioners wishing to stay in the Schengen area for a period greater than 90 days, without staying for more than 90 days in the same country should also be able to do so with assurances of high levels of security.

4.7 According to the EESC, once adopted, the provisions should not only contribute to economic growth in the EU, but also to promoting the common principles of European legislation, as enshrined in the Treaty and in the Charter of Fundamental Rights, to the cultures of the world:

- the representation of a social market economy;
- the promotion and respect for the role of the social partners and organised civil society;
- the promotion of consultation and the joint search for the common good;
- respect for the role of citizens as consumers;
- support for a cooperative culture;
- the promotion of gender equality;
- guarantees for free and individual choice in matters of faith and sexual orientation;
- the adaptation of social structures to the needs of the differently able.

4.8 The EESC supports the proposal for a multiple entry visa, in view of the potential it brings for making travellers' lives easier: issuing a higher number of multiple entry visas would cut red tape for applicants and consulates alike, generating considerable savings, not least by means of the Visa Information System (VIS).

4.9 For this reason, the EESC supports the Commission's proposals with regard to:

- the reduction of administrative burdens for applicants and consulates, making full use of the possibilities provided by the VIS for differentiated treatment for known or regular travellers and unknown applicants, in accordance with clear and objective criteria;
- the simplification and full harmonisation of procedures making compulsory provisions that have to date been left to consulates' discretion;

- the revision of the existing framework for consular cooperation to guarantee access to simpler procedures for applying for Schengen visas in as many places as possible;
- the inclusion in the Visa Code of an article allowing the issue of temporary visas at borders, subject to well-defined conditions;
- facilities for the issue of visas for family members, in particular for those benefiting from Directive 2004/38/EC;
- rules to bridge the gap between the legal provisions governing short stays and those governing the admission of third-country citizens to Member States.

5. Specific comments

5.1 The EESC supports the proposal for binding measures to harmonise supporting documents for visa applications in the context of local Schengen consular cooperation, and to prepare an annual report on the general situation to be shared with the legislators, in order to ensure consistency and transparency. These provisions should not allow any inequalities whatsoever between consulates with respect to the requirements.

5.2 The EESC believes that the assurance of more accurate data collection, to be achieved by revising the list of data gathered and presented by the Member States, is crucial to adequate statistical monitoring and an improved analysis of individual items, typologies and procedures for issuing visas to enable an appropriate evaluation of the achievement of objectives in the future.

5.3 The EESC supports the introduction of touring visas as legal instruments which, on the basis of rational criteria, authorise people with bona fide and legitimate reasons, who request to stay in the Schengen area for more than 90 days, visiting various Member States, in a 180-day period, without exceeding 90 days in a single Member State.

5.4 The EESC believes that a better definition of the 'competent' Member State and a simpler application form would strengthen procedural guarantees and avoid delays and complications.

5.5 The EESC welcomes the abolition of the principle of 'lodging in person' — except for the collection of fingerprints for first-time applicants — but without prejudice to the possibility of carrying out an interview as well as clarification regarding the online submission of applications up to six months ahead of the intended date of entry. This proposal is particularly convenient for frequent travellers with previous visa applications as all data relevant to their entry into the Schengen area would still be registered.

5.5.1 Without prejudice to maintaining high levels of security, the EESC recommends equally high levels of personal and biometric data protection, as well as the protection of 'sensitive' data already covered by the EESC⁽⁴⁾. The EESC therefore calls on the EU Agency for large-scale IT systems (eu-LISA) to ensure that VIS and SIS II data is fully protected.

5.6 The EESC welcomes the inclusion of elements that ensure legal certainty and shorten response times for applications thanks to a simplified exhaustive list of supporting documents that excludes travel medical insurance, especially for travellers of known reliability and integrity.

5.7 The proposal to establish mandatory rules on the basis of objective and clearly defined criteria, to enable a clear distinction between different categories of applicants, should enable applicants with a positive 'visa history' registered in the VIS during the 12 months prior to their application to enjoy greater flexibility in terms of supporting documents. The EESC believes that this will speed up the process and cut costs, including for multiple entry visas and visas that extend beyond the validity of the travel document.

⁽⁴⁾ OJ C 248, 25.8.2011, p. 123.

5.8 The mandatory waiver of visa fees — to be applied uniformly by all Member States irrespective of where the application was submitted — for clearly defined categories, especially minors and Erasmus Mundus students, corresponds to egalitarian and non-discriminatory criteria and principles of legal certainty.

5.9 The EESC recommends sufficient flexibility, while safeguarding a margin of security, in reviewing the criteria for granting visas at the border for seafarers and single entry short-stay tourist visas through a review of the Visa Code provisions on this issue.

5.10 The EESC is equally favourable to reviewing the rules on airport transit visas in order to increase their proportionality, which will put an end to the Member States' restrictive approach.

5.11 With regard to visas issued to third-country nationals visiting family members who are Union citizens residing in the EU, the EESC believes that they should — at the very least — benefit from the same provisions granted under Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, facilitating family ties by simplifying procedures and waiving visa fees.

5.12 With regard to reviewing the existing definitions of consular cooperation in order to make them more flexible and to introduce the principle of mandatory representation, the EESC believes that this review would cut costs and improve consular coverage and interoperability.

5.13 In this regard, the EESC is certain that a single representation would solve many problems associated with differences in procedures for granting visas and allow considerable savings, giving the EU a single voice in this area as well.

Brussels, 10 September 2014.

The President
of the European Economic and Social Committee
Henri MALOSSE
