

Revision of the Community Code on Visas

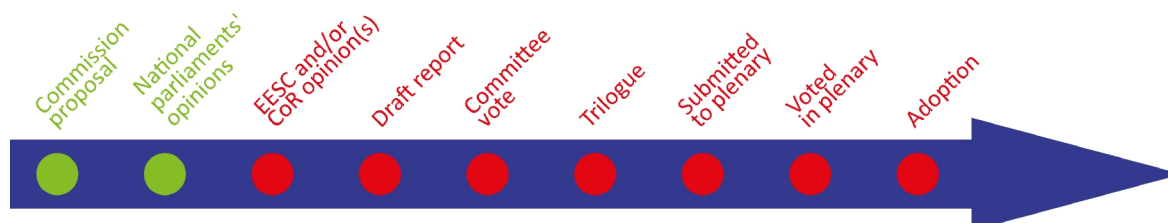
OVERVIEW

The European Union Code on Visas is one of the core elements of the EU's visa policy. It lays down the procedures and conditions for issuing short-stay visas for third-country nationals.

On 14 March 2018, the Commission adopted a proposal to revise the Community Code on Visas (visa code). The main objective of the proposal is to strengthen the common visa policy while taking into account migration and security concerns, by increasing the role of visa policy in the EU's cooperation with third-countries, as well as economic considerations, by facilitating processing of visas for legitimate travellers who contribute to the EU's economy and its cultural and social development.

Currently, the proposal is still at the early stage of discussions in committee.

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)		
<i>Committee responsible:</i>	Committee on Civil Liberties, Justice and Home Affairs (LIBE),	COM(2018) 252 2018/061 (COD)
<i>Rapporteur:</i>	Juan Fernando López Aguilar (S&D, Spain)	
<i>Shadow rapporteurs:</i>	Heinz K. Becker (EPP, Austria) Helga Stevens (ECR, Belgium) Gérard Deprez (ALDE, Belgium) Marie-Christine Vergiat (GUE/NGL, France) Bodil Valero (Greens/EFA, Sweden) Ignazio Corrao (EFDD, Italy)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Publication of draft report	



Introduction

The EU visa code was established in 2009 by [Regulation \(EC\) No 810/2009](#) of the European Parliament and of the Council. It is one of the main elements of [EU visa policy](#), establishing harmonised procedures and conditions for processing visa applications and for issuing visas for transit through, or intended stays in, the territory of Member States not exceeding three months in any six-month period.

In 2014, the European Commission adopted a proposal to amend the Union Code on Visas, together with a proposal to establish a new type of visa ('touring visa'). The aim was to improve travel to the EU through visa facilitation measures and to harmonise the implementation of common rules. These proposals were later withdrawn as they did not receive sufficient support from the co-legislators for a common position to be achieved.

As emphasised in the European agenda on [migration](#), addressing current EU migration and security challenges requires, among other things, the modernisation of the EU's visa policy. In its [work programme for 2018](#), the Commission announced that it 'will furthermore make the necessary proposals in 2018 to revise the Visa Code and upgrade the Visa Information System'.

The [proposal](#) to revise the Visa Code, adopted in March 2018, builds on the 2014 proposal, although the Commission decided not to renew its proposal for a touring visa. The current proposal follows a series of other legislative initiatives in the fields of migration, security and border control seeking to strengthen the EU's external borders and to enhance its internal security.

In October 2016, a [uniform European travel document for return](#) was established, to facilitate effective return of illegally staying third-country nationals. The Schengen Border Code was amended in March 2017 to allow for [systematic checks against relevant databases](#) for all people entering or exiting the Schengen area. Seeking to make [better use](#) of the opportunities offered by IT systems and technologies, the Commission proposed to extend the use of the Schengen Information System ([SIS II](#)) and to establish the Entry/Exit System ([EES](#)) and the European travel information and authorisation system ([ETIAS](#)). This was followed, in December 2017, by two proposals on establishing frameworks for interoperability between EU information systems on [borders and visa](#) and on [police and judicial cooperation, asylum and migration](#). In the context of the visa policy, the EU has furthermore concluded several Visa Facilitation Agreements ([VFAs](#)) and Visa Waiver Agreements ([VWA](#)) with specific third countries. A proposal to revise the Visa Information System ([VIS](#)) was [announced](#) by the Commission on 16 May 2018, with the aim of reinforcing internal security and improving border management, while taking account of the developing security and migratory challenges.

The impacts of the current proposal will be monitored and evaluated, through the Commission's evaluation report to be published three years after the start of application of the revised Visa Code. The new Entry-Exit System and the revised VIS will provide more precise statistical data on visas.

Existing situation

The number of applications for EU visas has remained high in recent years (see Figure 1). Currently, travellers from 105 non-EU countries or entities are required to have a visa in order to enter the EU. Establishing common rules for short-stay visas allows visa holders to travel in all 26 Schengen states for short stays.

The impact assessment (IA) [study](#) accompanying the Commission's proposal identifies three main problems that should be addressed by the proposal: (1) the amount of the visa fee; (2) the issuing of multiple-entry visas (MEVs); and (3) the link between visa and readmission policies.

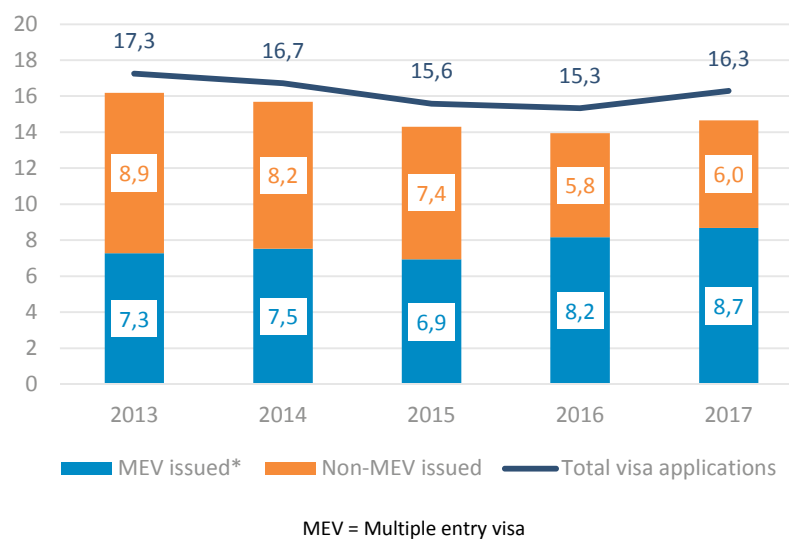
While the number of visa applications received by Member States has increased steadily by more than 50 % between 2009 and 2016, from 10.2 million to 15.2 million in 2016, the fee originally intended to cover the administrative costs of visa processing has remained unchanged since 2006.

According to the IA, the total revenue from EU visa fees obtained by all Member States amounted to €792 million in 2017. These resources are deemed insufficient, causing problems such as understaffing and a lack of appropriate training, which affect the quality and integrity of the examination of visa applications. In fact, when compared with other countries' fees for similar visitor visas, the EU visa fee is actually rather low.

The problem of 'visa-shopping' is also addressed in the IA, as Member States' different practices on issuing MEVs of long validity lead individuals to apply for visas in those Member States that are perceived as offering the most favourable outcome. This could mean that applicants present false information or documents regarding their travel information or purpose, a phenomenon that is confirmed by many Member States. At the same time, differentiated approaches may create accusations of 'unfair competition' in order to attract tourists, businesses and investments.

The issue of irregular migrants remaining on the territory of EU Member States while waiting to be returned to their home country is regarded as an incentive for further irregular migration to the EU. Return of irregular migrants can be enforced only in cases where the individual possesses a valid travel document, whereas in the absence of valid travel documents, cooperation with third countries of origin is needed. Thus, there is a link created between visa and return policy, as visa policy can be used in relation to third countries readmitting irregular migrants. This would form part of a variety of instruments that enable the EU to achieve better cooperation with third countries. For example, the EU has been concluding VFAs with third countries. Those agreements are linked with readmission agreements establishing the procedures for the return either to EU or to the non-EU country of individuals that are in an irregular situation.

Figure 1 – EU visa applications and granted visas (in millions)



Data source: [European Commission](#).

Parliament's starting position

In April 2016, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) (Rapporteur: Juan Fernando López Aguilar, S&D, Spain) adopted its [report](#) on the European Commission's 2014 proposal. Amongst the areas of divergence that became clear during the interinstitutional negotiations were: humanitarian visas; the link between visa facilitation and cooperation on readmission; the issue of mandatory representation; the modernisation of the visa application procedure; and the definition of close relatives. In reference to the [humanitarian visa](#), Members of the LIBE committee made a number of suggestions: to clarify that the regulation shall apply without any prejudice to a possible application for international protection in the territory of a Member State; to allow the examination and decision on an application, when necessary on

humanitarian grounds, to be conducted at consulates; to exempt such persons from the standard procedure and grant them a validity period of 12 months, that can be renewed. The provision on [mandatory representation](#), according to which if a Member State competent to examine visa applications is neither present nor represented in a third country then any other Member State is obliged to examine the applications on their behalf, was supported by the European Parliament. In relation to the issue of close relatives, the European Parliament [proposed](#) procedural facilitations for EU citizens' family members.

On 8 June 2017, the rapporteur presented the [state of play](#) of the Union Code on Visas to the LIBE committee. It was underlined that the [humanitarian visa](#) remained a clear priority for the European Parliament. Later on, in September 2017, the negotiating team of the European Parliament (trilogue negotiations) [withdrew](#) the amendment linked to the humanitarian visa. At this point, the European Parliament launched a legislative own-initiative [report](#) on humanitarian visas, which was announced in the European Parliament on January 2018. On 9 April 2018, a [working document](#) on this issue was presented in the LIBE committee. The [draft report](#) with recommendations to the Commission on Humanitarian Visas was published on 22 June 2018.

Council & European Council starting position

In its June 2014 [strategic guidelines for justice and home affairs](#), the **European Council** called for improving 'the link between the EU's internal and external policies' and 'modernising the common visa policy'.

The **Council** [conclusions](#) of 22-23 June 2017 emphasised that 'further efforts shall also be made to achieve real progress in return and readmission policy ... by using all possible levers, including by reassessing visa policy towards third countries, as needed'. In order to achieve that, the Council decided to create a coordination mechanism ('visa policy toolbox') based on a package of agreed indicators measuring the level of cooperation of third countries.

On the issue of a humanitarian visa, the [Council](#), as well as the European Commission, argued that the Visa Code was not the right instrument for allowing such international protection, and that it should be discussed in the context of the proposal on the EU resettlement framework.

Preparation of the proposal

Following its first [evaluation](#) of EU visa policy, in 2014, the Commission adopted two legislative proposals, accompanied by an [impact assessment](#), to address the issues with the Visa Code. The present proposal to amend the Regulation establishing a Community Code on Visas takes over those elements of the 2014 proposals which aim to clarify and streamline existing provisions, while the inclusion of readmission elements in visa policy is new. The [impact assessment](#) (IA) accompanying the present proposal identified three problem areas relating to (1) the amount of the visa fee; (2) the issuing of multiple-entry visas (MEVs); and (3) the link between visa and readmission policies. EPRS has published an [initial appraisal](#) of the Commission's impact assessment.

Certain issues, such as lodging and decision-making deadlines, are included in the carry-overs from the 2014 proposal. The [public consultation](#) on the modernisation of the EU's common visa policy took place between 24 November 2017 and 2 February 2018. It received 1 929 replies, while a number of the organisations that responded also submitted background position papers. Through the consultation, the objective was to collect views and concerns of all citizens and organisations interested in the process of applying for Schengen visas. The results of this public consultation were considered when developing proposal in the area of visa policy. The [impact assessment accompanying](#) the proposal to revise the Visa Code (see its annex 2) contains a summary report on the consultation's outcome.

The Commission organised three consultation meetings with representatives of all Member States (13 November 2017), with MEPs of the LIBE committee (12 December 2017), and with stakeholders.

Data from the 2016 questionnaire survey on visa fees were also used, according to the impact assessment. The questionnaire focused on administrative costs and the calculation of the visa fee. The discussions showed that it is difficult to determine a common visa fee when based on national administrative costs, since cost levels vary amongst Member States. Although, according to the Commission, great efforts have been made to gather data, facts and figures to better define the existing problems, there is [a lack of data evidence in the IA](#), which leads to the conclusion that it is difficult to assess the impact of measures on readmission of third-country nationals.

The Council proceeded in June 2017 to the development of the 'visa policy toolbox', measuring the level of cooperation of third countries. It was also supported by the Commission.

The changes the proposal would bring

The [proposal](#) aims to facilitate legitimate travel, prevent irregular immigration and contribute to internal security, and at the same time facilitate tourism, trade and business. Moreover, the Commission's proposal to reform the Visa Information System will enhance the security and efficiency of the visa procedure, as it will take into account the latest technological developments, in the same way that the VIS will be developed.

The main changes brought by this proposal would address:

Additional resources to ensure stronger security: The visa fee will see a moderate increase of €20 (from €60 to €80), while the visa fee for minors (6-12 years of age) will be increased by €5 (from €35 to €40) to contribute to faster and more efficient processing of visa applications. The increase will allow Member States the financial resources needed in order to recruit sufficient numbers of consular staff, coupled with trained experts worldwide, in order to safeguard stronger security. The proposed fee is still low by international standards, in order to remain competitive. Based on the fact that the fee increase is reasonable there is no expected negative impact expected on the behaviour of travellers.

Practicalities of visa applications: Amongst the changes on the practicalities of lodging a visa application, this proposal extends the maximum deadline for submitting an application to six months, with the exception of seafarers who can apply nine months before their planned trip, because of their specific working conditions. This will allow travellers to plan in advance. Furthermore, the proposal lays down clear rules on the people that may lodge applications on behalf of an applicant, with reference made to professional, cultural, sports or education associations or institutions as distinct from commercial intermediaries.

Procedures that are faster and more flexible: The general decision-making procedure should take a maximum of 10 days, instead of the 15 days that it currently takes, a period which may be prolonged up to 45 days in certain circumstances when further review of the application is required. In cases where a visa is refused, all procedures followed should ensure an effective judicial remedy.

Multiple-entry visas (MEV) with extended validity: In order to prevent visa shopping and reduce costs and time consumption for Member States and frequent travellers, harmonised rules on multiple entry visas will apply. Multiple-entry visas will allow their holders to travel repeatedly to the EU Member States during the period for which the visa is valid, in order to avoid practices that could undermine the basic principles of a common visa policy and that are not favourable to trade and the economy. The changes on MEVs will contribute to reduction of costs for visa applicants and consulates as a result of the shortened visa procedures in combination with the increase in travel to the EU.

Issuing short-term visas at external borders: In order to facilitate short-term tourism, Member States will be able to issue single-entry visas directly at the EU's external borders (land and sea) under temporary and seasonal schemes subject to strict conditions.

Enhance cooperation on irregular migration and on return policy: The Commission proposed a 'policy toolbox approach' to use a flexible visa code to put pressure on third countries not cooperating on readmission of irregular migrants. The general provisions of the code would therefore not apply to nationals of third countries that do not cooperate on readmission. It is envisaged that a targeted approach to the creation of negative incentives in visa policy should lead to higher return rates of irregular migrants to third countries regarded as non-cooperative.

Although the Commission [admitted](#) that 'there is no hard evidence on how visa leverage can translate into better cooperation of third countries on readmission'.

Budgetary implications: According to the Commission, the proposal would not have any implications for the EU budget, as is explained in the relevant memorandum to the proposal. However, the Commission has underlined that increased visa fees would have an effect on Member States' finances.

Advisory committees

The European Economic and Social Committee is expected to vote on its [opinion](#) during its September plenary session (rapporteur: Ionuț Sibian, Diversity Europe – Group III / Romania).

National parliaments

The [subsidiarity deadline](#) for national parliaments to submit comments on the proposals was set at 6 June 2018. No reasoned opinions were sent.

Stakeholders' views¹

The Commission organised three consultation meetings with representatives of all Member States, with MEPs of the LIBE committee, and with stakeholders, particularly 12 organisations from the travel, tourism, shipping and air transport industries, between November 2017 and February 2018. According to the IA, the stakeholder consultation showed great consensus on a variety of areas. However, views diverged on the digitalisation of the visa procedure, as well as on the individualisation of visa requirements.

In the stakeholder consultation, associations representing the tourism industry (travel agencies, hotels, restaurants, etc.) suggested to establish a fee based on the practices of the 'competing countries'. Tourism and business associations have underlined the negative effects that repeated visa procedures may have for frequent travellers. They have defended a more systematic and harmonised procedure for issuing multiple-entry visas with a longer validity.

Amongst the stakeholders, the [Network for the European Private Sector in Tourism](#) (NET) and the [Association of Hotels, Restaurants and Cafes](#) have jointly underlined the importance of creating simple, fast, flexible and affordable visa-issuing processes, while meeting the greatest security standards required and border management prerequisites. NET defends the expanded use of MEVs by EU Member States, since it encourages repeated travelling among a desirable economic demographic. However, NET expressed serious concerns as regards the strict cascade criteria proposed by the European Commission, as these would be difficult to understand and unlikely to be met by the prospective sector, while there are also no data proving that the procedure improves security outcomes. On the requirement to provide proof of accommodation, NET proposes that visa applicants should either present proof of accommodation or sufficient means to cover accommodation, or confirmation from an agent that accommodation arrangements have been made. NET opposes the increase in the visa fee, and proposes that any revision of the visa fee should be compensated by a reduction in other related costs. In addition to the above, NET endorses the further digitalisation of the visa application procedure, while reaching full interoperability of systems for security checks. Moreover, the [European Tourism Association](#) has welcomed the visa code reform, since it will facilitate and make more secure the visa issuing procedure. The association also underlined the importance of Russia as an origin market for Europe.

Legislative process

The Commission adopted the [proposal](#) amending the Visa Code on 14 March 2018.

Within the European Parliament, the proposal has been assigned to the LIBE committee, under the rapporteurship of Juan Fernando López Aguilar (S&D, Spain). The proposal is still at an early stage in the committee.

The Bulgarian Presidency started the [examination](#) of the text in the Council preparatory bodies soon after the proposal was launched. Progress was made rapidly on many technical aspects of the proposal, such as the level of visa fees, some aspects of the representation arrangements, the procedures and conditions for issuing visas, the determination of the Member States competent for examining and deciding on an application, the issuing of multiple-entry visas and the cooperation with external service providers. One of the core elements of the Commission proposal, i.e. the link between visa policy and readmission, needed further political guidance, however.

At the [Justice and Home Affairs Council](#) of 5 June 2018, ministers discussed the proposal to reform the visa code, focusing in particular on the link between visa policy and readmission. Most of the delegations supported the codification of the link between visa policy and readmission and expressed a preference for the negative incentives.

On 19 June 2018, the Council [agreed](#) its [position](#) on a mandate to begin negotiations with the European Parliament on the Visa Code. The Council Presidency will be able to initiate negotiations with the European Parliament, once the latter has adopted its position. The Council supported the updated regulation for the modernisation of EU visa policy, which will also allow for improved security and increase the tools available to respond to migration challenges.

EP SUPPORTING ANALYSIS

Carrera S. et al., [The Future of the Schengen Area: Latest Developments and Challenges in the Schengen Governance Framework since 2016](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, March 2018.

Dumbrava C., [European information systems in the area of justice and home affairs: An overview](#), EPRS, European Parliament, May 2017.

Eisele K. [Interoperability between EU information systems for security, border and migration management](#), Initial Appraisal of a European Commission Impact Assessment, EPRS, European Parliament, February 2018.

Eisele K., [Revision of the visa code](#), Initial Appraisal of a European Commission Impact Assessment, EPRS, European Parliament, April 2018.

Maniaki-Griva A., [Initial appraisal of a European Commission impact assessment: Revision of the EU visa policy](#), EPRS, European Parliament, November 2014.

Orav A., [Smart Borders: EU Entry/Exit System](#), EPRS, European Parliament, January 2018.

Radjenovic A., [European Travel Information and Authorisation System \(ETIAS\)](#), EPRS, European Parliament, May 2018.

Scherrer A. [Revision of the Visa Code \(Regulation 810/2009\) and Visa Information System \(Regulation 767/2008\)](#), Implementation Appraisal, EPRS, European Parliament, March 2018.

Voronova S., [Combating terrorism](#), EPRS, European Parliament, September 2017.

Wensink W. et al. [The European Union's policies on counter-terrorism – Relevance, coherence and effectiveness](#), Policy Department for Citizens' Rights and Constitutional Affairs, European Parliament, January 2017.

OTHER SOURCES

[Community code on visas \(Visa Code\): conditions and procedures for issuing visas](#), European Parliament, Legislative Observatory (OEL).

ENDNOTES

¹ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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