



2018/0061(COD)

4.10.2018

*****I**

DRAFT REPORT

on 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)
(COM(2018)0252 – C8-0114/2018 – 2018/0061(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Juan Fernando López Aguilar

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on 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)

(COM(2018)0252 – C8-0114/2018 – 2018/0061(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0252),
 - having regard to Article 294(2) and Article 77(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0114/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of ...¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Transport and Tourism (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The Union should use its visa policy in its cooperation with third countries, and to ensure a better balance between *migration and security concerns*, economic considerations and general

Amendment

(2) The Union should use its visa policy in its cooperation with third countries, and to ensure a better balance between economic considerations and general external relations.

¹ OJ C 0, 0.0.0000, p. 0.

external relations.

Or. en

Amendment 2

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Applicants should not be required to present travel medical insurance when lodging an application for a short-stay visa. It is a disproportionate burden for visa applicants and there is no evidence that holders of short-stay visas present a bigger risk in terms of public medical expenditure in Member States than visa-exempted third country nationals.

Or. en

Amendment 3

Proposal for a regulation Recital 11

Text proposed by the Commission

Amendment

(11) In case of lack of cooperation of certain third countries to readmit their nationals apprehended in an irregular situation and failure of those third countries to cooperate effectively in the return process, a restrictive and temporary application of certain provisions of Regulation (EC) No 810/2009 should on the basis of a transparent mechanism based on objective criteria, be applied to enhance a given third country's cooperation on readmission of irregular migrants.

deleted

Or. en

Amendment 4

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) When applying Regulation (EC) No 810/2009, Member States should respect their respective obligations under international law, in particular the United Nations Convention Relating to the Status of Refugees, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the United Nations Convention on the Rights of the Child and other relevant international instruments.

Or. en

Amendment 5

Proposal for a regulation Article 1 – paragraph 1 – point 1 a (new) Regulation (EC) No 810/2009 Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(1a) In Article 1, the following paragraph is added:

‘3a. When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union (‘the Charter’), relevant international law, including the United Nations Convention Relating to the Status of Refugees (‘the Geneva Convention’), obligations related to access to international protection, in

particular the principle of non-refoulement, and fundamental rights. In accordance with the general principles of Union law, decisions under this Regulation shall be taken on an individual basis.’;

Or. en

Amendment 6

Proposal for a regulation

Article 1 – paragraph 1 – point 5 a (new)

Regulation (EC) No 810/2009

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(5a) In Article 5, the following paragraph is inserted:

‘2a. If the Member State that is competent in accordance with points (a) or (b) of paragraph 1, is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 10, the applicant shall be entitled to lodge the application:

(a) at the consulate of one of the Member States of destination of the intended visit,

(b) at the consulate of the Member State of first entry, if point (a) is not applicable,

(c) in all other cases at the consulates of any of the Member States that are present in the country where the applicant lodges the application.

If the consulate of the Member State that is competent in accordance with paragraph 1 or the consulate of the Member State referred to in the first subparagraph of this paragraph are located at a distance of more than 500 km from the applicant’s place of residence, or

if a return journey by public transport from the applicant's place of residence would require an overnight stay, and if the consulate of another Member State is located closer to the applicant's place of residence, the applicant shall be entitled to lodge the application at the consulate of the latter Member State.';

Or. en

Amendment 7

Proposal for a regulation

Article 1 – paragraph 1 – point 5 b (new)

Regulation (EC) No 810/2009

Article 5 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(5b) In Article 5, the following paragraph is inserted:

'2b. If the Member State that is competent in accordance with paragraphs 1 or 2 has, in accordance with Article 8, established a representation arrangement with another Member State for the purpose of considering applications and issuing visas on its behalf, the applicant shall submit his or her application to the consulate of the representing Member State.';

Or. en

Amendment 8

Proposal for a regulation

Article 1 – paragraph 1 – point 6 – point -a (new)

Regulation (EC) No 810/2009

Article 8 – paragraph 1

Present text

1. A Member State may agree to represent another Member State that is competent in accordance with Article 5 for the purpose of examining applications and issuing visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner solely for the collection of applications and the enrolment of biometric identifiers.

Amendment

(-a) paragraph 1 is replaced by the following:

‘1. *Without prejudice to Article 6*, a Member State may agree to represent another Member State that is competent in accordance with Article 5 for the purpose of examining applications and issuing visas on behalf of that Member State. A Member State may also represent another Member State in a limited manner solely for the collection of applications and the enrolment of biometric identifiers.’;

Or. en

Amendment 9

Proposal for a regulation

Article 1 – paragraph 1 – point 7 – point a

Regulation (EC) No 810/2009

Article 9 – paragraph 1

Text proposed by the Commission

“Applications may be lodged no more than *six* months, and for seafarers in the performance of their duties, no more than nine months before the start of the intended visit and, as a rule, no later than 15 calendar days before that start.”;

Amendment

“Applications may be lodged no more than *nine* months, and for seafarers in the performance of their duties, no more than nine months before the start of the intended visit and, as a rule, no later than 15 calendar days before that start.”;

Or. en

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point b a (new)

Regulation (EC) No 810/2009

Article 10 – paragraph 3 – point g

Text proposed by the Commission

Amendment

(ba) in paragraph 3, point (g) is deleted;

Or. en

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 9 a (new)

Regulation (EC) No 810/2009

Article 13 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

(9a) in Article 13, paragraph 2 the following subparagraph is added:

‘Without prejudice to paragraph 3, the applicant may not be requested by an external service provider to appear in person for each application in order to collect the biometric identifiers each time. To enable external service providers to verify that biometric identifiers have been collected, the applicant shall be issued with a receipt after the collection of the biometric identifiers.’;

Or. en

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 10 – point a

Regulation (EC) No 810/2009

Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States' consulates shall within local Schengen cooperation, as referred to in Article 48, assess the implementation of the conditions laid down

5. Member States' consulates shall within local Schengen cooperation, as referred to in Article 48, assess the implementation of the conditions laid down

in paragraph 1, to take account of local circumstances, *and of migratory and security risks*.

in paragraph 1, to take account of local circumstances.

Or. en

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 810/2009

Article 15

Text proposed by the Commission

Amendment

(11) Article 15 *is amended as follows:*

(11) Article 15 is *deleted*;

(a) paragraph 1 is replaced by the following:

“1. Applicants for a uniform visa for one entry shall prove that they are in possession of adequate and valid travel medical insurance to cover any expenses that might arise in connection with repatriation for medical reasons, urgent medical attention and emergency hospital treatment or death, during their intended stay on the territory of the Member States.”;

(b) in paragraph 2, the first subparagraph is replaced by the following:

“2. Applicants for a uniform visa for multiple entries shall prove that they are in possession of adequate and valid travel medical insurance covering the period of their first intended visit.”;

Or. en

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point a

Regulation (EC) No 810/2009
Article 16 – paragraphs 1 and 2

Text proposed by the Commission

Amendment

(a) *paragraphs 1 and 2 are replaced by the following:*

(a) *paragraph 2 is deleted;*

“1. Applicants shall pay a visa fee of EUR 80.”

2. Children from the age of six years and below the age of 12 years shall pay a visa fee of EUR 40.”;

Or. en

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point b

Regulation (EC) No 810/2009

Article 16 – paragraph 2a

Text proposed by the Commission

Amendment

(b) *The following new paragraph 2a is inserted:*

deleted

“2a. A visa fee of EUR 160 shall apply when the Commission so decides in accordance with Article 25a(5).”;

Or. en

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point c a (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 4 – point a

Present text

Amendment

(ca) in paragraph 4, point (a) is replaced by the following:

(a) *children* under *six* years;

‘(a) *minors* under *the age of eighteen* years;’;

Or. en

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d a (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 4 – point d

Present text

(d) representatives of non-profit organisations aged **25** years or less participating in seminars, conferences, sports, cultural or educational events organised by non-profit organisations.

Amendment

(da) in paragraph 4, point (d) is replaced by the following:

‘(d) representatives of non-profit organisations aged **30** years or less participating in seminars, conferences, sports, cultural or educational events organised by non-profit organisations.’;

Or. en

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d b (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 4 – point d a (new)

Text proposed by the Commission

Amendment

(db) in paragraph 4, the following point is added:

‘(da) applicants for a visa with limited territorial validity issued on humanitarian grounds, for reasons of national interest or because of international obligations as well as beneficiaries of a Union resettlement or relocation programme.’;

Or. en

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d c (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 5 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(dc) in the first subparagraph of paragraph 5, point (a) is deleted;

Or. en

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point d d (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 5 – subparagraph 1 – point c

Present text

Amendment

(c) participants aged **25** years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.

(dd) in paragraph 5, point (c) is replaced by the following:

‘(c) participants aged **30** years or less in seminars, conferences, sports, cultural or educational events, organised by non-profit organisations.’;

Or. en

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 12 – point e a (new)

Regulation (EC) No 810/2009

Article 16 – paragraph 6

Present text

Amendment

(ea) paragraph 6 is replaced by the following:

6. In individual cases, the amount of the visa fee to be charged may be waived or reduced when to do so serves to promote cultural or sporting interests *as well as* interests in the field of foreign policy, development policy and other areas of vital public interest or for humanitarian reasons.

‘6. In individual cases, the amount of the visa fee to be charged may be waived or reduced when to do so serves to promote cultural or sporting interests, interests in the field of foreign policy, development policy and other areas of vital public interest, or for humanitarian reasons *or because of international obligations.*’;

Or. en

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point b a (new)

Regulation (EC) No 810/2009

Article 17 – paragraph 4

Present text

4. The service fee shall not exceed half of the amount of the visa fee set out in Article 16(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article 16(2), (4), (5) and (6).

Amendment

(ba) paragraph 4 is replaced by the following:

‘4. The service fee shall not exceed half of the amount of the visa fee set out in Article 16(1), irrespective of the possible reductions in or exemptions from the visa fee as provided for in Article 16(2), (4), (5) and (6). ***It shall include all costs related to the submission of the visa application, including the transmission of the application and the travel document from the external service provider to the consulate and the return of the travel document to the external service provider.***’;

Or. en

Justification

There have been reports that applicants were charged additional fees, contrary to the provisions of the Visa Code. The proposed addition tries to clarify further that no additional, compulsory fees may be charged.

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point c

Regulation (EC) No 810/2009

Article 17 – paragraph 4a

Text proposed by the Commission

Amendment

(c) the following new paragraph 4a is inserted: *deleted*

“4a. By derogation from paragraph 4, the service fee shall not exceed the amount of the visa fee, in third countries whose nationals are subject to the visa requirement where no Member State has a consulate for the purpose of collecting visa applications.”

Or. en

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point d

Regulation (EC) No 810/2009

Article 17 – paragraph 5

Text proposed by the Commission

Amendment

(d) paragraph 5 is deleted; *deleted*

Or. en

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 13 – point d a (new)

Regulation (EC) No 810/2009

Article 17 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(da) the following paragraph is inserted:

‘5a. The applicant shall be given a receipt upon payment of the service fee.’;

Or. en

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 13 a (new)

Regulation (EC) No 810/2009

Article 19 – paragraph 4

Present text

4. By way of derogation, an application that does not meet the requirements set out in paragraph 1 may be considered admissible on humanitarian grounds ***or*** for reasons of national interest.

Amendment

(13a) in Article 19, paragraph 4 is replaced by the following:

‘4. By way of derogation, an application that does not meet the requirements set out in paragraph 1 may be considered admissible on humanitarian grounds, for reasons of national interest ***or because of international obligations.***’;

Or. en

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point -a (new)

Regulation (EC) No 810/2009

Article 21 – paragraph 1

Present text

1. In the examination of an application for a uniform visa, it shall be ascertained whether the applicant fulfils the entry conditions set out in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code, and particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the

Amendment

(-a) paragraph 1 is replaced by the following:

‘1. In the examination of an application for a uniform visa, it shall be ascertained whether the applicant fulfils the entry conditions set out in Article 5(1)(a), (c), (d) and (e) of the Schengen Borders Code, and particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the

security of the Member States *and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for.*

security of the Member States.’;

Or. en

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point a

Regulation (EC) No 810/2009

Article 21 – paragraph 3 – point e

Text proposed by the Commission

Amendment

(a) in paragraph 3, point (e) is replaced by the following :

deleted

(e) that the applicant is in possession of adequate and valid travel medical insurance, where applicable, covering the period of the intended stay, or, if a uniform visa for multiple entry is applied for, the period of the first intended visit.

Or. en

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 15 – point a a (new)

Regulation (EC) No 810/2009

Article 22 – paragraph 4

Present text

Amendment

4. The Commission shall *inform Member States of* such notifications.

(aa) paragraph 4 is replaced by the following:

‘4. The Commission shall *publish* such notifications.’;

Or. en

Justification

According to Article 47 (1)(g) the public is informed about "the third countries whose nationals or specific categories of whose nationals are subject to prior consultation or information". The information which Member State made the request to be consulted or informed is, however, given only to the Member States. There is no reason such information should only be made available to the Member States.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a

Regulation (EC) No 810/2009

Article 23 – paragraph 1 – subparagraph 2

Text proposed by the Commission

That period may be extended up to a maximum of **45** calendar days in individual cases, notably when further scrutiny of the application is needed.

Amendment

That period may be extended up to a maximum of **30** calendar days in individual cases, notably when further scrutiny of the application is needed.

Or. en

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 16 – point a a (new)

Regulation (EC) No 810/2009

Article 23 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph is inserted:

'2a. Applications shall be decided on without delay in justified individual cases of urgency, including when it is necessary on professional grounds, on humanitarian grounds, for reasons of national interest or because of international obligations.'

Or. en

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point a a (new)

Regulation (EC) No 810/2009

Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(aa) the following paragraph is inserted:

‘1a. Applicants whom the consulates consider to meet the entry conditions and in respect of whom no grounds for refusal referred to Article 32 exist shall be issued a visa in accordance with this Article.’;

Or. en

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point b

Regulation (EC) No 810/2009

Article 24 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) for a validity period of one year, provided that the applicant has obtained and lawfully used **three** visas within the previous two years;

(a) for a validity period of one year, provided that the applicant has obtained and lawfully used **two** visas within the previous two years;

Or. en

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point c

Regulation (EC) No 810/2009

Article 24 – paragraph 2b

Text proposed by the Commission

Amendment

2b. By way of derogation from

2b. By way of derogation from

paragraph 2, Member States' consulates shall within local Schengen cooperation as referred to in Article 48, assess whether the rules on the issuing of the multiple entry visas set out in paragraph 2 need to be adapted to take account of local circumstances, **and of migratory and security risk**, in view of the adoption of more favourable or more restrictive rules in accordance with paragraph 2d.

paragraph 2, Member States' consulates shall within local Schengen cooperation as referred to in Article 48, assess whether the rules on the issuing of the multiple entry visas set out in paragraph 2 need to be adapted to take account of local circumstances, in view of the adoption of more favourable or more restrictive rules in accordance with paragraph 2d.

Or. en

Amendment 35

Proposal for a regulation

Article 1 – paragraph 1 – point 17 – point c

Regulation (EC) No 810/2009

Article 24 – paragraph 2d

Text proposed by the Commission

2d. Where necessary on the basis of the assessment referred to in paragraph 2b, the Commission shall by means of implementing acts adopt the rules regarding the condition for the issuing of multiple-entry visas laid down in paragraph 2 to be applied in each jurisdiction in order to take account of local circumstances, **of the migratory and security risks and of the cooperation of the third country in question on readmission of irregular migrants in the light of the indicators set out in Article 25a(2)**, and of its overall relation with the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).

Amendment

2d. Where necessary on the basis of the assessment referred to in paragraph 2b, the Commission shall by means of implementing acts adopt the rules regarding the condition for the issuing of multiple-entry visas laid down in paragraph 2 to be applied in each jurisdiction in order to take account of local circumstances, and of its overall relation with the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52(2).

Or. en

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 18

Regulation (EC) No 810/2009

Article 25 a

Text proposed by the Commission

Amendment

(18) the following new Article is inserted: **deleted**

“Article 25a

Cooperation on readmission

1. Article 14 (6), Article 16(1) and (5), point (b), Article 23(1), and Article 24(2) shall not apply to applicants or categories of applicants, who are nationals of a third country that is considered not to be cooperating sufficiently with Member States on the readmission of irregular migrants, on the basis of relevant and objective data, in accordance with this Article. This Article is without prejudice to the powers conferred on the Commission by Article 24(2d).

2. The Commission shall regularly assess third countries' cooperation with regard to readmission, taking account, in particular, of the following indicators:

(a) the number of return decisions issued to persons illegally staying on the territory of the Member States from the third country in question;

(b) the number of actual returns of persons issued with return decisions as a percentage of the number of return decisions issued to citizens 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 its territory;

(c) the number of readmission requests accepted by the third country as a percentage of the number of such

applications submitted to it.

3. A Member State may also notify the Commission if it is confronted with substantial and persisting practical problems in the cooperation with a third country in the readmission of irregular migrants on the basis of the same indicators as those listed in paragraph 2.

4. The Commission shall examine any notification made pursuant to paragraph 3 within a period of one month.

5. Where, on the basis of the analysis referred to in paragraphs 2 and 4, the Commission decides that a country is not cooperating sufficiently, and that action is therefore needed, it may, taking also account of the Union's overall relations with the third country concerned, adopt an implementing act, in accordance with the examination procedure referred to in Article 52(2):

(a) temporarily suspending the application of either Article 14(6), Article 16(5) point (b), Article 23(1), or Article 24(2), or of some or all of those provisions, to all nationals on the third country concerned or to certain categories thereof, or

(b) applying the visa fee set out in Article 16(2a) to all nationals of the third country concerned or to certain categories thereof.

6. The Commission shall continuously assess on the basis of the indicators set out in paragraph 2 whether significant improvement in the given third country's cooperation on readmission of irregular migrants can be established and, taking also account of the Union's overall relations with the third country concerned, may decide to repeal or amend the implementing act referred to in paragraph 5.

7. At the latest six months after the entry into force of the implementing act

referred to in paragraph 5, the Commission shall report to the European Parliament and to the Council on progress achieved in that third country's cooperation on readmission.”;

Or. en

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 22 – point a a (new)

Regulation (EC) No 810/2009

Article 32 – paragraph 1 – point a point vii

Text proposed by the Commission

Amendment

(aa) paragraph 1, point a, point vii is deleted;

Or. en

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 22 – point a a (new)

Regulation (EC) No 810/2009

Article 32 – paragraph 2

Present text

Amendment

2. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex VI.

(aa) paragraph 2 is replaced by the following:

‘2. A decision on refusal and the reasons on which it is based shall be notified to the applicant by means of the standard form set out in Annex VI *in a language which the applicant understands or can be reasonably supposed to understand.*’;

Or. en

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 22 a (new)

Regulation (EC) No 810/2009

Article 33 – paragraph 1

Present text

1. The period of validity and/or the duration of stay of an issued visa shall be extended where the competent authority of a Member State considers that a visa holder has provided proof of force majeure or humanitarian reasons preventing him from leaving the territory of the Member States before the expiry of the period of validity of or the duration of stay authorised by the visa. Such an extension shall be granted free of charge.

Amendment

(22a) in Article 33, paragraph 1 is replaced by the following:

‘1. The period of validity and/or the duration of stay of an issued visa shall be extended where the competent authority of a Member State considers that:

(a) a visa holder has provided proof of force majeure or humanitarian reasons preventing him from leaving the territory of the Member States before the expiry of the period of validity of or the duration of stay authorised by the visa;

(b) a visa holder has declared humanitarian reasons preventing him from leaving the territory of the Member States before the expiry of the period of validity of or the duration of stay authorised by the visa;

(c) international obligations assumed by that Member State require such an extension.

The extension shall be granted free of charge.’;

Or. en

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 22 b (new)

Regulation (EC) No 810/2009
Article 35 – paragraph 2

Text proposed by the Commission

Amendment

(24b) in Article 35, paragraph 2 is deleted;

Or. en

Amendment 41

Proposal for a regulation

Article 1 – paragraph 2 – point 24

Regulation (EC) No 810/2009

Article 36a – paragraph 2

Text proposed by the Commission

Amendment

2. The duration of the scheme shall be limited to four months in any calendar year and the categories of beneficiary shall be clearly defined and exclude third-country nationals falling within the category of persons for whom prior consultation is required in accordance with Article 22 and persons not residing in the country adjacent to the land-border crossing point or in a country having direct ferry connections to the sea-border crossing point. Those schemes shall only apply to nationals of third countries with which readmission agreements have been concluded ***and for which the Commission has not taken a decision in accordance with Article 25a(5).***

2. The duration of the scheme shall be limited to four months in any calendar year and the categories of beneficiary shall be clearly defined and exclude third-country nationals falling within the category of persons for whom prior consultation is required in accordance with Article 22 and persons not residing in the country adjacent to the land-border crossing point or in a country having direct ferry connections to the sea-border crossing point. Those schemes shall only apply to nationals of third countries with which readmission agreements have been concluded.

Or. en

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 25

Regulation (EC) No 810/2009

Article 37 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Individual application files shall be kept for a minimum of **one year** from the date of the decision on the application as referred to in Article 23(1) or, in the case of appeal, until the end of the appeal procedure.

Amendment

Individual application files shall be kept for a minimum of **two years** from the date of the decision on the application as referred to in Article 23(1) or, in the case of appeal, until the end of the appeal procedure.

Or. en

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 26 a (new)

Regulation (EC) No 810/2009

Article 38 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(26a) in Article 38, the following paragraph is inserted:

‘4a. Member States shall ensure that consulates have a complaints procedure in place for visa applicants. Information on this procedure shall be made available by the consulate on their website and, where applicable, by the external service provider. Member States shall ensure that a record of complaints is kept.’;

Or. en

Justification

It is a good administrative practice and also in line with the right to good administration as laid down in Article 41 of the Charter to have a complaints procedure. So far no such procedure is foreseen in the Visa Code although it is the case for border crossing-points according to Annex II of the Schengen Borders Code.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 26 b (new)

Present text

3. While performing their tasks, consular staff shall not discriminate against persons on grounds of *sex*, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Amendment

(26b) in Article 39, paragraph 3 is replaced by the following:

‘3. While performing their tasks, consular staff shall not discriminate against persons on grounds of ***nationality, sex, family status***, racial or ethnic origin, religion or belief, disability, age or sexual orientation.’;

Or. en

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 33 – point d

Regulation (EC) No 810/2009

Article 48 – paragraph 3 – point b – introductory part

Text proposed by the Commission

(b) information with regard to the assessment of ***migratory and/or*** security risks, in particular on:

Amendment

(b) information with regard to the assessment of security risks, in particular on:

Or. en

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 33 – point d

Regulation (EC) No 810/2009

Article 48 – paragraph 3 – point d

Text proposed by the Commission

(d) ***information on insurance companies providing adequate travel medical insurance, including verification of the type of coverage and possible excess amount.***

Amendment

deleted

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1

Text proposed by the Commission

1. **Three** years after [the date of entry into force of this Regulation], the Commission shall produce an evaluation of the application of this Regulation. This overall evaluation shall include an examination of the results achieved against objectives and of the implementation of the provisions of this Regulation.

Amendment

1. **Two** years after [the date of entry into force of this Regulation], the Commission shall produce an evaluation of the application of this Regulation. This overall evaluation shall include an examination of the results achieved against objectives and of the implementation of the provisions of this Regulation.

Or. en

Amendment 48

Proposal for a regulation

Annex III

Regulation (EC) No 810/2009

Annex VI – point 16

Text proposed by the Commission

16. you have not provided proof of possession of adequate and valid travel medical insurance

Amendment

deleted

Or. en

EXPLANATORY STATEMENT

Introduction

This draft report is the result of a thorough preparatory process. Input for it was provided by the shadow rapporteurs and other Members following the presentation of the proposal in the LIBE Committee on 20 June 2018, during the public hearing on 'the Visa Code and Humanitarian Visas' held on 12 July, and during numerous stakeholders meetings including with many Member States' (MS) representatives, as well as the Commission's services and by individuals who brought specific concerns regarding the current Visa Code to the attention of the rapporteur. The rapporteur greatly benefitted from these contributions and therefore wishes to thank all those who contributed.

In the following, the rapporteur sets out his views on the proposal and outlines the reasoning underlying the main amendments presented.

On the proposal in general

As stated during the meetings with the shadow rapporteurs and in the LIBE Committee, the rapporteur welcomes in general the proposal, although he does not agree entirely with some of the amending articles. He recognises that most of the content of the proposal are technical elements such as the practical modalities for lodging and application, the Member State competent for examining and deciding on an application, visa and service fees, application form, supporting documents, etc. The rapporteur observes that - while maintaining the same very high standards regarding safeguarding public security and preventing irregular migration - it is indeed necessary to take a wider perspective and to recognise the importance for the EU as a whole to facilitate legitimate travel towards it. For the rapporteur the procedures set up in the Visa Code play a critical role for many and important economic sectors, such as the tourism, which is of particular importance for many regions in Europe. The rapporteur therefore fully supports the procedural facilitations proposed, for example, the possibility of filling in and signing the application form electronically.

However, the current proposal of the Commission links the visa policy to '*ensure a better balance between migration and security concerns, economic considerations and general external relations.*' (recital (2)). For the rapporteur it is not clear what the term '*migration and security concerns*' refers to exactly. This is, however, paramount to understand the ultimate goal of the some of the amendments contained in the proposal. In addition, as highlighted by the European Data Protection Supervisor (EDPS), when repeatedly referring to migration, internal security and the fight against terrorism almost interchangeably bears a risk of blurring the boundaries between migration management and the fight against terrorism¹. For the rapporteur, the economic considerations and the link to the external relations are almost not present in the proposal, when compared to the references to the security aspects. He regrets this approach, especially when the economic

¹ EDPS, Reflection paper on the interoperability of information systems in the area of Freedom, Security and Justice, 17 November 2017, p. 9., https://edps.europa.eu/sites/edp/files/publication/17-11-16_opinion_interoperability_en.pdf

aspects of the *bona fide* travellers are more numerous than any security concern. In this sense, the Commission Impact Assessment repeatedly refers to '*increased migratory and security risks*', while admitting that '*the vast majority of visa applicants are not posing any security and/or migratory threat to the EU*'¹.

Finally under these general considerations, the rapporteur observes that this proposal is not the first one the Commission has put forward this term to amend the current Visa Code. Already, in April 2014, the Commission adopted a first proposal for a recast of the Visa Code. Intense work followed and trilogue negotiations started in May 2016. However, due to divergences in the positions of the European Parliament and the Council, negotiations did not progress, despite the considerable efforts and perseverance of the negotiation team of the European Parliament. The rapporteur finds necessary to note that during those negotiations both Commission and Council opposed the inclusion of provisions on humanitarian visas in the Visa Code, which were included in the negotiation mandate of the European Parliament. Moreover the Council refused to continue negotiations if these amendments were not withdrawn. For the sake of finding a compromise, this withdrawal finally took place and instead, a legislative own-initiative is currently under preparation to call upon the Commission to present a separate legislative act on Humanitarian Visas. The Commission finally withdrew the recast proposal. In March this year, the Commission presented a new proposal to reform the Visa Code.

On specific aspects

While the rapporteur shares in general the approach of the Commission, there are a number of issues on which amendments are proposed.

The proposal includes a **new role for the visa policy 'as a leverage in EU readmission policy'** (new article 25a, Cooperation on readmission policy). This inclusion of readmission elements in visa policy is new, although it was suggested already in different documents, both by the Commission and the Council, but never at such legislative level. The Commission appreciates that visa policy can play an important role to obtain better leverage vis-à-vis third countries on readmission of irregular migrants. However, the Commission admits that '*as the Visa Code was not designed for use as leverage towards individual third countries, but rather as a means of standardising visa issuing procedures and conditions, it is not entirely suited to the new political context*'².

Even more, the Commission recognises that '*it is also clear that better cooperation on readmission with reluctant third countries cannot be obtained through visa policy measures alone*' and considers necessary to develop '*a policy mix of positive and negative incentives in various areas (in particular development cooperation, trade, investments, education) to sway a country's attitude*'³.

Unfortunately, these other measures of policy mix are not available in the Commission

¹ SWD(2018) 77 final, Commission Staff working document, Impact Assessment accompanying the proposal for a regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), p.10

² Explanatory memorandum to the proposal, p. 2; Commission Impact Assessment, Annex 4, p. 66

³ SWD(2018) 77 final, Commission Staff working document, Impact Assessment accompanying the proposal for a regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), p. 26

proposal, which only contains measures concerning cooperation by third countries on the readmission of irregular migrants.

Furthermore, there is regrettable lack of data evidence. Even more, the Commission in its impact assessment expressively recognises that “*there is no hard evidence on how visa leverage can translate into better cooperation of third countries on readmission*”¹. Moreover, the rapporteur shares the views expressed at the *Appraisal of the European Parliament to the Commission Impact Assessment*², which highlights that the objective to advance the EU's interests in the area of return and admission by increasing leverage vis-à-vis non-cooperative third countries in the visa policy area lacks the specificity required by the Better Regulation Guidelines³. The Commission's Impact Assessment does not identify any operational objectives, which will likely complicate the further monitoring and evaluation of the achievement of the objectives.

Finally, the rapporteur thinks that it is quite paradoxical that while the Commission and the Council repeatedly expressed that the Visa Code was not the relevant place for Humanitarian Visas, the Commission considers the Visa Code the instrument for ‘*leverage in EU readmission policy*’, while not offering sufficient data evidence, nor the needed policy mix instruments to achieve the general goals.

Under these considerations, the rapporteur has considered necessary to delete this article.

On the issue of the travel medical insurance (TMI), the rapporteur considers that applicants should not be required to present travel medical insurance when lodging an application for a short stay visa. In line with the Commission recast proposal, the rapporteur agrees that TMI is an disproportionate burden for visa applicants and that there is no evidence that holders of short stay visas present a bigger risk in terms of public medical expenditure in Member States than the visa exempted third country nationals. Therefore, an amendment is tabled to delete the travel medical insurance.

As regards the procedure, the rapporteur observes that some of the proposals should be further strengthened. It should, for example, be possible to lodge an application not only six month before the intended travel but up to nine months before. The rapporteur considers that such a period corresponds better to today's travel patterns especially as international plane tickets are often substantially cheaper when booked early.

The rapporteur agrees with the Commission that the cascade system issuing of multiple-entry visas (MEVs) with a longer validity to bona fide travellers constitutes an advantage not only those travellers but for consulates as well. Following this approach, the rapporteur has tabled amendments to improve the system.

Finally, the rapporteur suggests a number of clarifications regarding the procedure for appeal and a new provision that all consulates have a procedure for complaints. Having such a procedure constitutes good administrative practice and is important for the image of the MS

¹ SWD(2018) 77 final, Commission Staff working document, Impact Assessment accompanying the proposal for a regulation amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), p. 31

² [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/615671/EPRS_BRI\(2018\)615671_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/615671/EPRS_BRI(2018)615671_EN.pdf)

³ https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en

and the EU. Most consulates probably already have one but the rapporteur wishes to include this in the Code. In addition, a properly organised complaint system might reduce the number of formal appeals which constitute an additional workload for consulates and which are often only lodged because an aspect of the procedure was not well understood before.