

NET proposal for amendments

Recast of the Visa Code (COM(2014) 164 final)

Proposal for Amendment to Article 2 § 9 (new) - Definitions	
Commission Proposal	Proposal for amendments by NET
<p>9. VIS registered regular traveller' means a visa applicant who is registered in the Visa Information System and who has obtained two visas within the 12 months prior to the application;</p>	<p>9. VIS registered regular traveller' means a visa applicant who:</p> <p>(a) is registered in the Visa Information System and who has obtained <u>one visa</u> within the 12 months prior to the application, or</p> <p>(b) <u>has previously held a multi-entry uniform visa, a national visa (type 'D') or national residence permit issued by a Schengen State valid for six months or more , provided that the application is lodged no later than 12 months from the expiry of the uniform visa, national visa or national residence permit in question issued by a Schengen State, or</u></p> <p>(c) <u>has made two legal trips to the Schengen States within the 12 months prior to the application;</u></p>

CLIA Europe
CRUISE COMPANIES OPERATING
IN EUROPE

ECTAA
TRAVEL AGENTS &
TOUR OPERATORS IN EUROPE

EFCO&HPA
CAMPS SITES, HOLIDAY PARKS
& HOLIDAY VILLAGES IN EUROPE

ETOA
EUROPEAN INBOUND TOURISM

HOTREC
HOTELS, RESTAURANTS
& CAFÉS IN EUROPE

IAAPA
INTERNATIONAL ASSOCIATION OF
AMUSEMENT PARKS AND ATTRACTIONS

IRU
BUS, COACH & TAXI OPERATORS
WORLDWIDE

Justification

The Commission proposes to introduce mandatory MEVs valid for three years and subsequently for five years for 'VIS registered regular' travelers. Applicants whose data are registered in the VIS and who have previously lawfully used at least two visas within the past 12 month period will benefit from this facilitation. These criteria are too restrictive as it disqualifies all those regular travellers who have already been issued a visa with a longer validity (thus not fitting 2 visas in 12 month), or a visa for long-term stays (type 'D') and residence permits. This requirement creates significant challenges especially for cruise lines, as seasonality and the average length of contracts of crew members (8-10 months) make it difficult for them to obtain two visas in a 12-month period. It is therefore suggested that the lawful use of one visa in the past 12 months should be a sufficient criteria rather than two visas in the past 12 months

The extension of the scope of VIS registered traveller would not involve any increase in the security risk as only applicants with a proven track record of recent lawful visit to Europe would be entitled to the MEV.

Proposal for amendment to Article 5 – Member State competent for examining and deciding on an application

Commission Proposal	Proposal for amendments by NET
<p>2. If the Member State that is competent in accordance with paragraph 1 point (a) or (b), is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6, the applicant is entitled to lodge the application:</p> <p>a) at the consulate of one of the Member States of destination of the envisaged visit,</p> <p>b) at the consulate of the Member State of first entry, if point a) is not applicable,</p> <p>c) in all other cases at the consulate of any of the Member States that are present in the country concerned.</p>	<p>2. If the Member State that is competent in accordance with paragraph 1 point (a) or (b), is neither present nor represented in the third country where the applicant lodges the application in accordance with Article 6, the applicant is entitled to lodge the application:</p> <p>a) at the consulate of one of the Member States of destination of the envisaged visit,</p> <p>b) at the consulate of the Member State of first entry, if point a) is not applicable,</p> <p>c) in all other cases at the consulate of any of the Member States that are present in the country concerned.</p> <p><u>3 (new) Paragraph 2 of this article shall also apply if the Member State competent in accordance with paragraph 1 point (a) or (b) has a presence in the country, but the nearest consulate or visa centre is located more than 500 km or is located such that a return journey by public transport (where available) from the applicant's place of residence to the nearest consulate or visa centre to keep an appointment is impractical without an overnight stay.</u></p>

Justification

The Commission proposes that if a Member State competent for processing the visa application is neither present nor represented in a given third country, the applicant is entitled to apply at another Member State consulate.

That is a very good improvement, notably in smaller third countries, where not all Member States are represented. However, this change will not reduce the inconvenience faced by some applicants in very large countries, such as China, India and Russia, who sometimes need to travel more than thousands of kilometers to lodge an application if the consulate of the Member States competent for the processing of the visa is only represented in the capital. The current arrangements are inconvenient, costly and constitute a deterrent from

applying in first place.

It is thus recommended to extend the possibility of lodging a visa application at another Member State consulate, where the Member State competent for the processing of the visa has a presence in the applicant's country, but the distance between the nearest consulate or visa centre and the applicant's place of residence is more than a certain distance (e.g. 500 km) or the appointment is impractical without an overnight stay.

Proposal for Amendment to Article 8.1 - Practical modalities for lodging an application	
Commission Proposal	Proposal for amendments by NET
8.1 applications may be lodged six months before and no later than 15 calendar days before the start of the intended visit.	<u>8.1 applications may be lodged twelve months before and no later than 15 calendar days before the start of the intended visit.</u>

Justification

The Commission proposes to extend the time for visa application from 3 to 6 months before the departure date. Given that cruise booking generally opens up 18 months in advance, it would be beneficial to have a greater time period in which to apply. This will address some of the uncertainty felt by potential passengers as to whether they should book a cruise. Moreover, this would also greatly benefit crew members where several cruise lines operating in Europe issue crew contracts for a duration of 8-10 months. As seafarers are generally seasonal workers, crew members who are not traveling directly to the Schengen area (e.g. a seafarer serving onboard a ship in Brazil, before taking service on a cruise ship in Europe) will not be able to apply for a visa before leaving, i.e. within the 6-month window proposed by Art. 8.1.

Proposal for amendment to Article 15 § 5 (former Article 17 § 5) – Service fee	
Commission Proposal	Proposal for amendments by NET
5. The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.	5. The Member State(s) concerned shall maintain the possibility for all applicants to lodge their applications directly at its/their consulates.

Justification

The Commission proposes to delete the requirement for Member States to maintain an option for applicants to lodge their application directly at their consulates. This means that some Member States could decide to only accept applications lodged via an external service provider, which means an extra service fee for the applicant in addition to the visa fee. This could lead to a general increase of visa costs.

It is thus recommended to retain Article 15 § 5 requiring Member States to maintain the option for all applicants to lodge their applications directly at their consulates.

Proposal for amendment to Article 18.2- Verification of entry conditions and risk assessment

Commission Proposal	Proposal for amendments by NET
18.2 In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who has lawfully used the two previously obtained visas, it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration, a risk to the security of the Member States, and the possession of sufficient means of subsistence.	18.2 In the examination of an application for a uniform visa lodged by a VIS registered regular traveller who <u>has lawfully used the previously obtained visa</u> , it shall be presumed that the applicant fulfils the entry conditions regarding the risk of irregular immigration, a risk to the security of the Member States, and the possession of sufficient means of subsistence.

Justification

The proposal requires applicants to have obtained two visas in the past 12 months in order to become VIS registered regular travelers and benefit from 3 year - and subsequently 5 year - multiple-entry visas. This requirement creates significant challenges especially for cruise lines, as seasonality and the average length of contracts of crew members (8-10 months) make it difficult for them to obtain two visas in a 12-month period. It is therefore suggested that the lawful use of one visa in the past 12 months should be a sufficient criteria rather than two visas in the past 12 months.

Proposal for amendment to Article 21.3- Issuing of a uniform visa

Commission Proposal	Proposal for amendments by NET
21.3 VIS registered regular travellers who have lawfully used the two previously obtained visas shall be issued a multiple entry visa valid for at least three years	21.3 VIS registered regular travellers who have lawfully <u>used their previously obtained visa</u> shall be issued a multiple-entry visa valid for at least 3 years

Justification

The proposal requires applicants to have obtained two visas in the past 12 months in order to become VIS registered regular travelers and benefit from 3 year - and subsequently 5 year - multiple-entry visas. This requirement creates significant challenges especially for cruise lines, as seasonality and the average length of contracts of crew members (8-10 months) make it difficult for them to obtain two visas in a 12-month period. It is therefore suggested that the lawful use of one visa in the past 12 months should be a sufficient criteria rather than two visas in the past 12 months; Therefore, it is suggested that Article 21.3 should be amended to reflect the amended VIS definition

Proposal for amendment to Article 34.1- Visas issued to seafarers at the external border

Commission Proposal	Proposal for amendments by NET
<p>34.1 A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa at the border where:</p> <p>(a) he fulfils the conditions set out in Article 32(1); and</p> <p>(b) he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.</p>	<p><u>34.1 A seafarer who is required to be in possession of a visa when crossing the external borders of the Member States may be issued with a visa at the border where he is crossing the border in question in order to embark on, re-embark on or disembark from a ship on which he will work or has worked as a seafarer.</u></p>

Justification

Given the nature of the work, the length of the contracts and the fact that crew members will regularly already be employed on a ship when arriving to the Schengen area, they should have the flexibility of applying at the border. It is therefore suggested that article 34(1)(a) should be removed. This would mean that seafarers can apply at the border provided they are crossing the border in order to embark, re embark or dis embark a ship.

Proposal for amendment to Article 45 § 4 (former Article 47) – Information to be provided to the public	
Commission Proposal	Proposal for amendments by NET
4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the application for a visa.	4. The Commission shall establish a Schengen visa Internet website containing all relevant information relating to the application for a visa. <u>This website should be available in all EU languages and the main language of the 5 countries with the highest number of Schengen visa applications. In addition, the website shall provide, where relevant, the contact details and web link of the consulate of the Member State competent for examining the visa</u>

Justification

It is key to create a website that operates as an entry point for all information on the visa application. The visa code is complex, so simple information must be provided to visa applicants so they know when, where and how to make a visa application.

Proposal for amendment to Annex II – List of supporting documents A – Documentation relating to the purpose of the journey	
Commission Proposal	Proposal for amendments by NET
3) for journeys undertaken for the purposes of tourism a) documents relating to accommodation; b) documents relating to the itinerary: confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;	3) for journeys undertaken for the purposes of tourism a) documents relating to accommodation <u>or proof of sufficient means to cover his accommodation</u> ; b) documents relating to the itinerary: confirmation of the booking of an organised trip or any other appropriate document indicating the envisaged travel plans;

Justification

*The proof of sufficient means to cover the accommodation should be mentioned in this paragraph (also taking into account art 13§1§ b).
In fact, documents relating to accommodation might not be able to prove that the traveller will stay in an hotel or other accommodation establishment, as the traveller might cancel the reservation of the accommodation after it has received the confirmation for the planned stay.*

