



EUROPEAN COMMISSION

Brussels, 21.1.2019
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Dear President,

The Commission would like to thank the Senát for its Opinion 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) 252 final}.

While migration and security related objectives remain very important, the vast majority of visa applicants are bona-fide travellers and pose no security risk to the EU and can bring significant economic benefits to the Union.

Therefore, the proposal amending the Visa Code focuses on streamlining and improving operational aspects of the visa procedure and takes account of the results of the negotiations on the proposal for a recast of the 2014 Visa Code that was later withdrawn. The proposal includes provisions giving not only more flexibility for applicants to apply for a visa but also for better organisation of the work of consulates. New elements have been added such as the need for sufficient financial resources to support Member States' visa processing and clear rules on the issuing of multiple entry visas with a long period of validity.

The Commission is pleased that the Senát shares the Commission's views on key issues such as the need for an increase of the visa fee and the advantages of the 'cascade' model for the issuing of multiple entry visas in a harmonised manner but with the possibility of adaptation to local circumstances.

As the Senát expressed concerns on some other points of the Commission's proposal, the Commission would like to provide below a number of clarifications which it trusts will allay the Senát's concerns.

The Senát appreciates the codification of the link between the application of certain procedural rules and third countries' cooperation on readmission but favours a

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progressive application of possible restrictive measures. The Commission's proposal offers such flexibility because the scope and nature of the targeted measures to be applied, if the mechanism is triggered, are to be adopted via an implementing act in each individual case.

The Sénat expresses concerns about the proposed possibility for a Member State to issue visas at the external borders under a temporary scheme. The Commission would like to emphasise that such temporary and optional schemes are to be carefully prepared and managed. Moreover, the conditions for setting up such schemes have been strengthened in comparison with the 2014 proposal. First of all, a Member State that wishes to establish such a scheme must notify the Commission six months ahead of the start of the scheme and the notification must be published in the Official Journal of the European Union. The notification should cover the following elements: the purpose should be to promote short term tourism, the length of the scheme (that must not go beyond four months in any calendar year), a clear definition of the categories of beneficiaries, the geographical scope, the organisational modalities of the scheme and the measures envisaged to ensure the respect of all the visa issuing conditions. After the end of the scheme, the Member State concerned must submit a detailed implementation report to the Commission. Finally, it is important to recall that visas issued under such a scheme will be valid only for a maximum of seven calendar days and only for the territory of the issuing Member State, meaning that the holder would not be entitled to travel to other Member States.

The Sénat is of the view that the processing time should be maintained at 15 calendar days rather than reduced to 10 calendar days, as proposed by the Commission. According to information retrieved from the Visa Information System, the average processing time for visa applications is 5 days. Therefore, the Commission is of the view that a period of 10 days will, in the majority of cases, leave sufficient time for Member States to carry out the necessary checks. In individual cases, where a more thorough scrutiny is necessary, the proposal provides that the processing time may be extended to 45 calendar days.

The Sénat requests that the review of factual findings on the basis of which a visa has been refused be excluded from the scope of the judicial appeal. The Commission is of the view that it would be incompatible with the principle of effective judicial review to exclude from the appeal a review of the correctness and completeness of the facts on which the negative decision is based, because it is an essential part of the judicial review.

Discussions between the European Parliament and the Council on the proposal are now underway. The Commission remains hopeful that an agreement can be reached in the near future.

The Commission hopes that these clarifications address the issues raised by the Senát and looks forward to continuing our political dialogue in the future.

Yours faithfully,

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First Vice-President*

*Dimitris Avramopoulos
Member of the Commission*