SCHENGEN VISA

Proposal for a Regulation on the Union Code on Visas
(Visa Code (COM(2014) 164 final

ETF AND ECSA JOINT STATEMENT

The Social Partners for Maritime Transport – the European Transport Workers' Federation (ETF) and the European Community Shipowners' Associations (ECSA) – very much welcome the European Commission's efforts to reduce administrative burdens for seafarers and shipping companies, whilst ensuring security.

For many years already, reducing administrative burdens for seafarers and shipping companies has been an important issue on the agenda of the Sectoral Social Dialogue Committee for Maritime Transport, in which ECSA and ETF act as the recognized social partners.

For several years now, third country seafarers have encountered (serious) practical difficulties in obtaining a visa to enter, re-enter or transit the Schengen area. These difficulties were either of a procedural nature or resulted from differences in interpretation of the Schengen Code rules, and/or arose from the specific nature of shipping. These difficulties had become a serious administrative and operational burden for seafarers and their employers.

ETF and ECSA very much welcome the Commission's proposal for a Regulation on the Union Code of Visas, as it takes into consideration several of the suggestions that both associations had suggested over time.

In particular, ETF and ECSA welcome the following proposals:

- The reduction in the deadline for processing and deciding on visa applications from 15 to 10 days.
- The possibility to lodge visa applications in consulates of other Member States if the Member State competent for processing the visa application is neither present nor represented.
- The possibility to make online applications.
- A simplification of the list of supporting documents, which will also become exhaustive.
- A harmonization of the relevant requirements at national level to ensure equal treatment of visa applicants.

At the same time, however, ETF and ECSA would like to draw attention to the following two topics, which they believe would merit some further attention from the decision-makers:

a. The definition of seafarer:

New article 2 § 16 introduces a definition of "seafarer", notably "any person who is employed or engaged or works in any capacity onboard a ship to which the 2006 Maritime Labour Convention applies".

This definition is fully based on the definition of seafarer from the ILO Maritime Labour Convention. However, it should be borne in mind that the implementation of the ILO Maritime Labour Convention in Member States' legislation, in particular, the definition of seafarers has proven to be a difficult task.

Moreover, the wording "ships to which the 2006 Maritime Labour Convention applies" in the context of the Union Schengen Visa Code will create legal difficulties, since it excludes seafarers working onboard ships to which the Maritime Labour Convention does not apply.
The proposed definition of seafarer should therefore be reconsidered. A suitable alternative definition is as set out below:

<u>The definition of Council Directive 2009/13/EC</u>

This definition of seafarer is laid down in Article 2.2 (c) of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC. It reads as follows: "*seafarer means any person who is employed or engaged or works in any capacity on board a ship*".

Hence ECSA and ETF suggest amending new article 2(16) to read: "*'seafarer' means any person who is employed or engaged or works in any capacity on board a seagoing ship."*

b. Visa fee

Article 14 para 1 stipulates that visa applicants shall pay a visa fee of € 60. Para 3 of this article identifies those categories of visa applicants which shall not pay a visa fee. ECSA and ETF suggest that seafarers should be added to the category of applications which should not pay a fee when applying for a visa. Instead the fee should be paid by their employer if the visa application is made for professional purposes, notably when they are crossing the border to embark on, re-embark on or disembark from a ship on which they are working or have worked as a seafarer.

Hence ECSA and ETF suggest adding a new subparagraph (h) under new Article 14 paragraph 3 to read: "**Seafarers in accordance with Article 2(16) of this Regulation**."

c. Issuance of multiple entry visa / Definition of VIS registered travelers

The Commission proposal requires applicants to have obtained two visas in the preceding 12 months in order to become VIS registered regular travellers and benefit from 3 year - and subsequently 5 year - multiple-entry visas. This requirement creates significant challenges, especially for crew members onboard cruise ships, as seasonality and the average length of contracts (8-10 months) in this sector make it very difficult for seafarers to obtain two visas in a 12-month period.

Also, crew members who are already being issued with longer term multiple entry visas under current rules – because they have proven their integrity and reliability – would actually find themselves unable to meet the new proposed requirements and would be disadvantaged by these new measures.

Against this background, ECSA and ETF suggest that the lawful use of one visa in the preceding 12 months should be a sufficient criterion rather than two visas in the past 12 months. Hence, the following amendments are proposed:

a. Article 2.9 should be amended to "*'VIS registered regular traveller' means a visa applicant who is registered in the Visa Information System and has obtained **one** visa within the 12 months prior to the application*".

   This should be amended throughout the text, including in article 18.2 on verification of entry conditions and risk assessment, and article 21.3 on multiple-entry visas.

b. Article 21.3 should be amended to reflect the amended VIS definition, i.e. "*VIS registered regular travellers who have lawfully used their previously obtained visa shall be issued a multiple-entry visa valid for at least 3 years*."

d. Timeframe for application of Schengen visas

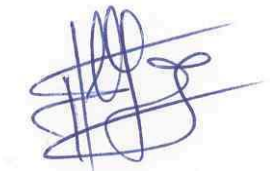
ECSA and ETF welcome the proposed amendment to Article 8.1, which extends the time for visa application from 3 to 6 months before the departure date. However, crew members who are not travelling directly to the Schengen area (e.g. a seafarer serving onboard a ship in Brazil, before taking service on a 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.

Against this background, ECSA and ETF suggest amending Article 8(1) to read "*applications may be lodged **twelve** months and no later than 15 days before the start of the intended visit*".

Conclusion

With the caveat of the above-mentioned four points, ECSA and ETF fully support the Commission's proposal for a Regulation and invite the European Parliament and the Council of the EU to endorse the Commission's proposals.

We also invite the European Commission, the European Parliament and the Council of the EU to note and welcome the progress made with regard to ILO Convention No. 185, 2003 (Seafarers' Identity Documents Convention (Revised)) to make it fully compatible with e-Passport technology.



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