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Proposal for a

COUNCIL REGULATION

amending Regulation 1683/95 laying down a uniform format for visas

Proposal for a

COUNCIL REGULATION

on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents which are not recognised by the Member State drawing up the form

Proposal for a

COUNCIL REGULATION

laying down a uniform format for residence permits for third-country nationals

(presented by the Commission)

EXPLANATORY MEMORANDUM

In aiming to establish progressively an area of freedom, security and justice, the Amsterdam Treaty marked a major advance in European integration. Building upon the Maastricht Treaty new competences for adopting measures have also been given to the European Community in relation to measures on immigration policy such as the conditions of entry and residence of third country nationals. The conclusions of the special European Council in Tampere on the creation of this area of freedom, security and justice within the European Union have underlined the importance of ensuring fair treatment for third country nationals who reside legally on the territory of Member States. The need for more efficient management of migration flows and illegal immigration and the importance of effective controls at external borders as a necessary complement to the implementation of these policies were also emphasised.

Following on from the Vienna Action Plan for the implementation of the Amsterdam Treaty and the Tampere guidelines, the Commission now proposes measures within the new institutional framework aiming to render travel and residence documents more secure.

The harmonised system of security features will guarantee against counterfeiting and falsification as well as for the rapid adoption of new security features if the necessity should occur. By preventing forgery and counterfeiting of travel and residence documents the Commission intends to enhance further the high level of security, a target set out both by the Treaty and the European Council of Tampere.

The implementation powers at the technical level in relation to all proposals will be delegated to the Commission with the assistance of the Committee created by Article 6 of Regulation 1683/95 laying down the uniform format for visas, in line with the procedure set out in Article 5 of Decision 1999/468/EC¹ in compliance with Article 7 thereof. Under this procedure the technical specifications to render the documents compatible with the required security standards will be established. This mechanism will also ensure a continuous peer control and adaptation to new situations shall need arise.

1. AMENDMENT TO THE REGULATION ON THE UNIFORM FORMAT FOR VISAS

The adoption of the Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas represented a step forward to the total harmonisation of visa policy.

Article 2 of this Regulation (which was based on the former Article 100 C (3) EC Treaty) sets out that "Further technical specifications which render the visa difficult to counterfeit or falsify shall be laid down in accordance with the procedure set out in Article 6". The Commission has already executed this competence in adopting decisions related to the complementary technical specifications for the uniform format for visas on 7.2.1996² and later on 27.12.2000³.

With the entry into force of the Amsterdam Treaty and the integration of the Schengen Acquis into the framework of the Treaty, the Commission considers it necessary to adopt additional measures for security reasons such as common rules related to the filling in of the uniform

¹ OJ L 184, 17.7.1999, p. 23.

² Decision 2/96, unpublished.

³ Decision COM(2000) 4332, unpublished.

format for visas in order to ensure that the visa sticker is completed in the same way in all Member States.

As Article 202 EC Treaty confers as a general rule the implementing powers to the Commission, this proposal envisages enlarging the mandate of the Committee established by Article 6 of the Regulation on a uniform visa, in line with the procedure set out in Article 5 of Decision 1999/468/EC⁴ in compliance with Article 7 thereof. This Committee will be in charge of all implementing measures, especially on common standards related to filling in the form.

In addition to the agreed technical specifications it has also proved necessary to fix additional conditions such as conditions related to the storage of blank visa stickers. In order to allow for a more supple adaptation of the mandate should other measures related to the implementation prove to be indispensable a 4th indent has been added which gives a wider possibility for the adoption of such measures with the aim to ensure the best ways and means to fight counterfeiting and forgery.

2. UNIFORM FORM FOR AFFIXING THE VISA

A first draft for a Joint Action concerning a uniform format for forms for affixing the visas issued by Member States to persons holding no travel document or to holders of travel documents which are not recognised by the Member State drawing up the form was presented originally by the Luxembourg Presidency in October 1997. The issue was taken up again by the Austrian and Finnish presidency but no agreement on the text could be reached.

The Commission considers that it is important to establish a uniform form for formats for affixing the visa. The draft proposal for a Regulation is based on the work already completed in the Council working groups. The form should be a paper sheet, which meets high security standards, in particular as regards safeguards against counterfeiting and falsification. It should present a support medium for the uniform format for visas in accordance with Council Regulation CE N° 1683/95 of 29 May 1995 to be affixed in exceptional cases, when the passport is not recognised by the Member State issuing the visa and should not substitute for travel documents.

The Commission considers that in the situation, where travel documents exist but are not formally recognised by a Member State, the standard form is designed to provide an alternative support document to ensure that the uniform format can still be issued and applied according to the provisions of Regulation 1683/95. In these circumstances, the form is integral to the implementation of the uniform format itself and should therefore be based on Article 62 (2) (b) (iii) (former Article 100 C).

⁴ OJ L 184, 17.7.1999, p. 23.

3. RESIDENCE PERMITS

The Commission's purpose in presenting this proposal is to "communitarise" the Joint Action of 16 December 1996 adopted by the Council on the basis of Article K.3 of the TEU concerning a uniform format for residence permits⁵ and the relevant technical specifications adopted by the Council. The proposal also represents an effective measure in relation to the control of illegal immigration in line with the request of the European Council in Tampere.

As some Member States are currently using the residence permit based on the Joint Action, the changes introduced are limited to the minimum. The possibility of choice between a sticker and a stand-alone document is maintained.

In the framework of the Schengen Convention (now integrated into the EC Treaty) the residence permit together with a travel document can substitute for a visa; in this framework a third country national presenting his passport and his residence permit is allowed to enter another Schengen State for a short stay without a visa. It should therefore include safeguard security features.

The scope of this regulation covers all third-country nationals, except those who are members of the family of an EU citizen having exercised his/her right to free movement. For those who are family members of EU citizens, who have not exercised their right of free movement, the Member State concerned shall issue a residence permit mentioning "family member" as set out in the Council Directive in relation to the status of long term resident third country nationals⁶.

4. LEGAL BASIS

The legal basis for a Regulation on a uniform format for affixing visas is identical with the legal basis for the amendment to Regulation 1683/95 laying down the uniform format for visas namely Article 62 (2) (b) (iii) EC Treaty, the former Article 100c (3), as the uniform format for affixing visas constitutes an integral part of the visa.

In respect of the documentation for third country nationals, the Commission considers that the proposal for a Regulation on a uniform format for residence permits for third country nationals relates to the conditions of entry and residence of third country nationals as a measure in furtherance of a common immigration policy. The Treaty of Amsterdam gives powers to the Commission to present a proposal based on Article 63 (3) (a) on the "conditions of entry and residence".

In respect of Article 67 EC Treaty the Council is required to act unanimously.

⁵ OJ L 7, 10.1.1997.

⁶ OJ

5. CONSEQUENCES IN RELATION TO THE VARIOUS PROTOCOLS ANNEXED TO THE TREATY

The legal bases for the proposals concerning documents issued by Member States to third-country nationals, Residence Permit for third-country nationals, uniform format for affixing visas and an amendment to Regulation 1683/95 laying down the uniform format for visas, fall within Title IV of the Treaty and thus imply the variable situation as laid down by the protocols on the position of UK, IRL and DK.

5.1 United Kingdom and Ireland

According to Article 2 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty "none of the provisions of Title IV of the Treaty establishing the European Community, no measure adopted pursuant to that title,..., shall be binding upon or applicable in the United Kingdom or Ireland".

However, following Article 3 of the said protocol "the United Kingdom or Ireland may notify the president of the Council in writing, within three months after a proposal or initiative has been presented to the Council pursuant to Title IV of the Treaty establishing the European Community, that it wishes to take part in the adoption and application of any such proposed measure, whereupon that State shall be entitled to do so".

5.2 Denmark

By the Protocol annexed to the Amsterdam Treaty on the position of Denmark, Denmark does not take part in the adoption by the Council of measures pursuant to Title IV of the EC Treaty, with the exception of "measures determining the third countries whose nationals must be in possession of visas when crossing the external borders, or measures relating to a uniform format for visas" (former Article 100c).

This passage from the Protocol reflects Denmark's concern to abide by the Community commitments it undertook in the Maastricht Treaty (Article 100c ECT and Regulations (EC) No 1683/95 and 574/99). The Commission, on the basis of its interpretation of Article 100c, considers that Article 62(2)(b)(iii) of the EC Treaty makes no innovations over Article 100c but merely confirms and clarifies the objective to which it gives form. Denmark is accordingly to play a full part in the legislative procedure following the presentation of the proposals for a Regulation based on Article 62(2)(b)(iii) such as the amendment to Regulation 1683/95 and the uniform format for affixing the visas.

However, in relation to the proposal for a Regulation laying down a uniform format for residence permits for third country nationals Art 5 of the protocol on the position of Denmark annexed to the Treaty excludes the possibility to decide within a period of 6 months after the Council decision whether it will implement the decision in its national law as this measure is not "building upon the Schengen acquis". Therefore Denmark will not participate.

5.3 Norway and Iceland

In accordance with Article 6 first indent of the Schengen Protocol, an agreement has been signed on 18 May 1999 between the Council, Norway and Iceland in order to associate those two countries with the implementation, application and development of the Schengen acquis⁷.

Article 1 of this agreement stipulates that Norway and Iceland are associated with the activities of the EC and the EU in the areas covered by the provisions referred to in the Annexes A (provisions of the Schengen acquis) and B (provisions of acts of the European Community, which have replaced corresponding provisions of, or adopted pursuant to, the Schengen Convention) of the agreement as well as by those which will follow from them.

According to Article 2 of the agreement, the provisions of all acts or measures taken by the European Union amending or building upon the integrated Schengen Acquis (Annex A, B) shall be implemented and applied by Norway and Iceland.

In Annex B is included Council Regulation 1683/95 of 29 May 1995 laying down the uniform format for visas. As a consequence the matter has to be discussed in the "Mixed Committee" as provided for in Article 4 of the Agreement to give the possibility to Norway and Iceland "to explain the problems they encounter in respect of " the measure and "to express themselves on any questions concerning the development of provisions of concern to them or the implementation thereof". The amendment to the Regulation shall be implemented and applied by Norway and Iceland.

The same procedure should apply for the proposal for a Regulation on a uniform format for affixing visas, as the Commission considers this to be integral part of the uniform format for visas.

In relation to the residence permit for third country nationals one should note, that the decision of the Executive Committee on the implementation of the Joint Action on a uniform format for residence permits (Sch/Com-ex (97) 34 rev), which sets out that the Schengen States should endeavour to implement the residence permit as soon as possible before the end of the transitional period set out in the Joint Action, is included in Annex A as part of the Schengen Acquis. Therefore one could argue that all Schengen States should implement the residence permit as soon as possible, including Norway and Iceland. It is especially in the interest of Schengen States that in an area without internal borders, the same secured residence permit is issued to third country nationals.

6. SUBSIDIARITY AND PROPORTIONALITY

Article 62(2)(b)(iii) confers on the Community the exclusive competence on the issues covered by these provisions.

Article 63 (3) (a) is part of Title IV, where in a transitional period of 5 years referred to in Article 67 gives a shared right of initiative to the Commission and Member States.

The Commission considers that in view of the efforts already made by Member States to harmonise their documents it is appropriate to take action on Community level to ensure the

⁷ OJ L 176, 10.7.1999, p. 35.

coherence and compatibility of documents within the European Union. This can only be done on Community level.

Article 5 EC Treaty stipulates that "any action by the Community shall not go beyond what is necessary to achieve the objectives of the Treaty".

The following proposal aim to render more secure, legally binding and easy adaptable to new circumstances in view of suspected counterfeiting and forgery of

- the uniform format for visas in widening the mandate of the Committee created by Article 6 for the adoption of additional measures for security reasons
- the residence document issued by Member States to third country nationals, legally residing on their territory and
- the uniform format for affixing the visa issued by Member States to persons holding travel documents which are not recognised by the Member State drawing up the form.

This purpose can only be achieved by a Community measure.

The main reason for preferring Regulations to Directives is that the proposals aim at a total harmonisation of the layout of European documents, and their security features, thus leaving no room for discretion to the Member States.

1. PROPOSAL FOR A REGULATION OF THE COUNCIL AMENDING REGULATION 1683/95 LAYING DOWN A UNIFORM FORMAT FOR VISAS

1.1 Comments on the Articles

1.1.1 Article 1

This Article sets out the changes, which have to be introduced to Regulation (EC) 1683/95; it confers the implementing powers as regards the Regulation to the Committee created in Article 6 of the Regulation laying down a uniform format for visas in compliance with the regulatory procedure set out in Article 5 of Decision 1999/468/EC and in compliance with Article 7 thereof.

The Committee should not only establish the necessary technical specifications, but also the conditions of storage and filling in the forms, linked to the security of the uniform format. As there may be other measures necessary to implement the Regulation, which are not obvious now, there is a more general provision included under d). This will ensure the necessary coherence and the possibility that the technical experts on this matter are able to co-ordinate the procedures and assume the responsibilities for all European Union documents in a satisfactory manner.

1.1.2 Article 2

This Article adapt the procedure referred to in Article 6 to the new regulatory procedure set out in Article 5 of Decision 1999/468/EC in compliance with Article 7 thereof.

Proposal for a

COUNCIL REGULATION

amending Regulation 1683/95 laying down a uniform format for visas

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) iii) thereof,

Having regard to the proposal from the Commission⁸,

Having regard to the opinion of the European Parliament⁹,

Whereas:

- (1) Council Regulation (EC) No 1683/95¹⁰ laid down a uniform format for visas.
- (2) It is necessary to be able to establish common standards relating to the implementation of the format in particular common standards for filling in the form and enhanced security standards for their storage.
- (3) Common standards relating to the implementation of the uniform format of visas are essential to achieve a high technical standard and to facilitate detection of forged or falsified visa stickers.
- (4) The powers to adopt such common standards should be conferred to the Committee established by Article 6 of Regulation (EC) No 1683/95. Since the measures necessary for the implementation of the Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission, they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision.
- (5) It is therefore necessary to amend Regulation (EC)n° 1683/95 consequently
- (6) The present Regulation constitutes in relation to the implementation of the Agreement on the association of Norway and Iceland a development of the Schengen acquis in the sense of the Protocol integrating the Schengen acquis into the framework of the European Union;

⁸ OJ C , , p. .

⁹ OJ C , , p. .

¹⁰ OJ L 164, 14.7.1995, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1683/95 is amended as follows:

(1) Article 2 is replaced by the following:

Article 2

Further technical specifications for the uniform format for visas relating to the following shall be established in compliance with the procedure referred to in Article 6 (2):

- (a) further security requirements including enhanced anti-forgery, counterfeiting and falsification standards;*
- (b) conditions of storage to prevent theft;*
- (c) rules for the filling in of the uniform visa;*
- (d) other conditions necessary for the implementation of the uniform format for visas.*

(2) Article 6 is replaced by the following:

Article 6

- (1) The Commission shall be assisted by a committee, composed of representatives of the Member States and chaired by a representative of the Commission.*
- (2) Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply in compliance with Article 7 thereof.*
- (3) The period provided for in Article 5(6) shall be of one month.*

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the EC Treaty.

Done at Brussels,

For the Council
The President

2. PROPOSAL FOR A REGULATION OF THE COUNCIL LAYING DOWN A UNIFORM FORMAT FOR FORMS FOR AFFIXING THE VISA ISSUED BY MEMBER STATES TO PERSONS HOLDING TRAVEL DOCUMENTS WHICH ARE NOT RECOGNISED BY THE MEMBER STATE DRAWING UP THE FORM

2.1 Comments on the Articles

2.1.1 Article 1

This provision describes the general definition of the uniform format for forms for affixing the visa.

2.1.2 Article 2

This Article confers the implementing powers as regards the Regulation to the Committee created in Article 6 of the Regulation laying down a uniform format for visas.

The Committee not only establishes the necessary technical specifications, but also the conditions of storage and filling in the forms, linked to the security of the uniform format. As there may be other measures necessary to implement the Regulation, which are not obvious now, there is a more general provision included under d). This will ensure the necessary coherence and the possibility that the technical experts on this matter are able to co-ordinate the procedures and assume the responsibilities for all European Union documents in a satisfactory manner.

2.1.3 Article 3

Obviously, some technical particulars should not be published under any circumstances, in order to prevent such information being used for the purposes of counterfeiting or falsification. These technical particulars will therefore need to be laid down in a decision, since under Article 254 of the EC Treaty decisions do not need to be published. The Committee already set up to deal with the uniform visa format will take decisions in this framework, since the same experts already have the relevant experience of very high technical standards, notably as regards safeguards against counterfeiting and falsification, and secret documents.

For the same reasons, it is necessary to ensure that only persons so authorised by the Member States and Community bodies have access to this information. This also applies to the printing bodies, which are thus restricted in the first sentence of Article 3(2) to one per Member State.

2.1.4 Article 4

The Community is bound to respect fundamental rights such as protection of privacy, and data protection.

The wording of this article covers all applicable provisions on data protection: Directive 95/46/EC of the European Parliament and of the Council of 24.10.95 on the protection of

individuals with regard to the processing of personal data and on the free movement of such data¹¹.

Paragraph 2 ensures that the person to whom the document has been issued is able to check the information introduced and that there is no other additional information provided.

Paragraph 3 sets out that the machine readable information introduced shall correspond to the data entered on the document.

2.1.5 Article 5

The committee should carry out its tasks in compliance with the regulatory procedure set out in Article 5 of Decision 1999/468/EC in compliance with Article 7 thereof.

2.1.6 Article 6

The final provision gives Member States a reasonable period to adapt production methods if necessary. This also ensures that the technical specifications can be established in good time.

2.1.7 Annex

The annex referred to in Article 1 contains a description of the model for the uniform format for affixing the visa. It specifies only those characteristics, which are visible to the naked eye and thus not secret.

¹¹ OJ L 281, 23.11.1995, p. 31.

Proposal for a

COUNCIL REGULATION

on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents which are not recognised by the Member State drawing up the form

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62, 2), b), iii) thereof,

Having regard to the proposal from the Commission¹²,

Having regard to the opinion of the European Parliament¹³,

Whereas:

- (1) The harmonisation of visa policy is an important measure in relation to establishing progressively an area of freedom, security and justice, specifically as regards border crossing.
- (2) The forms for affixing visas issued to persons holding travel documents which are not recognised by the Member State drawing up the form do not currently correspond to the required security standards. For this reason, it is necessary to harmonise the format for such forms in order to render them more secure"
- (3) This uniform format must contain all the necessary information and meet high technical standards, in particular as regards safeguards against counterfeiting and falsification; they must also be suited to use by all Member States and bear universally recognisable harmonised security features which are clearly visible to the naked eye.
- (4) This Regulation only lays down the description of the model for the uniform format; this need to be supplemented by further technical specifications which are to remain secret in order to prevent counterfeiting and falsifications and which may not include personal data or references to such data. Powers to adopt such technical specifications should be conferred to the Commission, who shall be assisted by the Committee established by Article 6 of Council Regulation(EC) n° 1683/95 of 29 May 1995 laying down a uniform format for visas¹⁴.

¹² OJ C , , p. .

¹³ OJ C , , p. .

¹⁴ OJ L 164,14.7.1995, p. 1.Regulation as amended by Regulation amending Regulation 1683/95 laying down a uniform format for visas.

- (5) To ensure that the information referred to is not made available to more persons than necessary, each Member State should designate a single body having responsibility for printing the uniform format, with Member States remaining free to change the body, if need be; each Member State should communicate the name of the competent body to the Commission and the other Member States.
- (6) With regard to the personal data to be entered on the uniform formats, it is necessary to ensure compliance with Directive 95/46/EC of the European Parliament and of the Council of 24.10.95 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁵.
- (7) The present Regulation constitutes in relation to the implementation of the Agreement on the association of Norway and Iceland a development of the Schengen acquis in the sense of the Protocol integrating the Schengen acquis into the framework of the European Union.
- (8) Since the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁶, they should be adopted by use of the regulatory procedure provided for in Article 5 of that decision.

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purposes of this Regulation, "form for affixing a visa" shall mean the document issued by the authorities of a Member State to the holder of a travel document which is not recognised by that Member State, to which its' competent authorities affix a visa.
2. The form for affixing a visa shall correspond to the model set out in the annex.
3. Where the holder of a form for affixing a visa is accompanied by his or her dependant(s), it shall be for each Member State to decide whether separate visa sheets should be issued to the principal and each of their dependant(s).

Article 2

The technical specifications for the uniform format for forms for affixing the visa and the specifications relating to the following shall be established in compliance with the procedure referred to in Article 5 (2):

- a) security requirements including enhanced anti-forgery, counterfeiting and falsification standards
- b) conditions of storage to prevent theft;

¹⁵ OJ L 281, 23.11.1995, p. 31.

¹⁶ OJ L 184, 17.7.1999, p. 23.

- c) rules for the filling in of the uniform format for affixing the visa;
- d) other conditions necessary for the implementation of the uniform format.

Article 3

The specifications referred to in Article 2 shall be secret and not be published. They shall be made available only to the bodies designated by the Member States as responsible for the printing and to persons duly authorised by a Member State or the Commission.

Each Member State shall designate one body having responsibility for printing the uniform format for forms. It shall communicate the name of that body to the Commission and the other Member States. The same body may be designated by two or more Member States. Each Member State shall be entitled to change its designated body. It shall inform the Commission and the other Member States accordingly.

Article 4

The format, production and use of the uniform format for forms shall comply with Directive 95/46/EC of the European Parliament and the Council of 24.10.95 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁷.

Without prejudice to these rules, persons to whom the uniform format for forms is issued shall have the right to verify the personal particulars contained in the uniform format for forms and, where appropriate, to ask for any corrections or deletions to be made.

No information in machine-readable form shall be given on the uniform format for forms.

Article 5

1. The Commission shall be assisted by the Committee instituted by Article 6 of Regulation (EC) No 1683/95.
2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.
3. The period provided for in Article 5 (6) of Decision 1999/468/EC shall be one month."

Article 6

The uniform format for form for affixing a visa set out in Article 1 shall be used by the Member States no later than 2 years after the adoption of the measures referred to in Article 2(a). However, the validity of authorisations granted already and issued on another format shall not be affected by the introduction of the uniform format for affixing the visas, unless the Member State concerned decides otherwise.

¹⁷ OJ L 281, 23.11.1995, p. 31.

Article 7

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the EC Treaty.

Done at Brussels,

For the Council
The President

ANNEX

<p>Name of Member State Nom de l'Etat Membre</p> <p>Form for affixing a visa Formulaire pour apposer le visa</p> <p>N°:</p> <p>Issuing authority: Autorité de délivrance</p>	
<p>.....</p> <p>.....</p> <p>.....</p> <p>Stamp Tampon</p> <p>Date:..... Date</p> <p>Signature Signature</p> <p>Enter the holder's surname, forename(s), date of birth and passport number if the passport number is not indicated in the machine-readable area. Indiquez le nom, prénom, date de naissance du titulaire et le N° du passeport, si ce n'est pas indiqué dans la zone lisible à la machine</p>	
<p>VISA sticker</p>	

The printed text shall appear in English and French. The issuing Member State may add other language(s). However, the words "Form for affixing a visa" and "Visa sticker", the name of the issuing Member State and the instructions may appear in any language(s).

3. PROPOSAL FOR A REGULATION OF THE COUNCIL LAYING DOWN A UNIFORM FORMAT FOR RESIDENCE PERMITS FOR THIRD COUNTRY NATIONALS

3.1 Comments on the Articles

3.1.1 Article 1

This provision describes the general characteristics of the uniform format.

Paragraph 1 gives the choice to Member States whether they want to use a sticker or a stand-alone card. As the residence permit for third country nationals is already in use in some of the Member States and the Joint Action provided already the possibility for two different techniques, the Member States should not be forced to change their production, only recently established.

Paragraph 2 gives a definition of the residence permit and draws the line at other authorisations. It also gives a default definition of the concept of third-country nationals: it means persons excluding EU citizens as defined in the EC Treaty. This refers to persons having the nationality of a non-member country plus stateless persons within the meaning of the New York Convention of 28 September 1954.

3.1.2 Article 2

This Article confers the implementing powers as regards the Regulation to the Committee created in Article 6 of the Regulation laying down a uniform format for visas.

The Committee not only establishes the necessary technical specifications, but also the conditions of storage and filling in the forms, linked to the security of the uniform format. As there may be other measures necessary to implement the Regulation, which are not obvious now, there is a more general provision included. This will ensure the necessary coherence and the possibility that the technical experts on this matter are able to co-ordinate the procedures and assume the responsibilities for all European Union documents in a satisfactory manner.

3.1.3 Article 3

Obviously, some technical particulars should not be published under any circumstances, in order to prevent such information being used for the purposes of counterfeiting or falsification. These technical particulars will therefore need to be laid down in a decision, since under Article 254 of the EC Treaty decisions do not need to be published. The Committee already set up to deal with the uniform visa format will take decisions in this framework, since the same experts already have the relevant experience of very high technical standards, notably as regards safeguards against counterfeiting and falsification, and secret documents.

For the same reasons, it is necessary to ensure that only persons so authorised by the Member States and Community bodies have access to this information. This also applies to the printing bodies, which are thus restricted in the first sentence of Article 3(2) to one per Member State.

3.1.4 Article 4

The Community is bound to respect fundamental rights such as protection of privacy, and data protection.

The wording of this article covers all applicable provisions on data protection: Directive 95/46/EC of the European Parliament and of the Council of 24.10.95 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁸.

Paragraph 2 ensures that the person to whom the document has been issued is able to check the information introduced and that there is no other additional information provided.

Paragraph 3 sets out that the machine-readable information introduced shall correspond to the data entered on the document.

3.1.5 Article 5

This provision determines the scope of persons to whom the regulation shall apply.

3.1.6 Article 6

The committee should carry out its tasks in compliance with the regulatory procedure set out in Article 5 of Decision 1999/468/EC in compliance with Article 7 thereof.

3.1.7 Article 7

The regulation should replace the Joint Action of 16 December 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning a uniform format for residence permits (97/11/JHA) and the measures of the Council adopted in view of its implementation. This Article gives Member States a reasonable period to adapt production methods if necessary. This also ensures that the technical specifications can be established in good time.

3.1.8 Annex

The annex referred to in Article 1 contains a description of the model for the uniform residence permit. It specifies only those characteristics, which are visible to the naked eye and thus not secret.

¹⁸ OJ L 281, 23.11.1995, p. 31.

Proposal for a

COUNCIL REGULATION

laying down a uniform format for residence permits for third-country nationals

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 (3) thereof,

Having regard to the proposal from the Commission¹⁹,

Having regard to the opinion of the European Parliament²⁰,

Whereas:

- (1) The Amsterdam Treaty aims establishing progressively an area of freedom, security and justice and confers a shared right of initiative to the Commission in order to take the relevant measures on a harmonised immigration policy.
- (2) The special European Council of Tampere emphasised the need for this harmonised immigration policy and in view of the provisions of the Treaty related to the entry and residence of third-country nationals.
- (3) The Joint Action of 16 December 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning a uniform format for residence permits (97/11/JHA)²¹ confirms the necessity to harmonise the format of residence permits issued by Member States to third country nationals.
- (4) The Joint Action 97/11/JHA should now be replaced by a Community measure.
- (5) It is essential that the uniform format for residence permits should contain all the necessary information and meet very high technical standards, in particular as regards safeguards against counterfeiting and falsification; this will contribute to the objective of preventing and fighting against illegal immigration and illegal residence. It must also be suited to use by all the Member States and bear universally recognisable harmonised security features, which are clearly visible to the naked eye.
- (6) This Regulation only lays down such specifications as are not secret; these specifications need to be supplemented by further specifications which are to remain secret in order to prevent counterfeiting and falsifications and which may not include personal data or references to such data. Powers to adopt such supplementary

¹⁹ OJ C , , p. .

²⁰ OJ C , , p. .

²¹ OJ L 7, 10.1.1997, p.1.

specifications should be conferred to the Commission, who shall be assisted by the Committee established by Article 6 of Council Regulation(EC) n°1683/95 of 29 May 1995 laying down a uniform format for visas²².

- (7) To ensure that the information referred to is not made available to more persons than necessary, it is also essential that each Member State should designate not more than one body having responsibility for printing the uniform format for residence permits, with Member States remaining free to change the body. For security reasons, each Member State must communicate the name of the competent body to the Commission and to the other Member States.
- (8) With regard to the personal data to be entered on the uniform format for residence permits, compliance should be ensured with Directive 95/46/EC of the European Parliament and of the Council of 24.10.95 on the protection of individuals with regard to the processing of personal data and on the free movement of such data²³.
- (9) Since the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²⁴, they should be adopted by use of the regulatory procedure provided for in Article 5 of that decision.
- (10) The present Regulation constitutes in relation to the implementation of the Agreement on the association of Norway and Iceland a development of the Schengen acquis in the sense of the Protocol integrating the Schengen acquis into the framework of the European Union;

HAS ADOPTED THIS REGULATION:

Article 1

1. Residence permits issued by Member States to third country nationals shall be in a uniform format and provide space for the information set out in the annex hereto. The uniform format can be used as a sticker or a stand-alone document. Each Member State may add in the relevant space of the uniform format information of importance regarding the nature of the permit and the legal status of the person concerned, in particular information as to whether or not the person is permitted to work.
2. For the purpose of this Regulation,
 - a) “residence permit” shall mean any authorisation issued by the authorities of a Member State allowing a third country national to stay legally on its territory, with the exception of:

²² OJ L 164, 14.7.1995,p.1. Regulation as amended by Regulation amending Regulation 1683/95 laying down a uniform format for visas.

²³ OJ L 281, 23.11.1995, p. 31.

²⁴ OJ L 184, 17.7.1999, p. 23.

- i) visas,
 - ii) permits issued pending examination of an application for a residence permit or for asylum.
- b) “third-country national” shall mean any person who is not a citizen of the Union within the meaning of Article 17 (1) of the Treaty establishing the European Community.

Article 2

Additional technical specifications for the uniform format for residence permits relating to the following shall be established in compliance with the procedure referred to in Article 6 (2):

- a) further security requirements including enhanced anti-forgery, counterfeiting and falsification standards
- b) conditions of storage to prevent theft;
- c) rules for the filling in of the uniform residence permit;
- d) other conditions necessary for the implementation of the uniform format.

Article 3

The specifications referred to in Article 2 shall be secret and not be published. They shall be made available only to the bodies designated by the Member States as responsible for the printing and to persons duly authorised by a Member State or the Commission.

Each Member State shall designate one body having responsibility for printing the uniform residence permit. It shall communicate the name of that body to the Commission and the other Member States. The same body may be designated by two or more Member States. Each Member State shall be entitled to change its designated body. It shall inform the Commission and the other Member States accordingly.

Article 4

The format, production and use of the uniform residence permit shall comply with Directive 95/46/EC .

Without prejudice to these rules, persons to whom the residence permit is issued shall have the right to verify the personal particulars contained in the residence permit and, where appropriate, to ask for any corrections or deletions to be made.

No information in machine-readable form shall be included in the residence permit, unless provided for in the Annex hereto, or unless it is mentioned in the relevant travel document.

Article 5

This Regulation does not apply to third-country nationals, who are:

- members of the families of citizens of the Union exercising their right to free movement,
- nationals of Member States of the European Free Trade Association party to the Agreement on the European Economic Area and members of their families exercising their right to free movement in accordance with this agreement.

Article 6

1. The Commission shall be assisted by the Committee instituted by Article 6 of Regulation (EC) No 1683/95.
2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.
3. The period provided for in Article 5 (6) of Decision 1999/468/EC shall be one month."

Article 7

Member States shall issue the uniform form for residence permits set out in Article 1 no later than one year after the adoption of the measures referred to in Article 2(a).

From that time, this Regulation shall replace in the Member State concerned the Joint Action 97/11/JHA.

However, the validity of authorisations granted in documents already issued shall not be affected by the introduction of the uniform format for residence permits, unless the Member State concerned decides otherwise

Article 8

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the EC Treaty.

Done at Brussels,

For the Council
The President

ANNEX

a) Description:

The residence permit will be produced either as a sticker, if possible in ID 2 format, or as a stand-alone document in ID 1 or ID 2 format. It should be orientated to the specifications set out in the ICAO Document on machine readable visas (Document 9303 part 2) or on machine readable travel documents (cards) (Document 9303 part 3). It shall contain the following items:

1. The title of the document (Residence permit) shall appear in the language(s) of the issuing Member State.*
2. The document number - with special security features and preceded by an identification letter -.
3. *1. Name: surname and forename(s) in that order.**
4. *2. "Valid until" shall indicate the relevant expiry date, or, where appropriate, a word to indicate unlimited validity.*
5. *3. Place/date of issue: the place and date of issue of the residence permit.**
6. *4. Type of permit: the specific type of residence permit issued to the third country national by the Member State.* For the member of the family of a EU citizen, who has not exercised the right of free movement it should be mentioned "family member"*
7. *5.-9. Remarks: Member States may enter details and indications for national use necessary with regard to their rules on third country nationals including indications relating to any permission to work.**
8. Date/Signature/Authorisation: - if necessary - the signature and seal of the issuing authority and/or the holder.
9. The printed area shall contain the national emblem of the Member State to distinguish the residence permit and provide a safeguard of its national origin.
10. machine-readable area. The machine-readable area shall conform to ICAO guidelines.
11. The machine readable area shall contain a printed text indicating exclusively the respective Member State. This text may not affect the technical features of the machine-readable zone.
12. Metallized latent image effect including the country code of the Member State, if a sticker or a non-laminated paper card is used.
13. OVD (kinegram or equivalent sign).

* Where this information appears in an official language using non-Latin characters, it should be transliterated in Latin characters.

14. If the residence permit is produced as a stand-alone document, an identity photograph shall be affixed and secured with OVD film (kinefilm or equivalent security laminate).

15. The following additional information boxes shall be provided on the back in the case of a stand-alone document:

- date/place of birth,*

- nationality,*

- sex,*

- remarks.*

The address of the permit holder may also be indicated.*

b) Colour, Printing procedure

The Member States establish the colour and the printing procedure in accordance with the uniform model set out in this Annex and the technical specifications to be established in accordance with Article 2 of the Regulation.

c) Material

The paper used for the residence permit giving personal particulars or other data shall meet the following requirements:

- no optical brighteners,

- duo-tone watermarks,

- security reagents to guard against attempts at tampering by chemical erasure.

- coloured fibres (partly visible, partly fluorescent under UV light)

- UV-fluorescent planchettes

If a card for inserting personal data is made entirely of plastic, it is not usually possible to incorporate the authentication marks used in residence permit paper. The lack of marks in the materials shall be compensated for by measures in respect of security printing, use of OVDs (OVD = optically variable device), or an issuing technique over and above the following enhanced standards. The essential security features of the material should be of a uniform pattern.

* Where this information appears in an official language using non-Latin characters, it should be transliterated in Latin characters.

d) Printing technique

The following printing techniques shall be available:

- Background printing:

two-tone guilloches,

fluorescent rainbow colouring,

UV-fluorescent overprinting,

effective anti-counterfeiting and falsification motifs

reagent inks must be used on paper cards and stickers.

The lay-out of the front side of a card shall be distinguishable from the back side.

- Form printing:

with integrated micro printing (unless already included in background printing).

- Numbering:

Printed (where possible with a special style of figures or typeface and in UV-fluorescent ink), or, in cards integrated using the same technique as for the biographical data. If a sticker is used, printed numbering using fluorescent ink and a special style of figures is obligatory.

If stickers or non-laminated paper cards are used, intaglio printing with latent image effect, micro text and optically variable ink shall also be employed. Additional optically variable security devices shall also be used on cards made entirely of plastic, at least through the use of optically variable ink or equivalent measures. The essential features of the security printing should be of a uniform pattern.

e) Protection against copying

A harmonised optically variable (OVD) or equivalent device shall be used on the residence permit sticker or on the front of the residence permit card and shall take the form of diffractive structures (kinegram or equivalent) incorporated into the hot-sealed laminate or as an OVD overlay, or, on stickers or a non-laminated paper card, as metallised OVD (with intaglio overprinting).

f) Issuing technique

To ensure that residence permit data are properly secured against attempts at counterfeiting and falsification, personal data including the photograph, the holder's signature and main issue data shall in future be integrated into the basic material of the document. Conventional methods of attaching the photograph shall no longer be used.

The following issuing techniques may be used:

laser printing,

thermo-transfer,

ink-jet printing,

photographic,

laser engraving.

To ensure that biographical issue data are adequately protected against attempts at tampering, hot-seal lamination with OVD security laminate shall be made compulsory where laser printing, thermo-transfer or photographic techniques are used.

g) Member States have the possibility as regards to point c, d and e to introduce further security features in so far as these are in conformity with decisions already taken about these matters.

The technical requirements and the security features shall correspond to the requirements and specifications set out in Regulation (EC) 1683/95 laying down a uniform format for visas.

Residence Permit for third country nationals in card-form



Residence Permit for third country nationals in sticker form

