

New visa code



What's new?

➤ New definition has been added to Art 2

- seafarer
- Electronic signature

➤ Airport transit visa, ATV Art 3.5 b and c

- regulates which categories of persons are exempted from ATV requirement.
- updated with the information regarding overseas countries and territories of the Netherlands (such as Aruba, Sint Maarten)- holders of valid visas or valid residence permits are exempted from ATV requirement

➤ Competent authority for processing visa applications, Art 4 (1a)

- paragraph 1a. has been inserted- allowing MS's central authorities to examine and decide on visa applications in a more systematic manner.

➤ Competent MS for processing visa applications, Art 5.1 b

- if the visit includes more than one destination, or if several separate visits are to be carried out within a period of two months, the MS whose territory constitutes the main destination of the visit(s) in terms of the length of stay, counted in days, or the purpose of stay must deal with the visa application

➤ Representation agreement, Art 8

- Paragraph 2 (possibility of "limited" representation) has been deleted
- Paragraphs 10 & 11 have been added; paragraph 10- if a MS is neither present nor represented in the third country where application is to be lodged, the MS shall endeavour to cooperate with an ESP in accordance with Art 43.
- Paragraph 11 opens for MS to seek temporary representation by another MS due to prolonged technical *force majeure* in a given location

➤ Practical modalities for lodging an application, Art 9

- Applications shall 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
- as a rule, an application shall be submitted no later than 15 calendar days before the start of the intended visit
- An applicant shall not be required to appear in person at more than one location

➤ General rules for lodging an application, Art 10

- Paragraph 1 is replaced by: Applicants shall appear in person when lodging an application for the collection of fingerprints
- Persons whose fingerprints have been collected within the previous 59 months should not have the fingerprints collected again
- Opens the possibility of lodging the application electronically; where available

➤ Application form, Art 11

- Paragraph 3 has been replaced- the form shall ,as a minimum, be available in the official language (s) of the MS for which a visa is requested or of the representing MS and the official language (s) of the host country

➤ Biometric identifiers, Art 13

- Not amended, waiting for the amendments of the VIS Regulation to be finalized

➤ Visa fee, Art 16

- Applicants shall pay a visa fee of EUR 80
- Children from the age of 6 years and below age of 12 years shall pay a visa fee of EUR 40
- Paragraph 2a has been inserted (connected to new Art 25a)- a visa fee of EUR 120 or EUR 160 shall apply if an implementing decision is adopted by the Council according to Art 25a (5). This provision shall not apply to children below the age of 12 years
- Paragraph 5 amended- the visa fee may be waived for children from the age of 6 years and below the age of 18 years
- The Commission has been given the responsibility of assessing the need of revising the amount of the visa fee every three years (taking into account objective criteria such as the general Union wide inflation rate and the weighted average of the salaries of MS)

➤ Service fee, Art 17

- Paragraphs 4a & 4b have been inserted: 4a- states that the service fee shall in principle not exceed 80 EUR in third countries where the competent MS has no consulate for the purpose of collecting applications and is not represented by another MS
- 4b- In exceptional circumstances where the amount referred to in paragraph 4a is not sufficient to provide a full service, a higher service fee of up to a maximum of 120 EUR may be charged
- Paragraph 5 has been amended: MS is no longer required to maintain the possibility for all applicants to lodge their applications directly at the consulate. This is not applicable on family members of EU/EEA nationals.

➤ Decision on the application, Art 23

- The decision-making may take up to 15 calendar days after the application has been considered admissible
- In individual cases, where further scrutiny of the application is necessary, the deadline may be extended up to a maximum of 45 calendar days after the application has been considered admissible
- Possibility of extending the deadline to up to 60 calendar days has been removed
- The deadline for taking a decision on an application starts running only when it has been established that the admissibility criteria have been met and not when the application has been submitted by the applicant.

➤ Issuing of the visa, Art 24

- introduces the "cascade system" which sets up rules for issuance of MEV (multiple-entry visas) with long validity
- MEV visas with a long validity shall be issued for the following validity periods, unless the validity of the visa would exceed that of the travel document;
 - for a validity period of one year, provided that the applicant has obtained and lawfully used three visas within the previous two years;
 - for a validity period of two years, provided that the applicant has obtained and lawfully used a previous multiple-entry visa valid for one year within the previous two years;
 - for a validity period of five years, provided that the applicant has obtained and lawfully used a previous multiple-entry visa valid for two years within the previous three years
- Airport transit visas (ATV) and visas with limited territorial validity (LTV) issued in accordance with Article 25(1) shall not be taken into account for the issuing of multiple-entry visas
- In individual cases, the validity period maybe shortened where there is reasonable doubt that the entry conditions will be met for the entire period (*such doubt should be linked to objective criteria that make it likely that the applicant will cease to fulfil the entry conditions at a certain point in future*)
- MS in any given location shall prepare the implementation of these general rules in order to take account of local circumstances and offer more or less generous "cascades" for all or certain categories of applicants.



➤ New Article has been inserted: Article 25a- Cooperation on readmission

- Depending on the level of cooperation of a third country with Member States on the readmission of irregular migrants, assessed on the basis of relevant and objective data, Article 14(6), Article 16(1), point (b) of Article 16(5), Article 23(1), and Article 24(2) and (2c) shall not apply to applicants or categories of applicants who are nationals of a third country that is considered not to be cooperating sufficiently, in accordance with this Article.

➤ Refusal of a visa, Art 32

- new refusal ground has been added regarding ATV- application shall be refused if the applicant has not provided justification for the purpose and conditions of the intended airport transit
- Annex III has been amended – refusal ground 7 (*considered to be a threat to public policy, internal security or public health as defined in Article 2(19) of the Schengen Borders Code or to the international relations of any of the Member States, in particular where an alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds*) has been divided in three different refusal grounds

➤ Organisation of visa sections, Art 37 (storage/handling of visa stickers and archiving)

- Paragraphs 2 & 3 have been replaced by the following: 2: Each consulate shall keep an account of its stock of visa stickers and register how each visa sticker has been used. Any significant loss of blank visa stickers shall be reported to the Commission
- Paragraph 3: Consulates or central authorities shall keep archives of applications in paper or electronic format. 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, whichever is the longest
- Resources for examining applications and monitoring visa procedures, Art 38
- MS shall ensure that the entire visa procedure in consulates, including the lodging and handling of applications, the printing of visa stickers and the practical cooperation with ESP, is monitored by expatriate staff to ensure the integrity of all stages of the procedure
- Member States' central authorities shall provide adequate training to both expatriate staff and locally employed staff and shall be responsible for providing them with complete, precise and up-to-date information on the relevant Union and national law
- Where applications are examined and decided on by central authorities as referred to in Article 4(1a), the MS shall provide specific training to ensure that the staff of those central authorities have sufficient and updated country-specific knowledge of local socio-economic circumstances

- Member States shall also ensure that consulates have sufficient and adequately trained staff for assisting the central authorities in examining and deciding on applications, notably by participating in local Schengen cooperation meetings, exchanging information with other consulates and local authorities, gathering relevant information locally on migratory risk and fraudulent practices, and conducting interviews and additional examinations
- Paragraph 5 has been added: Member States shall ensure that a procedure is in place which allows applicants to submit complaints regarding:
 - the conduct of staff at consulates and, where applicable, of ESP; or
 - the application process. Consulates or central authorities shall keep a record of complaints and the follow-up given

➤ Co-operation with ESP, Art 43

- Member State(s) concerned shall, on a regular basis and at least every nine months, carry out spot checks on the premises of the ESP. Member States may agree to share the burden of this regular monitoring.
- By 1 February each year, MS shall report to the Commission on their cooperation with, and monitoring, of ESPs worldwide (will be done by central authorities)