

## **ESU's response to the public consultation on the Amendment of the Visa Code Regulation**

European Students' Union's (ESU) vision is to achieve equal educational and social opportunities in an open and democratic Europe where students shape a sustainable future. With increasing number of learners from third countries studying in Schengen countries, and elsewhere in the European Union (EU), free movement, including for students on exchange studies and students, who undertake stays for the purpose of study or educational training, for teachers, staff and researchers, must be ensured.

ESU has raised its concerns about the EU visa policy in 2015, highlighting three priorities that must be ensured to third country nationals, furthermore ESU has joined the public consultation on the Future of visa policy<sup>1</sup> earlier this year. The main ESU priorities for visas are:

- Firstly, all groups of students should be informed of the decision on their application as soon as possible, within maximum 30 days.
- Secondly, equal conditions and accessibility for requesting a visa must be ensured worldwide.
- Thirdly, the raising of the age limit in regard to visa fee waivers

Furthermore, with a special regard to long-term visas:

- Firstly, visa and resident permits must be granted for the entire duration of the study programme.
- Secondly, students from third countries must be granted the right to work and study in the hosting country on the same level as domestic students.
- Thirdly, a solution must be found for those students, whose visa wasn't approved before the beginning of the study programme.

The above mentioned points are still crucial for all the applicants.

ESU feels the need for improvements in visa policies across the EU. Students engaging in international mobility, which has been a priority in higher education for a long time, face serious setbacks, disadvantages and discrimination in regard to their freedom of movement and country of origin. We are disappointed with the current lack of ambition in the European Commission's draft on Visa Code Regulation. This draft is short on innovations for visa policy procedures and the flagship change is to introduce higher visa fees, that are considered as a significant financial burden for students. All costs for students related to visa procedures, such as travelling to embassies,

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<sup>1</sup> Referenced as Ares(2018)308643.

documents preparation, translations costs, financial statements obligations, proofs of savings for the entire period of stay and finally the visa fee, are all negatively affecting study accessibility and short study exchanges in EU.

**ESU welcomes the open consultation on the Amendment on Visa Code Regulation, and hereby calls on the European Commission to consider the following suggestions:**

Study visa shall stay applicable to the scope of defined receivers, such as students, researchers, volunteers, school students, trainees and volunteers. The visas provided for students must cover the entire period of study and include a period after graduation allowing for entering the job market. Forcing students already enrolled in formal education to re-apply for the same visa multiple times is an unnecessary burden to students and creates unnecessary stress for the applicant while waiting to be re-granted for the same study program. While the principle of having student visa granted for the entire period of study has been widely discussed before and agreed upon by several parties, this has not been implemented.

The equal conditions and accessibility in visa procedures must be ensured. Accessible and reachable visa application points in foreign countries have the same importance as accessibility of studies. Not every EU member state has its embassy in every country in the world. Especially in developing countries in Africa, Asia and Latin America, an applicant needs to reach long distances, or cross multiple borders. Currently, the conditions for applying are not the same across the world. E.g. in five countries in Africa, there is no EU member state embassy. Also the distribution of EU embassies is uneven throughout the continent. However, there is an option to use visa service points, but in most cases, the additional costs for applying via these points together with other financial burdens might be unbearable. ESU suggests to use all EU member state embassies as the visa contact point for visa to any EU member state on contrary to the current procedures demanding acquiring visa at the country embassy where the intended stay is expected for the longest period<sup>2</sup>.

Equality to access to visa must also include the LGBTQI perspective - at present, the visa application only allows for the self-identification in sex perspective, offering binary male and female options. In reality, a large part of students are non-binary or trans, making the current formulation of the application inaccessible to them. The legal status of non-binary gender is recognized by several countries worldwide, three of whom are also members of the EU. ESU suggests to change the application form<sup>3</sup> to address this issue, that is unfair towards LGBTQI applicants. A possible way of improving the situation is to create an additional field for "gender" in addition to one regarding "sex".

Long term visa goes hand in hand with the right to work and study in different countries, being able to access the opportunities that mobility programmes can ensure, enriching people's abilities and experiences. It is unfair that mobility programmes are a privilege for those who can afford it or who come from a country where it is easier to access visa procedures, or who can afford the access to visa. Students on study visas must be granted the right to stay in the country in which they studied for at least 12 months after graduation to ensure ample time for job-seeking in a relevant field of

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<sup>2</sup> Article 5, Regulation no. 810/2009 (Visa code)

<sup>3</sup> Annex I Harmonised application form Application for Schengen Visa

work. The visa fees must be affordable and take into account differences of income and living costs in respective countries. Access to Visa procedures should be fair and equal for all citizens and the same right needs to be ensured to those that, for many reasons, chose a country different than the one where they were born. ESU suggests to lower or repeal the visa costs for study purposes.

The procedures to recognise one's refugee status are extremely time consuming and they affect people's right to live normally and safely. They especially affect refugees' rights to education. Not only do these procedures have to be shortened and simplified, it is also very urgent that Higher Education Institutions can accept asylum seekers as students even during the waiting period. Similarly, it is important to protect migrants' and refugees' rights and allow them to safely and quickly apply for a visa and go on mobility, thus being able to study and work with the exact same rights as every other student.

ESU suggests that article 16 4(d) which references age limits in regard to visa fees be renewed. Currently, people up to 25 years old are eligible for the waiving of visa fees - we find this age limit to be misaligned with reality. Currently, the EU and most countries therein regard people up to 30 years old as young people. Therefore, we encourage the EU to raise the age for visa fee waivers to 30 years old.

All visa application procedures for third country nationals wishing to engage in international mobility must be both affordable and accessible to all. Visa application processes must not be seen as a deterrent to people from less advantaged backgrounds. Using visas as a selection method for international students separate from higher education institutions is fundamentally flawed. Various conditions and supporting documents need to be delivered along with the visa application. Some of these conditions are very limiting, especially those documents meant to prove the applicant's financial status. We encourage EU member states to accept all the documents proving income based on future scholarship, government support, and other relevant incentives related to student status.

Increasing accessibility to obtain visa lies within simplifying procedures leading to it. Nowadays, usually official translations of all documents are needed. This creates an additional financial burden for applicants. ESU appreciates that school pupils, students, postgraduate students and accompanying teachers who undertake stays for the purpose of study or educational training, shall be waived from visa fee<sup>4</sup>, but we emphasise the importance to secure waiving visa fees in all cases for the above-mentioned category of applicants.

We believe that the entire visa application with supporting documents can be submitted in any EU procedural language. The visa processes must go through a process of reducing the number of unnecessary bureaucratic hurdles, such as repeated resubmission of already submitted documents. This goes hand in hand with the need to visit the embassy multiple times. ESU believes that only a single visit to the embassy is truly needed. ESU suggests to introduce online interview system and an online system for documents uploading. The only physical contact shall be made for the purpose of biometric data collection and the actual placement of a visa sticker. Digitalisation becomes a substantial part of Visa policy modernisation, therefore the online visa application, together with

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<sup>4</sup> Article 16 4.b., Regulation 810/2009 (Visa Code)

uploading supporting documents and tracking of the visa application status, should be secured. The online tools used for visa processes should be both accessible, based on universal design principles<sup>5</sup>, and easy to use.

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<sup>5</sup> Universal design refers to broad-spectrum ideas meant to produce buildings, products and environments that are inherently accessible to older people, people without disabilities, and people with disabilities.