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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the use of travel medical insurance, under Article 15 of Regulation (EC) No 810/2009, by visa holders during their stay in the territory of the Member States

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I. Introduction

Since 2004[1], applicants for short stay visas must present proof of *"adequate and valid travel medical insurance"* to cover urgent medical treatment or repatriation due to unforeseen health problems during their stay in EU Member States. The Council decision making these rules applicable at the time did not require an impact assessment and no other form of in-depth analysis of the impact of the measure was carried out. Without changes to the substance, these provisions were integrated into Article 15 of the Visa Code (Regulation (EC) No 810/2009).[2]

While presenting adequate travel medical insurance ('insurance') is a requirement for applying for a short stay visa, holding such an insurance is not a condition for entry[3] to be checked at the EU's external borders. Therefore, non-EU nationals who are not subject to the visa requirement and future ETIAS[4] applicants are not required to present proof of holding insurance when travelling to the EU. This leads to a difference of treatment between visa-exempt and visa-required non-EU nationals.

In the 2014 proposal to recast the Visa Code, the Commission proposed to abandon the insurance requirement. The proposal was motivated by the practical challenges linked to the insurance requirement (see below), the fact that the requirement to hold insurance is not checked at the external borders and, the fact that very limited evidence[5] is available as to the actual enforcement of insurance policies. The Council rejected the proposal, which on the contrary found support in the European Parliament. In the end, the Commission withdrew its recast proposal in 2018.

In its proposal on a targeted revision of the Visa Code in 2018, the Commission did not propose any changes to the provisions on insurance. The European Parliament and the Council agreed to task the Commission with drawing up a report to check the efficiency of this measure. Pursuant

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1 Council Decision of 22 December 2003 amending Part V, point 1.4, of the Common Consular Instructions and Part I, point 4.1.2 of the Common Manual as regards inclusion of the requirement to be in possession of travel medical insurance as one of the supporting documents for the grant of a uniform entry visa (2004/17/EC), OJ L 5, 9.1.2004, p. 79.

2 Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code),OJ L 243, 15.9.2009, p. 1.

3 Article 6(1)) of Regulation(EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p. 1.

4 European Travel Information and Authorisation System.
Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, OJ L 236, 19.9.2018, p 1.

5 SWD (2014) 101 final.

to Article 2(3) of Regulation (EU) 2019/1155 amending Regulation (EC) No 810/2009[6] the Commission shall produce a report to be transmitted to the European Parliament and to the Council on the basis of *"relevant available data on the use of travel medical insurance by visa holders during their stay in the Member States, as well as costs incurred by national authorities or providers of medical services for visa holders"* provided by the Member States.

In line with this provision, the present report presents the challenges (some of which have previously been documented) with the insurance requirement, contains a general summary of EU Member States' responses, including on the possible impact of the COVID-19 pandemic and suggests next steps.

1. Challenges in the visa procedure and lack of enforcement at the border

While acquiring insurance seems unproblematic for applicants, earlier analyses, frequent discussions in the Visa Committee and in local Schengen cooperation have shown that the insurance requirement poses problems in several other aspects.

– The legal basis

Under Article 15 of the Visa Code, applicants must present proof of *"adequate and valid"* insurance that is to cover *"any expenses which might arise in connection with repatriation for medical reasons, urgent medical attention and/or emergency hospital treatment or death, during their stay(s) on the territory of the Member States."* People applying for a multiple entry visa must present such proof for the first intended stay. Upon lodging the application, the individual concerned is made aware, by signing the application form, of the need to hold insurance for any future stays.

The insurance is to cover the period of the visa holder's stay and in EU Member States. The minimum coverage is EUR 30 000 (level set in 2004) and claims must be recoverable in an EU Member State.

– Timing to present insurance

The applicant must present the insurance when applying for a visa. Applicants must therefore present insurance covering the period of intended stay before knowing whether and for how long the visa will be issued. Moreover, some consulates incorrectly insist that the insurance must cover the entire period of validity[7] of the visa. Some consulates decide on the length of validity of the visa based on the validity of the insurance presented, which was not the legislators' intention.

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[6] Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code), OJ L 188, 12.7.2019, p. 25.

[7] Period of allowed stay: the number of days that the visa holder is allowed to stay, e.g. 30 days.
Period of validity of the visa: a period of 15 days is added to the period of allowed stay to allow the visa holder flexibility in using the visa (plans or flights may changes etc.), meaning that a person may hold a visa valid for 45 days, allowing for a stay of 30 days. The travel medical insurance is to cover a period of 30 days.

Some insurance companies allow for later cancellation of insurance policies. While this benefits people whose application has been refused, and who would otherwise have lost the money spent on the insurance, it is also a means to get around the requirement once a visa has been granted.

Applicants must present proof of insurance cover for the first intended stay if they apply for or are eligible for a multiple entry visa with a long validity. By signing the application form, the applicants are made aware that they must hold an insurance for subsequent trips. This is not checked upon entry and there is no evidence that the requirement is followed.

– **Consulates' checks on medical insurance**

From the consulates' perspective, it is challenging and time consuming to check whether the detailed and highly technical insurance policies actually offer the necessary guarantees of coverage. The challenge is made greater because the very broad formulation of Article 15 of the Visa Code does not allow for quick compliance checks. The challenge to carry out thorough checks is also reflected by the problems reported by the health sector (see below).

In some locations EU Member States have, following the exchange of information as provided by Article 48(3)(d) of the Visa Code, collectively drawn up a list of 'recommended insurance companies' whose products have been checked to comply with the requirements. Apart from making the assessment task easier for all, this is also an attempt to nudge applicants to choose one of the listed insurances and therefore limit the number of different policies presented. In some locations having such lists has proven a powerful tool because insurance companies request to be included (even if no such formal application is envisaged) and are keen to remain on the list. A list of 'recommended' insurances can also reassure applicants that they are properly insured. In most locations, such collective assessment has been considered impossible because of the number of insurance policies available, including on the internet. That said, competition rules prevent insurance policies being rejected on grounds that they are not on such lists of 'recommended' insurances if they fulfil the criteria set out in the Visa Code.

– **No verification at the external borders**

As mentioned, possession of insurance cover is not checked at external borders. It is therefore left to the good faith of visa holders whether they hold a valid insurance that covers their period of stay when crossing the external border and whether they comply with the requirement each time they travel on a multiple entry visa (which may be valid up to five years).

2. Challenges reported by the health sector

The Commission carried out preliminary research (2019-2020) on this matter by contacting public health institutions and agencies in EU Member States. Most declared not being able to offer further insight into the use of insurance because such data are not collected centrally. That said, the following shortcomings were reported:

– Frequent absence of financial cover, either because no insurance was taken out for the duration of the stay, or because it expired before the end of the treatment (in particular if

the individuals' stay had to be extended due to their health), or because it was knowingly terminated by the insured person before the end of his or her stay.

- Insufficient insurance coverage, in particular when the reimbursement ceiling for care is very low. There is also an issue of coverage for plannable care (e.g. nursing ward care following treatment in the emergency room, or if further unrelated-treatment is needed following the emergency treatment). This is not (fully) covered by insurance policies.
- Insurance companies often do not reimburse costs because of exclusion clauses or because a patient has pre-existing medical condition(s), i.e. medical history that greatly increases the probability that the risk covered may occur.
- Disproportionate requirements for reimbursement: some reimbursements are made only under conditions that are not compatible with medical confidentiality (e.g. requests for medical reports before reimbursement).
- Patients not being able to be traced after they have been discharged and difficulties in contacting the insurance company abroad. For example, the patient communicates their insurance details to the hospital, but healthcare providers do not receive answers from the insurance companies. In the absence of a third party insurer covering the costs, hospitals are forced to invoice the costs directly to the patient, without guarantee of payment.
- Most hospitals have a policy of advance price indication and then billing directly to the patient. This can obviously not be done in emergency cases.
- Often patients need to stay longer than the validity of their visa or to be transferred to another hospital. In such cases, insurance companies refuse to pay.
- Issues also lie in the level the coverage, which is considered lacking to cover follow-up treatments and care which are usually never covered. Despite this, such treatments are often carried out.

II. Results of the 2020 survey on insurance and the costs incurred

EU Member States were invited to provide *"relevant data on the use of travel medical insurance by visa holders during their stay on the territory of the Member States, as well as costs incurred by national authorities or providers of medical services for visa holders"* based on the following questions:

- *How are visa holders who require urgent medical treatment during their stay checked for having adequate and valid travel medical insurance? What happens if this is not the case?*
- *What data are collected about the healthcare provided to holders of short-stay visas and the insurance they hold?*
- *Which organisation is responsible for the collection of such data?*
- *What is the policy on unpaid healthcare bills? Are attempts made to recover such debts? What is the success rate of recovering unpaid medical bills from patients or the insurance companies?*

- *What is the (estimated) total amount of unpaid medical bills by short stay visa holders (2019)? How does this amount compare to unpaid medical bills by other categories of non-EU nationals (visa-free visitors; people holding residence permits or long-stay visas)?*

EU Member States were invited to gather input from the full range of public administrations and stakeholders in their country, including health authorities, insurance organisations and healthcare providers.

1. EU Member States' replies

All EU-28 Member States, except one, and Schengen associated states, replied although the levels of information provided in responses varied considerably. 16 respondents had carried out investigations through various government bodies, but the thoroughness of the investigations vary. The remaining respondents limited their replies to declaring that 'no data are available.'

On the substance of the replies, the common feature is that generally there is no formalised central data collection on healthcare provided to non-EU country nationals and no data are collected on the legal basis of a given non-EU national patient's stay (e.g. short stay visa holder, 'visa free' traveller) when he or she receives medical treatment. Some replies offer a detailed description of the national organisation of healthcare and payment recovery while others give very broad answers. Some EU Member States shared specific figures on unpaid medical bills generated by non-EU nationals but calculation methods and periods covered do not allow for any meaningful comparison.

- **General guarantee of urgent medical treatment**

Generally, urgent medical treatment is provided by public hospitals in all EU Member States for all people irrespective of the residence or visa status and possession of medical insurance. Additionally, a number of EU Member States have concluded bilateral agreements with certain 'visa required' non-EU countries concerning medical treatment meaning that the cost of any treatment is likely to be covered for visa holders who are nationals of those countries even if they do not hold insurance.

- **Checks on the possession of insurance by health institutions**

Holding an insurance is not a precondition for receiving medical treatment. However, most EU Member States note that depending on the patient's condition upon admission, medical institutions may require insurance before treatment but there is no uniform approach in place. In most cases, the patient is requested to show such proof after the treatment or to pay directly the hospital or, the later charges the insurer.

Some EU Member States' medical institutions require a down payment by the patient (e.g. amounts of 300 EUR or less) making insurance recovery irrelevant. Others require all non-EU residents or, if relevant, an inviting person/sponsor, to pay the treatment directly.

- **Lack of data to determine if visa holders use their insurance**

When collecting patients' personal data, information on their nationality may also be collected. The conditions of stay (i.e. whether the individual holds a visa or a residence permit) of people who have been treated are not collected centrally, but may be kept at hospital or regional level. Some EU Member States have carried out ad hoc surveys on non-EU nationals having received medical treatment, but without distinguishing between conditions of stay or coverage of bilateral agreements on medical treatment.

Three EU Member States have indicated that random checks are conducted at the external borders to check if visa holders hold a valid insurance. One of the three indicates that absence of an insurance policy may lead to revoking the visa on the ground that one of the conditions for granting the visa is no longer met.

- **Recovery of unpaid medical bills**

No EU Member State appears to apply cross-cutting rules or guidelines for recovery of unpaid hospital bills. This is also due to the decentralised set up of healthcare in most EU Member States that leaves it to the individual institution to set its own practice.

All EU Member States confirm that recovery from individuals or insurance companies abroad is extremely challenging (time consuming and costly).

In some EU Member States, national 're-insurers' exist in the form of public agencies under the ministry of health that cover hospitals' costs for unpaid bills but has no means to seek recovery from the patient or the insurer.

Several EU Member States indicate estimates of unpaid medical bills for treating foreign nationals (without distinction of nationality) ranging from 10% to 60%, but only one shared data on unpaid medical bills specifically by short stay visa holders from one region of the country (65%). That EU Member State also indicates that the rate for unpaid medical bills for non-EU nationals that may travel visa free (and free of insurance) to the EU is 62%. Against this background, it is difficult to argue that the requirement makes a real difference.

2. Current situation: no clear picture

There are considerable differences in the experiences between EU Member States, due mainly to the differences in healthcare systems. Urgent medical treatment is offered universally and covering the cost is a secondary matter. In some EU Member States, bilateral healthcare agreements with non-EU countries cover medical treatment regardless of whether the individual concerned holds insurance or not. Situations also differ depending on whether healthcare takes place under a private commercial 'contract,' is provided directly by state institutions or, a mix of the two where the state is the 're-insurer.' EU Member States' estimates of the amounts that unpaid medical bills represent vary widely. Some EU Member States judge that the problem is insignificant, stating that 'visa holders pay their medical expenses,' without providing evidence. Others consider this to be a matter of major concern noting the coverage threshold of EUR 30000 is insufficient.

As possession of an insurance is not an entry condition and therefore not checked upon entry, there is no evidence that visa holders hold the appropriate insurance each time they travel.

Furthermore, precise data collection on unpaid bills by short stay visas holders is difficult and appears non-existing. So, the reasons for unpaid bills (incurred by non-EU nationals) remain unknown and clarity is needed on a number of aspects, such as:

- What is the share of short stay visa holders in need of urgent medical treatment during their stay that do not hold any insurance or hold insufficient insurance?
- Can insufficient insurance cover be explained by the fact that the current legal basis does not clearly spell out the requirements for an insurance to be considered adequate?
- Is the level of coverage (EUR 30 000) too low to cover all costs?
- What are the reasons for insurance companies' refusal to cover incurred medical costs?
- Why do medical institutions not seek recovery? Is it because of the low success rate or because in the end the central authorities cover the debts?

An additional but significant issue is that there is no evidence that visa required non-EU nationals present different problems for healthcare compared to non-EU nationals who may travel visa free to the EU[8] (see above). It is therefore highly questionable whether the different requirements between these categories of travellers are justified.

In their replies, some EU Member States argue that the requirement should also be seen as a means of protecting travellers in case they would need urgent medical treatment during their stay. However, this concern should apply to all non-EU nationals travelling to the EU.

3. Impact of the COVID-19 pandemic

The COVID-19 pandemic and the ensuing worldwide travel restrictions put a sudden, almost complete stop to visa operations from end March 2020 and a high number of visa holders present in EU Member States who were unable to leave by the expiry of their visa. The pandemic further highlighted the pressing need to evaluate the effectiveness of insurance and the following questions were put to Member States:

- *What is the impact of the current COVID-19 pandemic? Have you noticed any changes in unpaid healthcare bills during this period? If such data are not available yet, you should indicate when they will be.*
- *What are the provisions on health insurance and medical care that apply to holders of short-stay visas who have to remain in the Schengen area for longer than 90 days because of the COVID-19 pandemic?*

[8] In 2019, around 15 million short stay visas were issued and of these more than 50% were multiple entry visas. By comparison the report on the 'Technical Study on Smart Borders' concluded that the indications for expected traffic at external borders in 2020 for "visa free" non-EU nationals would be 104 million.

EU Member States' replies to these questions were very similar: it is too early to determine whether the pandemic has had an impact, but the low numbers of non-EU national travellers ('visa free' or 'visa required') suggest that there will be no impact. Most EU Member States did not require involuntary 'overstayers' to take out insurance for their extended stay and any emergency treatment was given during that period. People in need of other types of medical treatment during their extended stay would have to cover the costs themselves.

By November 2020, EU Member States restarted to process the low-levels of visa applications around the world, and an insurance-related aspect directly linked to the COVID-19 pandemic has emerged. Spot checks carried out in April 2020 show that several major insurance companies are now offering insurance policies containing specific clauses that exclude medical costs linked to an epidemic or pandemic outbreak from coverage, or cover them only in part. Similar trends have also been reported by EU Member States consulates.

III. **Next** steps

The picture is not conclusive as to the efficiency of the current insurance requirement. This report shows that relevant and solid data are missing that would allow the Commission to fully assess the efficiency of the current rules. There is, however, ample evidence of the challenges for different actors in the implementation of the measures and the following conclusions can already be drawn:

1) There is no evidence to suggest that the current insurance requirement provides a significant relief for healthcare systems by ensuring payment of treatment because the problem of unpaid bills remains. Additionally recovery of unpaid hospital bills appears to be a considerable problem, even in cases where the patient holds an insurance at the moment of the treatment.

2) The following weaknesses in the way the current requirement is designed can be identified:

   - The timing of the presentation of proof (upon lodging the visa application).
   - The broad, unclear and possibly outdated rules on insurance coverage, therefore making it difficult for consular staff to check that the insurance is compliant.
   - Actual possession of insurance is not checked when the visa holder crosses the EU border.

3) The information provided by EU Member States indicates that the absence of equivalent requirements for visa-free travellers could be part of the problem of unpaid hospital bills as there is no evidence that visa required non-EU nationals present different problems for healthcare compared to non-EU nationals who may travel visa free to the EU.

Several options for follow-up action could be envisaged:

- Accept the current situation without any real evidence of benefits for health systems despite the known problems for visa applicants, the challenge for consulates, the

embedded structural problems and the lack of data available that would allow an assessment of whether the insurance requirement is actually applied as intended.

– Acknowledge that the legal basis is outdated (drawn up 17 years ago) and must be improved to ensure that it serves the intended purpose, namely that visa holders hold an adequate insurance during their stay, for example, by defining precise policy requirements that insurers must refer to explicitly in their policy ('Guaranteed EU travel medical insurance minimum standard'). Provisions could include standard payment procedures to ensure recovery of costs; the possibility of extended coverage in case of stays beyond the expiry of the visa due to prolonged treatment; and the possibility of continuous coverage for holders of multiple entry visas ('pay as you go'). A 'guarantee label' could also, particularly when the visa procedure becomes fully digitalised, enable consulates' ability to check that the insurance policies presented by visa applicants comply with the legal requirement.

– Recognise the fact that there should be no different treatment between visa-required and visa-free non-EU nationals for insurance coverage during their stay in the EU and consider extending the insurance requirement to visa-free travellers, while ensuring that compliance is checked at the appropriate moment (i.e. when travel takes place).

To seek clarity on the efficiency of the insurance requirement and of the possible need for a revision of the legal basis, the Commission intends, building upon this report, to launch a study to collect additional data.