

ARTICLE 5

COMPETENT MEMBER STATE RULES

Article 5 specifies the provisions in the Visa Code that are applicable to the application process for a touring visa and lays down additional provisions and exceptions. It requires the applicant to present a valid travel document recognised by the Member State competent to examine and decide on an application and at least one other Member State to be visited. An additional condition for applicants is to present appropriate proof that they intend to stay in the territory of two or more Member States for longer than 90 days in total without staying for more than 90 days in any 180-day period in the territory of any one of these Member States. The Article does not provide derogations from the Visa Code regarding the visa fee which will therefore be EUR 60, (i.e. the standard visa fee for an application for a short-stay visa). This is justified as the tasks of the consulates, irrespective of whether they process short-stay or touring visa applications, are basically the same. The provisions of the Visa Code regarding the reduction and waiver of the visa fee should also apply. Similarly, the provisions of the Visa Code shall apply regarding the service fee that can be charged by external service providers and which must not exceed half the EUR 60 visa fee.

Another important criterion set out in this Article is that applicants will have to demonstrate their sufficient means of subsistence and stable economic situation by means of salary slips or bank statements covering a period of 12 months prior to the date of the application, and/or supporting documents that demonstrate they will acquire sufficient financial means lawfully during their stay (e.g. proof of entitlement to a pension). According to this Article, applicants in possession of a touring visa shall be allowed to apply in the Member State where they are legally present for work permit(s) required in the subsequent Member States. This provision does not interfere with provisions related to access to the labour market, and does not regulate whether a work permit is required; nor does it affect issuing conditions. It solely regulates the place of application, insofar as a third-country national should be allowed to apply for a work permit without leaving the Schengen area. The Article envisages certain procedural facilitations (i.e. possible waiver of submitting certain supporting documents) for specific categories of applicants who work for or are invited by a reliable and acknowledged company, organisation or institution, in particular, at managerial level or as researcher, artist, culture professionals, etc. Stakeholders rightly claim that for these categories of persons, the procedure should focus not only on the 'individual' applicant, but also on the reliable status of the sending/hosting/inviting company/organisation/institution.