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***The Europeanisation of Consular Affairs:
The Case of Visa Policy***

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EUROPEANISATION OF THE CONSULAR FUNCTION: THE VISA POLICY

Ana Mar Fernández

INTRODUCTION¹

The process of European integration challenges the concept of sovereignty. Since 1950, when six states decided to integrate economically and unite politically, an alternative to the traditional political order has developed. The Westphalian model of authority and representation controlling all functions of government over a given territory has been progressively substituted by a system that is more diffuse and multilateral, while at the same time communitarian and co-operative, supranational and intergovernmental.

The process of European integration transforms the exercise of power. It conditions the autonomy of member states, forcing them to adapt the functioning of their institutional structures, the design and implementation of their policies, the identification of their values and the formulation of their interests. The literature on Europeanisation analyses this impact. From different perspectives, it examines structures, policies and attitudes, and attempts to draw conclusions concerning what might be defined as the consequences derived from the process of European integration (Bulmer and Lequesne, 2005:12).

This paper seeks to contribute to this field of study by analysing an issue that has received little scholarly attention up until now: the Europeanisation of the consular function in the area of the issuing of visas. In recent years, the literature has reflected an increasing degree of interest concerning the changes that the process of European integration has implied for the external administration of the member states. Several authors have analysed the impact of the European Union (EU) on states' diplomacy and diplomatic services, especially after the creation and subsequent development of the

1) An earlier draft of this paper was presented at the Conference of the CONNEX Network of Excellence: European Governance and Democratic Citizenship in a Multi-Level Europe (Research Group 1) organised at the Austrian Academy of Sciences (11-13 May 2006).

Common Foreign and Security Policy (Batóra, 2005, Hocking & Spence, 2005, Riordan, 2003). The main conclusion that can be drawn from such analyses is the fact that the external administration of the member states has not escaped the overall tendency of restructuring and convergence promoted by European integration. Diplomacy, which extends the sovereignty of states into the external arena, has undergone a process of adaptation in its way of thinking, functioning and acting in the face of the configuration of a new political reference point.

The paper seeks to test this idea by analysing a specific area of the external administration of the state – the consular function in third countries – and one of the aspects of European construction: co-operation in the field of justice and home affairs. More specifically, the question that I wish to pose is the following: To what extent have the developments brought about in the latter ambit transformed the exercise of the consular function in the area of the issuing of visas?

This question has become especially relevant since the incorporation into the Treaty of Amsterdam of Title IV concerning visas, asylum, immigration and other policy areas related to the free movement of people, which became part of the Treaty of the European Community, and of the Protocol through which the Schengen *acquis* has been incorporated into the framework of the EU. Such reforms, carried out with the aim of establishing a space of Freedom, Security and Justice, brought with them increasing convergence in the control of the EU's external borders and the consequent harmonisation of rules and consular practices concerning the extension of short-term visas. The objective of this paper is to analyse this process of convergence and the main consequences for the external administrations of Schengen states, and, in particular, for the consular services.

The paper is divided into three parts. In the first, the main elements of the consular function are defined, and a brief introduction is offered to the main areas in which European integration has had an impact. In the second, I offer a more detailed analysis of the legislative harmonisation carried out in the framework of the European policy on visas and, in particular, of those aspects regarding local consular co-operation. Finally, I formulate some preliminary conclusions concerning the implications of this process for the consular administrations of the member states in third countries.

THE CONSULAR FUNCTION

Definition

According to Article 5 of the Vienna Convention of 1963 (the basic legal text that codifies consular relations), the consular function consists of various dimensions. On the one hand, are those functions similar to those carried out by diplomatic missions, among which consular protection, the promotion of consular relations and informative functions stand out. On the other, is the function of consular assistance, which consists of assisting the nationals of the sending state during their stay in the territory of the receiving state in cases of temporary difficulty, detention or incarceration, and to facilitate administrative procedures pertaining to repatriation in case of death or serious illness. Finally, the other main aspects of the consular function refer to the questions such as the exercise of notary and public register functions, the control of maritime and aerial navigation, international judicial co-operation and the extension of passports and visas. Overall, in this light, the consular function can be defined as the capacity of action attributed to the administration of the state in the areas mentioned in order to protect the persons and interests of the individuals that form part of that state when in a foreign country.

The Europeanisation of the consular function: A general overview

To what extent has the process of European integration had an impact on such functions in third countries? We can identify at least three areas in which the EU has had a direct impact: protection, assistance and the issuing of visas. After briefly outlining the main characteristics of first two, attention will centre on the case of the European policy of visas.

In the area of consular protection and assistance, the phenomenon of Europeanisation must be located within the context of the creation of the concept of European citizenship in 1992. The Treaty of Maastricht enshrined, in Art. 8 of the Treaty of the European Community (TEC), this legal status for those nationals of European member states, and granted a series of rights to them. Within the EU, these rights centred on the freedom of movement and residency, while beyond EU borders, all European citizens when in third countries in which their own state is not represented have the right to be offered diplomatic and consular protection by other member states and to be treated in the same way as nationals of such states. On 19 December 1995, the Council adopted two decisions with the aim of

specifying, on the one hand, the rules to ensure the exercise of such protection, and, on the other, the way in which such assistance was to be offered.

In addition to strengthening the perception of European unity in third countries, the main effect of these measures was to offer European citizens a wide network of diplomatic and consular delegations throughout the world, thus contributing to the creation of a legal community with external projection (MAE, 2005:266).² From the point of view of external services and, especially, of the consular offices of member states present in third countries, the development of this legal principle has had a variety of consequences: an increase in the potential number of cases to be dealt with; the change for officials implied by no longer being solely at the service of their fellow nationals but of all citizens of the EU; the adaptation of existing administrative practices as a result of the adoption of common rules and protocols for action; and the development of channels of information and co-ordination between the foreign ministries of the member states in order to resolve possible incidents.

EUROPEAN INTEGRATION'S IMPACT ON VISA POLICY

In addition to consular protection and assistance, one of the main functions of consular offices and consular sections of diplomatic missions in third countries relates to the extension of visas. Traditionally, the granting of visas has been considered as an act of territorial sovereignty through which the state has exercised preventative control over the entrance and stays of foreign nationals in its territory. In general, this function has been regulated on the basis of bi-lateral treaties. For treaties of trade and navigation, friendship, establishment or specific consular conventions, states have usually operated on the principle of reciprocity of freedom of entry and exit for the respective nationals in the other state's territory (Núñez, 2004: 412).

Membership of the European Union has changed this. Today, the capacity of the majority of member states in this area has been conditioned by the development of the process of European integration and, in particular, by the evolution of co-operation in justice and home affairs. Since the end of the

2) MAE: Acronym for the Ministerio de Asuntos Exteriores de España (Spanish Foreign Affairs Ministry).

1990s, there has been an important change concerning the strategic importance of the area of justice and home affairs within the EU, in the sense that they have moved from the periphery to which they were confined since the creation of the Trevi Group in 1975 towards the centre of European politics (Lavenex and Wallace, 2005:457; Monar, 2003:309). Several factors explain this qualitative leap: the increasingly transnational nature of crime; the permeability of internal borders; the increase in migratory flows from outside the EU in a context of European economic recession; and, in recent years, a new kind of threat from international terrorism.

The climate of increasing uncertainty and insecurity that these trends have generated has led European governments to revise traditional policies of security and public order. The new challenges have forced governments to move away from seeking solutions in isolation, to renounce strictly state-based policies, and to opt for the development of new strategies, not just of an intergovernmental nature, but also of a Community one.

The Treaty of Amsterdam both reflects and institutionalises the desire to communitarise issues relating to immigration, visas and asylum through the introduction of the new Title IV of the TEC, in addition to reinforcing police and judicial co-operation in criminal matters within the intergovernmental ambit. All of which, together with the incorporation of the Schengen *acquis* into the Treaty of European Union (TEU) in the form of a protocol, represent an important qualitative advance in the Europeanisation of justice and home affairs. They reflect the perception of governments that they face common problems and their willingness to move towards joint management.

At Amsterdam, it became clear that despite the different normative visions concerning what Europe should be, there exists the belief that the EU is useful as a means of achieving goals collectively that individual member states would be unable to do so individually. In the face of the greater co-operation that is destined to achieve the establishment of Space of Freedom, Security and Justice in a time-frame of five years since the Treaty of Amsterdam entered into effect on 1 May 1999, some member states have demanded exceptions and special regimes regarding the intensity, legal nature and specific forms of co-operation laid down in the treaty. However, this does not invalidate the original affirmation.³ As the European Council highlighted

3) This is shown by the fact that, despite their reluctance, both Ireland and the UK have reserved the right to sign up to some or all of the provisions of the Schengen *acquis*. In this respect, since 29 May 2000, the UK has participated in police and judicial co-

in its meetings at Tampere (1999), Laeken (2001), Seville (2002) and Thessalonica (2003), in a globalised world, justice and home affairs have become one of the most important challenges for the EU and there appears to be no better way of facing up to them than through a common approach.⁴

INTEGRATED MANAGEMENT OF EXTERNAL BORDERS: A NEW EU PRIORITY

This is the idea underlying the progressive definition and implementation of a European visa policy. Since the 1990s, the elimination of internal borders and the integrated management of external ones have become complementary priorities on the European agenda. The suppression of internal controls that has accompanied the construction of the internal market has been complemented by the unity of action on the EU's external borders. One of the instruments in this common strategy has been the harmonization of national legislation on the issuing of short-stay visas.

The drawing up of a framework for joint action in this field has not been an easy process. Given that it affects the capacity of control by member states of the entrance and stays of foreign nationals on their territory and, consequently, their capacity to regulate migratory flows through or to their respective territories, the drawing up of an EU visa policy implies renouncing autonomy of action in a sensitive area for state sovereignty.

The reluctance in this field was reflected in the limited number of states that initially signed the Schengen agreements on 14 June 1985 (France, West Germany and the three Benelux countries), and by the fact that it took five years to negotiate the Implementation Convention, which was finally adopted on 12 June 1990 and which entered into effect on 26 March 1995. Currently, 15 states, both EU and non-EU – make up the Schengen space (Austria, Belgium, Denmark, Spain, Finland, France, Germany, Greece, Iceland, Italy, Luxemburg, Netherlands, Norway, Portugal and Sweden), which was created

operation in matters relating to the fight against drugs and the Schengen Information System (SIS).

4) Presidency Conclusions. Extraordinary European Council Summit, Tampere, 15–16 October 1999. See also Presidency Conclusions. European Council, Laeken, 14–15 December 2001 (SN 300/1/01 REV1); Presidency Conclusions. European Council, Seville, 21–22 June 2002 (13463/02); Presidency Conclusions. European Council, Thessalonica, 19–20 June 2003 (11638/03).

on an intergovernmental basis and that became the first example of reinforced co-operation within the integrated Europe when the Treaty of Amsterdam came into force.⁵ Its principal objective has been to replace internal border controls with external ones.

In this respect, the Schengen agreements were a landmark in the history of European integration. They marked the beginning of co-operation in the control of external borders that, over time, would increasingly move away from its original intergovernmental basis towards an increasing communitarisation.

Since the beginning of the 1990s, the desire to achieve unity of action with regards to external borders has been reflected in the intense activity of EU institutions towards the integration of national policies on the issuing of visas by the Schengen states. This became tangible with the adoption by the Council of two complementary regulations in 1995. The first was adopted on 29 May, just two months after the entry into force of the Application Convention, and established a single model for visas, valid for the entire Schengen space, that could be issued by any member state for either short stays (a maximum of three months) or for transit through the territory of one of the Schengen states.⁶ The second, adopted the 25 September, established a list of third states whose nationals must be in possession of a visa in order to cross the external borders of the member states.⁷

Both regulations were subsequently modified and completed by related acts. The first was modified on 18 February 2002 by the introduction of basically complementary technical measures relating to security and by the

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- 5) Italy signed up to the Schengen agreements and their application convention in 1990; Spain and Portugal did so in 1991; Greece in 1992; Austria in 1995; Finland and Sweden in 1996. Denmark, although a signatory of the Convention, has reserved the right to apply-or not- any new decision based on the Schengen *acquis*. Iceland and Norway are part of the Convention, even though they do not belong to the EU, since signing on 12 December 1996 an agreement by which they became associated to the application and development of the Schengen *acquis*. The ten states that joined the EU on 1 May 2004 have expressed their wish to form part of Schengen, although first their border policy, system of visas and possibility for the application of the SIS must first be evaluated.
 - 6) Council Regulation (EC) 1683/95 of the Council of 29 May 1995. Official Journal L 164, 14 July 1995.
 - 7) Council Regulation (EC) 2317/95 of the Council of 25 September 1995. Official Journal L 234, 3 October 1995.

establishment of common rules for application.⁸ These were developed in the Common Manual on borders that was adopted by the executive committee created by the Implementation Convention of the Schengen agreements. The Common Manual sets out the common procedures for the processing and resolution of visa applications.⁹

The second regulation for its part has also been adapted on several occasions, especially after the attacks of 11 September 2001, with the basic aim of facing up to the new security challenges.¹⁰ Specifically, between 1995 and 2005, the list of states whose nationals required entry visas was updated four times. The most significant changes took place in 2001 with the addition of 31¹¹ new countries to the common list, and the withdrawal of Bulgaria and Rumania due to their foreseen entrance to the EU after the fifth enlargement. By way of example, the rule meant that Spain had to demand visas again from certain South-American countries, such as Peru and Colombia, with which there existed a convention suspending visa requirements.

At the same time that these first two instruments developed, other initiatives were adopted in order to reinforce the integrated management of the external borders. In October 1999, the extraordinary European Council meeting held in Tampere passed a first pluriannual programme drawn up by the Commission (1999-2004) with measures aimed at establishing a Space of Freedom, Security and Justice. Among the priorities identified to consolidate the external dimension of the space was the common policy on visas. After the evaluation of the first programme by the Commission in June 2004, the Council adopted a second programme, the Hague Programme, on 3 and 5

8) Council Regulation (EC) 334/2002 of the Council of 18th February 2002, applicable to Ireland and the UK. Official Journal L 053, 23 February 2002.

9) Common Manual. Official Journal C 313, 16 December 2002. Most recent modification: Official Journal L 369, 16 December 2004.

10) Council Regulation (EC) 2317/95 modified by the Council Regulation (EC) N° 574/1999 of the Council of 12 March 1999. Replaced by the Council Regulation (EC) 539/2001 of the Council of 15 March 2001. Modified by the Council Regulation (EC) 453/2003 of 6th of March 2003. Modified by the Council Regulation (EC) 851/2005 of 2 June 2005. Official Journal L 141, 4 June 2005.

11) Antigua and Barbuda, Bahamas, Barbados, Belize, Bosnia-Herzegovina, Botswana, Colombia, Jamaica, Kenya, Kiribati, Lesotho, Malawi, North Marian Islands, Marshall Islands, Federated States of Micronesia, Namibia, Nauru, Palau, Saint Kitts and Nevis, Salomon, Samoa, Saint Vincent and the Grenadines, Saint Lucia, Seychelles, Swaziland, South Africa, Tonga, Trinidad and Tobago, Tuvalu, Vanuatu, Zimbabwe. See Council Regulation (EC) 539/2001.

November 2004, in which ten new priorities were identified for the period 2005-2010. This programme was followed by a plan of action containing specific proposals and a timetable for their adoption and implementation.¹²

Once more, the unity of action with regards to the external borders became a priority. Among the measures highlighted to achieve this objective, in addition to the development of the EU Visa Information System (VIS) created by a decision of the Council on 8 June 2004, the impulse given to the European Agency for the Management of Operational Cooperation at the External Borders (Frontex), and the proposed creation of a common consular service stand out.

The European Agency for the Management of Operational Cooperation at the External Borders began work on 1 May 2005 and has its headquarters in Warsaw. Its origins can be traced to a communication from the Commission on 7 May 2002, entitled “Towards Integrated Management of the External Borders of the Member States of the European Union”, which called for the setting up of a common task force of practitioners concerned with external borders with the remit of reinforcing EU management in this ambit. The European Council of Seville (June 2002), whose agenda was centred on the issues of immigration and the fight against terrorism, in accordance with the priorities set by the Spanish presidency, passed this proposal, which led to the creation of the agency on 26 October 2004.¹³

With regards to the creation in the future of a common consular service, we should note that this project is not new. Since the end of the 1990s several signs have pointed in this direction. The European Council itself at Laeken in December 2001 was clear on the issue when it asked the Council and the member states to examine the possibility of creating common offices in the future. Despite the steps taken in this direction in recent years, given the current state of the integration process its attainment seems difficult in the short to medium term.

12) COM (2005) 184/F of 10th of May 2005. Official Journal C 198, 12 August 2005.

13) Council Regulation (EC) 2007/2004 of the Council of 26th of October 2004.

THE INTEGRATION OF CONSULAR SERVICES IN THIRD STATES

Since the moment in which a common visa policy began to emerge, the harmonisation of consular practices by the member states in third countries relating to the issuing of visas and the development of co-operation at the local level by consular services have been regarded as complementary means of achieving integrated management of external borders. As the international and European context has changed in terms of security and public order, these instruments, that initially occupied a relatively marginal role in the overall visa policy design, became priority elements of EU action.

This incrementalist process has its beginnings in the recommendation adopted by the Council on 4 March 1996 on local-level consular co-operation on the issuing of visas. The recommendation called on governments and, especially, on their consular services in third countries, to develop specific measures to achieve higher levels of security and public order and to prevent illegal immigration. Among such measures, the following should be highlighted: the exchange of information over the criteria used for issuing visas; the holding of meetings between the heads of diplomatic or consular missions; the adoption of joint measures to check the existence of simultaneous or successive applications (referred to as ‘Visa shopping’); the exchange of reports designed to verify the good faith of the applicants; and the organisation of visits by officials in charge of the granting process in order to improve the exchange of information.¹⁴

The measures were published together in the Common Consular Instructions (CCI), aimed at diplomatic and consular posts of the Schengen States. The document, 124 pages long, regulates all matters relating to the issuing of visas.¹⁵ Chapter VIII, which deals with the question of local consular co-operation, specifies the overall direction that such co-operation should take, insisting that it should centre on the evaluation of migratory risks and, in particular, on setting common criteria for the processing of applications, the exchange of information over forged documents, potential networks of illegal immigration and the rejection of applications. At the same time, the document provides for a quarterly exchange of data on visas issued and applications rejected, and for the presidency of the Council to produce a

14) Council Recommendation of 4 March 1996 relating to “Local consular cooperation regarding visas”. Official Journal C 080, 18 March 1996.

15) Common Consular Instruction. Official Journal C 313, 16 December 2002.

common report during the semester. Finally, it should also be highlighted that, at the behest of Belgium and Spain, a complementary measure was introduced to the CCI with the aim of harmonising collaboration with those administrative agencies, travel agencies and tour operators officially approved to process visa applications.¹⁶ In this respect, the CCI calls on diplomatic missions in a given city to exchange information concerning the functioning of these agencies and the consular lists of approved agencies on a regular basis.

It must also be pointed out that in order to facilitate and reinforce administrative co-operation regarding the management of external borders and to reinforce consular co-operation, two Community programmes were set up: Odysseus between 1998 and 2002, and Argo since then.¹⁷ A few months later, the Council once more declared its support for reinforcing consular co-operation and especially the exchange of information in third countries as a means of “rapidly locating persons linked to terrorist threats, terrorists or terrorist groups, and of fighting against illegal immigration”.¹⁸ In this respect, the Council underlined the need for diplomatic missions located in those countries in which there was thought to exist networks involved in international terrorism to take immediate measures in this direction, such as the exchange on a monthly basis of data regarding visa applications and the exchange of information with immigration officials in such countries.

This petition was reinforced on three occasions. Firstly, in February 2003, the Council published a catalogue of more than twenty pages directed at diplomatic missions and consular offices with recommendations for the correct implementation of the Schengen *acquis* and a guide to best practice regarding the granting of visas, taking as its point of reference a fictitious consular representation located in an area of high risk and faced with a high number of applications. The measures covered questions ranging from the security of the consulate building, the way to fill in forms and interview

16) See the Council Decision of 12 July 2002 on the adaptation of parts III and VIII of the CCI. 2002/585/EC.

17) Council Decision of 13 June 2002 adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (Argo Programme), Doc. N° 2002/463/EC. Official Journal L 161, 19 June 2002.

18) Council of the EU, *Adoption of conclusions on intensified Consular cooperation*, Doc. N° 14525/02, Visa 170 Comix 663, Brussels, 20 November 2002.

applicants and the detection of forged documents to the functioning of the archive system and the training of personal in information technology.¹⁹

Secondly, in June 2003 the Council adopted the conclusions of the Greek presidency regarding the need to develop a common approach to the evaluation of risks associated with migration. The main methods highlighted in order to achieve this objective centred on the comparison of the reasons given for rejection and on the drawing up of a detailed and harmonised list of criteria needing to be fulfilled for a common visa to be obtained. On the other hand, the Council approved the creation of a group of experts from the member states and the Commission in order to evaluate *in situ* co-ordination of consulates in third countries.²⁰

Finally, in December of 2003 France formulated a proposal to reinforce the synergy of means in this field. Underlining the need to achieve a greater degree of co-ordination and rationalisation in the issue of visas, the French government put forward “the possibility for a member state to be represented in a third country by another member state even when it is already represented in that third country, subject to fair distribution between member states”.²¹ The issuing of the common visa would be done on behalf of the state represented with the latter’s prior authorisation. The initiative materialised with the introduction of a new Appendix 18 in the Common Consular Instruction, in which the bases for intervention were specified, along with the list of representation for the issuing of common visas.²²

19) Council of the EU, *Catalogue of recommendations for the correct application of the Schengen acquis and best practices: Issuing of visa*, Doc. N° 6183/03, SCH-EVAL 7, VISA 27, COMIX 83, Brussels, 7 February 2003.

20) Council of the EU, *Improving the efficiency of an intensifying consular cooperation between the Member states in third countries*, Doc. N° 10529/03, VISA 106, COMIX 390, Brussels, 16 June 2003.

21) Council of the EU, *Initiative of the French Republic with a view to the adoption of a Council Decision amending point 1.2 of Part II of the Common Consular Instructions and drawing up a new Annex thereto*, Doc. N° 14701/03, VISA 184, COMIX 682 OC 710, Brussels, 11 December 2003.

22) See Council of the EU, *Common Consular Instruction, Annex 18*, Doc. 11272/2/04 REV 2, 11 October 2004.

LOCAL CONSULAR CO-OPERATION: AN EVALUATION

A preliminary evaluation of the degree to which the measures proposed by the Council with regards to consular co-operation have been implemented reveals an uneven picture. Carrying out the wishes of the Council, throughout 2004 and 2005, a group of experts nominated by the Visa Group, undertook four missions to evaluate local consular co-operation in cities in third countries considered to be strategic in terms of migratory pressure and of the number of visas issued. The cities evaluated were Cairo (May 2004), New Delhi (October 2004), Lima (May 2005) and Beijing (November 2005), with conclusions drawn about their working practices and how to establish future guidelines.

The evaluation by the experts was on the whole negative: little exchange of information, lack of monitoring from their respective capitals, a lack of initiative by officials, absenteeism on the part of certain states, and confusion between co-operation in the ambit of Schengen and strictly consular co-operation (Kirkpatrick, 2006b: 7). In the case of Cairo and New Delhi, the experts, reporting to the Visa Group, highlighted the existence of irregularities in the processing of visas, such as the fact that certain embassies or consulates do not usually inform their partners over granting visas.²³ In the case of Lima, the results were more favourable, mainly due to the setting up of the IT system for the exchange of information between consulates, called “SchengenNet Peru”, that allows data to be obtained of those applicants whose previous applications have been refused, the reasons for rejection, and statistics on the number of visas issued and rejections. Finally, in the case of Beijing, the report said that co-operation had increased in recent times, especially after the signing of the “Approved Destination Status” (ADS) agreement between the EU and China in March 2004.²⁴ However, the report also points to the existence of deficiencies, such as the absence of a common stamp for applications and of a single version – agreed upon by the embassies – of the translation to the Chinese language of the single application model.

23) See for instance Council of the EU, *Report on Schengen local cooperation during the Irish Presidency*, Doc. 12373/04, 17 September 2004.

24) The objective of the ADS agreement, which entered into force on 1 September 2004, is to facilitate the application process for short-term visas for the Schengen space for groups of Chinese citizens of at least five people who wish to travel to Europe as part of an organised trip.

The disheartening conclusions reached by the experts led the Visa Group to contemplate the possibility of designating, following the recommendations of the experts, a subgroup responsible for the permanent and thorough supervision of the degree to which embassies and consulates fulfil their commitments to local consular co-operation in the ambit of Schengen. Similarly, a proposal has also been put forward to publish a guide for each jurisdiction that groups together all the information of practical use for the processing of visas in a given city or country (cases of fraud, data on travel agencies, and so on). Finally, another suggestion referred to the possibility of delegating on a permanent basis responsibility for local consular co-operation to a given member state, independently of whether in that moment they exercise the rotating presidency of the EU.

With regards to the implementation of Appendix 18 of the CCI, as already noted, it was based on the French proposal for one, several or all member states to charge the consulate of another member state with the responsibility for processing and issuing common visas. The chosen state would normally be the so-called “dominant consulate” by virtue of the number of applications that it normally deals with or the historic ties maintained with the host country. However, member states have shown a great deal of reluctance over its implementation. Thus, for example, while in Equatorial Guinea or Honduras, Spain represents all the Schengen member states except France and in Albania, Bangladesh, Botswana or Burkina Faso, Spain is represented by France, it has been reluctant to generalise the experience given that it would involve a loss of control over migratory flows and especially over illegal immigration. Indeed, the delegation of powers - in theory on a permanent basis - means that the state taking on the responsibilities must act with the same degree of diligence that it employs when processing its ‘own’ visas. However, it also means that the state in question must bear sole responsibility for the evaluation of the risks of illegal immigration (Kirkpatrick, 2006b: 15). This generates a problem of trust, especially in a country such as Spain that, since joining the EC in 1986, has become the south-western border of the EU, and as such one of the main gates of entry. However, such a worry, whether for this or other (for example, commercial) reasons is not the sole preserve of the Spanish government.

Thus, in the meeting of the Visa Group held on 28 and 29 September 2004, deliberations were held over a German initiative to establish a common mechanism for representation on the question of visas in Russia. Specifically, the German ambassador in Moscow offered to his counterparts the services of the consulate general in Ekaterimburg and Novosibirsk to process applications for and to issue visas. The proposal in itself was not new, since in

neighbouring Belarus Germany already represented the three Benelux countries and Austria. However, in the case of Russia, the proposal was not well received by the member states (particularly Italy, Belgium, the Netherlands and Greece) and the German delegation had to backtrack. Since then, the question has not been raised again within the Visa Group (Kirkpatrick, 2006b: 15).

With regards to common visa offices, an idea that was already present in the conclusions of the European Council of Laeken in December 2001, in recent months the question has been raised on numerous occasions. Two possibilities are foreseen: either the creation of joint centres for the presentation of applications, or common consulates. France and Germany who, during the 1990s had tried to create a joint embassy in Ulan Bator, once again took up the idea, expressing their desire to establish a common visa delegation in Yaundé before the end of 2006, while Belgium, Italy and Greece have also decided to join the project. According to the parties involved, it is not a question of creating a joint consulate, but rather of bringing together in the same building the consular sections, which would maintain their autonomy and powers. In any case, France, the main force behind the project, has not hidden its desire to head in the direction of creating joint consular offices in the future. Asked about the added value that they would represent at the meeting of the Visa Group on 11 and 12 April 2005, France replied that their creation would allow local consular co-operation to be reinforced, preventing, for example, simultaneous applications or successive applications made after having previous ones rejected. Along similar lines, a German diplomat, in an interview held a little over one month ago, in addition to pointing out that the creation of common consular service would save a great deal of money for member states, said that it would also iron out problems associated with the existence of different levels of information and training of officials, and would guarantee similar degrees of implementation of the common visa policy, that up until now have been most uneven. As the official highlighted, one of the questions to be resolved would be that concerning the working language (Interview, 30 March 2006).²⁵

Overall, local consular co-operation represents one of the central axes of visa policy. In recent years, there has been considerable progress in the field, although member states are still reluctant to pool together or delegate to a

25) Interview with Frank Thierfelder, Vice-Consul of Germany in Barcelona (Barcelona, 30 March 2006).

common body the management of such a sensitive policy area for national sovereignty, as is the control over the right of entry and stay of foreign national on national soil. On balance, the results are thus mixed. The implementation of consular co-operation depends on the mutual trust that such co-operation is able to produce. In order to advance along this path of integration, governments and their administrations need to be convinced that the defence of their own interest is not at odds with the defence of the general interest, and indeed that the former depends on the latter.

CONCLUSIONS

The phenomenon of Europeanisation refers to the effects of the process of European integration on the member states, their working structures, the design and content of their policies, the definition of their attitudes and the formulation of their interests. A study of the progress made in the field of co-operation in the area of justice and home affairs allows us to illustrate this point. The Treaty of Amsterdam communitarised part of the third pillar, laying the foundations for, *inter alia*, a common visa policy and, with it, the beginnings of a process of adaptation and harmonisation of the rules and practices of consular activity in third countries. The process of European integration in this field has led to a redefinition of the role and functioning of the external administrations of the member states, which have become part of networks of intergovernmental co-operation and are informed by Community guidelines such as the Common Manual or the CCI. In this respect, the conditions were created for the development of a new 'logic of appropriateness' (March and Olsen, 1998), a new way of defining interests and of directing efforts based on service to the Union.

Until now, the results of this process of Europeanisation have been mixed. Progress has been made in the field of local consular co-operation, consultations and the exchange of information between consular services have been systemised, the recommendations on good practice drawn up by the EU institutions have been progressively incorporated into the daily functioning of consulates. Moreover, the programmes of administrative co-operation have been well received, and the decisions of the Council over the need to intensify efforts in order to achieve a greater degree of integration in the way of working have been translated into the creation of joint representations and in several initiatives that point in the direction of the creation of truly common offices in the future. Overall, consular officials in third countries have learned to develop common reactions to common problems.

This does not mean that problems or resistance to the process of harmonisation do not persist. The convergence of interests implied by the implementation of any common policy has been hindered, in the field of visas, by the reluctance of member states to cede power in an area - the regulation of migratory flows from third countries - that has traditionally been a very sensitive one in terms of national sovereignty. In this respect, it can be said that the progressive harmonisation of the consular function in the ambit of the control of external borders reflects and is a catalyst for the shift in politics from the national to the European sphere, and at the same time, expresses the inherent difficulties in this process of delegation of power and, thus, in the transformation of the state. In this way, it becomes a lens through which we can analyse the degree to which the integration process challenges the concept of sovereignty and the extent to which the member states are prepared to redefine the exercise of such sovereignty in the interests of the EU and of their own.

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