



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2011/0223(COD)

9.11.2011

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas (Visa Code)
(COM(2011)0516 – C7-0226/2011 – 2011/0223(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Louis Michel

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	7

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas (Visa Code)
(COM(2011)0516 – C7-0226/2011 – 2011/0223(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0516),
 - having regard to Article 294(2) and Article 77(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0226/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2011),
1. Adopts the position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a Council regulation

Recital 10

Text proposed by the Commission

(10) As regards Cyprus, this Regulation constitutes an act building upon or otherwise related to the Schengen acquis within the meaning of *Article 3(2)* of the 2003 Act of Accession.

Amendment

(10) As regards Cyprus, this Regulation constitutes an act building upon or otherwise related to the Schengen acquis within the meaning of *Article 3(1)* of the 2003 Act of Accession.

Or. fr

Justification

Recitals 10 and 11 should follow the same logic as Recital 38 of the Visa Code and refer, respectively, to Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession, given that the provisions on airport transit visas are binding and apply to Cyprus, Romania and Bulgaria as from their accession date.

Amendment 2

Proposal for a Council regulation

Recital 11

Text proposed by the Commission

(11) This Regulation constitutes an act building upon or otherwise related to the Schengen acquis within the meaning of **Article 4(2)** of the 2005 Act of Accession,

Amendment

(11) This Regulation constitutes an act building upon or otherwise related to the Schengen acquis within the meaning of **Article 4(1)** of the 2005 Act of Accession,

Or. fr

Justification

Recitals 10 and 11 should follow the same logic as Recital 38 of the Visa Code and refer, respectively, to Article 3(1) of the 2003 Act of Accession and Article 4(1) of the 2005 Act of Accession, given that the provisions on airport transit visas are binding and apply to Cyprus, Romania and Bulgaria as from their accession date.

EXPLANATORY STATEMENT

The aim of the proposal is to amend Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code) with a view to clarifying the rules governing transit through the international zone of airports and so guaranteeing legal certainty and transparency.

Regulation (EC) No 810/2009 has been in force since 5 April 2010. In accordance with the Visa Code, instructions on the practical application of the provisions of the regulation have been drawn up by means of the Commission decision establishing the Handbook for the processing of visa applications and the modification of issued visas, which was adopted on 19 March 2010.

During the process of preparing the Handbook, it was noted that the wording of Article 3(5)(b) and (c), concerning exemption from the airport transit visa (ATV) requirement, was unclear. As the Handbook cannot impose legally binding obligations on Member States, the Visa Code must be amended to guarantee legal certainty and the harmonised application of the rules. Clarification of this kind is of practical importance for individual travellers and for airlines.

The aspects covered by the proposal were discussed in the Visa Committee and in the Visa Working Party and Member States applauded the step taken by the Commission in seeking a limited amendment of the Visa Code.

Under Regulation (EC) No 810/2009, third-country nationals who hold a valid ATV issued by a Member State, Canada, Japan or the United States of America or who hold a valid residence permit issued by a Member State, Andorra, Canada, Japan, San Marino or the United States of America are exempted from the ATV requirement.

The proposal consists only of technical amendments which make it clear that:

- third-country nationals holding a valid visa or residence permit issued by a Member State which does not yet apply the Schengen *acquis* in full are to be covered by the ATV exemption;
- the ATV exemption covers persons holding a valid visa when they travel to the third country that issued the visa or to any other third country and when, having used the visa, they return from the third country that issued it.

Rapporteur's position

Your rapporteur points out that the proposal makes technical adjustments to the provisions dealing with the ATV. This adjustment will not alter the way Member States implement those provisions. The amended regulation provides that third-country nationals who hold a valid visa or residence permit issued by a Member State which does not (yet) apply the Schengen *acquis* in full (United Kingdom, Ireland, Cyprus, Bulgaria and Romania) are to be covered by the ATV exemption.

Your rapporteur regards this change as logical: it is pointless to insist that persons who already hold a visa or residence permit should undergo a further identity check, given that they have already been checked and, on that basis, have been deemed not to present a risk of

illegal immigration. What is more, the proposal should reduce the administrative burden on the Member States.

Your rapporteur is proposing two technical amendments correcting recitals 10 and 11 of the proposal.

Your rapporteur supports the proposal and urges the Committee on Civil Liberties, Justice and Home Affairs to adopt this resolution.