EVROPSKI PARLAMENT

2004 *2009*

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

ZAČASNO
2005/0158(COD)

9.1.2006

***I
OSNUTEK POROČILA

o predlogu Odločbe Evropskega parlamenta in Sveta o uvedbi poenostavljenega režima kontrole oseb na zunanjih mejah na podlagi enostranskega priznanja nekaterih dokumentov s strani Češke, Estonije, Cipra, Latvije, Litve, Madžarske, Malte, Poljske, Slovenije in Slovaške kot enakovrednih njihovim nacionalnim vizumom za namene tranzita preko njihovih ozemelj
(KOM(2005)0381 – C6-0253/2005 –2005/0158 (COD))

Odbor za državljanske svoboščine, pravosodje in notranje zadeve

Poročevalec: Michael Cashman

PR_COD_1am

Oznake postopkov

*	Postopek posvetovanja *večina oddanih glasov*
**I	Postopek sodelovanja (prva obravnava) *večina oddanih glasov*
**II	Postopek sodelovanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***	Postopek privolitve *absolutna večina poslancev Parlamenta, razen v primerih, navedenih v členih 105, 107, 161 in 300 Pogodbe ES in členu 7 Pogodbe EU*
***I	Postopek soodločanja (prva obravnava) *večina oddanih glasov*
***II	Postopek soodločanja (druga obravnava) *večina oddanih glasov za odobritev skupnega stališča* *absolutna večina poslancev Parlamenta za zavrnitev ali spremembo skupnega stališča*
***III	Postopek soodločanja (tretja obravnava) *večina oddanih glasov za odobritev skupnega besedila*

(Vrsta postopka je odvisna od pravne podlage, ki jo predlaga Komisija.)

Spremembe zakonodajnega besedila

Pri spremembah, ki jih predlaga Parlament, je spremenjeno besedilo označeno s ***krepkim poševnim tiskom***. Besedilo, zapisano v *navadnem poševnem tisku*, označuje tehničnim službam namenjeni del zakonodajnega besedila s predlaganimi popravki, ki se upoštevajo pri pripravi končnega besedila (na primer, očitne napake ali izpustitve v zadevni jezikovni različici). O teh popravkih odločajo pristojne tehnične službe.

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OSNUTEK ZAKONODAJNE RESOLUCIJE EVROPSKEGA PARLAMENTA

o predlogu Odločbe Evropskega parlamenta in Sveta o uvedbi poenostavljenega režima kontrole oseb na zunanjih mejah na podlagi enostranskega priznanja nekaterih dokumentov s strani Češke, Estonije, Cipra, Latvije, Litve, Madžarske, Malte, Poljske, Slovenije in Slovaške kot enakovrednih njihovim nacionalnim vizumom za namene tranzita preko njihovih ozemelj
(KOM (2005)0381 – C6-0253/2005 –2005/0158 (COD))

(Postopek soodločanja: prva obravnava)

Evropski parlament,

– ob upoštevanju predloga Komisije Evropskemu parlamentu in Svetu (KOM (2005)0381)[1],

– ob upoštevanju člena 251(2) in člena 62(2) Pogodbe ES, na podlagi katerih je Komisija Parlamentu podala predlog (C6-0253/2005),

– ob upoštevanju člena 51 svojega Poslovnika,

– ob upoštevanju poročila Odbora za državljanske svoboščine, pravosodje in notranje zadeve (A6-0000/2006),

1. odobri predlog Komisije, kakor je bil spremenjen;

2. poziva Komisijo, naj zadevo ponovno predloži Parlamentu, če namerava svoj predlog bistveno spremeniti ali nadomestiti z drugim besedilom;

3. naroči svojemu predsedniku, naj stališče Parlamenta posreduje Svetu in Komisiji.

Besedilo, ki ga predlaga Komisija	Predlogi sprememb Parlamenta
	Predlog spremembe 1 Uvodna izjava 8
(8) Izpolnjeni morajo biti pogoji za vstop, določeni v členu 5(1) ***Konvencije z dne 19. junija 1990 o izvajanju Schengenskega sporazuma z dne 14. junija 1985 med vladami držav Gospodarske unije Beneluks, Zvezne republike Nemčije in Francoske republike o postopni odpravi kontrol na skupnih mejah[2] (v nadaljnjem besedilu „Schengenska konvencija“)***, z izjemo člena 5(1)(b), dokler ***ta sklep ne***	(8) Izpolnjeni morajo biti pogoji za vstop, določeni v členu 5(1) ***Uredbe ES št. .../2006 Evropskega parlamenta in Sveta o vzpostavitvi kodeksa Skupnosti o predpisih, ki urejajo gibanje oseb preko meja (kodeksa o schengenskih mejah)***, z izjemo člena 5(1)(b), dokler ***nove države članice s to odločbo ne vzpostavijo*** režima enostranskega priznanja ***nekaterih dokumentov, ki jih izdajo države članice,***

[1] UL C ..., 4.1.2006, str. ....
[2] ***UL L 239, 22.9.2000, str.19.***

vzpostavi režima enostranskega priznanja ***med nacionalnimi tranzitnimi vizumi, ki jih izda nova država članica, in nekaterimi dokumenti, ki jih izdajo države članice, ki polno izvajajo schengenski pravni red, kakor tudi podobnimi dokumenti, ki jih izdajo druge nove države članice***.	***ki polno izvajajo schengenski pravni red, kakor tudi podobnih dokumentov, ki jih izdajo druge nove države članice za namen tranzita.***

Predlog spremembe 2
Uvodna izjava 9 a (novo)

	(9a) Ta odločba ne predstavlja razvoja schengenskega pravnega reda v smislu Sporazuma med Svetom Evropske unije ter Republiko Islandijo in Kraljevino Norveško o pridružitvi obeh k izvajanju, uporabi in razvoju schengenskega pravnega reda, saj je naslovljena le na države članice, ki schengenskega pravnega reda še ne izvajajo v celoti. Toda zaradi skladnosti in ustreznega delovanja schengenskega sistema zajema ta odločba tudi vizume in dovoljenja za prebivanje, ki jih izdajo tretje države, pridružene k izvajanju, uporabi in razvoju schengenskega pravnega reda, ki polno izvajajo schengenski pravni red, kot sta Republika Islandija in Kraljevina Norveška.

Predlog spremembe 3
Člen 1

Ta odločba uvaja poenostavljen režim kontrole oseb na zunanjih mejah na temelju dovoljenja Češki, Estoniji, Cipru, Latviji, Litvi, Madžarski, Malti, Poljski, Sloveniji, Slovaški (v nadaljnjem besedilu nove države članice), da za namen tranzita enostransko priznajo nekatere dokumente, ki jih izdajo države, ki polno izvajajo schengenski pravni red, in dokumente, ki jih izdajo druge nove države članice	***1.*** Ta odločba uvaja poenostavljen režim kontrole oseb na zunanjih mejah na temelju dovoljenja Češki, Estoniji, Cipru, Latviji, Litvi, Madžarski, Malti, Poljski, Sloveniji, Slovaški (v nadaljnjem besedilu nove države članice), da za namen tranzita enostransko priznajo nekatere dokumente, ki jih izdajo države, ki polno izvajajo schengenski pravni red, in dokumente, ki jih izdajo druge nove države članice

državljanom tretjih držav, ki morajo na podlagi Uredbe (ES) 539/2001 imeti vizum, kot enakovredne svojim nacionalnim vizumom.	državljanom tretjih držav, ki morajo na podlagi Uredbe (ES) 539/2001 imeti vizum, kot enakovredne svojim nacionalnim vizumom. ***Za namene te odločbe „države članice, ki polno izvajajo schengenski pravni red“ vključujejo tudi tretje države, ki so pridružene k izvajanju, uporabi in razvoju schengenskega pravnega reda in polno izvajajo schengenski pravni red.*** ***1a. Izvajanje te odločbe ne vpliva na izvajanje kontrol oseb na zunanjih mejah v skladu s členi 6 do 13 in 18 do 19 Uredbe (ES) št. .../2006 o vzpostavitvi kodeksa Skupnosti o predpisih, ki urejajo gibanje oseb preko meja (kodeksa o schengenskih mejah).***

Obrazložitev

Predlog spremembe upošteva poseben položaj Islandije in Norveške, ki zadeva njuno polno izvajanje schengenskega pravnega reda. Tako je treba dokumente iz obeh držav obravnavati kot enakovredne nacionalnim vizumom za namen tranzita tistih novih držav članic, ki izvajajo odločbo.

Predlog spremembe 4
Člen 2, odstavek 2

2. Če se nova država članica odloči za uporabo te odločbe, prizna vse dokumente iz ***odstavka 2***, ki jih izdajo države članice, ki polno izvajajo schengenski pravni red, neodvisno od države, ki izda dokument.	2. Če se nova država članica odloči za uporabo te odločbe, prizna vse dokumente iz ***odstavka 1***, ki jih izdajo države članice, ki polno izvajajo schengenski pravni red, neodvisno od države, ki izda dokument.

Predlog spremembe 5
Člen 4

Države članice lahko priznajo dokumente kot enakovredne svojim nacionalnim vizumom samo za namen tranzita, če trajanje tranzita državljana tretje države preko ozemlja nove(-ih) države(držav) članice(članic) ne presega pet dni.	***Nove države*** članice lahko priznajo dokumente kot enakovredne svojim nacionalnim vizumom samo za namen tranzita, če trajanje tranzita državljana tretje države preko ozemlja nove(-ih) države(držav) članice(članic) ne presega pet dni.

Trajanje veljavnosti dokumentov iz členov 2 in 3 zajema trajanje tranzita.	Trajanje veljavnosti dokumentov iz členov 2 in 3 zajema trajanje tranzita.
Enoten vizum, ki dovoljuje ***en*** vstop in je bil uporabljen za vstop v državo članico, ki polno izvaja schengenski pravni red, velja tudi za imetnikovo povratno potovanje za tranzit nazaj preko ozemlja iste nove države članice.	Enoten vizum, ki dovoljuje ***en sam*** vstop in je bil uporabljen za vstop ***iz nove države članice*** v državo članico, ki polno izvaja schengenski pravni red, velja tudi za imetnikovo povratno potovanje za tranzit nazaj preko ozemlja iste nove države članice.

Predlog spremembe 6
Člen 5, odstavek 2

Komisija objavi ***naznanilo s strani novih držav članic*** v Uradnem listu Evropske unije.	Komisija objavi ***podatke, ki jih sporočijo nove države članice,*** v Uradnem listu Evropske unije.

Predlog spremembe 7
Priloga, točka 1

ČEŠKA REPUBLIKA	ČEŠKA REPUBLIKA
Vizumi	Vizumi
- Vízum k pobytu do 90 dnů – (*vizum za kratkoročno bivanje*)	- Vízum k pobytu do 90 dnů – (*vizum za kratkoročno bivanje*)
- Vízum za účelem převzetí povolení k pobytu VR – (vizum z namenom pridobitve dovoljenja za prebivanje)	
- Vízum k pobytu nad 90 dnů – (*vizum za daljše bivanje*)	- Vízum k pobytu nad 90 dnů – (*vizum za daljše bivanje*)
- Diplomatické vízum – (*diplomatski vizum*)	**-** Diplomatické vízum **–** (*diplomatski vizum*)
- Zvláštní vízum – (*posebni vizum*)	- Zvláštní vízum – (*posebni vizum*)
- Vízum za účelem strpění VS – (*vizum za izjemno dovoljenje za ostanek*)	- Vízum za účelem strpění VS – (*vizum za izjemno dovoljenje za ostanek*)
- Vstupní vízum VV – (*vizum za vstop*)	- Vstupní vízum VV – (*vizum za vstop*)
- Vízum za účelem dočasné ochrany VG –	

(vizum za namen začasne zaščite)

Dovoljenja za prebivanje	Dovoljenja za prebivanje
- Prukaz o povoleki k pobytu pro statniko prislusnika (dovoljenje za prebivanje za tujce)[1]	***– Průkaz o povolení k přechodnému pobytu (dovoljenje za začasno prebivanje)***
- dolgoročno dovoljenje za prebivanje (veljavnost – do datuma poteka – največ eno leto, možno podaljšanje)	***– Průkaz o povolení k trvalému pobytu (dovoljenje za stalno prebivanje)***
- dovoljenje za stalno prebivanje (izda se tujcem, ki bivajo na ozemlju Češke več kot 10 let. Pogoj časa se ne uporabi, če je tujec ožji družinski član češkega državljana (združitev družine) ali če je tujec prebival na ozemlju Češke več kot 8 let in so izpolnjeni dodatni pogoji, ki jih določa zakon (člen 66 češkega zakona o tujcih št. 326/1999 Col.)	

Obrazložitev

Namen tega predloga spremembe je upoštevati zadnjo različico veljavnega seznama dokumentov Češke republike v skladu s sporočilom stalnih predstavnikov Češke republike v Evropski uniji.

[1] Enaka vrsta dokumenta za vse možnosti z veljavnostjo, označeno na nalepki.

EXPLANATORY STATEMENT

1. Context of the proposal

The current Schengen "*acquis*"[1] establishes the principle of mutual recognition of uniform visas, of long term visas and of residence permits issued by Member States fully implementing the Schengen *acquis* for transit and short stay purposes. This enables a third country national holder of certain documents issued by a Schengen State to enter and/or circulate freely within the common space without being subject to any additional requirement.

As regards the new Member States, according to the Act of Accession, they implement the Schengen *acquis* in two separate phases: they apply the category I provisions as from accession, while the category II provisions will only be applied from a date to be determined by the Council. As a result, the new Member States currently have to apply the EC Regulation 539/2001[2] (category I provision) and must issue a national visa for the third country nationals listed in the Annex 1 of the Regulation who intend to transit or stay in their territory, while they do not apply yet the part of the Schengen *acquis* establishing a regime of mutual recognition of visas, residence permits (category II provisions). These countries cannot recognise as equivalent to their national visas the documents issued by a Schengen States or by other new Member States. They are obliged to require their own national visas even if the persons concerned already hold a Schengen residence permit or visa.

However, some of the new Member States do recognise in practice the documents issued by the Schengen States for transit and short-stay purposes, through bilateral agreements or unilateral national decisions. Such recognition is incompatible with EU law and thus the situation must be regulated as soon as possible.

Practical examples:

- A citizen of a country listed in the Annex 1 of the Regulation 539/2001 (e.g. Bosnia and Herzegovina, Serbia-Montenegro, Russia, Turkey, Ukraine, Moldova, etc) holds a French residence permit. He intends to travel by land to his country of origin, which entails transit through several countries. He does not need any visa for the Schengen Countries since these countries recognise his French residence permit but he needs a national visa for each one of the new Member States he goes through.

- A citizen of a country listed in the Annex 1 of the Regulation 539/2001 would like to visit Germany by car, which entails transit through several countries. As he obtained a German visa, he does not need another visa for the Schengen countries, but he needs a national visa for each one of the new Member States he transits.

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[1] Art. 10, 18 and 21 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux economic union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders (the Schengen Convention) confirmed by Article 2 of Regulation (EC) No 539/2001

[2] Council Regulation 539/2001 of 15 March 2001 listing the countries whose nationals must be in possession of visas when crossing the external borders and whose nationals are exempt from that requirement, OJ L 81, 21.3.2001, page 1, Regulation as last amended by Regulation (EC) No 851/2005 (OJ L 141, 04.06.2005, page 3)

2. Content of the proposal

The present proposal will allow new Member States to simplify the control at the external borders by unilaterally recognising certain documents issued by:

- Schengen Member States fully implementing the Schengen *acquis*, including Norway, Iceland and Danemark, that are associated to the Schengen *acquis* and fully implementing this *acquis*,

- other new Member States

as equivalent to their national visa.

This simplified regime should apply to the following documents:

- the uniform visas issued by a Schengen State in compliance with the common rules laid down in the Common Consular instructions (transit, short-stay or travel, group visa);

- the national long stay visas issued by a Schengen State according to its national legislation;

- the residence permits issued by a Schengen State and which are included in Annex IV of the Common Consular Instructions;

- the national short term and long term visas as well as the residence permits issued by another new Member State.

In order to avoid a fragmentary approach, it is deemed impossible to recognise some documents whilst not recognising others. Thus, all the abovementioned documents will be recognised as equivalent to the national visas of those new Member States which choose to implement this Decision.

The recognition of a document should be limited to the purpose of transit, without affecting the possibility of new Member States to issue national visas for short term stay. Such a limitation is necessary in order to avoid any risk of confusion of the current Schengen rules on the state responsible for a visa application.

The duration of the transit period may not exceed five days - this takes into account the existing rules on transit visas in the Common Consular Instructions as well as the geographical situation of new Member States.

This regime should only apply for a transitional period**,** until such a time as the new Member States will fully implement the Schengen *acquis*, at a future date to be determined by a Council Decision. Once a country decides to apply the decision, there will not be any possibility to suspend it, in order not to complicate the regime.

The proposed decision is addressed to the new Member States but their participation in this regime is optional, in order not to impose upon them additional obligations to those as defined by the 2003 Act of Accession. New Member States have the possibility either to implement the new instrument or to continue issuing national visas. Should they opt for the simplified regime, new Member States will have to accept documents issued by all the Member States fully implementing the Schengen *acquis*, without any distinction between

them. Once these documents are recognised, the new Member States also have the possibility to recognise the documents issued by the other new Member States.

The new Member States shall notify the Commission within 10 working days of the entry into force of this Decision if they decide to opt in. There will not be any possibility to opt in at a later stage.

3. Consequences in relation to the various protocols annexed to the Treaty and to the associated states

The proposed Decision is addressed exclusively to new Member States and therefore does not affect the position of the **United Kingdom, Ireland and Denmark.**

As regards **Norway and Iceland,** this decision does not constitute a development of the provisions of the Schengen *acquis* within the meaning of the agreement these countries signed with the Council concerning their association with the implementation, application and development of the Schengen *acquis,* since it is only addressed to the new Member States. However, for the coherence of the Schengen system, it is necessary to include visas and residence permits delivered by the associated States and future associated States in the present decision. The new Member States will then have the possibility to unilaterally recognise these documents.

4. Opinion of the Rapporteur

The EU *acquis* relating to the internal and external borders is currently being extensively developed. The present proposal is the latest contribution in an on-going development of the *acquis*. Other developments include: the Directive of 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, the Schengen Borders Control Code approved by the Parliament and the Council in June 2005, the External Border Agency formally inaugurated in June 2005, the very recent Regulation concerning the local border traffic at the external land borders of the Member States.

The Rapporteur welcomes the present proposal which brings a response to the very acute issues which have arisen from the situation whereby the new Member States cannot recognise visas and residence permits issued by the other Member States and have to issue national visas to some third countries citizens for transit purposes.

On one hand, this situation implies a huge administrative burden for the new Member States' Consular offices in the Schengen States and in the new Member States. Before the holiday periods, these Consulates have to deal with thousands of applications for visas that they have to treat in a timely manner. This implies huge costs, modern services and a lot of personnel, which is particularly demanding for geographically small countries of transit.

On the other hand, the current regime is questionable because of the unjustified bureaucratic procedures and costs they imply for third countries citizens. When they intend to travel by land, for each one of the new Member States they pass through, these citizens need a transit visa. This means a lengthy, dissuasive and sometimes humiliating process:

several dossiers of application, with forms to fill in, photographs, supporting documents such as medical and car insurance, hotel reservation, proofs of subsistence, bank statements, etc. They have to pay for the visas, travel to the city where the consulates are located and they have to queue in front of them.

This regime has also a negative effect on family and cultural ties, since in the case of third country nationals residing in Schengen states it can restrict the access to their homeland.

All this situation is even more difficult to tolerate since the persons concerned do not represent any risk of illegal immigration or any threat to public policy as they have been submitted to several controls and screening either by a Schengen State or by another new Member State before the issuing of the Schengen visa, residence permit or the national visa. Moreover, the checks at the external borders are still to be carried out in compliance with Articles 6 to 13 and 18 to 19 of the European Parliament and Council Regulation (…) establishing a Community Code on the rules governing the movement of persons and according to the art 5 (1) of same regulation the following entry conditions still have to be fulfilled:

- possession of valid travel documents allowing to cross the border,

- documents justifying the purpose and conditions of the intended stay and the sufficiency of the means of subsistence,

- absence of an alert in the SIS for the purposes of refusing entry,

- lack of being considered to be a threat to public policy, internal security, public health or the international relations of any of the Schengen Member States.

For all these reasons, it is now crucial and urgent to adopt this Decision allowing the new Member States to opt in for the unilateral recognition of the visas and residence permits issued by the Member States fully implementing the Schengen *acquis* including Norway, Iceland and Denmark and by other new Member States. This Decision will not only be useful for the ten new Member States, but it will also operate when Romania and Bulgaria join EU.