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Committee on Civil Liberties, Justice and Home Affairs

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DRAFT REPORT

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Russian Federation on the facilitation of issuance of short-stay visas
(COM(2006)0188 – C6-0169/2006 – 2006/0062(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Maria da Assunção Esteves

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Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

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

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Russian Federation on the facilitation of issuance of short-stay visas
(COM2006 – C6-0169/2006 – 2006/0062(CNS))

(Consultation procedure)

The European Parliament,

– having regard to the proposal for a Council decision (COM(2006)0188)[1],

– having regard to Article 62(2)(b)(i) and (ii) and Article 300(2), first subparagraph, first sentence, of the EC Treaty,

– having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0169/2006),

– having regard to Rules 51 and 83(7) of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A6-0000/2006),

1. Approves conclusion of the agreement;

2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and of the Russian Federation.

[1] Not yet published in OJ.

EXPLANATORY STATEMENT

1. The Agreement: history and reasoning

1.1. History

The conclusion of the EC-Russia Agreement to facilitate short-stay visas was decided at the St Petersburg Summit in May 2003, when Russia and the EU also undertook to examine the conditions for visa-free travel as a long-term perspective. At the summit, both parties expressed the resolve to strengthen mutual relations on the basis of the creation of four 'common spaces', including a common space of freedom, security and justice. Negotiations with the Russian Federation on visa facilitation were opened in Brussels on 20 and 21 October 2004. The negotiations were conducted in parallel with the negotiations on the agreement on the readmission of illegal immigrants, which had been underway since January 2003. The conclusion of the two agreements on visas and readmission certainly represents one of the few steps forward which have so far been made towards achieving this common space. The complete text of the two agreements was formally initialled in Moscow on 4 April 2006. Since the agreement on visa facilitation and the agreement on readmission are linked, both agreements should be signed, concluded and enter into force simultaneously. The agreements demonstrate an approach based on reciprocal political compensation.

So far, the EU has opened negotiations aimed at easing the arrangements for the issuance of visas with Russia, Ukraine, Morocco and China. On 15 November 2006 the Council laid down the mandates for the opening of negotiations with the countries of the Western Balkans (Macedonia, Bosnia-Herzegovina, Montenegro and Serbia), which are due to be concluded by June 2007. The agreement with Russia is the first to be concluded. In general, these agreements are geared to a strategy of strengthening links with neighbouring countries (except for China, where the objectives are tourism-related) and are aimed at achieving a 'common European area'.

Relations between the European Union and Russia are passing through a crucial phase. The emergence of a new Partnership and Cooperation Agreement after 2007 is coupled with concern at the state of human rights in Russia. The present - not very ambitious - agreement on the facilitation of visas is an example of the essentially pragmatic way in which these relations are unfolding. However, the cooperation framework between the EU and Russia cannot function without a conditionality principle which marks the neighbourhood policy and was virtually absent from the 1997 Partnership and Cooperation Agreement. The long-term objective of establishing visa-free travel between the two territories should not be attained without ensuring that the fundamental rules of a democratic state governed by the rule of law are respected by the contracting parties.

1.2. Reasoning

The agreement on the facilitation of visas between the European Community and the Russian Federation fosters travel by citizens and contact between peoples. It is the practical result of cooperation and neighbourhood policy stemming from the project for a common European area of freedom, security and justice.

The aim is to cut red tape and facilitate the issuance of short-stay visas for certain categories of citizens of the European Union and the Russian Federation (close relatives, business people, members of official delegations, students, participants in scientific, cultural and sporting events, journalists, persons visiting military and civil burial grounds and drivers conducting international cargo and passenger transportation services).

The value of the agreement lies chiefly in the fact that it opens the way to more intense communication between the European Union and the Russian Federation, promotes the meeting of civilisations and helps to shape a wider Europe. It fosters trust and dialogue and promotes ever more human and intense interaction between the two areas.

2. European Parliament's role

It is incomprehensible that the European Parliament should have no more than an observer's role in the process of concluding international agreements. In fact, Parliament is not consulted until it is no longer possible to change the substance of the agreement or prevent it from being signed. It is true that Article 300 of the EC Treaty merely gives Parliament the right to be consulted on such matters. Nevertheless, the Council and Commission should keep Parliament regularly informed from the start of the negotiations onwards: there is a duty of genuine cooperation (Article 10 of the Treaty) that governs not only relations between the Member States and the Community institutions but also relations among the Community institutions themselves. Parliament will continue to call on the Council and Commission to comply with this duty to provide regular information on future agreements signed between the EU and third countries.

Parliament welcomes the forthcoming introduction of a *Community Code on Visas* (proposal for a regulation of the European Parliament and of the Council, COM(2006)403), which falls under the codecision procedure and whose fundamental principles will have to be respected in all specific agreements on visa facilitation.

The topic of international agreements and the complex issue of migration which these agreements involve demand a democratic basis for European decision-making. The constitutional treaty will also impose the necessary unity, coherence and parliamentary decisional power on EU foreign policy.

3. Background conditions and problems

3.1. If the visa facilitation agreement is to succeed, genuine conditions of reciprocity must be established. Parliament expresses some concern at the verification of these conditions in the agreement.

3.1.2. Parliament recalls the complex compulsory registration procedures to which all Russian visas are subject, hampering travel to and within Russia. Parliament urges the Ministers for Justice and Home Affairs of Russia and the EU to make additional efforts with the aim of guaranteeing balance and reciprocity, and to inform us of the initiatives taken and developments made. The visa facilitation agreement will not have a genuinely useful impact as long as the complex registration procedures currently required by the Russian authorities

are maintained.

The Austrian Presidency informed Parliament that negotiations are already underway on a solution with a view to simplification, and indeed of amendments to the legislation on the part of the Russian Federation, but Parliament is as yet unaware of any practical results. The Commission and Council must keep Parliament regularly informed of progress made.

3.1.3. Parliament considers it inappropriate that travel to certain regions of Russia, such as the Chechen Republic and parts of Eastern Russia and Siberia, should be subject to additional authorisation or payment of a supplementary fee whilst a Schengen Community visa allows unrestricted travel; it stresses the need to step up consultations between the parties with a view to facilitating access to the Chechen Republic for journalists and NGOs. It notes the difficulties encountered by journalists, members of the clergy, foreign missionaries and members of civil-society organisations in obtaining and renewing visas for Russia in recent years; it hopes that, once it comes into force, this agreement will put an end to these difficulties.

3.1.4. Parliament suggests that the prior invitation rule for travelling from the European Union to Russia should be seriously questioned, and it should also be questioned in the exceptional cases of EU Member States which apply this rule. Invitations do not bring any added value to travel and they foster corruption. Parliament also points out that it does not make sense to exclude tourists with a clean visa history from the agreement.

3.1.5. Parliament regrets that Article 5(1)(a) of the agreement - issuance of multiple-entry visas - does not include Members of the European Parliament, whose status under the Treaties guarantees them the same privileges and immunities as members of national parliaments. In the same way, it also regrets that Article 11 - diplomatic passports - does not include the European Union *laissez-passer* held by Members of the European Parliament.

3.1.6. The European Union should intensify its dialogue with Russia on adapting Russian visa policy to that of the European Union. Parliament urges the Commission to provide the necessary expertise to the Russian authorities so that Russia can achieve genuine conditions of reciprocity in the processing of visas.

3.2. A European visa facilitation policy, aimed at promoting communication in neighbourhood relations and removing barriers to access to the Union area for citizens of third countries, can only be a coherent policy if account is taken of both internal and external aspects. Parliament points out that the introduction of a Community Code on Visas will be extremely positive in this context. The visa facilitation agreement with Russia was not touched by this Code.

It is important that, when concluding international agreements, the Commission and Council should take account both of Community legislation in force and legislation in the pipeline.

3.2.1. Parliament recalls that, on 20 December 2005, Coreper adopted a common approach to EU visa policy which defines criteria for concluding visa facilitation agreements such as foreign policy objectives, the previous existence of a readmission agreement, the implementation of already existing bilateral agreements, security issues and migration flows.

Parliament does not have any information as to whether the Commission and Council made such an assessment in the case of the EU-Russia agreement. It therefore asks the Commission to inform it of the results of the assessment made with a view to the conclusion of the agreement. It also points out that it must be informed of this assessment with regard to all future visa facilitation agreements between the EU and third countries.

3.3. Conditionality must also be a cornerstone of EU external policy on visas.

3.3.1. The European Union's relations with Russia should be made subject to a conditionality principle, as is the case for the European Neighbourhood Policy. According to this principle, there can be no visa facilitation or visa-free travel without compliance with the rules of democracy and the rule of law.

3.3.2. In contrast with the European Parliament's most recent position on the negotiation and conclusion of international agreements with third countries, the visa facilitation agreement with Russia does not include a reciprocal 'human rights and democracy clause', contravention of which may give rise to the suspension or denunciation of the agreement.

Parliament points out that paragraph 8 of its *Resolution on the human rights and democracy clause in EU agreements* (2005/2057(INI)) states that the human rights and democracy clause should 'be extended to all new agreements between the European Union and third countries, both industrialised and developing, and including sectoral agreements, trade and technical or financial aid, along the lines of what has been done with the ACP States'.

3.3.3. The long-term objective of visa-free travel between the European Union and Russia will also have to comply with the same conditionality principle inherent in the neighbourhood agreements between the EU and third countries. Even though Russia is not included in this policy, the Commission has already stated in its *Communication on relations with Russia* (COM(2004)106) that measures in this field should be 'consistent with the EU's neighbourhood policy and incorporate relevant elements of this policy'.

The same principle can be found in Council Regulation (EC) No 539/2001, which proposes a method based on regional coherence for policy on visa-free travel between the EU and third countries.