External borders: simplified regime for the control of persons based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories

2007/0185(COD) - 17/06/2008 - Final act

PURPOSE: to introduce a simplified regime for the control of persons at the external borders of the EU to Bulgaria Romania and Cyprus.

LEGISLATIVE ACT: Decision No 582/2008/EC of the European Parliament and of the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories.

BACKGROUND: on June 14, 2006, the European Parliament and the Council adopted two Decisions establishing a simplified regime for the control at the external borders of the Union of third country nationals who are subject to a visa obligation according to Council Regulation (EC) 539/2001

- Decision N° 895/2006/EC introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia of certain documents as equivalent to their national visas for the purposes of transit through their territories (see COD/2005/0158);
- Decision N° 896/2006/EC establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory (see COD/2005/0159).

This was the first time that basic common rules on unilateral recognition of visas and residence permits were introduced into the Community acquis on visas. More specifically, Decision N° 895/2006/EC takes into consideration the specific needs in the area of visa policy of Member States that acceded to the European Union in 2004, in particular their visa requirements during the transitory period till their full integration into the Schengen area.

This unilateral recognition regime is limited to the purpose of transit, the duration of which can not exceed **5 days**.

Based on the positive results of Decision No 895/2006/EC, the EU should extend the simplified regime to Bulgaria and Romania and to establish unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories.

CONTENT: the Council adopted a decision introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Cyprus and Romania of certain documents as equivalent to their national visas for the purposes of transit through their territories. The

Decision is aimed at introducing a simplified regime for the control of persons at the external borders of the EU in order to avoid imposing unjustified administrative burdens on Bulgaria and Romania. Those burdens stem from the enlargement of the EU in 2004 and in 2007 and from the implementation of the Schengen aquis in the last Member States acceding.

This Decision introduces a simplified regime for the control of persons at the external borders whereby:

- Bulgaria and Romania may recognise unilaterally as equivalent to their national visas for the **purpose of transit** the documents issued by those two Member States and by Cyprus to third country nationals subject to a visa obligation pursuant to Regulation (EC) No 539/2001;
- Cyprus may recognise unilaterally as equivalent to its national visas for the purpose of transit the documents issued by Bulgaria and Romania to third country nationals subject to a visa obligation pursuant to Regulation (EC) No 539/2001.

The proposed regime will be implemented on an optional basis: the Member States concerned may either implement the new instrument or continue issuing national visas as required by the Accession Treaties. If adopted, Bulgaria and Romania will be allowed unilaterally to recognise, as equivalent to their national visas, visas and residence permits issued by Schengen states as well as similar documents issued by these two countries and by Member States which acceded to the Union in 2004 but which are not yet fully integrated into the Schengen area.

The list of documents selected for the recognition regime are:

- uniform visas issued by a Schengen State;
- national long stay visas issued by a Schengen State according to their national legislation;
- residence permits issued by a Schengen State listed in Annex IV of the Common Consular Instructions;
- national short term and long term visas as well as residence permits issued by Member States that join the EU in 2004;
- national short-term and long term visas as well as residence permits issued by Bulgaria and Romania.

Should Bulgaria and Romania decided to implement the common regime, they will have to accept all documents issued by Member States fully implementing the Schengen acquis, thus avoiding any distinction as regards the issuing authority.

It should be noted that Bulgaria, Cyprus and Romania may recognise documents as equivalent to their national visas for the purpose of transit only if the duration of the transit by the third country national through their territory does not exceed 5 days.

Bulgaria, Cyprus and Romania shall notify the Commission within 10 working days of the entry into force of the Decision, if they decide to apply this Decision. The Commission shall publish the information communicated by those Member States in the Official Journal of the European Union.

Territorial application: the Decision is only addressed to Bulgaria, Cyprus and Romania (the other Member States of the 2004 enlargement already participate in the Schengen acquis since December 2007, see CNS/2007/0810). The Decision shall not apply to the United Kingdom, Ireland and Denmark. It does not constitute a development of the Schengen acquis within the meaning of the Agreement signed on 18 May 1999, between the Council, Norway and Iceland in order to associate these two countries with the implementation, application and development of the Schengen acquis.

This Decision is linked to a parallel decision which aims to introduce a simplified regime for the control of persons, based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein, for the purpose of transit through their territory (see COD/2007/0186).

ENTRY INTO FORCE: 10/07/2008.