Schengen Borders Code: use of the Visa Information System (VIS) at the external borders

2008/0041(COD) - 02/09/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 567 votes to 75 and 49 abstentions, a legislative resolution amending the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Visa Information System (VIS) under the Schengen Borders Code. The report had been tabled for consideration in plenary by Mihael **BREJC** (EPP-ED, SI) on behalf of the Committee on Civil Liberties, Justice and Home Affairs. The amendments were the result of a compromise between Parliament and Council.

These amendments, adopted under 1st reading of the codecision procedure, introduce a **derogation** to the general approach recommended by the proposal. Parliament stated that the use of the VIS should entail a systematic search in the VIS using the number of the visa sticker in combination with a verification of fingerprints. However, given the potential impact of such searches on waiting times at border crossing points, it should be possible, for a transitional period by way of derogation and in strictly defined circumstances, to consult the VIS **without a systematic verification of fingerprints**. Member States should ensure that this derogation is used only where the conditions are fully met and that the duration and frequency of application of this derogation is kept to a strict minimum at the individual border crossing points.

The conditions which must be satisfied are:

- when traffic of such intensity arises that the waiting time at the border crossing point becomes excessive; and
- all resources have already been exhausted in terms of staff, facilities and organisation; and
- an assessment has been made that there is no risk related to internal security and illegal immigration.

In such cases, the VIS may be consulted using the number of the visa sticker in all cases and, **on a random basis**, the number of the visa sticker in combination with the verification of fingerprints. However, in all cases where there is doubt as to the identity of the holder of the visa and/or the authenticity of the visa, the VIS shall be consulted systematically using the number of the visa sticker in combination with the verification of fingerprints

Parliament further specified that the decision to consult the VIS shall be taken by the border guard in command at the border crossing point or at a higher level. The Member State concerned shall immediately notify the other Member States and the Commission of any such decision.

Each Member State shall transmit once a year a report on the application of the derogation to the European Parliament and the Commission, which should include the **number of third-country nationals** who were checked in the VIS using the number of the visa sticker only and the length of the waiting time.

The derogation will apply for a maximum period of three years, beginning **three years** after the VIS has started operations. The Commission shall, before the end of the second year, transmit to the European Parliament and the Council an evaluation of their implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose appropriate amendments to the Regulation.