External borders: list of travel documents (with or without visa) for crossing the external borders; setting up a mechanism for establishing this list

2010/0325(COD) - 12/11/2010 - Legislative proposal

Purpose: to draw up a list of travel documents entitling the holder to cross the external borders which may be endorsed with a visa and setting up a mechanism for establishing this list.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: in accordance with the Convention implementing the Schengen Agreement of 14 June 1985, the Decisions SCH/Com-ex (98) 56 and SCH/Com-ex (99) 14 concerning the compilation of a manual of travel documents enabling the crossing of external borders which may be endorsed with a visa. However, these decisions go back to the time of intergovernmental cooperation on Schengen and need to be adapted to the EU's current institutional and legal framework.

In order for the Member States' authorities responsible for dealing with requests for visas and border controls to have precise information regarding the travel documents presented by a national from a third country, the list of travel documents issued by third countries needs to be the subject of systematic monitoring. The Visa code (Regulation (EC) No 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas) stipulates that an exhaustive list of travel documents issued by the host country should be established in the framework of local Schengen cooperation.

In this context and to ensure information that is as complete as possible on the subject for Member States, a measure guaranteeing an ongoing updating of the list of travel documents would appear to be necessary. Member States would be required to notify their position with respect to the recognition or non-recognition of these documents for the purposes of simplification and efficiency.

Given Member States' exclusive powers over recognition of travel documents, it is not possible to set out rules on harmonisation of the recognition of travel documents. To minimise the legal uncertainty inherent in this situation (notably, for the bearers of these documents who risk finding themselves refused entry to a country), this proposal places an obligation on the Member States to take a position on the documents in question.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASE: Article 77 (2) (e) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: overall, this proposal seeks to:

- establish a mechanism to ensure that the entries concerning the documents issued by third countries are constantly up to date,
- establish a centralised mechanism to carry out a technical assessment of these documents,
- establish a mechanism placing an obligation on Member States to express their position on the documents listed.

Scope: the Decision applies to travel documents such as national passport (ordinary, diplomatic or service /official or special passport), an emergency travel document, a refugee or stateless persons travel document, a travel document issued by international organisations or a laissez-passer).

Compilation of the list of travel documents: the Commission shall up the list of travel documents with the assistance of Member States and on the basis of information gathered within local Schengen cooperation in accordance with the Visa Code. This list will be compiled in accordance with a specific comitology procedure.

Structure of the list: the list would be subdivided into three parts:

1. Part I shall consist of travel documents issued by the third countries and territorial entities as listed in Annexes I and II to Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.
2. Part II shall consist of the following travel documents issued by Member States of the European Union: (a) travel documents issued to third country nationals, (b) travel documents issued to refugees under the United Nations Convention Relating to the Status of Refugees of 28 July 1951, (c) travel documents issued to stateless persons under the United Nations Convention relating to the Status of Stateless Persons of 28 September 1954 (d) travel documents issued by the United Kingdom to British citizens who are not nationals of the United Kingdom of Great Britain and Northern Ireland for the purposes of Union law.
3. Part III shall consist of travel documents issued by international organisations.

As a general rule, the listing of a given travel document applies to all series of that travel document that are still valid. If a third country does not issue a particular type of travel document, this shall be indicated by entering "not issued" in the list.

Notification of recognition or non-recognition of listed travel documents: there are provisions setting a time limit for the communication to the Commission of the recognition or non-recognition of the list of travel documents (generally, one month). It is also provided that Member States exchange information on the reasons for recognition or non-recognition of specific travel documents, in order to reach a harmonised position. Member States shall notify the Commission of all changes to previously indicated recognition or non-recognition of a given travel document.

New travel documents issued: the Member States shall notify the Commission of new travel documents that they issue and of new travel documents issued by third states or international organisations. The Commission must then update the existing list on the basis of the notifications and information received and will ask the Member States to notify it of their position with regard to recognition or non-recognition.

Assessment of technical standards of travel documents: in order to assist the Member States in their assessment of the technical standards of the travel documents, the Commission may provide for a technical analysis of such travel documents. The results of the technical assessment of a travel document shall be communicated to the Member States.

Publication of the list: provision is made that the Commission shall make the list available to the Member States and the public via a constantly updated electronic publication.

FINANCIAL IMPACT: the proposal has no impact on the EU’s budget.