EC/China agreement: authorised destination status ADS for Chinese tourists, readmission obligation, visas

2003/0299(CNS) - 08/03/2004 - Final act

PURPOSE : to conclude the Memorandum of Understanding between the European Community and the National Tourism Administration of the People's Republic of China on visa and related issues concerning tourist groups from the People's Republic of China (ADS). LEGISLATIVE ACT : Council Decision 2004 /265/EC. CONTENT : this Decision aims to approve a Memorandum of Understanding between the Community and China's National Tourism Administration on visa and related issues concerning tourist groups from China. The main measures of the Agreement can be summarised as follows: - provide definitions and set out the purpose and scope of the Memorandum of Understanding : participants in Chinese tourist groups shall enter and leave the territory of the Community as a group. They shall travel within the territory of the Community as a group according to the established travel programme. The minimum number of participants in a tourist group should be no less than five; - visa procedures and readmission : the procedures to be followed for the granting of short-term Schengen visas which have to contain the 'ADS' reference are defined. The procedures are based on the Council decision of 12 July 2002, which introduced into the Common Consular Instructions (CCI) specific and detailed rules concerning visa applications processed by private administrative agencies, travel agencies and package tour operators. The Chinese designated travel agencies will act as authorised representatives of the visa applicants and forward the visa applications of their tour group. Personal interviews may be provided for. The visa applications will be processed in accordance with applicable legislation. Measures will be taken against designated Chinese travel agencies in breach of EU and/or Chinese regulations; - the readmission obligation of the Government of the People's Republic of China is clearly spelled out. The obligation of the participating travel agencies to report without delay to the Member State having issued the visa and to the CNTA, any ADS tourist missing from the group or not having returned to China. The related travel agencies will work immediately with the competent departments of the Contracting Parties in the case of an illegal overstayer to help send back and receive the tourist, "who shall be readmitted by the Government of the People's Republic of China". Documentary evidence must be provided to prove identity as a Chinese citizen. Moreover, the joint declaration on implementation arrangements states that the documentary evidence must include passports, visas applications, EU immigration control records, travel agency documents, or photocopies thereof; - the Approved Destination Status Committee is created to help implement the Memorandum of Understanding. The Committee must establish its own rules of procedure and will meet whenever necessary at the request of one of the Contracting Parties. The Community will be represented by the Commission; - necessary rules on entry into force, duration and termination of the Memorandum of Understanding : It is stated that similar ADS MoUs between a Member State and China will no longer apply as of the entry into force of this MoU. Paragraph 6 of Article 8 states that the MoU will be legally binding on the two Contracting Parties under public international law; - the Annex contains a protocol on the New Member States stating that the Member States acceding to the European Union on 1 May 2004 will issue national visas limited to their own territory until the Council Decision of the Act of Accession takes effect; - the joint declaration on implementation arrangements makes specific recommendations regarding travel agencies, protection of Chinese tourist rights, tour leaders and tour guides, information requirements and documentary evidence. It is important to note that the lists of travel agencies to be furnished to the CNTA by Member States are open lists, which have to be updated regularly. Lastly, the specific situation of Denmark, the United Kingdom and Ireland is reflected in the 5th and 6th recital and in two joint declarations attached to the Memorandum of Understanding. The close association of Norway and Iceland to the implementation,

application and development of the Schengen Acquis is likewise reflected in a joint declaration attached to the Memorandum of Understanding. ENTRY INTO FORCE : the Agreement shall enter into force as soon as all the parties have notified each other that the necessary procedures have been completed.