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

2013/0210(COD) - 21/06/2013 - Legislative proposal

PURPOSE: to introduce a simplified regime for the control of persons at the external borders based on the **unilateral recognition** by Croatia and Cyprus of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: according to the Act of Accession, the provisions of the Schengen *acquis* on the conditions and criteria for issuing uniform visas, as well as the provisions on mutual recognition of visas and on the equivalence between residence permits/long stay visas and short stay visas, apply in Croatia only pursuant to a Council decision to that effect.

Croatia is therefore required to issue national visas for entry into or transit through their territory to third country nationals holding a uniform visa or long-stay visa or residence permit issued by a Member State fully implementing the Schengen *acquis* as well as similar documents issued by Cyprus.

The holders of documents issued by those Member States as well as documents issued by Cyprus do not represent any risk for Croatia as they have been subjected to all necessary controls by those States. In order to avoid imposing unjustified additional administrative burdens on Croatia, common rules should be adopted **authorising Croatia to recognise unilaterally certain documents issued by those Member States as equivalent to its national visas and to establish a simplified regime for the control of persons at the external borders based on that unilateral equivalence**.

Common rules should also be adopted authorising Cyprus, like Croatia, to recognise unilaterally certain documents issued by Member States fully implementing the Schengen *acquis* as well as similar documents issued by Croatia, as equivalent to its national visas as a Member States not yet fully implementing the Schengen acquis.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 77 (2) (a) and (b) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: this proposal seeks to introduce a simplified regime for the control of persons at the external borders whereby **Croatia and Cyprus may recognise unilaterally as equivalent to their national visas for transit through or intended stays on their territory** a series of documents listed below :

- uniform short-stay visas,
- long-stay visas,
- visas with limited territorial validity **issued to citizens of Kosovo**,
- residence permits issued by Schengen Member States as well as similar documents issued by each other,
- residence permits issued by Member States not yet fully implementing the Schengen *acquis* (Croatia),
- visas and residence permits by the countries associated with the implementation, application and development of the Schengen *acquis*,
- short-term visas, long-term visas and residence permits issued by Croatia and Cyprus.

These documents shall be recognised as equivalent to their national visas for both transit through or intended stays on its territory **not exceeding 90 days in any 180-day period**.

The recognition of a document should be limited to the period of validity of the document.

Transitional and optional regime: the proposed simplified regime should apply for a **transitional period** , until the date to be determined in a Council decision as referred to in the Acts of Accession in respect of Cyprus and Croatia.

Croatia would have the possibility either to implement the proposed regime or to continue issuing national visas as required by the Accession Treaty.

Participation in the simplified regime should be optional, without imposing on the Member States obligations additional to those laid down by 2003 and 2012 Acts of Accession.

Unilateral recognition regime: this regime introduced by the current proposal must be limited to documents whose validity would cover the whole duration of the short stay in Croatia and Cyprus. In this context and having in mind the problems faced in the past by third country nationals, holders of one entry uniform visa when travelling back from their stay into the Schengen area with a visa which was not valid anymore, the **current proposal should limit the unilateral recognition regime to uniform visas authorising two or multiple entries into the Schengen area**.

Communication to the Commission: Croatia and Cyprus have to communicate their decision on the use of the authorisation to the Commission. The Commission will publish this information in the *Official Journal of the European Union* and ensure in this way that the whole system is transparent.

Repeal: the proposal repeals of Decision No 895/2006/EC and Decision No 582/2008/EC.

Territorial provisions: Denmark, the United Kingdom and Ireland are not taking part in its adoption, bound by it or subject to its application.

Because the proposed decision is addressed exclusively to Member States that are bound by the Schengen *acquis* without yet applying it, this proposal does not constitute a development of the provisions of the Schengen *acquis* within the meaning of the respective association agreements with Norway, Iceland, Switzerland and Liechtenstein. It therefore does not bind the aforementioned countries. However, for the

coherence and proper functioning of the Schengen system, this Decision also covers visas and residence permits issued by the countries associated with the implementation, application and development of the Schengen *acquis*.

BUDGETARY IMPLICATION: the proposal has no budgetary implications.