Visa Information System: putting into effect of certain provisions of the Schengen acquis in Bulgaria and Romania

2017/0808(CNS) - 26/06/2017 - Legislative proposal

PURPOSE: to put into effect of certain provisions of the Schengen acquis relating to the Visa Information System in Bulgaria and Romania.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: according to the 2005 Act of Accession, the provisions of the Schengen acquis to which Bulgaria and Romania accede upon accession, are to apply in Bulgaria and Romania pursuant to a Council decision to that effect after verification that the necessary conditions for the application of all parts of the Schengen acquis have been met.

On **9 June 2011**, the Council concluded that the conditions in all the areas of the **Schengen acquis** relating to Air Borders, Land Borders, Police Cooperation, Data Protection, the Schengen Information System, Sea Borders and Visas had been fulfilled by Bulgaria and Romania.

A simplified regime for controls of persons at the external borders was introduced in accordance with Decision No 565/2014/EU of the European Parliament and of the Council. That regime is based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents, notably Schengen visas, as equivalent to their national visas for transit through or intended stays on their territories, not exceeding 90 days in any 180-day period.

It is appropriate, as from the entry into force of this Decision, to allow Bulgaria and Romania access to **consult, in a read-only mode**, the Visa Information System (**VIS**) data without the right to enter, amend or delete data in the VIS.

This would enable the Member States, *inter alia*, to simplify checks at border crossing points at external borders and to assist them in identifying any person who may not, or may no longer fulfil the conditions for entry to, or stay in, the territory of the Member States concerned.

It is therefore desirable to adopt a decision implementing the corresponding provisions of the VIS referred to in the Annex, as well as all subsequent developments of these provisions in order to achieve this objective.

CONTENT: with this proposal for a Decision, it is planned to extend to Bulgaria and Romania the provisions of the Schengen acquis relating to the VIS referred to in the Annex to the proposal, in their mutual relations and in their relations with all the Member States applying the Schengen acquis and with the countries associated with the application of the Schengen acquis (Sweden, Iceland, Liechtenstein, Norway and Switzerland).

These provisions shall apply following the successful completion of all related **comprehensive tests** with regard to the provisions listed in the Annex to be carried out by eu-LISA, Bulgaria and Romania and the Commission being notified that those tests have been successfully completed.

Until the adoption of the Council decision lifting the checks at internal borders of the Member States, the competent visa authorities of Bulgaria and Romania may access the VIS for consultation in **read-only format**, for the purposes of:

- the **examination of applications for short-stay visas** to be issued by Bulgaria and Romania under their national law;
- deciding upon those applications, including the decision whether to annul, revoke, extend or shorten the validity of the visa issued in accordance with their relevant national provisions.

The lifting of checks at internal borders of the Member States concerned and their full participation in the Schengen acquis relating to the common policy on visas should be subject to a separate decision of the Council adopted by unanimity in accordance with the 2005 Act of Accession.

Until the adoption of that decision, which will put into effect the provisions applicable in the field of short-stay visas other than those listed in the Annex to this Decision with regard to Bulgaria and Romania, and which include notably the Visa Code and the provisions adopted for the purpose of its implementation, **Bulgaria and Romania are not permitted to issue Schengen visas and are to continue to issue short-stay visas under their national law**. Until the date set out in that Decision, restrictions on the use of the VIS resulting from this Decision, notably those concerning the right to introduce relevant data to it, should be maintained.

Annex: the Annex contains the relevant acquis related to the access for consultation of VIS data. However, the Regulation of the European Parliament and of the Council (EU) No 1077/2011, Council Decision 2004/512/EC and Commission Decision 2006/648/EC already apply to Bulgaria and Romania. Therefore, they are not included in the Annex.