Basic information

2005/0158(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Decision	Procedure completed
External borders: simplified regime for control of persons, unilateral recognition by new Member States of documents issued by Schengen States as equivalent to their national visas for the purpose of transit Repealed by 2013/0210(COD) **Subject** 7.10.04 External borders crossing and controls, visas **Geographical area** Cyprus Czechia Estonia Hungary Latvia Lithuania Malta Poland Slovakia Slovenia	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	CASHMAN Michael (PSE)	04/10/2005

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2732	2006-06-01

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
22/08/2005	Legislative proposal published	COM(2005)0381	Summary
06/09/2005	Committee referral announced in Parliament, 1st reading		
06/03/2006	Vote in committee, 1st reading		Summary
29/03/2006	Committee report tabled for plenary, 1st reading	A6-0062/2006	
06/04/2006	Decision by Parliament, 1st reading	T6-0131/2006	Summary
06/04/2006	Results of vote in Parliament		
01/06/2006	Act adopted by Council after Parliament's 1st reading		
14/06/2006	Final act signed		
14/06/2006	End of procedure in Parliament		
20/06/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0158(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Repealed by 2013/0210(COD)
Legal basis	EC Treaty (after Amsterdam) EC 062
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/30000

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE367.820	09/01/2006	
Amendments tabled in committee		PE368.069	20/02/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0062/2006	29/03/2006	
Text adopted by Parliament, 1st reading/single reading		T6-0131/2006	06/04/2006	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03609/1/2006	14/06/2006	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0381	22/08/2005	Summary
Commission response to text adopted in plenary	SP(2006)2095	11/05/2006	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Decision 2006/0895 OJ L 167 20.06.2006, p. 0001-0007	Summary

External borders: simplified regime for control of persons, unilateral recognition by new Member States of documents issued by Schengen States as equivalent to their national visas for the purpose of transit

2005/0158(COD) - 14/06/2006 - Final act

PURPOSE: to introduce a simplified regime for permits issued by the ten new Member States for the purpose of transit through their territories, based on unilateral recognition of documents.

LEGISLATIVE ACT: Decision 895/2006/EC of the European Parliament and of the Council introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia of certain documents as equivalent to their national visas for the purposes of transit through their territories.

CONTENT: under the terms and conditions of the Schengen Agreement (encapsulated in Regulation 539/2001), visas issued by one Schengen Member State are deemed valid for crossing the external borders of another Schengen Member State, both for short stay and transitory purposes. In addition, the current Schengen provisions foresee a system of mutual recognition of long-term visas and residence permits issued by Member States complying with the Schengen acquis.

Since the accession of the new Member States on 1 May 2004, a number of gaps in applying the provisions outlined above had arisen, which required urgent attention and which equally applied to the issuing of visas by Switzerland and Liechtenstein. It is these gaps, which are filled by this Council Decision.

To put it into context, prior to becoming new EU Member States, it was agreed that the acceding countries would apply the so-called ‘Schengen two phase process’. This process, set out in the Act of Accession, states that from the moment of accession, the new Member States shall apply the provisions of the Schengen Agreement as outlined in Regulation 539/2001, - whilst simultaneously issuing their own national visas until such a time that an EU Council Decision authorising their full integration into the Schengen area has been agreed upon.

The compromise solution gave rise to a number of legal uncertainties. It did not, for example, foresee the equivalence between residence permits and visas. The result was that new Member States were obliged to issue national visas for entry into and transit through their territory to third country national, even if the persons concerned were holders of a Schengen residence permit or visa – or else were holders of national long term visas issued by a Schengen state. For many new Member States, this placed a considerable administrative burden on their embassies and consular services. Further, given that persons holding a Schengen visa, are subject to rigorous controls by the Schengen Member State prior to the issuance of their visa, all relevant security concerns have, effectively, already been addressed.

The complexity of the situation was particularly pertinent to nationals of both Liechtenstein and Switzerland, who for geographic reasons, are adversely affected by the need for transit visas. The regime forced Swiss and Liechtenstein nationals to apply for a visa when transiting the territories of the new EU Member States. This became particularly problematic for holidaymakers who often just needed to transit the territory of a new Member State, without necessarily wishing to stay in that territory, but who nevertheless needed to apply for visas.

There are now two Council Decisions to remedy the situation. This Decision is addressed to the new Member States, (the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia). The second, (COD/2005/0159) is addressed to Switzerland and Liechtenstein.

This Decision introduces a simplified regime for the control of persons at the external borders whereby the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia may recognise unilaterally as equivalent to their national visas for the purpose of transit uniform visas, long-stay visas, residence permits, short-term visas, and long-term visas, issued by other new Member States to third-country nationals subject to a visa obligation pursuant to Regulation 539/2001/EC;

- the recognition of a document will be limited to the purpose of transit through the new Member States and will not affect the possibility of a new Member State from issuing national visas for short term stay purposes;

- new Member States may only recognise documents as equivalent to their national visas for the purpose of transit, if the duration of the transit by the third-country national through the territory of the new Member State(s) does not exceed five days;

- any new Member State that decides to apply this Decision shall notify the Commission by 1 August 2006.

ENTRY INTO FORCE : 10/07/2006.

External borders: simplified regime for control of persons, unilateral recognition by new Member States of documents issued by Schengen States as equivalent to their national visas for the purpose of transit

2005/0158(COD) - 06/04/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Michael CASHMAN (PES, UK) broadly approving the proposed decision introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the ten new Member States of certain documents as equivalent to their national visas for the purposes of transit through their territories. (Please refer to the summary dated 06/03/2006).

External borders: simplified regime for control of persons, unilateral recognition by new Member States of documents issued by Schengen States as equivalent to their national visas for the purpose of transit

2005/0158(COD) - 22/08/2005 - Legislative proposal

PURPOSE: To introduce a simplified regime for permits issued by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia for the purpose of transit through their territories, based on unilateral recognition of documents.

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

CONTENT: Under the terms and conditions of the Schengen Agreement (encapsulated in Regulation 539/2001), visas issued by one Schengen Member State are deemed valid for crossing the external borders of another Schengen Member State, both for short stay and transitory purposes. In addition, the current Schengen provisions foresee a system of mutual recognition of long-term visas and residence permits issued by Member States complying with the Schengen *acquis*.

Since the accession of the new Member States on 1 May 2004, a number of gaps in applying the provisions outlined above have arisen, which require urgent attention and which equally apply to the issuing of visas by Switzerland and Liechtenstein. It is these gaps, which the Commission is trying to plug, and which explains the Commission's need to present the attached proposal for a Decision.

To put it into context, prior to becoming new EU Member States, it was agreed that the acceding countries would apply the so-called 'Schengen two phase process'. This process, set out in the Act of Accession, states that from the moment of accession, the new Member States shall apply the provisions of the Schengen Agreement as outlined in Regulation 539/2001, - whilst simultaneously issuing their own national visas until such a time that an EU Council Decision authorising their full integration into the Schengen area has been agreed upon.

The existing, compromise solution, gives rise to a number of legal uncertainties. It does not, for example, foresee the equivalence between residence permits and visas. The result being that new Member States are obliged to issue national visas for entry into and transit through their territory to third country national, even if the persons concerned are holders of a Schengen residence permit or visa – or else are holders of national long term visas issued by a Schengen state. For many new Member States, this places a considerable administrative burden on their embassies and consular services. Further, given that persons holding a Schengen visa, are subject to rigorous controls by the Schengen Member State prior to the issuance of their visa, all relevant security concerns have, effectively, already been addressed.

The complexity of the current situation is particularly pertinent to nationals of both Liechtenstein and Switzerland, who for geographic reasons, are adversely affected by the need for transit visas. The current regime forces Swiss and Liechtenstein nationals to apply for a visa when transiting the territories of the new EU Member States. This becomes particularly problematic for holidaymakers who often just need to transit the territory of a new

Member State, without necessarily wishing to stay in that territory, but who nevertheless need to apply for visas. According to a survey conducted in 2003 by Switzerland's Central Register of Foreign Nationals, 514 250 persons were affected by the transit visa requirements, at the height of the holiday period.

In order to address this issue, the Swiss authorities are currently adopting a unilateral recognition of resident permits whereby holders of residence permits issued by a European Union Member State are exempted from visa requirements. It covers visas for short stay and transit purposes. In addition, the EU and Switzerland are in the process of ratifying an Agreement on the Schengen *acquis*. The Commission acknowledges, however, that this will take some time to come into force and an interim solution needs to be found.

To address the current impasse, the Commission is presenting two legal instruments. The first is this Council Decision, which is addressed to the new Member States, (here meaning: the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia). The second, (2005/0159 COD) is addressed to Switzerland and Liechtenstein.

The Decision addressed to the new Member States, seeks to simplify procedures for controlling persons at external borders. It aims to do so by setting up a system, for a transitional period only, whereby new Member States agree to adopt common rules, which unilaterally recognise visa documents as equivalent to their national visas. The Commission is also proposing a simplified regime for the control of persons at the external borders of the new Member States, based on the principle of unilateral equivalence. The Common rules will only apply until an implementing Council Directive has been approved. Specifically speaking the Decision proposes the following provisions:

- The recognition of a document will be limited to the purpose of transit through the new Member States – and will not affect the possibility of a new Member State from issuing national visas for short term stay purposes.

- The common rules will only apply to short-term uniform visas, long stay visas and residence permits issued by those Member States, fully complying with the Schengen *acquis*.

- In return the new Member States will recognise, under common rules, the type of visas outlined above.