Basic information

2010/0325(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Decision	Procedure completed
External borders: list of travel documents (with or without visa) for crossing the external borders; setting up a mechanism for establishing this list **Subject** 7.10.04 External borders crossing and controls, visas	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	FAJON Tanja (S&D)	09/12/2010
	Shadow rapporteur GABRIEL Mariya (PPE)	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3111	2011-09-23

European Commission

Commission DG	Commissioner
Migration and Home Affairs	MALMSTRÖM Cecilia

Key events

Date	Event	Reference	Summary
12/11/2010	Legislative proposal published	COM(2010)0662	Summary
23/11/2010	Committee referral announced in Parliament, 1st reading		
15/06/2011	Vote in committee, 1st reading		Summary
20/06/2011	Committee report tabled for plenary, 1st reading	A7-0237/2011	
06/07/2011	Decision by Parliament, 1st reading	T7-0321/2011	Summary
06/07/2011	Results of vote in Parliament		
23/09/2011	Act adopted by Council after Parliament's 1st reading		
25/10/2011	Final act signed		

25/10/2011	End of procedure in Parliament		
04/11/2011	Final act published in Official Journal		

Technical information

Procedure reference	2010/0325(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/7/04516

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE460.631	28/02/2011	
Amendments tabled in committee		PE460.960	22/03/2011	
Amendments tabled in committee		PE465.012	24/05/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0237/2011	20/06/2011	
Text adopted by Parliament, 1st reading/single reading		T7-0321/2011	06/07/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00042/2011/LEX	26/10/2011	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0662	12/11/2010	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2010)0662	23/12/2010	
Contribution	PT_PARLIAMENT	COM(2010)0662	14/01/2011	

Contribution	RO_SENATE	COM(2010)0662	14/01/2011	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Decision 2011/1105 OJ L 287 04.11.2011, p. 0009	Summary

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.

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) - 25/10/2011 - Final act

PURPOSE: to establish 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.

LEGISLATIVE ACT: Decision No 1105/2011/EU of the European Parliament and of the Council on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list.

CONTENT: the Council adopted this Decision on the 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.

The purpose of the list is:

- to allow border control authorities to verify whether a given travel document such as a national passport (ordinary, diplomatic, service/official or special passport), an emergency travel document, a refugee or stateless person's travel document, a travel document issued by international organisations, or a laissez-passer) is recognised for the purpose of crossing the external borders, and
- to allow consular staff to verify whether Member States recognise a given travel document.

The Decision does not affect Member States' competence for the recognition of travel documents.

Compilation of the list of travel documents: the Commission will draw up the list of travel documents with the assistance of Member States on the basis of information gathered within local Schengen cooperation.

Structure of the list of travel documents: the list of travel documents is divided into three parts:

- Part I shall consist of travel documents issued by the third countries and territorial entities listed in Annexes I and II to Council Regulation (EC) No 539/2001 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.

- Part II shall consist of the following travel documents issued by Member States, including those issued by the Member States of the EU which are not taking part in the adoption of this Decision and by the Member States of the EU which do not yet apply the provisions of the Schengen acquis in full: (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 to persons who do not hold the nationality of any country and who reside in a Member State; (e) travel documents issued by the United Kingdom to British citizens who are not nationals of the UK for the purposes of Union law.

- Part III shall consist of travel documents issued by international organisations.

Notification of recognition or non-recognition of listed travel documents: Member States shall notify to the Commission their position on recognition or non-recognition of the listed travel documents within 3 months after the communication of the list of travel documents.

New travel documents issued: Member States shall notify the Commission of new travel documents as well as new travel documents issued by third countries, Member States and international organisations and the Commission shall, in cooperation with Member States, endeavour to collect specimens of new travel documents in order to share them.

Information concerning known fantasy and camouflage passports: the Commission shall also draw up and update a non-exhaustive list of known fantasy and camouflage passports on the basis of information received from the Member States.

Implementing measures: in order to ensure uniform conditions for compiling and updating the list of travel documents, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers. The advisory procedure should be used for drawing up and updating the list of travel documents, given that those acts merely constitute the compilation of issued travel documents.

ENTRY INTO FORCE: 24/11/2011.

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) - 06/07/2011 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 594 votes to 16, with 44 abstentions, a legislative resolution on the proposal for a decision of the European Parliament and of the Council on the list of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list.

Parliament adopted its position at first reading, under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council.

They amend the Commission proposal as follows:

1) List of travel documents: Members state that the purpose of the list of travel documents is twofold: on the one hand, it allows border control authorities to verify whether a given travel document is recognised for the purpose of crossing the external borders as set out in the Schengen Borders Code. On the other hand, it allows consular staff to verify whether Member States recognise a given travel document for the purpose of affixing a visa sticker. 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**.

This is why a technical assessment of the security of travel documents is called for, as well as a mechanism enabling Member States to take a position on a given travel document.

2) Mechanism on recognition: since a Member State's failure to notify its position with regard to a travel document may cause problems to holders of this travel document, a mechanism should be established to place an obligation on Member States to express their position on the recognition and non-recognition of these documents. This mechanism does not preclude Member States to notify a change of their position in any given moment. Within three months Member States shall notify to the Commission their position on recognition or non-recognition of the travel documents. If a Member State fails to notify within the deadline referred to in the proposed Decision, the travel document concerned is deemed to be recognised until the Member State’s notification on its non-recognition.

Other provisions include:

- **technical assessment**: considering the relevance of the security of the travel documents with regard to their possible recognition, Members want the Commission, assisted by experts of the Member States to provide a technical assessment;
- **database:** an online database containing specimens of all travel documents should be established in the long term to facilitate the examination of a given travel document by border control authorities and consular staff. That database should be kept up to date in line with any changes;

- **new travel documents**: the Commission shall, in cooperation with the Member States, endeavour to collect specimens of new travel documents in order to share them;
- **fantasy passports:** for information purposes, the Commission should draw up a non-exhaustive list of known fantasy and camouflage passports brought to its attention by the Member States. The fantasy and camouflage passports which are on the list are not subject to recognition or non recognition. They do not entitle their holder to cross the external borders and may not be endorsed with a visa.

3) Implementing powers: in order to ensure uniform conditions for compiling and updating of the list of travel documents, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers. The advisory procedure should be used for drawing-up and updating the list of travel documents, given that those acts merely constitute the compilation of issued travel documents.

It should be noted that the Decision does not affect member States' competence for the recognition of travel documents.