



Malta-EU Steering & Action Committee

JUSTICE AND HOME AFFAIRS



25.09.09

Schengen Borders Code

COM (2009) 489 – Report from the Commission to the European Parliament and the Council on the operation of the provisions on stamping of the travel documents of third-country nationals in accordance with Articles 10 and 11 of Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)

Community legislation provides for an obligation to systematically stamp travel documents of third-country nationals on entry and exit. This obligation was introduced by Council Regulation (EC) No 2133/2004. Besides travel documents, there are other documents in which an entry or exit stamp must be affixed. These other documents are listed in Regulation (EC) No 562/2006 (known as the Schengen Borders Code - SBC).

Article 10 paragraph 6 of the SBC imposes an obligation on the Commission to report to the European Parliament and the Council on the operation of the provisions on stamping travel documents. For this purpose the Commission carried out a questionnaire addressed to Member States in order to obtain information on the implementation of the provisions on the stamping of travel documents of third-country nationals. However, this report has been prepared on the basis of the answers provided by twenty-five Schengen Member States since Malta and Portugal did not provide the requested information.

Based on the information provided, the Commission concludes that:

- Re the difficulties encountered by third-country nationals crossing the border frequently, such as lorry drivers or trans-frontiers commuters - *the Commission does not see a need to exempt lorry drivers from stamping in particular in the light of concerns expressed by Member States on the risk of illegal immigration and employment; difficulties of empty pages for stamping could be overcome only with an automated system of registering entry and exit which would render stamping superfluous;*



Malta-EU Steering & Action Committee

- Re the possibility of considering additional exemptions from stamping - *the Commission is of the opinion that there is no need for this except for train crews in relation with their professional activity comparable to pilots or seamen, as these trains follow a fixed schedule. Hence, the Commission will initiate measures to foresee an exemption from stamping for this category of persons;*
- Re the lack of statistical data related to the number of third-country nationals (1) found on the territory of Member States, (2) exiting the Schengen area without bearing an entry stamp, and (3) who were able (or not) to rebut the presumption of illegal stay - *the Commission invites Member States to collect this information and to make this data available in order to be able to better analyse the functioning of the provisions on stamping;*
- Re the Member States who did not yet fulfil their obligation under Article 11 to inform each other and the Commission and the Council General Secretariat of their national practices with regard to the presumption of illegal stay and its rebuttal - *the Commission invites those Member States to do so until one month after the adoption of the report.*

COUNCIL CONCLUSIONS

A Council meeting on matters on Justice and Home Affairs was held on the 21st September 2009. The following are the main results of this meeting:

Ministers welcomed the Commission communication on the establishment of a voluntary joint EU resettlement programme for refugees in third countries and a related proposal amending the existing rules on the European Refugee Fund for the period 2008 to 2013. In a more general discussion, the Council also talked about the principles which should underlie the EU's asylum policy covering both existing and forthcoming proposals in this field.

The Council also discussed the issues raised by the arrival of unaccompanied minors with a view to the development of an action plan early in 2010.

Ministers also discussed a report by the Commission on the follow-up to the European Council conclusions of 18/19 June 2009. The debate focused on the proposed pilot project for Malta on internal reallocation of beneficiaries of international protection as well as on the role and development of Frontex operations, especially in the Mediterranean region.

The Council adopted conclusions on the Commission guidelines for the better transposition and application of the directive on the free movement of EU citizens.



Malta-EU Steering & Action Committee

In the margin of the Council, the Mixed Committee (the EU plus Norway, Iceland, Liechtenstein and Switzerland) examined the state of play of the Visa Information System (VIS).

Over lunch, ministers met António Guterres, the United Nations High Commissioner for Refugees (UNHCR), for an exchange of views on asylum issues. Commission Vice-President Jacques Barrot briefed ministers on the state-of-play regarding visa reciprocity. Particular attention was given to the Canadian visa requirements for Czech nationals.

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