

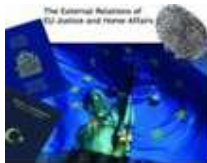


Malta-EU Steering & Action Committee

JUSTICE AND HOME AFFAIRS

Sectoral Committee
Weekly Update
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COM(2010)256 - Proposal for a Regulation of the European Parliament and of the Council of the EU amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of Member States and those whose nationals are exempt from that requirement

In accordance with Article 62 (2) (b) (i) of the Treaty Establishing the European Community, the Council has adopted Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders (the so called negative list) and those whose nationals are exempt from that requirement (the so called positive list).

The determination of those third countries whose nationals are subject to the visa requirement, and those exempt from it, is governed by a considered, case-by-case assessment of a variety of criteria relating inter alia to illegal immigration, public policy and security, and to the European Union's external relations with third countries, consideration also being given to the implications of regional coherence and reciprocity. In view of the criteria of public order and illegal immigration, particular attention should be paid also to the security of travel documents issued by the third countries concerned.

Taking into consideration the progress made in the visa liberalisation dialogues with **Albania and Bosnia and Herzegovina**, during the last seven months the Commission is proposing an amendment to Council Regulation (EC) No 539/2001 so as to **transferring these two countries from Annex I** (the list of third countries whose nationals must be in possession of visas when crossing the external borders of Member States) **to Annex II** which lists those third countries whose nationals are exempt from that requirement).

This transfer is in line with the political commitment taken by the European Union on the liberalisation of the short-stay visa requirement for all Western Balkan citizens as part of the Thessaloniki agenda.

Regulation (EC) No 539/2001 has been amended most recently with regard to the outcome of the visa liberalisation dialogues by transferring the former Yugoslav Republic of Macedonia, Montenegro and Serbia to the positive list.



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Draft Directive to enhance procedural rights of suspected and accused persons in criminal proceedings

The Committee of Permanent Representatives (COREPER), which organises the preparatory work of the Council, yesterday (Thursday 27th May 2010) agreed to a compromise text regarding the draft directive on the rights to interpretation and translation in criminal proceedings.

This draft directive, which was negotiated in recent weeks between representatives of the Council, the European Parliament and the Commission, is very likely to be formally adopted in first reading.

The directive, which is based on an initiative taken by 13 member states¹, is the first concrete measure to be prepared subsequent to the Council's November 2009 "roadmap" for strengthening the procedural rights of suspected and accused persons in criminal proceedings. It is aimed at achieving a more consistent implementation of the rights and guarantees set out in article 6 of the European Convention on Human Rights and to provide a further development within the European Union of the minimum standards set out in that convention and in the EU Charter of Fundamental Rights.

Adopting this directive will significantly strengthen the rights of people suspected or accused of committing a criminal offence by guaranteeing their right to interpretation during investigation and judicial proceedings:

- A suspected or accused person who does not understand or speak the language of the criminal proceedings concerned will be provided without delay with interpretation during criminal proceedings before investigative and judicial authorities, including during police questioning, during all court hearings and during any necessary interim hearings.
- Where necessary for the purpose of ensuring the fairness of the proceedings, interpretation will also be available for communication between the suspected or accused person and his legal counsel in direct connection with any questioning or hearing during the proceedings or with the lodging of an appeal or other procedural applications, such as for bail.

Suspected or accused persons will also be guaranteed the right to the translation of the documents essential for their defence:

- A suspected or accused person who does not understand the language of the criminal proceedings concerned will be provided with a written translation of all documents which are essential to ensure that he is able to exercise the right to defend himself and to safeguard the fairness of the proceedings.
- Essential documents include decisions depriving a person of his liberty, the charge/indictment and any judgment. The competent authorities shall decide in any given

¹ Belgium, Germany, Estonia, Spain, France, Italy, Luxembourg, Hungary, Austria, Portugal, Romania, Finland and Sweden



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case whether any other document is essential. The suspected or accused person or his legal counsel may submit a reasoned request to this effect.

Passages of essential documents which are not relevant for the suspected or accused person to have knowledge of the case against him do not have to be translated.

- As an exception to the general rules, an oral translation or an oral summary of essential documents may be provided instead of a written translation, on condition that such oral translation or oral summary does not affect the fairness of the proceedings.

Moreover, the directive contains provisions on the quality of interpretation and translation and on the training of judges, prosecutors and judicial staff.

International Missing Children's Day: European Commission urges Member States to make 116 000 missing children hotlines operational

On the occasion of International Missing Children's Day (25th May), the European Commission urged EU Member States to step up their efforts to introduce child alert systems and to make the missing children's hotline 116 000 operational as soon as possible.

On 15 February 2007 the Commission adopted a Decision requiring EU countries to make the 116 000 number available for child hotlines across the EU to report missing children and offer guidance and support to their families. However the hotlines are currently operational in 11 Member States (Belgium, Denmark, Greece, France, Hungary, Italy, the Netherlands, Poland, Portugal, Romania and Slovakia).

With the adoption of new EU telecoms rules in November 2009, EU Member States are obliged to make every effort to ensure that the 116 000 hotline is activated by 25 May 2011. The same Directive also requires Member States to "ensure that citizens are adequately informed of the existence and use of services provided under the "116" numbering range, in particular through initiatives specifically targeting persons travelling between Member States." The Commission will closely monitor the implementation of these obligations by the Member States.

The Commission also supports the creation of **cross-border child alert systems** that help in the search of abducted children by enabling the public to provide the relevant authorities with real-time information. **Alert systems exist in 8 Member States** (the Netherlands, Portugal, France, Luxembourg, Belgium, Greece, Germany and the UK).

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/603&format=HTML&aged=0&language=EN&quiLanguage=en>



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Enhanced cooperation in the area of the law applicable to divorce and legal separation: European Commission proposal gains momentum

On the 24th March 2010 the Commission adopted a proposal (COM(2010)104)² requesting the Council to adopt a Decision authorising enhanced cooperation in the area of the law applicable to divorce and legal separation. This proposal will allow couples to agree which law would apply to their divorce even when they do not plan to separate.

The request for enhanced cooperation in this field came from Bulgaria, France, Spain, Italy, Luxembourg, Hungary, Austria, Romania and Slovenia.

In the last month Germany (15 April), Belgium (22 April) and Latvia (17 May) joined the above nine EU Member States in asking for legislation that will bring legal certainty to international couples wishing to divorce.

EU Justice Ministers will try to reach a political agreement on the Commission proposal at the next Justice Council on 4 June in Luxembourg. The European Parliament also needs to give its consent. The Decision will enter into force immediately once it is adopted.

EU rules governing enhanced cooperation say countries that do not join a request can join at any time after it becomes law, pending a positive analysis by the Commission.

² JHA Update 9.4.2010