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DECISION No 1105/2011/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2011

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure ([1]),

Whereas:

(1) On the basis of Article 17(3)(a) of the Convention implementing the Schengen Agreement of 14 June 1985 ([2]), Decisions SCH/Com-ex (98)56 ([3]) and SCH/Com-ex (99)14 ([4]) established the Manual of travel documents entitling the holder to cross the external borders and which may be endorsed with a visa. Those Decisions should be adapted to the institutional and legal framework of the Union.

(2) The list of travel documents issued by third countries should be monitored systematically to ensure that Member States' authorities dealing with the processing of visa applications and with border controls have accurate information at their disposal about the travel documents presented by third-country nationals. Exchanges of information between Member States on the travel documents issued and on Member States' recognition of those travel documents, and making the entire compilation available to the public, should be modernised and made more efficient.

(3) 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 point (a) of Article 5(1) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) ([5]); 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.

(4) Under point (c) of Article 48(1) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) ([6]) an exhaustive list of travel documents issued by the host country should be drawn up within local Schengen cooperation.

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(5) A mechanism should be established to ensure that the list of travel documents is constantly updated.

(6) Considering the relevance of the security of the travel documents with regard to their possible recognition, the Commission, assisted by experts of the Member States, should provide a technical assessment, where appropriate.

(7) Member States are and should remain competent for the recognition of travel documents for the purpose of allowing the holder to cross the external borders and affixing a visa sticker.

(8) Member States should notify their position in relation to all travel documents and endeavour to harmonise their positions on the different types of travel documents. Since a Member State's failure to notify its position with regard to a travel document may cause problems to holders of that travel document, a mechanism should be established to place an obligation on Member States to state their position on the recognition and non-recognition of such documents. That mechanism should not preclude Member States from notifying a change in their position at any given moment.

(9) 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 to previously indicated recognition or non-recognition of a given travel document by Member States.

(10) 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 should not be subject to recognition or non-recognition. They should not entitle their holders to cross the external borders and should not be endorsed with a visa.

(11) 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 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([7]).

(12) 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.

(13) As regards Iceland and Norway, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis* ([8]), which fall within the area referred to in Article 1, points A, B and C, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement ([9]).

(14) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European

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Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ([10]), which fall within the area referred to in Article 1, points A, B and C, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC ([11]).

(15) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol signed between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, points A, B and C, of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ([12]).

(16) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application. Given that this Decision builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of 6 months after the Council has decided on this Decision whether it will implement it in its national law.

(17) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ([13]); the United Kingdom is therefore not taking part in its adoption and is not bound by it or subject to its application.

(18) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ([14]); Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

(19) As regards Cyprus, this Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.

(20) This Decision constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession,

HAVE ADOPTED THIS DECISION:

Article 1

Subject matter and scope

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1. This Decision establishes the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa (the list of travel documents) and a mechanism for compiling it.

2. This Decision applies to travel documents 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.

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

Article 2

Compilation of the list of travel documents

1. The Commission shall draw up the list of travel documents with the assistance of Member States on the basis of information gathered within local Schengen cooperation, as referred to in point (c) of Article 48(1) of Regulation (EC) No 810/2009.

2. The list of travel documents shall be drawn up in accordance with the advisory procedure referred to in Article 8(2).

Article 3

Structure of the list of travel documents

1. The list of travel documents shall be divided into three parts.

2. 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 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 ([15]).

3. Part II shall consist of the following travel documents issued by Member States, including those issued by the Member States of the European Union which are not taking part in the adoption of this Decision and by the Member States of the European Union 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 United Kingdom of Great Britain and Northern Ireland for the purposes of Union law.

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

5. As a general rule, the listing of a given travel document applies to all series of that travel document that are still valid.

6. If a third country does not issue a particular type of travel document, this shall be indicated by entering ·not issued· in the list of travel documents.

Article 4

Notification of recognition or non-recognition of listed travel documents

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

2. If a Member State fails to notify its position within the period referred to in paragraph 1, the travel document concerned shall be deemed to be recognised until that Member State's notification of its non-recognition.

3. Within the framework of the committee referred to in Article 8(1), Member States shall exchange information on the grounds for the recognition or non-recognition of specific travel documents with a view to reaching a harmonised position.

4. Member States shall notify the Commission of all changes to previously indicated recognition or non-recognition of a given travel document.

Article 5

New travel documents issued

1. Member States shall notify the Commission of new travel documents referred to in points (a) to (d) of Article 3(3).

2. Member States shall inform the Commission of new travel documents issued by third countries, Member States and international organisations referred to in Article 3(2), in point (e) of Article 3(3) and in Article 3(4). The Commission shall, in cooperation with the Member States, endeavour to collect specimens of new travel documents in order to share them.

3. The Commission shall update the list of travel documents in accordance with the notifications and information received and shall request Member States to notify their position on recognition or non-recognition in accordance with Article 4.

4. The updated list of travel documents shall be drawn up in accordance with the advisory procedure referred to in Article 8(2).

Article 6

Information concerning known fantasy and camouflage passports

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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.

Article 7

Assessment of travel documents

1. In order to assist the Member States in their technical assessment of travel documents, the Commission, assisted by experts of the Member States, may provide for a technical analysis of the travel documents, taking into account in particular the relevant International Civil Aviation Organization standards and recommendations.

2. Where relevant, the conditions and procedures for issuing travel documents may also be analysed within this framework.

3. The results of the assessments referred to in paragraphs 1 and 2 shall be communicated to the Member States.

Article 8

Committee procedure

1. The Commission shall be assisted by a committee (the Travel Document Committee). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 9

Publication of the lists

The Commission shall make the list of travel documents, including the notifications pursuant to Article 4, and the list referred to in Article 6, available to the Member States and the public via a constantly updated electronic publication.

Article 10

Repeals

Decisions SCH/Com-ex (98)56 and SCH/Com-ex (99)14 shall be repealed.

Article 11

Entry into force

1. This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

2. This Decision shall apply with effect from the date of its entry into force, except for Article 10, which shall apply with effect from the date of the first publication by the Commission of the list of

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travel documents.

Article 12

Addressees

This Decision is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg, 25 October 2011.

For the European Parliament

The President

J. BUZEK

For the Council

The President

M. DOWGIELEWICZ

(1) Position of the European Parliament of 6 July 2011 (not yet published in the Official Journal) and Decision of the Council of 23 September 2011.

(2) OJ L 239, 22.9.2000, p. 19.

(3) OJ L 239, 22.9.2000, p. 207.

(4) OJ L 239, 22.9.2000, p. 298.

(5) OJ L 105, 13.4.2006, p. 1.

(6) OJ L 243, 15.9.2009, p. 1.

(7) OJ L 55, 28.2.2011, p. 13.

(8) OJ L 176, 10.7.1999, p. 36.

(9) OJ L 176, 10.7.1999, p. 31.

(10) OJ L 53, 27.2.2008, p. 52.

(11) OJ L 53, 27.2.2008, p. 1.

(12) OJ L 160, 18.6.2011, p. 19.

(13) OJ L 131, 1.6.2000, p. 43.

(14) OJ L 64, 7.3.2002, p. 20.

(15) OJ L 81, 21.3.2001, p. 1.