

# Movement of persons with a long-stay visa

2009/0028(COD) - 09/03/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 562 votes to 29 with 51 abstentions a legislative resolution setting out its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) on the proposal for a Regulation of the European Parliament and of the Council amending the Convention Implementing the Schengen Agreement and Regulation (EC) No 562/2006 as regards movement of persons with a long-stay visa.

The amendments contained in Parliament's position were the result of a compromise negotiated with the Council:

**Merging of related proposal:** the entry into force of the Lisbon Treaty had resulted in changes to the legal bases of many ongoing procedures. One of the consequences of this was that the parallel proposal [2008/0025\(COD\)](#) on amending the Convention implementing the Schengen Agreement as regards long-stay visas and alerts in the Schengen Information System, which had previously come under the consultation procedure, was now subject to the ordinary legislative procedure. Parliament agreed to the Council and Commission's suggestion that the two procedures be merged and that the contents of Commission proposal COM(2009)0090 and of the draft reports in relation thereto should be incorporated into procedure 2009/0028(COD) which is the subject of this procedure file. It therefore considered procedure 2005/0025(COD) to have lapsed.

**Long-stay visas:** Members specified that visas for stays exceeding three months ('long-stay visas') should be national visas issued by one of the Member States in accordance with its national law or Community law. Such visas should be issued in the uniform format for visas as set out in Council Regulation (EC) No 1683/95 with the heading specifying the type of the visa with the letter "D". They should be filled out in accordance with the relevant provisions in Annex VII to Regulation (EC) No 810/2009 on the Visa Code. Long-stay visas should have a period of validity of no more than one year. If a third-country national is allowed to stay for more than one year by a Member State, the long-stay visa should be replaced before the expiry of its period of validity by a residence permit.

**Free movement with valid residence permits:** Parliament said that aliens who hold valid residence permits issued by one of the Member States should be able, on the basis of that permit and a valid travel document, to move freely for up to three months in any six-month period within the territories of the other Member States, provided that they fulfil the entry conditions referred to Regulation (EC) No 562/2006 on the Schengen Borders Code and are not on the national list of alerts of the Member State concerned.

**Searching the SIS:** where a Member State considers issuing a residence permit, the responsible authority should systematically carry out a search in the Schengen Information System (SIS). Where a Member State considers issuing a residence permit to an alien for whom an alert has been issued for the purposes of refusing entry, it should first consult the Member State issuing the alert and take account of its interests; the residence permit should be issued for substantive reasons only, notably on humanitarian grounds or by reason of international commitments.

Where a residence permit is issued, the Member State issuing the alert should withdraw the alert but should be able to put the alien concerned on its national list of alerts.

Prior to issuing an alert for the purposes of refusing entry, Member States should check their national records of long stay visas or residence permits issued.

These provisions should also apply **to long-stay visas**.

**Transit:** third-country nationals who do not fulfill all the conditions laid down in the text but hold a residence permit, a long-stay visa or a re-entry visa issued by one of the Member States or, where required, a residence permit or a long-stay visa and a re-entry visa, should be authorised to enter the territories of the other Member States for transit purposes so that they may reach the territory of the Member State which issued the residence permit, long-stay visa or re-entry visa, unless their names are on the national list of alerts of the Member State whose external borders they are seeking to cross and the alert is accompanied by instructions to refuse entry or transit.

**Information:** Parliament stipulated that the Commission and the Member States should inform the third-country nationals concerned fully and accurately of this Regulation.

**Report:** by 5 April 2012, the Commission should submit to the European Parliament and the Council a report on the application of the Regulation. If appropriate, that report should be accompanied by a proposal to amend the Regulation.

The Regulation should enter into force on 5 April 2010.

The European Parliament also approved a **joint declaration**, annexed to the resolution, whereby the Council and the Parliament recognised the need for a comprehensive and coherent set of rules, at EU level, to ensure a high level of personal data protection under SIS II. If there were major delays, beyond 2012, in implementing SIS II, the Commission should present legislative proposals amending the relevant provisions of the Schengen Convention in order to ensure a level of protection of the personal data entered into the Schengen Information System equivalent to the standards established for SIS II.