


Procedure file

Basic information		
CNS - Consultation procedure Decision	2004/0816(CNS)	Procedure completed
Visas, asylum, immigration: passage to qualified majority voting and to co-decision (Art. 251) for certain areas covered by Title IV of Part three of the EC Treaty		
Subject 7.10.04 External borders crossing and controls, visas 7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF) 7.10.08 Migration policy 8.50 EU law		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs	ALDE BOURLANGES Jean-Louis	02/12/2004
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2633	21/12/2004
	Justice and Home Affairs (JHA)	2626	02/12/2004
European Commission	Commission DG Justice and Consumers	Commissioner	

Key events			
22/11/2004	Legislative proposal published	15130/2004	Summary
02/12/2004	Debate in Council	2626	
13/12/2004	Vote in committee		
13/12/2004	Committee report tabled for plenary, 1st reading/single reading	A6-0072/2004	
14/12/2004	Committee referral announced in Parliament		
16/12/2004	Results of vote in Parliament		
16/12/2004	Decision by Parliament	T6-0105/2004	Summary
21/12/2004	Act adopted by Council after consultation of Parliament		
21/12/2004	End of procedure in Parliament		
31/12/2004	Final act published in Official Journal		

Technical information	

Procedure reference	2004/0816(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	EC Treaty (after Amsterdam) EC 067
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/25208

Documentation gateway

Legislative proposal	15130/2004	23/11/2004	CSL	Summary
Committee report tabled for plenary, 1st reading/single reading	A6-0072/2004	13/12/2004	EP	
Text adopted by Parliament, 1st reading/single reading	T6-0105/2004 OJ C 226 15.09.2005, p. 0242-0341 E	16/12/2004	EP	Summary
Commission response to text adopted in plenary	SP(2005)239	19/01/2005	EC	

Final act

[Decision 2004/927](#)
[OJ L 396 31.12.2004, p. 0045-0046](#) Summary

Visas, asylum, immigration: passage to qualified majority voting and to co-decision (Art. 251) for certain areas covered by Title IV of Part three of the EC Treaty

PURPOSE : to extend the application of the co-decision procedure (Article 251 of the Treaty establishing the European Community) to certain areas covered by Title IV, part three of the same Treaty.

PROPOSED ACT : Decision of the Council.

CONTENT : this Decision proposes that certain measures relating to Title IV of the Treaty establishing the European Community should henceforth be subject to qualified majority voting and the application of the co-decision procedure (Article 251) as opposed to the current practice of finding unanimity within the Council. The draft decision recalls that the Treaty of Amsterdam awarded the EU power to adopt measures in the field of visas, asylum, immigration and other policies relating to the free movement of persons. Any measures relating to these issues were to be adopted by the Council acting unanimously after consulting the European Parliament. Five years after the following into force of the Treaty of Amsterdam, Article 67 obliges the Council to examine whether all or parts of the areas covered by Title IV should be governed by Article 251. The Council has decided that the following policies will, in future, be adopted in accordance with Article 251:

- As from 1 April 2005, the Council shall apply Article 251 when adopting measures referred to in Article 62 (1) measures with a view to ensuring the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders; Article 62 (2) (a) measures on the crossing of the external borders of the Member States which shall establish standards and procedures to be followed by Member States in carrying out checks on persons at such borders; and Article 62 (3) measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months.

- As from April 2005, the Council shall act in accordance with Article 251 when adopting measures referred to in Article 63 (2) (b) measures on refugees and displaced persons within the following areas: promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons; and 63 (3) (b) measures on immigration policy within the following areas: illegal immigration and illegal residence, including repatriation of illegal residents.

In addition the Council has decided that until such time as the adoption of the European Constitution, it will continue to apply unanimity, following consultation with the Parliament, in matters relating to the legal migration of third country nationals to and between Member States. Lastly, all provisions relating to family law will not be affected by this Decision.

In accordance with the Protocol attached to the Treaty on European Union, Denmark will not take part in the adoption of this Decision. Ireland and the United Kingdom on the other hand have expressed their wish to take part in its adoption and application.

Visas, asylum, immigration: passage to qualified majority voting and to co-decision (Art. 251) for certain areas covered by Title IV of Part three of the EC Treaty

The European Parliament adopted a resolution drafted by Jean-Louis BOURLANGES (ALDE, FR) on the application of Article 251 of the EC Treaty, with 502 votes in favour, 62 against and 20 abstentions. Parliament made some amendments to the draft decision, pointing out that it is vital and urgent to abolish the limits which Article 68 of the EC Treaty imposes on the jurisdiction of the Court in the fields covered by Title IV of the EC Treaty. The European Council accordingly asked the Commission on 5 November 2004 to submit, after consulting the Court, a proposal for a Council decision establishing, pursuant to Article 225a of the EC Treaty, a specialised panel for actions relating to matters provided for in Title IV. A new provision states that Article 68(1) and (2) of the EC Treaty will no longer apply from the date of entry into force of the Decision.

Parliament also added a new provision stating that with effect from 1 January 2005, the Council must act in accordance with the procedure laid down in Article 251 of the EC Treaty for the purpose of adopting the measures referred to in Article 63(3)(a) and (4) of that Treaty. As agreed on 29 October 2004, at the time of the signature of the Treaty establishing a Constitution for Europe, those measures must not affect the right of Member States to determine volumes of admission of third country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

Visas, asylum, immigration: passage to qualified majority voting and to co-decision (Art. 251) for certain areas covered by Title IV of Part three of the EC Treaty

PURPOSE : to extend the application of the co-decision procedure (Article 251 of the Treaty establishing the European Community) to certain areas covered by Title IV, part three of the same Treaty (Justice and Home Affairs).

LEGISLATIVE ACT : Council Decision 2004/927/EC providing for certain areas covered by Title IV of Part Three of the Treaty establishing the European Community to be governed by the procedure laid down in Article 251 of that Treaty.

CONTENT : This Decision establishes that certain measures relating to Title IV of the Treaty establishing the European Community should henceforth be subject to qualified majority voting and the application of the co-decision procedure (Article 251) as opposed to the practice of finding unanimity within the Council.

To recall, under the Treaty of Amsterdam the European Community had acquired the power to adopt measures in the field of visas, asylum, immigration and other policies relating to the free movement of persons, as laid down in Title IV of Part Three of the TEC (the Treaty) by the Council acting unanimously after consulting the European Parliament. Under Article 67, the Council, acting unanimously after consulting the European Parliament, had to take a decision, after a transitional period of five years following the entry into force of the Treaty of Amsterdam, with a view to providing for all or parts of the areas covered by Title IV to be governed by the co-decision procedure. This Decision provides as follows:

- As from 1 April 2005, the Council shall apply Article 251 when adopting measures referred to in Article 62 (1) with a view to ensuring the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders; Article 62 (2) (a) measures on the crossing of the external borders of the Member States which shall establish standards and procedures to be followed by Member States in carrying out checks on persons at such borders; and Article 62 (3) measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months.

- As from April 2005, the Council shall act in accordance with Article 251 when adopting measures referred to in Article 63 (2) (b) on refugees and displaced persons within the following areas: promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons; and 63 (3) (b) measures on immigration policy within the following areas: illegal immigration and illegal residence, including repatriation of illegal residents.

- In addition, the Council has decided that until such time as the adoption of the European Constitution, it will continue to apply unanimity, following consultation with the Parliament, in matters relating to the legal migration of third country nationals to and between Member States referred to in Article 63(3)(a) and (4) of the Treaty. Lastly, all provisions relating to family law will not be affected by this Decision.

In accordance with the Protocol attached to the Treaty on European Union, Denmark will not take part in the adoption of this Decision. Ireland and the United Kingdom on the other hand have expressed their wish to take part in its adoption and application.