

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2005/0159(COD)</a> Decision</p>	Procedure completed
<p>External borders: recognition by new Member States and Schengen States of residence permits issued by Switzerland and Liechtenstein as equivalent to their national visas for the purpose of transit (Regulation (EC) No 539/2001)</p> <p>Amended by <a href="#">2007/0186(COD)</a></p> <p>Subject 7.10.04 External borders crossing and controls, visas</p> <p>Geographical area Liechtenstein Switzerland</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		04/10/2005
		PSE <a href="#">CASHMAN Michael</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>AFET</b> Foreign Affairs	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2732</a>	01/06/2006
European Commission	Commission DG	Commissioner	
	<a href="#">Justice and Consumers</a>		

Key events			
22/08/2005	Legislative proposal published	<a href="#">COM(2005)0381</a>	Summary
06/09/2005	Committee referral announced in Parliament, 1st reading		
06/03/2006	Vote in committee, 1st reading		Summary
09/03/2006	Committee report tabled for plenary, 1st reading	<a href="#">A6-0060/2006</a>	
06/04/2006	Results of vote in Parliament		
06/04/2006	Decision by Parliament, 1st reading	<a href="#">T6-0130/2006</a>	Summary

01/06/2006	Act adopted by Council after Parliament's 1st reading		
14/06/2006	Final act signed		
14/06/2006	End of procedure in Parliament		
20/06/2006	Final act published in Official Journal		

### Technical information

Procedure reference	2005/0159(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
	Amended by <a href="#">2007/0186(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 062
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/30002

### Documentation gateway

Legislative proposal	<a href="#">COM(2005)0381</a>	22/08/2005	EC	Summary
Committee draft report	<a href="#">PE367.821</a>	09/01/2006	EP	
Amendments tabled in committee	<a href="#">PE368.098</a>	20/02/2006	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0060/2006</a>	09/03/2006	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0130/2006</a>	06/04/2006	EP	Summary
Commission response to text adopted in plenary	<a href="#">SP(2006)2095</a>	11/05/2006	EC	
Draft final act	<a href="#">03610/2/2006</a>	14/06/2006	CSL	

### Additional information

European Commission	<a href="#">EUR-Lex</a>
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### Final act

[Decision 2006/896](#)  
[OJ L 167 20.06.2006, p. 0008-0013](#) Summary

**External borders: recognition by new Member States and Schengen States of residence permits issued by Switzerland and Liechtenstein as equivalent to their national visas for the purpose of transit (Regulation (EC) No 539/2001)**

**PURPOSE:** To introduce a simplified regime for permits issued by Switzerland and Liechtenstein for the purpose of transit through their territories, based on unilateral recognition of documents.

**PROPOSED ACT:** Decision of the European Parliament and the Council

**CONTENT:** Under the terms and conditions of the Schengen Agreement (encapsulated in Regulation 539/2001), visas issued by one Schengen Member State are deemed valid for crossing the external borders of another Schengen Member State, both for short stay and

transitory purposes. In addition, the current Schengen provisions foresee a system of mutual recognition of long-term visas and residence permits issued by Member States complying with the Schengen acquis.

Since the accession of the new Member States on 1 May 2004, a number of gaps in applying the provisions outlined above have arisen, which require urgent attention and which equally apply to the issuing of visas by Switzerland and Liechtenstein. It is these gaps, which the Commission is trying to plug, and which explains the Commission's need to present the attached proposal for a Decision.

To put it into context, prior to becoming new EU Member States, it was agreed that the acceding countries would apply the so-called 'Schengen two phase process'. This process, set out in the Act of Accession, states that from the moment of accession, the new Member States shall apply the provisions of the Schengen Agreement as outlined in Regulation 539/2001, - whilst simultaneously issuing their own national visas until such a time that an EU Council Decision authorising their full integration into the Schengen area has been agreed upon.

The existing, compromise solution, gives rise to a number of legal uncertainties. It does not, for example, foresee the equivalence between residence permits and visas. The result being that new Member States are obliged to issue national visas for entry into and transit through their territory to third country national, even if the persons concerned are holders of a Schengen residence permit or visa or else are holders of national long term visas issued by a Schengen state. For many new Member States, this places a considerable administrative burden on their embassies and consular services. Further, given that persons holding a Schengen visa, are subject to rigorous controls by the Schengen Member State prior to the issuance of their visa, all relevant security concerns have, effectively, already been addressed.

The complexity of the current situation is particularly pertinent to nationals of both Liechtenstein and Switzerland, who for geographic reasons, are adversely affected by the need for transit visas. The result being that Swiss and Liechtenstein nationals need to apply for a visa when transiting the territories of the new EU Member States. This becomes particularly problematic for holiday makers who often just need to transit the territory of a new Member State, without necessarily wishing to stay in that territory, but who nevertheless need to apply for visas. According to a survey conducted in 2003 by Switzerland's Central Register of Foreign Nationals, 514 250 persons were affected by the transit visa requirements, at the height of the holiday period.

In order to address this issue, the Swiss authorities are currently adopting a unilateral recognition of resident permits whereby holders of residence permits issued by a European Union Member State are exempted from visa requirements. It covers visas for short stay and transit purposes. Looking to the longer term, the EU and Switzerland are in the process of ratifying an Agreement on the Schengen acquis. The Commission acknowledges, however, that this will take some time to come into force and an interim solution needs to be found. Hence, the presentation of two related Decisions.

The first proposal concerns this Decision, which is specifically addressed to Switzerland and Liechtenstein. The second proposal is for a Council Decision (2005/0158 COD), addressed to the new Member States, (here meaning: the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia).

The proposed Decision addressed to Switzerland and Liechtenstein, seeks to simplify procedures for controlling persons at external borders. It aims to do so by setting up a system, for a transitional period only, whereby new Member States agree to adopt common rules, which unilaterally recognise visa documents as equivalent to their national visas. The Commission is also proposing a simplified regime for the control of persons at the external borders based on the principle of unilateral equivalence. Specifically speaking the Decision proposes the following provisions:

- A simplified regime for the control of persons at the external borders based on unilateral recognition of residence permits issued by Switzerland and Liechtenstein will apply. It will be limited to the issuing of visas for transit purposes only, without affecting the possibility of Member States to issue visas for short-term stay.
- The new EU Member States may optionally apply the same approach when dealing with nationals from Switzerland and Liechtenstein, until an implementing Decision has been approved, which fully integrates them into the Schengen area.

## External borders: recognition by new Member States and Schengen States of residence permits issued by Switzerland and Liechtenstein as equivalent to their national visas for the purpose of transit (Regulation (EC) No 539/2001)

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The committee adopted the report by Michael CASHMAN (PES, UK) on the proposed decision establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory. MEPs adopted a number of technical amendments - under the 1st reading of the codecision procedure - adding various legislative references to the recitals and making it clear that the proposal is transitional in nature and will apply until the provisions of Article 21 of the Schengen Convention are put into effect for Switzerland and Liechtenstein.

## External borders: recognition by new Member States and Schengen States of residence permits issued by Switzerland and Liechtenstein as equivalent to their national visas for the purpose of transit (Regulation (EC) No 539/2001)

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The European Parliament adopted the report by Michael CASHMAN (PES, UK) by 403 votes for, 8 against and 31 abstentions, on the proposed decision establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory. (Please refer to the summary dated 06/03/2006).

## External borders: recognition by new Member States and Schengen States of residence permits

## issued by Switzerland and Liechtenstein as equivalent to their national visas for the purpose of transit (Regulation (EC) No 539/2001)

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**PURPOSE:** to introduce a simplified regime for permits issued by Switzerland and Liechtenstein for the purpose of transit through their territories, based on unilateral recognition of documents.

**LEGISLATIVE ACT:** Decision 896/2006/EC of the European Parliament and of the Council establishing a simplified regime for the control of persons at the external borders based on the unilateral recognition by the Member States of certain residence permits issued by Switzerland and Liechtenstein for the purpose of transit through their territory.

**BACKGROUND:** the current Schengen 'acquis' establishes the principle of mutual recognition of uniform visas, of long term visas and of residence permits issued by Member States fully implementing the Schengen acquis for transit and short stay purposes. This is a basic principle underpinning the creation of the area without internal borders. It enables a third country national holder of certain documents issued by a Member State fully participating in the Schengen area to enter and/or circulate freely within the common space without being subject to any additional requirement.

As regards residence permits issued by Switzerland and Liechtenstein, the existing Schengen acquis does not allow Member States fully implementing the Schengen acquis to recognise these for transit purposes into the Schengen territory.

**CONTENT :** under the terms and conditions of the Schengen Agreement (encapsulated in Regulation 539/2001), visas issued by one Schengen Member State are deemed valid for crossing the external borders of another Schengen Member State, both for short stay and transitory purposes. In addition, the current Schengen provisions foresee a system of mutual recognition of long-term visas and residence permits issued by Member States complying with the Schengen acquis.

Since the accession of the new Member States on 1 May 2004, a number of gaps in applying the provisions outlined above had arisen, which required urgent attention and which equally applied to the issuing of visas by Switzerland and Liechtenstein. This Council Decision aims to fill the gaps.

To put it into context, prior to becoming new EU Member States, it was agreed that the acceding countries would apply the so-called 'Schengen two phase process'. This process, set out in the Act of Accession, stated that from the moment of accession, the new Member States shall apply the provisions of the Schengen Agreement as outlined in Regulation 539/2001/EC, - whilst simultaneously issuing their own national visas until such a time that an EU Council Decision authorising their full integration into the Schengen area has been agreed upon.

The compromise solution gave rise to a number of legal uncertainties. It did not, for example, foresee the equivalence between residence permits and visas. The result was that new Member States were obliged to issue national visas for entry into and transit through their territory to third country national, even if the persons concerned were holders of a Schengen residence permit or visa - or else were holders of national long term visas issued by a Schengen state. For many new Member States, this placed a considerable administrative burden on their embassies and consular services. Further, given that persons holding a Schengen visa, are subject to rigorous controls by the Schengen Member State prior to the issuance of their visa, all relevant security concerns had, effectively, already been addressed.

The complexity of the situation was particularly pertinent to nationals of both Liechtenstein and Switzerland, who for geographic reasons, were adversely affected by the need for transit visas. The result was that Swiss and Liechtenstein nationals needed to apply for a visa when transiting the territories of the new EU Member States. This became particularly problematic for holiday makers who often just needed to transit the territory of a new Member State, without necessarily wishing to stay in that territory, but who nevertheless needed to apply for visas. According to a survey conducted in 2003 by Switzerland's Central Register of Foreign Nationals, 514 250 persons were affected by the transit visa requirements, at the height of the holiday period.

This Decision specifically concerns Switzerland and Liechtenstein. The second Decision ([COD/2005/0158](#)) is addressed to the new Member States.

This Decision establishes a simplified regime for the control of persons at the external borders based on the unilateral recognition by Member States of residence permits issued by Switzerland and Liechtenstein to third-country nationals subject to a visa obligation pursuant to Regulation 539/2001/EC as equivalent to their uniform or national visas for the purpose of transit. The implementation of this Decision will not affect the checks to be carried out on persons at the external borders in compliance with Regulation 562/2006/EC.

Member States fully implementing the Schengen acquis shall unilaterally recognise the residence permits issued by Switzerland and Liechtenstein which are listed in the Annex to the Decision.

New Member States which apply Decision 895/2006/EC (see [COD/2005/0158](#)) may unilaterally recognise the residence permits listed in the Annex to this Decision as equivalent to their national transit visas until the date to be determined by the Council.

The duration of the transit of the third-country national through the territory of the Member State(s) shall not exceed 5 days.

Territorial measures: this Decision is addressed to the Member States. Iceland and Norway will also be associated in this Decision.

The United Kingdom, Ireland and Denmark shall not participate in the adoption of the present Decision.

Denmark could however decide, within a period of 6 months after the date of adoption of this Decision, to implement it into its national law.

**ENTRY INTO FORCE:** this Decision shall enter into force on 10 July 2006. It shall apply until the date on which the provisions of Article 21 of the Schengen Convention take effect for Switzerland and Liechtenstein pursuant to Article 15 of 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. Any new Member State that decides to apply this Decision must notify the Commission by 1 August 2006.